

# 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 16

January 9, 2014

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1 Thursday, 9 January 2014  
 2 (10.00 am)  
 3 (Proceedings delayed)  
 4 (10.20 am)  
 5 Housekeeping  
 6 MR STUART: My Lord, I first of all have to apologise. Due  
 7 to a communications breakdown, I and our side understood  
 8 it was a 10.30. I had a -- I will produce it later if  
 9 I need to -- listing from the court that my clerks got  
 10 yesterday saying 10.30, and I understand that that has  
 11 been changed back to 10 o'clock. I know that we  
 12 mentioned the possibility of a 10 o'clock start today.  
 13 I had understood that was subject to what happened to  
 14 the court, and it's entirely our fault that we are  
 15 20 minutes late.  
 16 MR JUSTICE HILDYARD: Yes. Well, you are right, it is your  
 17 fault.  
 18 MR STUART: My Lord, I can only apologise to absolutely  
 19 everybody here.  
 20 MR JUSTICE HILDYARD: It was clear and it was on the  
 21 transcript. It's a dangerous thing to ask for  
 22 an indulgence and then let the person down. But there  
 23 we are, these things happen. I know that it was at one  
 24 moment mentioned to be at 10.30 in one early version of  
 25 the list. I then corrected it when I saw it, and it

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1 subsequently stated 10 o'clock. Without wishing to be  
 2 unduly stern, you should check these things, it's your  
 3 duty as counsel to do so in order not to waste the  
 4 court's time, and to risk irritating the judge. But  
 5 there we are, it's a new year, Happy New Year, I hope  
 6 everyone had a good holiday, and let's press on.  
 7 I should mention two things. One is that I need to  
 8 stop at 2.30 tomorrow. I would propose to start,  
 9 subject to any representations that either of you may  
 10 have, at 9.30, and then to carve up the morning in  
 11 a slightly idiosyncratic way, stop early at 12.30 and  
 12 possibly commence at 1.15, unless anybody is showing  
 13 signs of early New Year exhaustion, and stop at 2.30.  
 14 The other thing is that on 22nd January I have  
 15 a doctor's appointment which I can't really shift.  
 16 I may be a little late, I hope not. It might be 10.45  
 17 or 11 o'clock, I think that's the last date proposed for  
 18 the hearing.  
 19 MR STUART: Does your Lordship have the latest version of  
 20 the timetable?  
 21 MR JUSTICE HILDYARD: Yes. While I was outside I had  
 22 a quick look at that.  
 23 MR STUART: Your Lordship will see that tomorrow morning, do  
 24 you remember Mrs Lofting?  
 25 MR JUSTICE HILDYARD: Yes.

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1 MR STUART: She is in Italy, but arrangements have been made  
 2 for her to give her evidence by videolink at 11 o'clock  
 3 tomorrow. The test is this afternoon at 3 o'clock. She  
 4 has been sent an agreed version of the documents that  
 5 she might need to look at. So it is, with  
 6 your Lordship's permission, sought that we deal with her  
 7 at 11 o'clock tomorrow. I am told by Mr Potts that her  
 8 evidence is not likely to take long, so taking it by  
 9 videolink would cause a little hiatus, but in my  
 10 submission, my Lord, it would be the most just and  
 11 proportionate thing to do in all the circumstances.  
 12 As I say, all arrangements have been made. I think  
 13 that's -- I am not sure why we have moved to this court,  
 14 but it might be because of the availability of that  
 15 video facility.  
 16 MR JUSTICE HILDYARD: Yes.  
 17 MR STUART: That's my first request, my Lord. Just tying in  
 18 with your Lordship's timetabling for tomorrow, it may be  
 19 that after we have heard from Mrs Lofting, that might be  
 20 a suitable time to take an early break.  
 21 MR JUSTICE HILDYARD: Okay.  
 22 MR STUART: Et cetera, so it might fit in conveniently.  
 23 MR JUSTICE HILDYARD: I had not realised there was to be  
 24 an application for videolink evidence until I was shown  
 25 the stuff this morning. Is it agreed?

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1 MR STUART: I believe so.  
 2 MR POTTS: My Lord, we don't know what the arrangements that  
 3 have been made are, but in principle the idea of it,  
 4 because the alternative -- it was not really clear what  
 5 they were suggesting -- was for her to come during the  
 6 closing submissions, which was highly unsatisfactory.  
 7 So it seems to us that this is better.  
 8 MR JUSTICE HILDYARD: I mean, she gives very discrete  
 9 evidence about the £550.  
 10 MR POTTS: Yes.  
 11 MR JUSTICE HILDYARD: So it shouldn't take long. Is there  
 12 any objection under Italian law for this? Some  
 13 European -- I think France is rather sort of strict  
 14 about this sort of thing. It may only be strict if  
 15 there isn't consent.  
 16 MR POTTS: It's paragraph 16, my Lord, of the practice  
 17 direction deals with this. It requires the requesting  
 18 party to make the appropriate prior enquiries and put in  
 19 place all arrangements in relation to affirmation and  
 20 oath. I don't know whether that is --  
 21 MR JUSTICE HILDYARD: It's not only the oath, it's just that  
 22 in some jurisdictions there is a sort of view that it's  
 23 unfair or improper or whatever it is, and it may be that  
 24 that's only when they are resident or domiciled or have  
 25 some fixed attachment to that place, whereas I imagine

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1 in this case Mrs Lofting is just there on a holiday, is  
2 she?  
3 MR STUART: She is.  
4 MR POTTS: My Lord, in a sense, I think your Lordship is  
5 looking at me, but I think the point is that's for --  
6 MR JUSTICE HILDYARD: No, you're right. My eyes are  
7 floating.  
8 MR POTTS: If they wish to make the application, the  
9 practice direction indicates to them to put it into  
10 place.  
11 MR JUSTICE HILDYARD: It is. You are quite right, Mr Potts,  
12 of course you are, that I am only looking at you for  
13 your consent and you are broadly in agreement, although  
14 you say they must put everything in place which is  
15 required to be in place.  
16 MR POTTS: Yes. We have asked about the arrangements --  
17 MR JUSTICE HILDYARD: They are the arranging party.  
18 MR POTTS: We have not been told anything about the  
19 arrangements, my Lord.  
20 MR JUSTICE HILDYARD: Well, I am agreeable on the footing of  
21 consent in principle. I think you need to check lest  
22 there be any concerns in the foreign place. I doubt  
23 there will be, because I think that you are not -- she  
24 is only, as it were, there on a light touch basis. They  
25 have no sort of obligations to her. So I should think

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1 that's all right. Would she be proposed to be sworn or  
2 what is to happen? Are there any documents?  
3 MR STUART: Yes.  
4 MR JUSTICE HILDYARD: Who is to be there in order to show,  
5 to be satisfied that she is, as it were, giving her  
6 unassisted evidence and is being directed to the right  
7 thing?  
8 MR STUART: My Lord, discussions were had between the  
9 solicitors, and it was agreed that trial bundles B, C,  
10 E1 and G in A5 format, so in the little booklet format,  
11 should be provided for her use tomorrow, and they have  
12 been done and couriered to her yesterday.  
13 MR JUSTICE HILDYARD: Okay.  
14 MR STUART: So she has those trial bundles which we are told  
15 are all the document that will possibly be referred to.  
16 There will be an assistant present on hand at the  
17 remote site where the --  
18 MR JUSTICE HILDYARD: Who is the assistant?  
19 MR STUART: I don't know the name. I will have to find out,  
20 my Lord. I will get details of that.  
21 MR JUSTICE HILDYARD: Right.  
22 MR STUART: I am told the remote site will be using this  
23 court's bridging facility. Is that right? So that's  
24 technically how it's being done. My Lord, I --  
25 MR JUSTICE HILDYARD: That's a sort of tech word, is it, for

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1 there being a camera there which means that her face  
2 pops up here with her voice?  
3 MR STUART: That's right, and as I understand it, our faces  
4 pop up there.  
5 MR JUSTICE HILDYARD: Yes, because under the rules I think  
6 she has to be able to see --  
7 MR STUART: That's right.  
8 MR JUSTICE HILDYARD: -- mr Potts cross-examining, and you  
9 have and I have to be able to see how she reacts.  
10 MR STUART: Yes, exactly.  
11 My Lord, as to whether she is intending to take the  
12 oath, that is something I don't have -- we have asked  
13 her to confirm, we are awaiting the confirmation,  
14 whether she is taking it by way of oath or --  
15 MR JUSTICE HILDYARD: Well, the only point is that the  
16 relevant religious book must be there.  
17 MR STUART: Exactly, that's right, so we are checking that  
18 to make sure that is available.  
19 MR JUSTICE HILDYARD: Yes. And there must be a recording of  
20 the whole thing, including the video.  
21 MR STUART: Apparently, my Lord, we need your permission for  
22 that to take place. I presume your Lordship gives the  
23 permission.  
24 MR JUSTICE HILDYARD: I think it should be. The audio is  
25 required. I think in the circumstances it's best to

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1 have the precaution of a video. I know you don't have  
2 that with most witnesses, but nevertheless there is  
3 a difference between videolinking and oral testimony.  
4 MR STUART: Yes, absolutely, my Lord. My Lord, I'll make  
5 some further enquiries, and perhaps after the short  
6 adjournment if I can revert to you on any of the issues.  
7 I will certainly find out who is going to be present and  
8 ensure that it's someone who can ...  
9 MR JUSTICE HILDYARD: Where is the remote site?  
10 MR STUART: It's actually in a hotel video facility in  
11 Italy. Do you know the name of the town? (Pause) No.  
12 I'll have to find the name of the town in Italy where it  
13 is, my Lord. I know it's a hotel that has the video  
14 facility.  
15 MR JUSTICE HILDYARD: It makes for an exciting holiday.  
16 MR STUART: Yes, she is being picked up from her hotel,  
17 which I presume is in a ski resort, because she has gone  
18 skiing, about 30 miles away from the video facility  
19 hotel, and she is being taken to that hotel --  
20 MR JUSTICE HILDYARD: Right.  
21 MR STUART: -- in good time well before 11--  
22 MR JUSTICE HILDYARD: This is the only way she can be put  
23 forward except right at the end, is it?  
24 MR STUART: My Lord, the alternative is to demand that she  
25 flies back from her holiday, or that she -- I think she

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1 is coming back from her holiday next Friday, she is  
2 flying back next Friday.  
3 MR JUSTICE HILDYARD: This Friday coming?  
4 MR STUART: No.  
5 MR JUSTICE HILDYARD: The next Friday?  
6 MR STUART: Next Friday. So that as I understand it, the  
7 alternative was, as Mr Potts told you, to hear her  
8 evidence on the Monday, that being -- in your Lordship's  
9 timetable -- Monday the 20th.  
10 MR JUSTICE HILDYARD: So that would be after written  
11 closings?  
12 MR STUART: Exactly, after written closings and during  
13 closing submissions, so we didn't certainly think that  
14 was the more preferable option, and we have made these  
15 arrangements, subject of course to your Lordship's  
16 permission, and we have done what we can to liaise with  
17 the defendants, and we had understood certainly from the  
18 fact that she had asked that bundles B, C, E1 and G be  
19 provided in A5, et cetera, we had understood that their  
20 consent was either express or implicit.  
21 So the arrangements have been made.  
22 MR JUSTICE HILDYARD: Well, if you are both in agreement,  
23 I will make that direction, because the only  
24 alternatives appear worse, although to some extent it is  
25 a surprise that she should have gone off for so long in

1 this way, but there we are. If you are both in  
2 agreement, I'll make that direction with those  
3 additions. You are to co-operate in every way feasible,  
4 because although it sounds jolly easy, they are slightly  
5 more -- my experience has been that the wrinkles are  
6 greater than one might suppose, and it's far better to  
7 be entirely open, if I may say so, and keep the other  
8 side entirely au fait with the arrangements you have  
9 made, and read PD32 with great accuracy and implement  
10 it, and if there are things you cannot do, you must tell  
11 me so that I can consider that.  
12 MR STUART: Absolutely, my Lord.  
13 MR JUSTICE HILDYARD: Yes, Mr Potts?  
14 MR POTTS: My Lord, to make it clear, it's a reluctant  
15 consent. Also in terms of the video evidence, I have  
16 had the horrors of video evidence myself, and there are  
17 problems with it, and lots of things that go wrong. We  
18 did ask for details of what the arrangements are, they  
19 have not been provided, and I just echo your Lordship's  
20 point, we would like to know.  
21 MR JUSTICE HILDYARD: My experience, I was versed in the  
22 Court of Appeal on this, I myself do not think that  
23 videolinking, if to be extended, is an adequate  
24 substitute ordinarily, because I think people  
25 communicate in weird and wonderful ways which do not

1 translate on television. But that is not the preferred  
2 view. If there were a longer witness, I would have  
3 refused it. But as it is a short witness -- as  
4 I understand it, it looks short -- I will allow it.  
5 MR STUART: My Lord, yes, we entirely understand, it's  
6 entirely -- your Lordship has exercised your discretion  
7 in our favour on this occasion, and I do understand  
8 that.  
9 MR JUSTICE HILDYARD: Yes.  
10 MR STUART: I promise you we would not have put it forward  
11 as the preferred option in any way. Your Lordship will  
12 recall we did make efforts to get her here.  
13 MR JUSTICE HILDYARD: I understand that. Don't worry about  
14 that, we are going to move on now. We are going to put  
15 you on your mettle with respect to your obligations as  
16 the arranging party --  
17 MR STUART: Understood, my Lord.  
18 MR JUSTICE HILDYARD: -- to see to it that we are not  
19 breaking any Italian practice or law by doing any of  
20 this.  
21 MR STUART: Yes.  
22 MR JUSTICE HILDYARD: And make sure that all the specific  
23 arrangements are made for which you are on the line for  
24 payment, your clients are.  
25 MR STUART: Yes.

1 MR JUSTICE HILDYARD: And carry on and hope we get it down  
2 with reasonable economy.  
3 MR STUART: Yes, my Lord, thank you.  
4 My Lord, the second housekeeping matter was the very  
5 short order about evidence in the one action being  
6 evidence in the other and vice versa.  
7 MR JUSTICE HILDYARD: Yes. Looks fine. I'll have a quick  
8 look. It looks fine.  
9 MR POTTS: My Lord, briefly on the timetable, so  
10 your Lordship has it, we have looked at it, we are  
11 conscious of the overrun in this case. You have seen  
12 that we have indicated to the other side that we don't  
13 require Mr Bishop to be called because his evidence goes  
14 to matters on the counterclaim and information available  
15 after the exercise of the option.  
16 We also, my Lord, sought to dispense with  
17 Ms Willmott's evidence. We asked for a confirmation in  
18 relation to one paragraph of her statement that it was  
19 not intended to allege in that that an increase in staff  
20 salaries was an improper attempt to influence the staff  
21 against the claimants. It seemed to us fairly  
22 uncontroversial, but that confirmation hasn't been  
23 given. So reluctantly it appears that we probably will  
24 have to call her, but hopefully we can deal with her  
25 shortly.

1 MR STUART: My Lord, can I just deal with that? The answer  
 2 is we have not been able to concede that yet. We are  
 3 making enquiries of Mrs Willmott, or trying to, and  
 4 I would hope to be able to get back to my learned friend  
 5 later today.  
 6 MR POTTS: That would be very helpful, because we are keen  
 7 to try and move things on.  
 8 MR STUART: Of course I am keen to avoid having to call  
 9 witnesses if their evidence is not going to be  
 10 challenged.  
 11 MR POTTS: Fine. That's helpful.  
 12 My Lord, that's the only issues on the timetable.  
 13 Your Lordship will see that what we are presently  
 14 envisaging is finishing on the Wednesday next week the  
 15 evidence, and then your Lordship to have a day on Monday  
 16 for reading, and then the Tuesday and the Wednesday for  
 17 oral submissions. We have increased it to two days,  
 18 taking your Lordship's comments on realistic time for  
 19 submissions.  
 20 My Lord, obviously we will keep that under review.  
 21 If by chance we finish earlier, it may be that we can  
 22 bring forward the time for delivery of the submissions,  
 23 subject to your Lordship's views about weekend reading,  
 24 but we will keep that under review.  
 25 MR STUART: My Lord, that's right. That last point,

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1 I mentioned to my learned friend, it seemed to us on our  
 2 side that it's really a matter of when your Lordship  
 3 would like to receive our written submissions most  
 4 conveniently to your Lordship. Plainly you will want  
 5 a day or whatever to read them, consider them, before  
 6 you hear our oral submissions. If there is  
 7 a possibility of the oral submissions being on Monday  
 8 the 20th, and for that the written submissions had to be  
 9 got in by, let us say, lunchtime on the Saturday by  
 10 email, that your Lordship could read it over the  
 11 weekend, then if that was -- if that happened to be the  
 12 convenient -- we would of course think that that's  
 13 absolutely ...  
 14 MR POTTS: I think we shall see.  
 15 MR JUSTICE HILDYARD: I will achieve a poker face on that.  
 16 MR STUART: I understand, my Lord.  
 17 MR POTTS: My Lord, I should say from a purely personal  
 18 point of view, which is not relevant, I have a six week  
 19 trial which in fact I understand from Listing is likely  
 20 to be starting on the Monday of that week, the 20th,  
 21 which is in a sense my problem and my clients' problem,  
 22 but that is still there. I don't know what -- I will  
 23 obviously be liaising through my clerk with Listing to  
 24 see if there is any further information, but I just let  
 25 your Lordship know that.

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1 MR STUART: My Lord, on my side, if we can assist in  
 2 ensuring that this trial is wrapped up quicker --  
 3 MR JUSTICE HILDYARD: I think we are envisaging a precision  
 4 unlikely to be achieved.  
 5 MR POTTS: My Lord, yes, we will keep it under review.  
 6 My Lord, the only other question is in relation to  
 7 opening statements in relation to this matter. Has your  
 8 Lordship had a chance to (a) relax and refresh over the  
 9 break, but also do a little -- I don't know what your  
 10 Lordship has had a chance to read --  
 11 MR JUSTICE HILDYARD: Yes. Yes, but I would not wish to  
 12 stop you from making your opening blasts if you think  
 13 that they will more accurately bring out what I need to  
 14 focus on when the witnesses are called.  
 15 MR STUART: My Lord, can I put it this way? As we discussed  
 16 by email yesterday with my learned friend, if  
 17 your Lordship feels that you have an overview of the  
 18 general issues in the case, not absolutely every tiny  
 19 little --  
 20 MR JUSTICE HILDYARD: The law is the same in both, and the  
 21 factual context against which clause 19.6 has to be  
 22 construed is ex hypothesi the same in both, and the law  
 23 is going to be quite an important element in the case.  
 24 MR STUART: Absolutely, my Lord.  
 25 MR JUSTICE HILDYARD: As I understand it, in the Parham

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1 matter there is a considerable focus on various pieces  
 2 of expenditure, as to whether they were proper corporate  
 3 charges or not, and there is a considerable emphasis in  
 4 the Parhams' evidence on the fact that the monies were  
 5 theirs anyway, and therefore they couldn't be stealing  
 6 from themselves.  
 7 Beyond that I think I have had quite a lot on the  
 8 way Specsavers undertakes its joint ventures, if I can  
 9 put it that way. Is that enough?  
 10 MR STUART: I think it is, my Lord. I was going to remind  
 11 your Lordship that I did, at the end of last time, put  
 12 in a little sort of aide memoire, as we called it.  
 13 MR JUSTICE HILDYARD: Yes.  
 14 MR STUART: I am not asking you to look at any of the  
 15 documents, I am just saying perhaps the headings, if  
 16 your Lordship has read that, then my opening would be  
 17 completely unnecessary, frankly, and I suspect  
 18 your Lordship has.  
 19 MR JUSTICE HILDYARD: Yes.  
 20 MR STUART: Therefore I would rather get on with the  
 21 evidence, and you hear from Mr Parham.  
 22 For example, if your Lordship wanted a short list of  
 23 those items, those --  
 24 MR JUSTICE HILDYARD: I don't think so.  
 25 MR STUART: No, exactly. They are there, for example, on

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1 pay 5, we have each of the items with the headings on  
2 them, so we know what the issues, we know what the  
3 factual financial issues are, et cetera, et cetera. So,  
4 my Lord, I would much rather get on with the evidence.  
5 If your Lordship has had an opportunity to read the  
6 witness statements, which you obviously have from what  
7 you have just said, then anything I say now would just  
8 be repetition. So I would rather get on with the  
9 evidence, if possible.  
10 MR JUSTICE HILDYARD: Let's get on, then.  
11 MR POTTS: My Lord, I hesitate to trample on your Lordship's  
12 indulgence, but could I have a couple of minutes just  
13 to raise to couple of points?  
14 Opening submissions by MR POTTS  
15 MR POTTS: Does your Lordship have my skeleton argument?  
16 MR JUSTICE HILDYARD: Yes.  
17 MR POTTS: Has your Lordship had a chance to read that  
18 recently?  
19 MR JUSTICE HILDYARD: Yes.  
20 MR POTTS: As your Lordship says, you have been addressed on  
21 the law, the corporate and the contractual contexts.  
22 Section B, just to give some highlights, my Lord,  
23 perhaps direction, section B of the skeleton, which is  
24 at page 8, deals with the -- we set out there quite  
25 a detailed chronology which we have set out, and it

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1 deals with some of the -- highlights the relevant  
2 documents. I will not repeat that.  
3 Section D, which is at page 15, deals with the basis  
4 on which Specsavers asserts it had grounds to conclude  
5 that it was entitled to exercise the option.  
6 Paragraph 66 is a broad summary on page 16.  
7 MR JUSTICE HILDYARD: Yes.  
8 MR POTTS: My Lord, there is also the NPower cheque,  
9 I should add that as well. In short, my Lord, in terms  
10 of this case, we say this is a straightforward expenses  
11 scam. Over an extended period of time, the claimants  
12 got the company to pay for personal expenses which they  
13 falsely represented were business expenses to  
14 Specsavers.  
15 My Lord, it's important just to get -- the  
16 accounting stuff is potentially a little confusing.  
17 There are three categories of expenses. The first one  
18 is use of the company credit card. We accept it's  
19 common ground that the JVPs did use company credit cards  
20 for personal expenditure as well as business  
21 expenditure, but they had to identify which was which.  
22 Here there are false representations that credit card  
23 expenses were business when in fact they were personal.  
24 There are two particular examples, there is the Blu-Ray  
25 player, which your Lordship will come to, and secondly

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1 there are flights to Spain, couple of examples.  
2 The second category is putting in invoices and  
3 setting up standing orders so that -- because Specsavers  
4 deals with making the payments -- to pay third party  
5 suppliers where in fact the business, the services and  
6 products were for personal rather than business use.  
7 A couple of examples of that is the home cleaning,  
8 a couple of cleaners, flowers over an extended period,  
9 City Electrical, £2,000 for electrical products for the  
10 home.  
11 MR JUSTICE HILDYARD: Nursery?  
12 MR POTTS: I don't think the nursery is pursued, no.  
13 MR JUSTICE HILDYARD: The nursery was thought to be  
14 a reasonable business expense at grounds it was --  
15 MR POTTS: Yes, I think there are particular arrangements in  
16 relation to nursery, I think. I'll check on that,  
17 my Lord, but in terms of the main headline ones.  
18 The third category is petty cash. Petty cash taken  
19 from the till, not surprisingly, is solely there to meet  
20 business expenses. And instead we have over an extended  
21 period money being taken out of the till to fund  
22 personal expenditure with false representations again  
23 that it's business. You have lunches, family days out,  
24 clothing and other items.  
25 Then on top of that, my Lord, the other matter is

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1 the investigation itself, after they are suspended,  
2 an employee is brought in and they are told not to  
3 contact, and effectively the Blu-Ray player is smuggled  
4 into the store, we say, and this is a Blu-Ray player  
5 which had never been in the store, had been at their  
6 home for 15 months.  
7 So briefly just in terms of the later chronology,  
8 my Lord, that's picked up at 40 to 62 of the  
9 investigation. There is an investigatory interview on  
10 7 March. Mrs Parham is interviewed, she is asked about  
11 a number of the transactions. When confronted with the  
12 evidence about the Blu-Ray player, she faints.  
13 There is then a WP meeting and a letter of  
14 resignation is signed by them agreeing to resign and to  
15 sell their shares for £300,000, being £315,000 less  
16 deductions for costs of the investigation.  
17 Mrs Parham then seeks reinstatement, and there are  
18 some discussions that go on over a considerable period  
19 of time about the purchase of their shares. They don't  
20 agree, despite the terms of the letter, to sell. In  
21 fact, the money requested by them goes up to £500,000.  
22 Then there are also ET proceedings commenced by the  
23 claimants, they give evidence in those proceedings, but  
24 the proceedings are then withdrawn by them.  
25 Then, my Lord, paragraph 58 of the skeleton is the

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1 exercise of the option which takes place on -- I am  
 2 afraid the date isn't stated, but your Lordship may want  
 3 to annotate paragraph 58. So on the 15 July, is the  
 4 date of the exercise. Even in that letter,  
 5 your Lordship will see it in due course --  
 6 MR JUSTICE HILDYARD: 15 July 2011?  
 7 MR POTTS: 2011, and there was still a request for them to  
 8 reconsider the offer of £307,000. The transfer itself  
 9 in fact isn't effective at paragraph 61 until  
 10 28 November 2011, so there is a gap.  
 11 If your Lordship moves on to 104 of the skeleton,  
 12 the other issue in the case, the pleaded issue, the  
 13 pleaded issue, my Lord, your Lordship may just want to  
 14 turn up volume A very briefly, at page 32.  
 15 Paragraph 14, each case has the sort of allegation of  
 16 conspiracy on the part of Specsavers. At  
 17 paragraph 14 --  
 18 MR JUSTICE HILDYARD: Of the petition?  
 19 MR POTTS: No, this is the particulars of claim, my Lord,  
 20 your Lordship's tab 3.  
 21 MR JUSTICE HILDYARD: Yes.  
 22 MR POTTS: Yes.  
 23 MR JUSTICE HILDYARD: Page?  
 24 MR POTTS: Page 32 at the top.  
 25 MR JUSTICE HILDYARD: Thank you.

21

1 MR POTTS: This is an allegation of alleged harassment.  
 2 They say, about three lines down:  
 3 "The first defendant has in 2011 harassed the  
 4 claimant and sought unlawfully and artificially and  
 5 unjustifiably to concoct an allegation of fraud and  
 6 dishonesty against them with a view to seeking to  
 7 acquire each of the claimant's shareholding at par  
 8 value."  
 9 It's also in fact paragraph 19 of the reply at 102,  
 10 at the top of the page, it has a similar point. It's  
 11 motivated, to create an excuse for forcing them out of  
 12 the business and to buy their shares at a low price.  
 13 My Lord, in opening the matter, we made the point  
 14 there is no particularisation of the allegations of  
 15 dishonesty. There is no particularisation either in  
 16 this case of the individuals involved on behalf of  
 17 Specsavers, or indeed of the particulars in support of  
 18 the allegation of dishonesty. This is a point we made  
 19 in our skeleton argument, it's a point we made in  
 20 opening. There are still no particulars provided. The  
 21 motive for the conspiracy emerges in the claimants'  
 22 witness statements in this action. What they say is it  
 23 was because of the claimants' refusal to open the store  
 24 on Sundays, and that would be a matter which we will  
 25 explore. We obviously deny that there was any such plot

22

1 about Sunday trading or indeed anything else.  
 2 Quite apart from the inherent implausibility of the  
 3 allegation and the lack of particularity, the two  
 4 further problems with the claimants' allegations are  
 5 these: firstly, the claimants did agree to open the  
 6 store for trading on Sunday well before their  
 7 suspension. The second point is that the idea that we  
 8 were trying to deprive their shares for less than the  
 9 real value doesn't fit in with the facts where they were  
 10 offered £307,000 for their shares, the shares were in  
 11 fact sold for £300,000 which we say that that just  
 12 doesn't support the idea this was all about getting the  
 13 shares on the cheap, which is the allegation.  
 14 We say that the conduct in relation to getting the  
 15 company to pay for personal expenses whilst falsely  
 16 representing that they were business expenses is clear  
 17 grounds for concluding that -- on which someone, then  
 18 we, did conclude that they were fraudulent or dishonest.  
 19 Indeed, we say that in this case there are  
 20 acknowledgments of that, they resigned, they made  
 21 a number of admissions, which will be explored in the  
 22 evidence, and indeed they agreed to sell their shares.  
 23 My Lord, that's just a thumbnail sketch, I don't  
 24 know -- I have nothing -- I don't know if there are any  
 25 other issues that your Lordship is interested in, but

23

1 those are the only points I would add by way -- to the  
 2 skeleton.  
 3 MR JUSTICE HILDYARD: Not for now, but for later, one of the  
 4 things that continues to trouble me is the interplay  
 5 between the two cases, and it is quite acute in the  
 6 context of what one might call motive. Whilst making  
 7 absolutely clear that I have not reached a view on this,  
 8 supposing I were to consider the service of the notice  
 9 with all its effects to be justified in one case but to  
 10 have been not justified, or even trumped up, in another  
 11 case. To what extent does motive in one affect motive  
 12 in the other? Do you see what I mean?  
 13 MR POTTS: Yes, my Lord.  
 14 MR JUSTICE HILDYARD: This is what I have been slightly  
 15 worried about, that ordinarily I would take each case as  
 16 it comes, and I would decide it by reference only to the  
 17 evidence in that case. I will at some point want some  
 18 help on that. It's almost sort of similar fact, in  
 19 a sense.  
 20 MR POTTS: Yes.  
 21 MR JUSTICE HILDYARD: Anyway, I want you to think about  
 22 that, because I am still a bit troubled about that.  
 23 MR POTTS: My Lord, I will think about it. Can I give  
 24 your Lordship just an instant response which requires  
 25 further thought? Your Lordship is right that in a sense

24

1 one has to look at each case separately. Having said  
 2 that, we would say given that, for example,  
 3 an allegation is made in both cases that it's all about  
 4 Sunday trading, that there is this sort of conspiracy to  
 5 take people's shares away if they don't open on  
 6 a Sunday, which is an allegation which is made by the  
 7 other side in both cases. Now, we would say that it may  
 8 be, for example, that the evidence in Uckfield in  
 9 relation to that issue, as to the way Specsavers  
 10 operates, if your Lordship was to find that there was no  
 11 conspiracy about Sunday trading in Uckfield, we would  
 12 say that that might go to the likelihood of the same  
 13 protagonists on the Specsavers side going to do that in  
 14 the other case, perhaps. That might be one thing.  
 15 But your Lordship is right that in a sense, each  
 16 case is separate, they are separate stores, they are  
 17 separate facts. In fact, the issues in each case, as  
 18 your Lordship said, are actually quite different in  
 19 terms of -- the Uckfield is a much more sort of pure --  
 20 it's much more expenses and so on, whereas Bognor is  
 21 about work done, services provided and so on. It's  
 22 a slightly different issue.

23 So I'll give your Lordship -- that's just an instant  
 24 riposte. Well, not riposte but response. If  
 25 your Lordship sees obviously that's an issue, we will

25

1 consider further.  
 2 Unless your Lordship -- you have had my skeleton,  
 3 I have nothing further in terms of opening, perhaps we  
 4 may move to the evidence.  
 5 Submissions by MR STUART  
 6 MR STUART: My Lord, just before that, can I give you my  
 7 instant response? I think we may have an element of  
 8 agreement here between us. It seems to me, my Lord,  
 9 that if the evidence in one is also capable of being  
 10 evidence that your Lordship can take into account in the  
 11 other, then whilst you should keep your decision-making  
 12 in relation to each case separate, your decision-making  
 13 in the Uckfield case about motivation, in  
 14 your Lordship's example, can properly take into account  
 15 evidence that you have heard in the other. That,  
 16 I would submit, is as far as it goes.

17 Your Lordship's example started with the words  
 18 "suppose I considered that the notice was justified in  
 19 one but not in the other". That, in my submission,  
 20 would mean that you have reached that conclusion --  
 21 taking into account all of the evidence in both you have  
 22 reached the conclusion that the facts of one and the  
 23 evidence that you have heard in both caused you to  
 24 conclude, on the balance of probabilities, that, for  
 25 example, the service of the notice was trumped up in one

26

1 and not in the other. Therefore you have reached  
 2 a conclusion, you will have taken into account the  
 3 relevant facts and matters, but you have reached your  
 4 conclusion.  
 5 MR JUSTICE HILDYARD: That sounds plausible. So you should  
 6 be directed on this, and then we must move on. Take the  
 7 case of Sunday trading.  
 8 MR STUART: Yes.  
 9 MR JUSTICE HILDYARD: In both cases, the parties say that  
 10 they perceived that there would be no call for use,  
 11 people wouldn't want their eyes tested on a Sunday, that  
 12 wasn't the sort of community in which the shops were  
 13 respectfully operating. In both cases, they say that it  
 14 was an intrusion into family life. In the Parham case,  
 15 Mrs Parham in particular brings into play her religious  
 16 objections to it.  
 17 MR STUART: Yes.  
 18 MR JUSTICE HILDYARD: And there may be some statutory  
 19 support for that, I don't know. Statutory support in  
 20 that it may be difficult to force people to work on  
 21 a Sunday.  
 22 MR STUART: Yes.  
 23 MR JUSTICE HILDYARD: I don't know, but there may be. Am  
 24 I entitled to take into account, for example, the fact  
 25 that Specsavers proceeded with Sunday trading

27

1 obligations notwithstanding religious scruples when  
 2 considering the position as regards Mrs Parham? Do you  
 3 see what I mean? Don't answer now, but do you see what  
 4 I mean?  
 5 MR STUART: I take that as an example, my Lord, and given  
 6 what I have just said --  
 7 MR JUSTICE HILDYARD: You would say yes --  
 8 MR STUART: -- my immediate response would be yes, it's  
 9 a fact, it's a matter of evidence.  
 10 MR JUSTICE HILDYARD: All right. Well, those are the sort  
 11 of considerations that I want to be assisted on.  
 12 MR STUART: Understood, my Lord.  
 13 MR POTTS: My Lord, just on that point, obviously this will  
 14 be explored in evidence, just to make it clear, my Lord,  
 15 Specsavers was not requiring anybody to work on the  
 16 Sunday. The issue is about the store opening.  
 17 MR JUSTICE HILDYARD: 57 hours, how do you squeeze them in,  
 18 and some steps, some traffic which seems to indicate  
 19 that if you don't open on Sundays, the squeezes might be  
 20 put on you.  
 21 MR POTTS: Just to make it clear, my Lord, we are talking  
 22 about the store opening rather than the number of hours  
 23 worked by the managers. They are not required to be in  
 24 the store on a Sunday, it's a question about store  
 25 opening.

28

1 MR JUSTICE HILDYARD: Yes. You will bring out the nuances,  
 2 I know, and everything may be in the nuances. As I say,  
 3 I hope I have emphasised enough, I have no fixed view on  
 4 it, but given that the evidence is slightly different in  
 5 each and motive is acutely influenced by particular  
 6 facts, I want to be clear in my own mind that I am not  
 7 improperly importing considerations which affected one  
 8 group but not another. I don't want to sound pedantic  
 9 or excessively sort of prissy about this, but I will  
 10 need guidance. Of course I accept the general  
 11 proposition that the more a court knows the better, and  
 12 if facts are generally relevant, it's best it makes its  
 13 decision by reference to all of them, which is what you  
 14 are saying. That's fine, I accept that. It will just  
 15 be in the application, especially in the particular  
 16 field of whether Specsavers were motivated by some  
 17 desire to punish or to profit, and were prepared to go  
 18 out of their way to that end, which is the case ranged  
 19 against you, albeit without particularisation, as to who  
 20 formed those notions within Specsavers.  
 21 MR POTTS: Yes, my Lord, that's very helpful.  
 22 MR STUART: So, my Lord, could I call Mr Parham?  
 23 MR JOHN PARHAM (sworn)  
 24 MR JUSTICE HILDYARD: Do you have some water there?  
 25 THE WITNESS: I have, thank you very much, yes.

29

1 MR JUSTICE HILDYARD: We are at rather different levels.  
 2 I am sorry, I am leaning down on you. It's a curiosity  
 3 of the planning of the courts.  
 4 Examination-in-chief by MR STUART  
 5 MR STUART: Mr Parham, hopefully you have been handed  
 6 bundle B.  
 7 A. I have, yes.  
 8 Q. We are in the black bundles now. If you go to tab 3,  
 9 page 61 --  
 10 A. I have got that.  
 11 Q. -- there is your first trial witness statement --  
 12 A. It is.  
 13 Q. -- which goes through to page 81?  
 14 A. Yeah.  
 15 Q. It's signed by you?  
 16 A. It is.  
 17 Q. Do you confirm that that's your evidence?  
 18 A. That is my evidence, yes.  
 19 Q. And that it's true?  
 20 A. It is true, obviously saving for the following witness  
 21 statements which change certain details in that.  
 22 Q. Yes.  
 23 A. There is also, which I have found over the Christmas  
 24 period, there is a name that's slightly different.  
 25 I say slightly; it's different.

30

1 Q. Okay.  
 2 A. I have put down Riyaz Rajan. I can't remember which  
 3 point it's at, but it's about the RDM meeting.  
 4 Q. Yes?  
 5 A. That should read Helen Wilson. The meeting happened,  
 6 it's just that a different person took the meeting.  
 7 Q. Okay.  
 8 A. I will see if I can --  
 9 Q. In your first statement?  
 10 A. I am sure it's in the first statement, yes. I will see  
 11 if I can ...  
 12 Q. Anyway, your evidence is that Helen Wilson took that  
 13 meeting and not Riyaz Rajan?  
 14 A. Yes, which was 15 September 2010.  
 15 MR STUART: Yes. (Pause). I can't find it at the moment in  
 16 that statement. Would your Lordship take that as  
 17 a correction?  
 18 MR JUSTICE HILDYARD: In due course you will tell me which  
 19 paragraph has been corrected.  
 20 MR STUART: I will, my Lord, I will get the line and the  
 21 paragraph number. I am sorry, I had not been told this  
 22 was to be corrected.  
 23 A. There you go, it is number 12, page 63 I think.  
 24 MR JUSTICE HILDYARD: Thank you.  
 25 A. It was the retail development manager, but it's not

31

1 Mr Riyaz Rajan, it should be Ms Helen Wilson.  
 2 MR STUART: Does your Lordship have that correction?  
 3 MR JUSTICE HILDYARD: Yes.  
 4 MR STUART: So then you did make a number of further  
 5 statements, just clarifying matters.  
 6 A. Yes.  
 7 Q. If you go to tab 4, Mr Parham, page 82, you made a short  
 8 second statement, pages 82 through to 85. Do you see  
 9 that?  
 10 A. Yes.  
 11 Q. Is that signed by you on page 85?  
 12 A. It is.  
 13 Q. Are the contents of that statement true?  
 14 A. They are.  
 15 Q. Then tab 5, page 86 through to 93, do you see that?  
 16 A. I do.  
 17 Q. You are replying to comments made in the second witness  
 18 statement of Mr Dyson and Mr McAlindon?  
 19 A. I am.  
 20 Q. Page 86 through to 93?  
 21 A. Correct.  
 22 Q. Is that signed by you at 93, and are the contents true?  
 23 A. They are, and it is.  
 24 Q. Finally, you made a very short statement, tab 6, page 94  
 25 to 95?

32

1 A. Yes.  
 2 Q. This is relating to the floor tiles matter, and you  
 3 clarify something there. Do you see that?  
 4 A. Yes, I clarify some dates.  
 5 Q. That's right. Is that your signature on 95, and are the  
 6 contents of that statement true?  
 7 A. It is my signature, and they are true.  
 8 MR STUART: If you would just wait there, Mr Potts has some  
 9 questions for you.  
 10 Cross-examination by MR POTTS  
 11 MR POTTS: Just briefly, just in relation to your third  
 12 statement, in fact in your fourth statement you actually  
 13 withdraw a number of paragraphs from the third statement  
 14 as well; is that right?  
 15 A. I think we do, yes, I don't think it relates to the one  
 16 that I have said there is an issue with, but ...  
 17 Q. That's fine, thank you.  
 18 Can we turn back to your first statement, please?  
 19 Just in terms of your professional background,  
 20 paragraph 5, you had done a number of things, you had  
 21 been in the services, and you have a technical  
 22 background and so on.  
 23 A. I have.  
 24 Q. You had worked as an IT project manager?  
 25 A. I have.

1 Q. Then you joined Uckfield Specsavers in October 2003?  
 2 A. Yes.  
 3 Q. You were the retail manager?  
 4 A. Yes, when I joined I was the retail manager, not the  
 5 director.  
 6 Q. At that point your wife was the sole --  
 7 A. She was the sole director.  
 8 Q. -- shareholder and director and you were initially  
 9 an employee?  
 10 A. I was.  
 11 Q. Dealing with the retail side of the business?  
 12 A. I was.  
 13 Q. You were employed as retail manager between October 2003  
 14 and July 2006 when you became a JVP?  
 15 A. That's correct.  
 16 Q. And a director. Now, during this period your wife was  
 17 doing the optical side of the business?  
 18 A. She was.  
 19 Q. Doing the testing, most of the time, with the patients;  
 20 correct?  
 21 A. Correct.  
 22 Q. And you dealt with the retail side and also some of the  
 23 admin as well?  
 24 A. I did.  
 25 Q. Is that right? So as the sole JVP, and the sole

1 director of the company at the time, she was responsible  
 2 for the accounts, authorising, approving the accounts;  
 3 correct?  
 4 A. Which accounts are we talking about?  
 5 Q. The company accounts?  
 6 A. The end of year accounts?  
 7 Q. Yes.  
 8 A. Yes.  
 9 Q. And also for authorising the business expenses?  
 10 A. She was, yes.  
 11 Q. In October 2006, as I said, you became a JVP and were  
 12 appointed a retail director?  
 13 A. I was.  
 14 Q. You applied to become a JVP, didn't you?  
 15 A. It was on the understanding when my wife took the  
 16 practice, we moved from -- well, she moved from the  
 17 Hammersmith store to the Uckfield store, it was on the  
 18 understanding that because I had no optical background,  
 19 although I had been in charge of people, led people  
 20 before, I had no optical background, so the whole idea  
 21 was, which was discussing with my wife and  
 22 Chris Howarth, that I do two years in the job to gain  
 23 the experience and get some optical background. So that  
 24 was -- I didn't necessarily apply for it, it was always  
 25 in the pipeline that I was going to become a JVP at some

1 point. We didn't know when that was going to be, but it  
 2 was roughly two years.  
 3 Q. It was envisaged you were going to be but you sort of  
 4 gained experience --  
 5 A. I did.  
 6 Q. The idea was to get some experience first. But you went  
 7 up to an assessment, you did have an assessment in  
 8 Skelmersdale?  
 9 A. I went up to Skelmersdale for an assessment with  
 10 a David Markham.  
 11 Q. You did a business and finance course there?  
 12 A. I didn't do a business and finance course at -- I did  
 13 the interview there.  
 14 Q. Right.  
 15 A. I did what they call CDPs, career development plans, but  
 16 they were not at Skelmersdale, they may have been in  
 17 London. I can't remember exactly where they were. But  
 18 the whole idea of the Skelmersdale was just the  
 19 interview for that day.  
 20 Q. In advance of that, you did some assessments --  
 21 A. Sorry, in advance of the --  
 22 Q. At Skelmersdale, you did some courses and things like  
 23 that?  
 24 A. I did prior to, going up on to the --  
 25 Q. That was business and finance?

1 A. There was a business and finance one. There may have  
 2 been a retail one as well. There is four CDPs that you  
 3 can do.  
 4 Q. About how to run a store as well?  
 5 A. Yes.  
 6 Q. Courses on that?  
 7 A. More to do with the finance side of, as you say, the  
 8 business.  
 9 Q. You did those courses?  
 10 A. I did two of the courses, yes. I didn't do all four  
 11 courses.  
 12 Q. You were approved as a stage one retail; is that right?  
 13 A. I was approved stage one retail.  
 14 Q. That meant that you were eligible to be appointed as  
 15 a retail JVP?  
 16 A. That's correct.  
 17 Q. As you say, during the two and a half year period you  
 18 had been working in the store and you had gained  
 19 experience in the store?  
 20 A. That's correct.  
 21 Q. And you are computer literate?  
 22 A. Yes, I'm computer literate.  
 23 Q. Indeed probably highly computer literate?  
 24 A. Well, that's --  
 25 Q. Okay, you have a background in --

37

1 A. I have a good background in IT and electronics.  
 2 Q. You entered into a shareholders' agreement. Could you  
 3 turn up volume D, please, and just look at that briefly,  
 4 at page 17.  
 5 A. 17?  
 6 Q. Yes. This is the one you entered into in 2006. Your  
 7 wife would have entered into one previously as the sole  
 8 JVP in 2003; is that right?  
 9 A. That's correct.  
 10 Q. This is the one that you both entered into?  
 11 A. We did.  
 12 Q. Okay. This set out your obligations. In terms of  
 13 running the store, if you could just look at 3.1, just  
 14 have a quick read of that.  
 15 (Pause)  
 16 A. Okay.  
 17 Q. When you signed this agreement, you appreciated that you  
 18 were undertaking contractual obligations through this  
 19 agreement; is that right?  
 20 A. Yes, obviously, but I am going to be quite open that  
 21 because my wife had already been at Hammersmith and  
 22 because she had already joined in Uckfield, I didn't  
 23 really look at this that much, to be honest. I thought,  
 24 you know, it was -- I looked at Specsavers as a great  
 25 company, my wife was very happy and we both believed

38

1 that the format that Specsavers were offering was  
 2 a great deal. And I didn't really, to be honest, look  
 3 at this wholeheartedly, and take it all on board. To be  
 4 honest, most of it, when I look at it, it's not very,  
 5 you know, clear to me, because I am not, as a lawyer,  
 6 I don't fully understand all the details and aspects of  
 7 it. But yes, I do understand that there are contractual  
 8 obligations.  
 9 Q. Okay, but just in terms of the model of the business,  
 10 you appreciated that you had primary responsibility to  
 11 attend at the premises and manage the operation of the  
 12 business in accordance with the Specsavers Manual; is  
 13 that fair?  
 14 A. We ... we -- I am not quite sure what the -- because all  
 15 shops were different, so the manual wouldn't cover all  
 16 timings of openings, et cetera, for the business. So as  
 17 I say, businesses were different. I know that a company  
 18 like Eastbourne would have been open a lot more than we  
 19 would, because we were only a small town, small store.  
 20 So we opened really to do with what the rest of the high  
 21 street was opening. Most of the high street was open  
 22 from 9 to 5.30. Some were open only half days on  
 23 Saturdays. No optician was open on Sundays. So this is  
 24 why we, you know -- it is, you know, you have to tailor  
 25 it to the town, and that's how we looked at it, we

39

1 tailored the business to the town.  
 2 Q. Just to go back to my question, the point was that you  
 3 couldn't just open the store and do what you liked in  
 4 the store, you couldn't sell fish, you were there to run  
 5 an opticians in accordance with the Specsavers model?  
 6 A. It was -- yes, to run it as an opticians and to sell  
 7 Specsavers glasses for them, yes.  
 8 Q. Not just to sell their glasses, this was a joint venture  
 9 between you and Specsavers, wasn't it?  
 10 A. Well, the joint venture partnership is obviously bandied  
 11 around quite a lot, and obviously with what I hear in  
 12 the court over the last month, the partnership is  
 13 apparently not one that we were supposed to have, but  
 14 that is how it was sold to us, that it was  
 15 a partnership. But yes. You know, we opened it as  
 16 a Specsavers partnership.  
 17 Q. Right. Just to break it down, it was a Specsavers  
 18 store, you didn't have an entirely free hand in relation  
 19 to running the business, you had to comply with the  
 20 manual and other requirements in this agreement; you  
 21 appreciated that?  
 22 A. I understood that there were, you know, certain aspects  
 23 that Specsavers had been going since 1984, surely, you  
 24 know, they know how to open stores, et cetera, so we had  
 25 to follow certain criteria.

40

1 Q. And Specsavers weren't actually physically in the store,  
 2 they didn't have their directors physically in the store  
 3 on a daily basis, did they?  
 4 A. No, because the way that, as you say, the format was  
 5 that there was A shareholders and B shareholders, A  
 6 directors and B directors. The B directors and  
 7 shareholders just took a 6.5 per cent management fee of  
 8 the turnover, whereas we were entitled to the profits of  
 9 the business that were left over, and so, no, Specsavers  
 10 weren't in -- SOG wasn't in the store.  
 11 Q. But in terms of the, as I said, you are both  
 12 shareholders in the company?  
 13 A. Yes.  
 14 Q. Under this agreement, Specsavers are trusting you to run  
 15 the operations of the business on a daily business in  
 16 accordance with this agreement and in accordance with  
 17 the manual?  
 18 A. As we trusted them to do the same thing as well.  
 19 Q. Right. Just in terms of, you mentioned the sort of  
 20 dividend policy, and rightly you refer to the fact that  
 21 Specsavers received a management fee. If you just turn  
 22 to clause 5 firstly, the management fee. Yes? Clause 5  
 23 is referring to the management fee which you have  
 24 referred to; is that right? (Pause). Which is based on  
 25 gross sales, it's on turnover.

41

1 A. It's on turnover, yes, and in respect of that, they  
 2 provide us with know-how, guidance and support within  
 3 the business.  
 4 Q. In terms of your share of profits, there is a dividend  
 5 policy which is set out in clause 4; is that right?  
 6 A. (Pause). Yes.  
 7 Q. So the way that works, it's a dividend policy, there are  
 8 certain provisions that are made, and then you are  
 9 entitled to receive distributions as an A shareholder,  
 10 correct?  
 11 A. Yes, we are entitled to distributions which can be forms  
 12 of dividends, they can be as bonuses or there is  
 13 a partners' brief in May 2008 where it suggested we --  
 14 and sanctioned basically that we took -- we could take  
 15 other forms of benefits in kind, which could be --  
 16 I mean, they highlighted school fees, golf membership,  
 17 we could actually go out and buy a brand new car, things  
 18 like that. So that was pre dividends but it was coming  
 19 out of the profits of the business.  
 20 Q. Okay, but the distributable profits could be used to pay  
 21 you a dividend, whether a bonus or a payment,  
 22 a distribution in kind, or a formal dividend, but it's  
 23 out of the profits of the business; correct?  
 24 A. It is out of the profits of the business.  
 25 Q. And those are the profits as shown in the properly

42

1 prepared accounts; correct?  
 2 A. They are, yes.  
 3 Q. You were as a director responsible for approving the  
 4 financial statements, weren't you?  
 5 A. We were, yes.  
 6 Q. In terms of the distributions, you would get monthly  
 7 management accounts, you would get bottom line reports?  
 8 A. We would get bottom line figures, yes.  
 9 Q. And those bottom line figures would tell you what  
 10 profits were available for distribution in whichever way  
 11 you chose to take it; is that right?  
 12 A. They would do. There was a lot of discrepancy about how  
 13 this -- how they were set up, because they would say  
 14 what was available to take as a dividend, yes, when you  
 15 asked for that amount, they would a lot of the time say,  
 16 "No, you can't have that amount, you can have this" or  
 17 "there is not enough funds in the business". It was  
 18 changed a couple of times to try and help us understand,  
 19 but it was still very difficult to get the amount that  
 20 they said that we could take as cash, or, you know, as  
 21 in dividends and bonuses, so be able to take that.  
 22 That's, you know -- so it wasn't as clear cut as I think  
 23 you are trying to make, Mr Potts, that, you know, that's  
 24 what you could take out of the accounts, it was never  
 25 really as clear cut as that, I should say.

43

1 Q. Okay, but from the nature of this structure and the  
 2 information you were getting, you appreciated that the  
 3 business belonged to the company, didn't you? The  
 4 business operated by the store belonged to the company?  
 5 A. What do you mean by the business was owned by the  
 6 company?  
 7 Q. The business operated by the store, it wasn't owned by  
 8 you personally, was it? You were not the employer? The  
 9 company was the employer and it was the company's  
 10 business?  
 11 A. As a shareholder I looked as though it was our business.  
 12 Q. Well, you were not the only shareholder, were you?  
 13 A. Well, no, but so was my wife was another one, and also  
 14 SOG were. But it's still, you know, I am a partner in  
 15 that business. I still looked at it as our business.  
 16 Q. Right, and the cash which the store had, it was not your  
 17 cash, was it, it was the store's cash, it was the  
 18 company's cash?  
 19 A. The reason why I say it's our money, my Lord, is because  
 20 that's how I look at it in a way that -- those  
 21 distributable profits will come to us. I don't mean  
 22 that all the money in the accounts belongs to me. What  
 23 I mean is that the money that is distributable does, you  
 24 know, effectively it will come to us, so effectively it  
 25 is our money. Specsavers are not entitled to any of

44

1 that money at all. It's -- they get their money from  
 2 the 6.5 per cent management fee and other fees that they  
 3 charge us from the company.  
 4 Q. You are not entitled to just take money straight out of  
 5 the till, are you? It is not your money, it belongs to  
 6 the company.  
 7 A. I have never taken money straight out of the till.  
 8 Q. Do you accept you are not entitled to do that?  
 9 A. You are not entitled to take money straight out of the  
 10 till.  
 11 Q. Because it's not your money, is it, it's the store's  
 12 money, the company's money?  
 13 A. The money in the till hasn't actually gone to -- through  
 14 to Specsavers at all, so it's still money that hasn't  
 15 been accounted for. So the money in the till is  
 16 a different matter from what you are saying is about the  
 17 money in the account. There are two different aspects  
 18 there.  
 19 Q. Let's break it down. Firstly you have accept that  
 20 you're not allowed to take money straight out of the  
 21 till, it's the company's money; correct?  
 22 A. No, I don't accept what you are saying there. I am  
 23 saying you can't just take money out of the till and put  
 24 it in your pocket. You can take money out of the till  
 25 to go and pay for -- it may be for milk, for items,

45

1 et cetera. As we did, there was a tax news bulletin in  
 2 2005 regarding working lunches. Now, up until 2010 we  
 3 never applied this in the store at all. But at the end  
 4 of 2009, beginning of 2010, we had a shop refit, we  
 5 spent £50,000 on the shop refit, and following on that  
 6 we got extremely busy. The lunches that we had for the  
 7 previous seven years were only sort of 20 minutes  
 8 anyway, but during this time we weren't really getting  
 9 a lunch. So as this was -- it had never been  
 10 disallowed, that we couldn't take lunches out of the  
 11 till, I spoke to Shakila -- sorry, my wife, and we  
 12 agreed that, you know, we are not taking lunches here,  
 13 we need to see if we can take it from the till. That  
 14 was seen to be okay because it was in a tax news  
 15 bulletin, and we offered it to the staff. The staff  
 16 preferred to have their full lunch, which I think is one  
 17 of the criteria, and we didn't see anything of an issue.  
 18 So any business related item going through the till,  
 19 as far as I understand, is okay.  
 20 Q. Sorry, maybe you misunderstood my question. I am not  
 21 asking you about the details of particular transactions,  
 22 we will come on to those in a minute .  
 23 A. Okay.  
 24 Q. I am just trying to explore with you your understanding  
 25 in terms of the business. The money in the till,

46

1 I think you accept, is not your money, it doesn't belong  
 2 to you personally, does it, it belongs to the company?  
 3 A. No, they money doesn't belong to me personally.  
 4 Q. You accept it belongs to the company?  
 5 A. I am not quite sure who -- how it works out and who it  
 6 belongs to at the time, because I assume that it does  
 7 belong to the company at that point, because if it  
 8 hasn't gone through, it's all the procedures --  
 9 Q. Right, you have talked about the taking of bonuses and  
 10 distributions?  
 11 A. I have.  
 12 Q. You are saying eventually you have an entitlement to  
 13 receive profits from the business; correct?  
 14 A. Correct.  
 15 Q. Those profits, though, that you have talked about, are  
 16 the profits based on the accounts, those are  
 17 distributable profits as shown as properly accounted for  
 18 through the company's accounts; correct?  
 19 A. That's correct.  
 20 Q. So the profits of the business in the first instance  
 21 belong to the company, albeit that you have  
 22 a contractual right to receive distributions in a number  
 23 of different ways?  
 24 A. They do belong to the company at the point, but as  
 25 I say, there is a very vague thing about the company,

47

1 I get lost between what these companies are, because we  
 2 never had a bank account. It was a reference number.  
 3 All the money went into Specsavers' bank account. So --  
 4 Q. You didn't think that was your personal bank account,  
 5 did you?  
 6 A. Well, obviously, because we couldn't do anything into  
 7 that bank account at all. We couldn't set up direct  
 8 debits, I couldn't take money from that bank account,  
 9 I had no chequebook and pen as such.  
 10 Q. You understood that that bank account was held for the  
 11 benefit of the company, Uckfield, the Uckfield company?  
 12 A. No, the reference point was --  
 13 Q. Okay, it was operated for the benefit of the Uckfield  
 14 company, not for you personally?  
 15 A. Right, yeah, it was operated for the benefit of all 700  
 16 stores.  
 17 Q. Sure, but you got an individual statement in relation to  
 18 the Uckfield balances, didn't you?  
 19 A. We had Specsavers generated account -- statements.  
 20 Q. And those, sorry, it's not a trick question, the  
 21 statements may have been generated by Specsavers but  
 22 they showed the balances in relation to the company's  
 23 money?  
 24 A. I assume so, yes.  
 25 Q. Right. So you weren't entitled to whatever cash was in

48

1 the business as and when you decided, it required  
2 a decision to pay dividends, and for those dividends to  
3 be declared or bonuses paid in accordance with the terms  
4 of this agreement, the shareholders' agreement?  
5 A. Yeah, I was fully aware that I couldn't anyway take  
6 money out of, you know, the account.  
7 Q. Or the company's money generally, it didn't just belong  
8 to you, your entitlement was to profits paid in  
9 accordance --  
10 A. Our entitlement was the profits of the business.  
11 Q. And based on properly prepared accounts and as agreed  
12 and paid in accordance with the dividend policy? You  
13 put in requests for those payments?  
14 A. Well, yeah, we put in requests, but we, as I say, you  
15 could also put invoices through the business as well.  
16 Q. We will come on to the invoices in a moment. You were  
17 also an employee of the company as well, weren't you?  
18 A. Yes.  
19 Q. Could you just turn up D32, for completeness. That's  
20 a service contract. That's your contract, isn't it?  
21 A. It is.  
22 Q. Under 3.1.6 you had obligations to promote the interests  
23 of the company, Specsavers stores, and indeed the  
24 Specsavers brand?  
25 A. Correct.

1 Q. You appreciated, as I said, this wasn't -- you weren't  
2 operating a wholly independent opticians, you were  
3 operating and promoting the Specsavers brand through the  
4 vehicle of the Uckfield company, which was your  
5 employer?  
6 A. We were promoting the brand through -- yeah, through  
7 Specsavers, yeah.  
8 Q. And your employer was the Uckfield company, according to  
9 this contract?  
10 A. Yes -- it looks like it, yes, on paper, it does seem to  
11 be that way, but we all know that that's not necessarily  
12 the case. Specsavers head office are the people that  
13 run the businesses, you know. We just felt that we were  
14 just glorified managers in the business, not  
15 necessarily, you know, shareholders or directors. We  
16 were just there as managers. That's how we looked at  
17 it.  
18 Q. Well, you didn't just get paid a salary, did you?  
19 A. No, I did get, receive dividends as well, but --  
20 Q. You received dividends.  
21 A. -- I am talking about the operational side of the  
22 business.  
23 Q. And that's because, as you accept, you didn't have  
24 a completely free run at operating the business, you had  
25 to operate -- there was a manual, there were lots of

1 procedures that you were required to adhere to?  
2 A. Yes, the manual was obviously a point of discrepancy, as  
3 we found out in the Bognor case. There was a manual  
4 when we first started which was a hard copy, but this  
5 was in our minds never really updated by Specsavers.  
6 Apparently it was updated by the IQ, which was -- being  
7 an IT background was a bit of a laugh, to be honest, you  
8 couldn't find anything you wanted on there. So it  
9 was --  
10 Q. Initially there was a hard copy in 2003?  
11 A. Initially, yes.  
12 Q. In January 2005, a computerised intranet called IQ was  
13 introduced?  
14 A. IQ.  
15 Q. Is that right?  
16 A. That's correct.  
17 Q. The hard copy then stopped being updated at that point,  
18 and it was replaced by updates on IQ?  
19 A. Apparently so, which I have only heard in, you know, the  
20 Bognor proceedings. I was never aware of that.  
21 Q. You didn't receive further hard copy updates to the hard  
22 copy --  
23 A. No.  
24 Q. -- did you? You also had partner briefs as well which  
25 were sent to you?

1 A. We did.  
2 Q. And they were also on IQ as well, weren't they?  
3 A. I don't know. I saved all the partner briefs that came  
4 in through paper, and they were all on paper.  
5 Q. You had them on paper?  
6 A. Yeah.  
7 Q. In the -- there was mystery shopper procedures which  
8 were on IQ, lots of procedures were on IQ, weren't they?  
9 A. Again, the mystery shopper procedures would come at the  
10 start of the year on paper and let us know -- via email  
11 and let us know what the criteria through that year was  
12 on the mystery shopper.  
13 Q. But you appreciated that you were obliged to, under the  
14 shareholders' agreement, operate the business in  
15 accordance with the manual, and the manual included any  
16 matters that you were notified, whether in writing or  
17 electronically?  
18 A. As you said, the manual was never physically updated  
19 after, I think you were saying, 2006.  
20 Q. No, January 2005.  
21 A. January 2005.  
22 Q. Does that sound about -- firstly in terms of the date?  
23 A. I don't know.  
24 Q. Does it sound about right?  
25 A. As I say I didn't -- no, I can't say that at all,

1 because the only time that I knew that the manual was on  
2 the IQ system was in the Bognor case. I followed what  
3 was in the manual that we had as a hard copy.  
4 Q. You didn't look at the IQ at all?  
5 A. I did look at the IQ. The only reason I looked at the  
6 IQ were for the forum sites, that if people wanted to --  
7 say we needed a frame, it was a discontinued frame,  
8 there were sites on there that you could go on to there  
9 and say "look, I am looking for this frame, this type,  
10 does any store have them". Because to be honest  
11 although it was shown to be powered by Google, it was  
12 the worst site I have ever been on, you could never find  
13 anything that you required on that site. So I very  
14 rarely ever used the IQ.  
15 Q. Okay. Let's just deal with a couple of things. Mystery  
16 shopper, you did the mystery shopper?  
17 A. Yes.  
18 Q. Would you accept that from the beginning of 2003 until  
19 2011 you had a good relationship with Specsavers?  
20 A. To be honest I thought my -- you know, I believed  
21 Specsavers, I agreed with, you know, their formatting,  
22 their business model, et cetera, it was a great business  
23 model, and I thought that I had a good relationship with  
24 them. I mean, obviously it's never going to be smooth  
25 running all the way through, you are going to have the

1 odd hiccup, but apart from Sunday opening, which was the  
2 only initiative that we said, you know, we would not do,  
3 apart from that we followed everything. We did the  
4 mystery shopper, we did the top team, which was a profit  
5 sharing team which was, you know, have a certain amount  
6 of members of the team who would receive parts of our  
7 profits. So, yeah, we agreed to everything that  
8 Specsavers were, you know, the initiatives that they  
9 were putting through.  
10 Q. Okay, say for Sunday trading you participated fully in  
11 all their training and initiatives, as far as you are  
12 concerned?  
13 A. Save.  
14 Q. Save for Sunday trading?  
15 A. Save, yes.  
16 Q. You said the top team profit share scheme, you  
17 participated in that?  
18 A. We did, yes.  
19 Q. That was a phase 1 initiative, wasn't it, what we have  
20 called, it was not in the manual?  
21 A. No, that wasn't in the manual, that was one of the  
22 initiatives.  
23 Q. That was about trying to counter the expansion of  
24 supermarkets and retaining staff; is that right?  
25 A. It was to retain the staff, yes. I know necessarily it

1 was to do with shops opening -- like Tesco's opening  
2 opticians. To retain staff, to keep them on board.  
3 Q. In part to stop them going off and joining the  
4 competition?  
5 A. Well, to stop them going off, yeah.  
6 Q. Whilst stores were encouraged to participate in that, it  
7 was not mandatory, it was not in the manual, but you  
8 participated in it?  
9 A. Yes, because we thought it was a very good idea, the  
10 staff worked very hard and we were always, what's the  
11 word, giving, you know, giving things to our staff. We  
12 were always -- I can't think of the word at the moment.  
13 Where we acknowledged all their hard work, you know, we  
14 were always taking them out, we were buying them gifts,  
15 we did a lot for the staff, in return for their hard  
16 work to us. So this was an apportionment of that, in  
17 the fact it did specific -- had specific people on this  
18 top team, but they were managers, the lab manager, the  
19 store manager and the optician. They were the three  
20 people on the list.  
21 Q. You also under the shareholders' agreement were obliged  
22 to set aside some monies for a store refurbishment, you  
23 did that as well?  
24 A. We did as well, yes.  
25 Q. I just want to ask you a little bit about the extended

1 hours trading initiative, of which Sunday trading was  
2 a part. That was an initiative launched in about  
3 September 2007 to encourage extended openings, including  
4 on the Sunday; is that right?  
5 A. It was to encourage extended hours -- well, I am not  
6 quite sure if they were both together, I thought they  
7 were actually two separate points. I thought there was  
8 an extended hours and a Sunday opening trading.  
9 Q. Okay, well, I put it to you that in fact the extended  
10 hours initiative included both. It was not a compulsory  
11 matter, was it, it was not in the manual?  
12 A. No, it wouldn't have been in the manual, not my manual  
13 anyway.  
14 Q. The store was a party to an enabling agreement; do you  
15 remember that?  
16 A. I do remember this, yes. How I understood this enabling  
17 agreement was that if there was -- the problem with the  
18 company, it was getting bigger and bigger at all times,  
19 and to get everybody to come back and agree to something  
20 was becoming a bit difficult, because the shops were  
21 very busy, you know, not everybody got back saying  
22 "I agree with this" or "I disagree with it". So they  
23 got an enabling agreement which I think if I understand  
24 correctly was 80/20. That's the 80/20 --  
25 Q. If it helps, could you take E1. I don't know quite

1 what's happened on the numbering here. Is it 111,  
2 I think? Sorry, 11.  
3 A. Just 11?  
4 Q. I think so, although I have some slightly odd numbering  
5 in mine. It's about a centimetre into the bundle.  
6 A. No.  
7 MR POTTS: No? Sorry, I think there may be two 11s. Not  
8 very helpful. (Pause). My Lord, I am just wondering,  
9 I am conscious of the transcribers, I think I may have  
10 over run.  
11 MR JUSTICE HILDYARD: Yes, I have found the enabling  
12 agreement, I think if you wander forward in the bundle  
13 you will come to it, you are quite right, Mr Potts, that  
14 the 11 is -- it starts again. The numbering starts  
15 again, after page 22.  
16 MR POTTS: There we are, my Lord, I am sorry.  
17 MR JUSTICE HILDYARD: Ten minutes.  
18 (11.40 am)  
19 (A short break)  
20 (11.55 am)  
21 MR POTTS: Just before the break, we had managed to all  
22 arrive at the enabling agreement in volume E1, I think,  
23 and we were just discussing that. That was a mechanism,  
24 that agreement, is that the document, the agreement you  
25 were referring to?

1 A. Yes, I think it is, although obviously this is not my  
2 document, I've not signed this, this is my wife's  
3 enabling agreement.  
4 Q. Yes, but it's in relation -- it's not her personally, is  
5 it? The party is the store, it's Uckfield Specsavers  
6 Limited, you see that at the top, the company, the  
7 party?  
8 A. That's correct, yes.  
9 Q. So it's the company's agreement. What that was was that  
10 this is a mechanism, an agreement whereby initiatives  
11 can be introduced by the vote of the regional stores, if  
12 80 per cent of the regional stores adopted an initiative  
13 then everybody has to do it; is that right? Is that  
14 your understanding of how it worked?  
15 A. As I say, my understanding was that it was more to do  
16 with being able to get at least 80 per cent of the  
17 people who may have been at an RC -- regional  
18 communications meeting, to say "Yes, I/we do that".  
19 Q. And then everyone would?  
20 A. And everybody you know, fell in line with that.  
21 Q. There was never an enabling resolution proposed in  
22 relation to Sunday trading, was there?  
23 A. Not as far as I know.  
24 Q. Sunday trading wasn't in the manual either?  
25 A. No, it wasn't in the manual and there was no enabling

1 agreement, but, you know, in hindsight, when I see the  
2 emails now in the disclosures, there is obviously  
3 a trail of emails to make sure that this did happen.  
4 Q. Well, Specsavers was certainly keen to encourage stores  
5 to participate in this, because they thought it was  
6 important for the business?  
7 A. The problem with a company getting too big, they don't  
8 necessarily look at your own area. If I can take  
9 an example, we have got Lewes, who we know that  
10 Mrs Lofting is the director of. Lewes town is  
11 completely different to Uckfield town. Whatever she  
12 would do, we wouldn't necessarily follow a path in our  
13 advertising, et cetera, and stuff like that. The people  
14 are completely different. Although albeit it's only  
15 8 miles away.  
16 So I think, you, know, there is an issue that  
17 getting everybody to do exactly the same thing in  
18 certain towns is not necessarily a good idea.  
19 Q. But there was no enabling agreement, this was not made  
20 a compulsory matter, although you were encouraged?  
21 A. This wasn't made compulsory although we did feel as  
22 though it was being made compulsory and the fact that  
23 I was always named and shamed at these regional  
24 communication meetings, I seemed to be the last person  
25 in the region that was open on Sundays. There was

1 pressure ramped up all the time, right to the point of,  
2 I think it was January 2011, where I was instructed by  
3 Mr Rajan, Mr Rajan is the right person this time, that  
4 he said that if we do not open we would go to the board,  
5 it would be escalated to the board. So I felt that as  
6 being a, you know, pressured situation, not necessarily  
7 being an enabling agreement, but it was still being  
8 pointed out that, you know, if I do not comply with this  
9 I will have to go to the board and everybody knows that  
10 if you go to the board then you are out.  
11 Q. Okay, we will come back to that in due course. Can  
12 I take you back to slightly earlier events to do with  
13 Sunday trading. You did in fact give Sunday trading  
14 a go, didn't you, in 2008, on a trial basis?  
15 A. The 2008 was not necessarily a Sunday opening. All it  
16 was was a charity day for Vision Aid Overseas. It was  
17 one Sunday that we had agreed to open and we had  
18 advertised this for a month prior to going live on the  
19 Sunday, and up until 5 o'clock on the Saturday  
20 afternoon, not one person wanted to have an appointment  
21 on that day. No-one -- you know, we would basically  
22 have been open for no reason, no appointments had been  
23 booked. So it gave us an indication of what the town  
24 wanted as well. The town didn't want us open. You  
25 know, we, although it's a small town, there are eight

1 churches in town, and it's a very religious and very  
 2 cliquy town, and people don't like shops being open on  
 3 a Sunday. The only shops at that time that were open  
 4 were Somerfield, Tesco's, and I think one other big  
 5 store. Apart from that, all the shops in the high  
 6 street were closed.

7 Q. Can I ask you, turn up E1, you referred to Helen Wilson,  
 8 E1/244 is a meeting that you had with her. She was  
 9 a regional development manager, wasn't she?

10 A. She was.

11 Q. She came to the store on 15 September 2010?

12 A. She did.

13 Q. She met with you at the store?

14 A. She met me at the store, yes.

15 Q. She had a look around and was there --

16 A. It wasn't just a case of looking around, she went -- she  
 17 looked at the operational side of the business, made  
 18 sure that we were, you know, everything was being run  
 19 fine, all the operational sides of it were good, there  
 20 was no bad debt, et cetera and stuff like this.

21 Q. It was quite an in depth meeting?

22 A. It was most of the day, yes.

23 Q. Right. You see at 244 there is a covering email from  
 24 her to Mr Rowe and Mr Rajan --

25 A. Mm.

1 Q. -- after the visit, and do you see there she attaches  
 2 a report from the visit, she spent time with John and  
 3 the rest of the team; you agree with that?

4 A. Mm.

5 Q. She says retail standards were very good, operational  
 6 areas in the business were being well managed?

7 A. Yeah.

8 Q. She said:

9 "I helped Noel the lab manager and IST ..."

10 What is IST?

11 A. Instore trainer.

12 Q. "... to develop a 13 week training plan and had  
 13 discussions about improving conversions as a team  
 14 effort."

15 Yes? Then there is her report that follows. She  
 16 doesn't mention Sunday trading as being a significant  
 17 issue in that covering email, does she?

18 A. Not on the email.

19 Q. No. Then 245 onwards is her report. In the first  
 20 section of the report, she deals with numbers of areas  
 21 of focus, objectives, and then some suggested actions.  
 22 Do you see that?

23 A. Mm.

24 Q. So there are a number of issues where some actions were  
 25 suggested. You will see, for example, if you look at

1 the bottom of the page, "Instore Specialist  
 2 Development", then it says, that's the area of focus:  
 3 "Objective: to assist Noel in developing training  
 4 sessions for the team."  
 5 She says they have planned a 13 week training plan,  
 6 and it's referred to as action 9?

7 A. Correct.

8 Q. That ties in with what she said in her covering email,  
 9 does it?

10 A. It does.

11 Q. Do you remember that being discussed?

12 A. I don't remember it being discussed because obviously,  
 13 as you see, it's with Noel, not me.

14 Q. I see, but you were not a party to that part of the  
 15 discussion?

16 A. I wasn't a party to that part of the discussion, no.

17 Q. Okay. Were you aware that there was going to be  
 18 a training plan?

19 A. No, not prior to the --

20 Q. No, but after that meeting you became aware of that  
 21 proposal?

22 A. Yes.

23 Q. There is also reference to the retail standards being  
 24 good, and you see there is a reference to the standards,  
 25 on the second page, "Retail Standards", 246, generally

1 it's either good or high?

2 A. Correct.

3 Q. In the middle of the page?

4 A. Correct.

5 Q. Then there is a section at the bottom of the page:  
 6 "Post Store Visit: Next Steps."  
 7 It sets out a summary of agreed actions resulting  
 8 from the visit. You see that is referred to there, at  
 9 the bottom of 246?

10 A. Yeah, I see, yes.

11 Q. The first 11 points tie in with the suggested actions in  
 12 the first section, do you see in the first section you  
 13 have actions 1, 2, 3, 4 and it goes down to 11 at the  
 14 top of 246?

15 A. Yes.

16 Q. Here you have 11 action points?

17 A. Yeah.

18 Q. So for example, point 5, if you look at 247, under  
 19 "Product Quality" it says:  
 20 "Lab audit to be carried out on a regular basis."  
 21 A. Correct.

22 Q. If you go back, if you look at 245, "Refining Product  
 23 Quality", it says:  
 24 "Lab quality audit, action 5."  
 25 Do you see that?

1 A. Correct.  
 2 Q. So that's a point that she discussed with you and agreed  
 3 that lab audits would be carried out on a regular base,  
 4 and that was something that you discussed and agreed to  
 5 action; correct?  
 6 A. Correct.  
 7 Q. The final two points are said to be actions carried over  
 8 from RPC recent visit; do you see that?  
 9 A. Mm.  
 10 Q. The first is to continue to work on customer meet and  
 11 greet and mystery shopper standards?  
 12 A. Correct.  
 13 Q. That was something you had previously discussed and  
 14 there was room for improvement on that; correct?  
 15 A. The room for improvement was just on the initial meet  
 16 and greet, the rest of it was quite good, it was just  
 17 the meet and greet area which we were falling down on,  
 18 but again that was a local issue, that we didn't feel --  
 19 and the customers didn't feel as though they should be  
 20 hassled as soon as they walked through the door.  
 21 Q. But you would agree that it was something --  
 22 A. There were areas for improvement.  
 23 Q. You agreed with her that it was something you would need  
 24 to work on?  
 25 A. Correct.

1 Q. The final point says:  
 2 "Continue with trying to recruit an OO to cover  
 3 Sunday trading"?  
 4 Now, OO is?  
 5 A. An ophthalmic optician.  
 6 Q. Okay. So here you were agreeing to continue to try and  
 7 recruit an OO to cover Sunday trading; correct?  
 8 A. Correct.  
 9 Q. You were looking to recruit somebody for the Sunday?  
 10 A. To be honest, I just put that, I said that we were just  
 11 looking, because we wouldn't really -- we didn't want to  
 12 open, we didn't feel as though it was necessary for us  
 13 to open, and they were fully aware that we had  
 14 difficulties getting OOs in the area, so I used that as  
 15 a ruse to not open.  
 16 Q. You told -- you were not actually required to be in the  
 17 store seven days a week, were you?  
 18 A. This is a whole bone of contention, the fact that  
 19 because we have such an issue about getting OOs in the  
 20 store, it would be ultimately my wife that would end up  
 21 doing it on a Sunday. Prior to 2008, we opened the  
 22 clinic, second clinic on a Saturday, and getting  
 23 an optician on a Saturday was a very difficult  
 24 situation. We would never have the same optician, you  
 25 know, it changed all the time, and the problem would be

1 in that, as I said, the town is quite small, it's quite  
 2 cliquey, people don't like change in the town, they  
 3 don't like seeing different opticians every time they  
 4 come in. They like to see the same person. So we knew  
 5 that if we continued and did open on a Sunday as well,  
 6 that would a part of the issue, just a part of the issue  
 7 that, you know, we wouldn't be able to cover that, and  
 8 it would be eventually my wife that covered the Sunday,  
 9 and obviously with religious backgrounds, it's that, you  
 10 know, and the family as well, don't forget we are  
 11 a husband and wife in this, and the only time that we  
 12 get to see the children would be on a Sunday, because we  
 13 staggered the week through between us. So together as  
 14 a family, and Shakila attending church on Sunday  
 15 mornings, was -- also the town as well. You know, we  
 16 are looking at the people of the town. This is all  
 17 about branding as well. If people don't like the town  
 18 being open on a Sunday, we have got to, you know, abide  
 19 by that. I've spoken to the present directors at the  
 20 moment who have been in since 2012, and I spoke to them  
 21 last year and they are saying that Sundays is just  
 22 a waste of time, people don't come in on Sundays because  
 23 again, as I say, it is quite a religious town, it's a  
 24 very cliquey town, it's not like Lewes who may be able  
 25 to open on a Sunday and not have an issue.

1 Q. Sorry, go back to the start, you raised a number of  
 2 points there. You said that you told her as a ruse that  
 3 you were continuing to try to recruit an OO to cover  
 4 Sunday trading; correct?  
 5 A. Mm.  
 6 Q. So that acknowledges the fact that Specsavers appreciate  
 7 that you are not required to be in store seven days  
 8 a week. Your working hours were five days a week,  
 9 weren't they, under your contract?  
 10 A. We were working five days a week, yes.  
 11 Q. But the store could be open, there were times when the  
 12 store was open when you weren't working in the store,  
 13 was there?  
 14 A. Yes, there was.  
 15 Q. So if the store was open on a Sunday and you had OO  
 16 cover, you were not required to work on that Sunday,  
 17 were you?  
 18 A. Again, as I say, it would have been my wife that ended  
 19 up working, because we are looking at the customer, you  
 20 know, we are not looking -- it's not just for us, we are  
 21 looking at the customer and the branding as well. What  
 22 we do at the front line affects the brand. So you know,  
 23 people swapping around, and it would have been my wife  
 24 that would have ended up doing the Sunday clinic. Now,  
 25 that is the only day that we have together as well.

1 Q. But that's not what you were telling Specsavers, and  
2 that's not what this document says, is it? You were  
3 telling Specsavers that the OO was there to cover the  
4 Sunday. The OO was your wife, wasn't it?  
5 A. To cover the Sunday?  
6 Q. Yes, and the idea is that the OO would be working on the  
7 Sunday and your wife wouldn't, that's what you were  
8 telling Specsavers?  
9 A. What I was telling them is that we had difficulty  
10 recruiting OOs.  
11 Q. Yes, but the idea was that the OO that you recruited, if  
12 and when you recruited one, would cover the Sunday  
13 session; correct?  
14 A. This is why I am saying this is a ruse, in the fact that  
15 we knew for a fact, having had experience with the  
16 Saturdays, that the OO would not stay, they never do,  
17 because they start off saying that "I can get there,  
18 it's not an issue", two weeks down the road we are  
19 finding we haven't got an OO and my wife is the one that  
20 has to fill in all the time. You know, this is why, one  
21 of the main reasons why we didn't. And it was a ruse,  
22 we had difficulty getting OOs at all times.  
23 Q. When you say it was a ruse, you were telling Specsavers  
24 that you were trying to recruit somebody for a Sunday;  
25 correct?

1 A. Correct.  
2 Q. Are you saying that you didn't in fact mean it?  
3 A. I didn't mean it, no.  
4 Q. Did you think it was appropriate to lie to your joint  
5 venture partner in that way?  
6 A. I didn't feel as though it was lying. I just felt  
7 though at the moment the store didn't require someone --  
8 our shop to be open -- sorry, the town did not require  
9 us to be open on Sundays. I didn't feel as though it  
10 was necessary to us to open on Sundays.  
11 So a little, you know, a little ruse to say that,  
12 you know, "We are looking", it's just a, you know, put  
13 them on the back-burner, basically, because I knew that  
14 at some point we would open. The town is getting bigger  
15 all the time. Since we have been there it's increased  
16 by about 10, 15 per cent, so at some point we would have  
17 had to have addressed that situation. But at the time,  
18 the -- there was no need to open on Sundays.  
19 Q. You were not telling Specsavers "we are not prepared to  
20 open the store on a Sunday for religious reasons", were  
21 you?  
22 A. You are saying this is the only reason, I can't say that  
23 was the only reason that -- I mean, this is -- I haven't  
24 written this and I haven't sanctioned this, so --  
25 Q. Did you tell Specsavers --

1 A. I don't know.  
2 Q. -- that you were not prepared to open the store for  
3 religious reasons?  
4 A. I can't answer that because I don't know exactly what  
5 was said. All I know is that she has put this down  
6 here.  
7 Q. No, that's not the question I asked. Did you tell  
8 Specsavers that you were not prepared to open the store  
9 for religious reasons? That's the question I asked.  
10 A. And I've just said to you I cannot -- I don't know.  
11 Q. You don't know if you told Specsavers that?  
12 A. No, I don't know if I said that to her at that time.  
13 Q. Did you do it at any time?  
14 A. I don't know.  
15 Q. You don't remember?  
16 A. I don't remember. Sorry, I don't remember.  
17 Q. In relation to this meeting, you don't remember telling  
18 her that, whether you did or didn't?  
19 A. I don't remember saying if we had or hadn't, you know,  
20 if she -- if it was for religious reasons or not.  
21 Q. You perfectly were indicating that you were perfectly  
22 happy for the store to be open on a Sunday. The only  
23 issue was you were saying that you were trying to  
24 recruit an OO to cover the clinic?  
25 A. No. No, I wasn't happy for the store to be open on

1 Sunday.  
2 Q. But that's not what you were telling them?  
3 A. No, I didn't tell them that, no. (Pause) You have got  
4 to understand, my Lord, that we were being pressurised  
5 from 2008 onwards to open. We didn't feel as though it  
6 was necessary to open. We, as I say, are the people on  
7 the ground. We know our customers. So in my view, it  
8 would have not been beneficial to us, the brand, or any  
9 other reason why we should have opened on Sundays.  
10 Now, looking at all the emails that Specsavers have  
11 entered into the disclosures, to me it doesn't seem that  
12 Specsavers had the brand at their heart either.  
13 Specsavers show that it's all about getting the  
14 1 million turnover for the Sunday. Although I wasn't  
15 aware of this at the time, I understand that, but my  
16 look at it was also a branding issue. Customers didn't  
17 want Specsavers to be open on Sundays. They didn't want  
18 any of the shops to be open on a Sunday. And that's how  
19 we looked at it.  
20 Q. Okay. The position you were conveying to Helen Wilson  
21 at the meeting was that you were agreeable to opening on  
22 Sundays --  
23 A. No.  
24 Q. -- and that you were working to recruit an OO to provide  
25 cover?

1 A. No, I didn't -- it doesn't actually say here that  
2 I wanted to open Sundays. What it's saying is that I am  
3 looking to recruit.  
4 Q. And the reason for recruiting is because you are going  
5 to open on a Sunday?  
6 A. No, but as I said that's a ruse. I was not willing to  
7 open on a Sunday.  
8 Q. I am asking you what you were telling her. It says  
9 "Continue with trying to recruit", so that suggests that  
10 you were saying, "This is an ongoing process. I have  
11 been trying for a while to recruit and I am going to  
12 continue to try to recruit an OO"?  
13 A. No, that's her words.  
14 Q. This is an agreed action, isn't it?  
15 A. Where have I agreed it?  
16 Q. Sorry, I think you --  
17 A. I am sorry.  
18 Q. You accepted in your previous answers that you conveyed  
19 to her, although it was a ruse, you didn't in fact  
20 believe it, but you conveyed to her that you were trying  
21 to recruit an OO with a view to opening on Sunday?  
22 A. My point is, as I said, I was trying to recruit or  
23 looking to recruit, but these are not my words, are  
24 they, and I've not actually signed this to say that  
25 I was continually looking to try and find an OO. That's

1 her wording on here. All I am saying is that -- I put  
2 my hand up, that was a ruse to her that I was looking  
3 for an OO to open.  
4 Q. Okay, let's just go back. You told her that you were  
5 looking to get an OO to open on Sundays --  
6 A. Trying, yes. Looking and trying.  
7 Q. Trying to. That is with a view, that is stating that  
8 you were looking to open on a Sunday, if you could get  
9 the cover. At least that's what you are telling her.  
10 A. That we were -- it is semantics, though I don't look at  
11 it that way, I look at as though, as I say, it was  
12 a ruse --  
13 Q. It is not semantics?  
14 A. I had no intention of opening --  
15 MR JUSTICE HILDYARD: Mr Potts, I think I have understood  
16 the position. I will put it to the witness, I hope not.  
17 I think you are saying that as far as you were  
18 concerned, you were fobbing her off because you didn't  
19 agree with Sunday opening?  
20 A. I didn't agree with it, my Lord, yes.  
21 MR JUSTICE HILDYARD: That's what it comes to?  
22 A. Which is the ruse --  
23 MR JUSTICE HILDYARD: Let's move on from this.  
24 MR POTTS: You didn't receive a visit from David Clark about  
25 Sunday trading afterwards, did you, after this meeting?

1 A. Sorry, I didn't?  
2 Q. You had no visit thereafter from David Clark?  
3 A. I've never had a visit from David Clark.  
4 Q. Then if you close E1.  
5 A. It wasn't her who actually stated that, though, that it  
6 would be escalated to David Clark, it was Riyaz Rajan.  
7 Q. That wasn't a question I asked you, Mr Parham. E2. You  
8 had a regional communication meeting on 19 January?  
9 A. 17th.  
10 Q. I am sorry, 17th. You agreed at that meeting, with  
11 Mr Rajan, to open the store for Sunday trading as of  
12 1 May 2011; is that right?  
13 A. That's correct, and the reason being is that that's when  
14 Riyaz Rajan told me that if we did not open, this would  
15 be escalated to the board.  
16 Q. But you agreed that you would open on a fixed date,  
17 1 May?  
18 A. I agreed that we would trial it for three months.  
19 Q. At the bottom of page 366, it says that "the store will  
20 be working towards a plan to open the store for Sunday  
21 trading as of 1 May"; yes?  
22 A. I am not there, yes. Sorry.  
23 Q. Sorry, 366 at the bottom of the page. (Pause)  
24 A. Yes, it says here at the RCM, so we had had the meeting  
25 on the 17th and the RCM was on the 19th. At the meeting

1 on the 17th was when he informed me that if we didn't  
2 comply we would be put in front of the board --  
3 Q. I see, so you had a meeting with him on 17th. When you  
4 say "the board", you mean the board of Uckfield?  
5 A. The board of, I understood it as Specsavers head office  
6 board.  
7 Q. I see. On the 19th, what, at the RCM?  
8 A. The Regional Communications Meeting.  
9 Q. A couple of days later?  
10 A. It's two days later, yes.  
11 Q. You said that you informed them that you would be  
12 working towards Sunday trading as of 1 May?  
13 A. As you can see, it says "Working towards a plan to  
14 open".  
15 Q. I see. It doesn't mention the idea of trialling it,  
16 does it?  
17 A. I mean, if Mr Rajan was here, he would -- you know, he  
18 should agree with me in that, that it was a three month  
19 trial, because he actually brought up the idea and said  
20 "Why don't you trial it for three months and see how it  
21 goes". It wasn't actually my idea.  
22 Q. If you turn forward to 372, a few days later, at the  
23 bottom of the page, he writes to Mr Rowe, this is a few  
24 days later on 27 January, stating that you had sent him  
25 a text saying that you were starting Sunday trading as

1 of 6 March 2011, that is sooner than they initially  
 2 agreed?  
 3 A. That is correct, the reason being is that even though  
 4 I had had the chat with him at the RCM and agreed to  
 5 open in May, it was, we were still named and shamed at  
 6 the RCM that we were not open at that point. This was  
 7 obviously prior to me talking to him. And when my wife  
 8 and I got home, we had lengthy discussions over the next  
 9 week or so, you know, why don't we try this a bit  
 10 earlier, why don't we get this open, you know, if we do  
 11 not open we are going to be out. And that's how we  
 12 understood it.  
 13 Q. The position is that's suggesting a fixed start date and  
 14 you are making it clear that you are going to be open as  
 15 of 6 March, so you are moving the date forward; correct?  
 16 A. We have moved the date forward.  
 17 Q. By two months?  
 18 A. Again, it's still, you know, a trial period.  
 19 Q. It doesn't say anything about a trial period there, does  
 20 it?  
 21 A. I haven't written the email, that's probably why.  
 22 Q. Did your text say --  
 23 A. I don't know.  
 24 Q. You don't know. Then at 378, there is an email from you  
 25 of 3 February?

1 A. Yeah.  
 2 Q. A few days later, informing Susannah Hart of your new  
 3 opening times --  
 4 A. Yeah.  
 5 Q. -- on the Sunday, and you are asking to change it on  
 6 the -- the times changed on the internet; correct?  
 7 A. That's correct.  
 8 Q. Again nothing there about it being on a trial basis?  
 9 A. No. No. But as I say, it was agreed between myself and  
 10 Mr Rajan that it would be a three month trial period.  
 11 Q. This is all pretty concrete, isn't it, in terms of --  
 12 A. Concrete in what?  
 13 Q. Sunday trading. You are suggesting an agreement in  
 14 January that you are going to open on 1 May. You then  
 15 shortly afterwards bring the date forward by two months  
 16 to a fixed date of 6 March; correct?  
 17 A. It's concrete in the fact that we felt as though we had  
 18 been pressurised into this. You know, we were being  
 19 forced to open. If we did not open, we would end up  
 20 being in front of the Specsavers board. So yes, it  
 21 looks, you know, we are opening, but not because we  
 22 don't -- not because we want to open and not because we  
 23 think it's in the best interests of the company, but  
 24 because Specsavers are forcing us to do this.  
 25 Q. None of these communications suggest that you are not

1 going to do it, all the communications are saying you  
 2 are going to open, and indeed you are bringing forward  
 3 the dates for when you are going to do it; these are  
 4 concrete proposals, aren't they?  
 5 A. As I say, this, you know, we were under the pressure  
 6 from being forced to open on the Sundays, we still  
 7 disagreed with it, we were still not happy about it,  
 8 but, you know, as I've said before, we just basically  
 9 did everything that Specsavers told us to do, but we  
 10 disagreed with this. When they mentioned that you are  
 11 going to be put in front of the board, you know that you  
 12 are going to be out if you go up to the board, and  
 13 saying "I don't think we should do this".  
 14 Q. Is there anything in your witness statement, Mr Parham,  
 15 about either this naming and shaming or you being called  
 16 up in front of the board, being told that you are going  
 17 to be called up in front of the board?  
 18 A. I think there might be.  
 19 Q. I don't think there is, Mr Parham, unless I am wrong.  
 20 I will be corrected, I will check over lunch. This is  
 21 the first time that this has emerged, I think?  
 22 A. I will have a check over lunch as well because I am  
 23 pretty sure there is somewhere.  
 24 Q. Isn't the position in fact that even before the  
 25 15 September and your meeting with Helen Wilson, as far

1 as what you were telling Specsavers, you were telling  
 2 them that you were working towards Sunday trading and  
 3 the only issue was getting an OO; correct?  
 4 A. I've not necessarily said that was the issues initially,  
 5 that it was about the OO, but I did, you know, I may  
 6 have said something that we were, you know, we would  
 7 look to open, but I cannot remember what the issues were  
 8 at the time.  
 9 Q. These are followed up by concrete statements by you in  
 10 January that you are going to open from a fixed date,  
 11 and indeed you bring the date forward; correct?  
 12 A. I keep pointing out, Mr Potts, that these weren't  
 13 concrete, I was not happy about this decision, we did  
 14 not want to open, we did not think it was in the benefit  
 15 of the company or the customers to open on Sunday.  
 16 Q. That's not what you were communicating to Specsavers at  
 17 this time, is it? You were communicating to them that  
 18 you were going to open, "and here are the start dates  
 19 for when I am going to do it"?  
 20 A. Because I was fully aware that if I say anything, you  
 21 know, that's negative it would be a black mark against  
 22 me.  
 23 Q. Is the answer to my question yes, that that is --  
 24 A. No.  
 25 Q. So you were telling them that you were not prepared to

1 open or you were unwilling to open at that point?  
 2 A. No, you are saying if there was anything concrete, and  
 3 you know, this was not a concrete plan to open and stay  
 4 open, this was a three month trial period, I know it  
 5 doesn't say in here, but that was the agreement that  
 6 I had with Mr Rajan.  
 7 Q. Again, just to go back to the question I asked, which  
 8 is: that's not what you were communicating to Specsavers  
 9 at the time, you were communicating to them that you  
 10 were going to open and here are the start dates?  
 11 A. I had agreed to open, as I say, in my understanding that  
 12 it was a trial period, and my also understanding is that  
 13 Specsavers forced, you know, our hand by threatening us  
 14 to be in front of the board.  
 15 Q. There is nothing in either your statement or your wife's  
 16 statement I believe to suggest that this was going to be  
 17 on a trial basis, is there?  
 18 A. No.  
 19 Q. No. Why is that? If this was --  
 20 A. It was an --  
 21 Q. This is an important issue, Mr Parham. You are just  
 22 making this up, aren't you?  
 23 A. No, it was an understanding between myself and Mr Rajan,  
 24 that was always the case.  
 25 Q. Why didn't you say that in your witness statement?

1 A. I don't know, I haven't.  
 2 Q. Didn't you think this was an important issue?  
 3 A. Not necessarily, no.  
 4 Q. Really? Your whole case --  
 5 A. Sorry, my point was that I was being pressured into  
 6 opening Sundays, we did not want to open Sundays. That  
 7 was more my point of getting across in my witness  
 8 statement, that, you know, again I keep reiterating,  
 9 that we would be put in front of the board, which we  
 10 know is definitely going out.  
 11 Q. Your case is that Specsavers was involved in  
 12 a conspiracy to get rid of you because of a reluctance  
 13 to open on a Sunday?  
 14 A. Absolutely.  
 15 Q. So the issue as to whether you had in fact agreed to  
 16 open on a Sunday or only on a trial basis is important,  
 17 isn't it?  
 18 A. The whole thing, there are two completely different  
 19 things you are talking about there. The reason that was  
 20 running in the background, which was the expenses  
 21 allegations, that's, you know, the whole reason why they  
 22 looked into that was because we refused to open on  
 23 Sundays, and the problem was that that was running, as  
 24 I say, side by side with it, and that got out of  
 25 control, and that's what they had to run with, even

1 though we had agreed, you know, we would trial --  
 2 I wouldn't say -- okay, we had agreed that we would  
 3 open.  
 4 Q. Either have you agreed to open or are you saying that  
 5 your only agreement was to open on a trial basis?  
 6 A. Well, in your paper -- in the paperwork here it says  
 7 that I agreed to open, but I know for a fact that it was  
 8 on a three month trial basis. It wasn't just then,  
 9 other stores had the same thing, you know, I think it  
 10 was mentioned at the RCMs, that, you know, you can trial  
 11 it on a three-month basis. It doesn't necessarily have  
 12 to be -- if it doesn't work, it doesn't work.  
 13 Q. But this idea of a trial isn't mentioned in your witness  
 14 statements or your wife's statements?  
 15 A. It's not.  
 16 Q. No. I put it to you that that's because it was not  
 17 a trial basis, you had agreed to open the store on  
 18 a Sunday. If it had been a trial basis you would have  
 19 said so in your witness statement?  
 20 A. No, it was a trial basis and, as I say, the only reason  
 21 why I did it was because we were threatened with board  
 22 action.  
 23 Q. Your evidence is that you had a good relationship with  
 24 Specsavers?  
 25 A. We did, yes.

1 Q. You were participating in mystery shopper and all the  
 2 other initiatives?  
 3 A. We were.  
 4 Q. You were doing all the training; yes?  
 5 A. When you say "all the training", what do you mean by  
 6 that?  
 7 Q. You participated with all the training requirements,  
 8 turning up to meetings, so on?  
 9 A. Yes.  
 10 Q. The store was trading well --  
 11 A. It was.  
 12 Q. -- according to that meeting, and you say that you  
 13 passed on all objective measures, that's your evidence  
 14 in that meeting?  
 15 A. Yes.  
 16 Q. Indeed by 15 September you were telling Specsavers that  
 17 you were looking to open on Sundays subject to getting  
 18 an OO?  
 19 A. As I've already explained that to you, Mr Potts.  
 20 Q. If that was the case, why do you say that Specsavers was  
 21 pursuing an agenda to acquire your shares driven by your  
 22 refusal to open the stores on a Sunday?  
 23 A. As I've said, both things were running in the  
 24 background, and obviously the Sunday opening had been  
 25 an issue for nearly three years, and I think it had got

1 to a point, because I think it was 27 January in 2011  
2 that we had -- going to bring it forward and we  
3 definitely agreed that this was not now -- you know, it  
4 wasn't a plan, we were going to open on Sunday, although  
5 I still think, you know, believed that it was a trial  
6 period, and that it was too late to stop the other  
7 expenses issue that was being brought to us.  
8 Q. You were not suspended until March?  
9 A. It's only six weeks' difference.  
10 Q. March 2011?  
11 A. Yes, beginning of March.  
12 Q. Which is in fact when you were about to start your  
13 Sunday trading?  
14 A. The 6 March we were due to open on the Sunday.  
15 Q. Yes.  
16 A. Which never happened.  
17 Q. Well, you were suspended, weren't you?  
18 A. And the person, the only person that could have done  
19 that on 6 March was my wife. So she was booked in for  
20 the clinic on that day.  
21 Q. But as of the beginning of January you were  
22 communicating, quite apart from your earlier  
23 communications, that you were going to be opening. What  
24 was the motivation to suspend you in March given your  
25 earlier agreement to open on a Sunday?

85

1 A. You say "earlier", it is only a couple of weeks,  
2 a few weeks before that.  
3 Q. No --  
4 A. We were right at the beginning of March, it is six weeks  
5 tops.  
6 Q. You were telling them, if not in September, before  
7 September that you were working towards Sunday opening;  
8 correct?  
9 A. My Lord, I've just explained to you, no, that was  
10 a ruse.  
11 Q. That's what you were telling them, that's what they  
12 understood from what you were telling them; correct?  
13 A. Well, I can't answer for what they understood it as,  
14 but ...  
15 Q. I put it to you that all the noises you were making to  
16 Specsavers, and indeed your actions, were that you were  
17 going to open on a Sunday. It was no reason to suspend  
18 you in March?  
19 A. Sorry, why threaten me then on September the -- sorry,  
20 January 17th 2011?  
21 Q. Which is a matter which I don't believe is raised in  
22 your witness statement?  
23 A. I think it is, but also I think you will find that there  
24 is an email from Rajan to Rowe stating that -- his words  
25 in that email were "I've already explained to them that

86

1 this will be escalated to the board". Sorry, to  
2 David Clark.  
3 Q. Even if it had been said it was going to be escalated to  
4 Mr Clark, the fact is you didn't receive a visit from  
5 Mr Clark, did you?  
6 A. As I said, Mr Rajan didn't say to me that it would be  
7 escalated to Mr Clark, his words to me were that it  
8 would be escalated to the board.  
9 Q. Even if he did say, which as I say I don't accept that  
10 that was said to you, the fact was that you agreed, in  
11 terms of your communications to them, Specsavers, that  
12 you were going to be opening?  
13 A. Because of the pressure.  
14 Q. Whether you say it was for the pressure or otherwise,  
15 given your agreement to open in March, what was the  
16 justification for suspending you?  
17 A. As I say, there was no actual agreement to open. We  
18 were just ... it was the last sort of point we thought,  
19 well, we have to, if we don't open we are out of the  
20 business. And it is only, you know, sort of six weeks  
21 tops between that and us being taken out. Because they  
22 were running concurrently together. And the way  
23 I understood it is that it was too late to stop what  
24 they were doing.  
25 Q. Why do you say it is too late?

87

1 A. Because there was only, as I say, a few weeks where we  
2 had agreed actually in writing or whatever to say that  
3 we would open on 6 March, and they took us out on  
4 7 March. Well, we were actually suspended on 1 March.  
5 And there were things in the background that were being  
6 played out. They had directors ready by 1 March. So  
7 they were all prepared to continue, and obviously show  
8 that, or make a point to us that, you know, this is what  
9 happens to people who don't, you know, refuse to open.  
10 Q. If they had achieved the objective of getting you to  
11 open on Sundays, why carry on with what you say is  
12 a sham investigation?  
13 A. Because I don't think they were fully aware, their loss  
14 prevention team were fully aware that we were going to  
15 be open on a Sunday.  
16 Q. I see. Okay. Let's move on to Mr Rajan, who you have  
17 referred to earlier. If you can go back, please, to E1.  
18 Firstly, Mr Rajan was a retail performance consultant;  
19 is that right?  
20 A. Yes, he was.  
21 Q. He was your primary point of contact on performance  
22 issues for the store?  
23 A. It depends. Helen Wilson may have been a port of call  
24 as well.  
25 Q. You would also speak to Helen Wilson and they would both

88

1 come into the store, would they?  
 2 A. They would both come into the store.  
 3 Q. Okay. Could you turn up E1/250? If you look at the  
 4 bottom half of the page, there is an email from Mr Rajan  
 5 to Mr Rowe. Mr Rowe was Mr Rajan's line manager; is  
 6 that right? Is that your understanding?  
 7 A. Sorry, say that again.  
 8 Q. Mr Rajan reported to Mr Rowe?  
 9 A. Yes, yes.  
 10 Q. Was that your understanding?  
 11 A. Yes.  
 12 Q. Just look at the email. Do you want to read it to  
 13 yourself, or are you familiar with it?  
 14 (Pause)  
 15 A. Yeah.  
 16 Q. Okay. So he is referring to having been told about  
 17 a questionable transaction done by you whereby you had  
 18 refunded a transaction of £555 on to your personal  
 19 debit/credit card, and that this was a normal occurrence  
 20 in the store.  
 21 Now, in relation to that transaction, Mr Rajan  
 22 wasn't making that information up, was he? You had in  
 23 fact done that, you had refunded a transaction on to  
 24 your personal card?  
 25 A. He made up the rest of the email there. He had never

89

1 been informed by Trish Lofting, and she had not told him  
 2 that the member of staff had previously worked at  
 3 Uckfield. And that she had witnessed a questionable  
 4 transaction processed by myself, and also --  
 5 Q. Can I ask you to answer the question I asked, firstly,  
 6 which is: the matter in terms of the transaction itself  
 7 and the £555 being taken to your personal debit/credit  
 8 card, he was not making that information up, was he?  
 9 You had done that?  
 10 A. I had transferred £555.55 pence, yes, from the PDQ  
 11 machine on to my company -- on to my own personal card,  
 12 and as I've explained in my witness statement that there  
 13 is -- the reason for this is that we go back to the  
 14 manual --  
 15 Q. I am going to ask you about that. I don't want to  
 16 interrupt you unduly, Mr Parham, but I am going to come  
 17 on to that. I am just asking you about this document at  
 18 the moment. You were accepting I think that you had  
 19 done this. I am not asking you about the reasons for  
 20 that at the moment. We will come on to it.  
 21 A. I am only accepting the point that that's what happened,  
 22 not what he is saying necessarily in here that his email  
 23 is true.  
 24 Q. I think you are challenging the source of his  
 25 information, aren't you, but you are not challenging

90

1 that you had in fact done what he says in the second  
 2 part of it?  
 3 A. And I challenge the last line as well.  
 4 Q. About normal occurrence?  
 5 A. Normal occurrence.  
 6 Q. Okay. Now, the subsequent investigation by  
 7 Mr McAlindon's department did in fact confirm this about  
 8 the £555 on to your card, didn't it?  
 9 A. I am not quite sure whether it was Mr McAlindon's.  
 10 I looked at it as accounts would have been fully aware,  
 11 because the way that I put it through the system, put  
 12 the cheque into the account, and took the same amount on  
 13 to my personal credit card was quite open and  
 14 transparent, because as I say, you know, my IT  
 15 background, I know that all the information goes up to  
 16 Guernsey from the till every night on to the Guernsey  
 17 server, PLATO, and then this is collated by the accounts  
 18 department, which then go into a monthly report.  
 19 Q. Okay, I'll come back to your answer on that in a moment.  
 20 The investigation by Mr McAlindon's department, this  
 21 was an issue which you were asked about at a later  
 22 stage, wasn't it, in November?  
 23 A. I was asked about it on 1 November.  
 24 Q. 1 November. As part of a subsequent investigation,  
 25 a number of other transactions were identified by

91

1 Mr McAlindon, some questionable transactions were  
 2 identified. I accept you don't accept the issues in  
 3 relation to those, but there were a number of  
 4 transactions identified such as the Blu-Ray player and  
 5 so on which are the matters --  
 6 A. No, the Blu-Ray player was not brought up on 1 November.  
 7 Q. Not on 1 November but in the investigation Mr McAlindon  
 8 carried out?  
 9 A. Sorry, the --  
 10 Q. Prior to your suspension, an investigation was  
 11 undertaken --  
 12 A. Okay.  
 13 Q. -- which uncovered a number of questionable  
 14 transactions which are in fact the subject matter of  
 15 these proceedings?  
 16 A. Yeah, they are all alleged, yes.  
 17 Q. Can I just go back to your witness statement? You say,  
 18 first statement, that SOG was looking to advance  
 19 a dishonest plot against you, that's how you describe --  
 20 A. Can you show me that?  
 21 Q. That's in relation to a later stage, that's at  
 22 paragraph 36, you refer to a "dishonest plot", that's  
 23 the word you used. (Pause). It's just the wording  
 24 "dishonest plot".  
 25 A. This is obviously relating to the cleaner, not --

92

1 Q. But this is part of a dishonest plot by Specsavers, you  
2 say; correct?  
3 A. This was all to do with the expenses, et cetera, and --  
4 Q. Yes, you say the whole issue over expenses is  
5 a dishonest plot by Specsavers?  
6 A. The expenses.  
7 Q. Correct?  
8 A. And --  
9 Q. And that would include this refund issue as well;  
10 correct? (Pause) Can I rephrase the question maybe to  
11 help you? You are saying that Specsavers were not  
12 motivated by any genuine concerns in relation to  
13 expenses, this was all a dishonest plot against you.  
14 That's your case, isn't it, Mr Parham?  
15 A. (Pause). Yes, yeah.  
16 Q. Then if you could go back to paragraph 13, in terms of  
17 their --  
18 A. Sorry, 13?  
19 Q. Paragraph 13. You say the agenda was driven by  
20 Specsavers' frustration over your refusal to open on  
21 Sundays; yes?  
22 A. Yes.  
23 Q. Can I ask: who is it, this dishonest plot by Specsavers  
24 in relation to the pursuit of your expenses, who do you  
25 say at Specsavers was a party to this dishonest plot?

1 Because your pleading doesn't -- nowhere is it  
2 identified. Who do you say at Specsavers was a party to  
3 this plot?  
4 A. Specsavers head office.  
5 Q. Which people? Which people?  
6 A. The people who are in control, people like Derek Dyson,  
7 yes.  
8 Q. You make an allegation of dishonesty, Mr Parham, I would  
9 like to be clear as to who it is that you are saying at  
10 Specsavers was dishonest and was a party to this  
11 dishonest plot.  
12 A. My look at it, it was the loss prevention team for one,  
13 their dishonest -- how they portrayed it, and also  
14 the -- because we were refusing to open Sundays --  
15 Q. Let's break it down. Does that include Mr McAlindon?  
16 A. He is part of the loss prevention department, yes.  
17 Q. So you are saying he was part of a dishonest plot, he  
18 didn't genuinely believe there was an issue over  
19 expenses and it was all about --  
20 A. Absolutely.  
21 Q. Frustration about Sunday trading?  
22 A. I think his motivation was different, but, because he  
23 generates income from us, from the stores going into  
24 the, you know, carrying out these investigations, and  
25 it's quite a lot of income, you know, in our case it was

1 sort of 70,000 to 80,000, and in total with looking  
2 after the store it was over 160,000. So there is some,  
3 you know, he has another sort of agenda on there. But  
4 this obviously came down expressly from either  
5 Derek Dyson or Mark Raines, the fact that, you know, we  
6 were refusing to open on Sundays and that couldn't --  
7 they couldn't have that.  
8 Q. So Derek Dyson, you say yes, or maybe?  
9 A. I think he was a part of the people who were involved  
10 with this.  
11 Q. So you are saying that he didn't believe there was  
12 an issue over expenses and he was just after you because  
13 you were refusing to open on Sundays?  
14 A. That's correct.  
15 Q. Who else?  
16 A. Mr Raines.  
17 Q. Same motivation?  
18 A. Same motivation.  
19 Q. Who else?  
20 A. I would say that would be it. The rest of the team were  
21 being, from the RST, were being pressured into getting  
22 us to open. But via these -- via Raines and Dyson for  
23 us to open on the Sunday. So they were also being put  
24 under pressure from these people, which I think is shown  
25 in the emails trail in the disclosures.

1 Q. I put it to you, Mr Parham, that there was no dishonest  
2 conspiracy, and in terms of your motivation, well before  
3 your suspension on 1 March 2011, as far as Specsavers  
4 were concerned you were going to be opening on Sunday?  
5 A. Well, that's obviously not the case, if Mr Rajan, and  
6 it's proved in an email, that he threatened me at the  
7 meeting of the 17th that we would be escalated to the  
8 board. Now, he confirmed that in an email, I think it  
9 was to Mike Rowe, saying that I did point out that this  
10 would be escalated to Dave Clark, you know, if they  
11 don't open.  
12 Q. Turn back, paragraph 23 of your witness statement in  
13 relation to Mr Rajan, you say that you don't believe his  
14 story of him reacting to a report, and you say that  
15 Mr Rajan and his colleagues would have been aware of the  
16 transaction as a response to an earlier circular?  
17 A. Yeah.  
18 Q. Firstly, who are the colleagues that you say were aware  
19 of the transaction?  
20 A. The RST.  
21 Q. All of the members of the RST? Which members?  
22 A. You say all the members of the RST, the RST that are  
23 involved with Meridian East.  
24 Q. Can you name some of those people?  
25 A. There is Mr Rajan, Mr Rowe, they were the main people.

1 Q. Mr Raines?  
 2 A. Mr Raines would have been informed as well if -- because  
 3 Dave Clark I think is on, you know, a par with  
 4 Mr Raines.  
 5 Q. Anyone else?  
 6 A. I can't think of anybody at the moment.  
 7 Q. How would they have been aware of this, do you say?  
 8 There is no documents suggesting that they were aware of  
 9 it, there is no disclosure suggesting it.  
 10 A. Well, there won't be any documents relating to it but  
 11 there is a document saying -- Mr Clark's circular in  
 12 6 May 2008, because they are trying to, again, this is  
 13 you know where it's ramping up the pressure to get them  
 14 to open on Sundays, is to provide evidence of any  
 15 compliance issues, otherwise we will move to watch the  
 16 stores.  
 17 So obviously because we weren't opening they were  
 18 already in early 2008 looking for any compliance issues,  
 19 looking to watching the stores, and we know that loss  
 20 prevention do remote audits throughout the year on each  
 21 of the stores. So they would have seen that, and it was  
 22 quite clear the process that I did, it was quite clear  
 23 that there was a £555.55 pence going in, and  
 24 a £555.55 pence going out, and it was quite clear in my  
 25 eyes why I did that.

1 Q. You say this would have been clear to the accounts  
 2 department?  
 3 A. It would have been clear to the accounts department,  
 4 which would then have been put on a reconciliation  
 5 report which would have come down, and on that  
 6 reconciliation report, it points out any issues.  
 7 Q. How would this, just explain, have been clear? What  
 8 would have happened would have been that a cheque was  
 9 banked? You used to bank quite a lot of cheques,  
 10 I assume?  
 11 A. No.  
 12 Q. Not that many cheques?  
 13 A. Not that many cheques, no.  
 14 Q. People occasionally pay by cheque, don't they?  
 15 A. Very rarely, yes.  
 16 Q. And they would be aware that a cheque had been banked at  
 17 the store; correct?  
 18 A. They would have been.  
 19 Q. And they would also have been aware that a refund was  
 20 processed onto a card using the chip and PIN; correct?  
 21 A. They would have been, yes.  
 22 Q. They would not have been aware that it was your card,  
 23 would they?  
 24 A. No. I assume not, they wouldn't, no. But they would  
 25 have been fully aware that that amount has gone in and

1 that amount has come back out as well. That would have  
 2 been quite clear, and they would have raised an issue in  
 3 the reconciliation report pointing that out. Please  
 4 check.  
 5 Q. There is not such a reconciliation report that we have  
 6 seen. In any event, you accept that they would not have  
 7 known that the money had gone to you?  
 8 A. That's the only thing I accept, the money would not  
 9 necessarily have gone to us, they wouldn't have known  
 10 that. They would have known it would have gone to  
 11 a card, but they would have understood that, if they had  
 12 believed there was an issue, then they would have  
 13 pointed that out.  
 14 Q. Isn't the position that all they would have seen, if  
 15 they had looked at it, was that a cheque had been banked  
 16 and that a refund had been made onto a card?  
 17 A. For exactly the same amount and the cheque was from  
 18 NPower.  
 19 Q. When one banks cheques, it's not always clear  
 20 immediately on the face of the bank statement, is it, as  
 21 to where the cheques come from, is it?  
 22 A. I think it would have been quite obvious, and that's how  
 23 I understood it when I did the process at the time,  
 24 being a lack of any procedures and processes in the  
 25 manual, that they would have been quite clear, and it

1 was quite clear what I did, and again I look at it as  
 2 though it would have been quite easy to understand that,  
 3 you know, one amount has gone in and the exact same  
 4 amount has come out. That should in theory, if there  
 5 was an issue, highlighted a problem. It didn't  
 6 highlight a problem, so I believe that what I had done  
 7 was correct.  
 8 Q. Mr Parham, I put it to you that this didn't highlight  
 9 a problem because all they would have seen, if anything,  
 10 was that some money had been banked and that a refund  
 11 had been processed onto a card as somebody who they  
 12 didn't know who that card belonged to. It could have  
 13 been just a customer?  
 14 A. In our store, as I've just said, we very rarely get  
 15 cheques, you know, not many cheques went through the  
 16 till, a lot of people don't use them nowadays, and also  
 17 refunds, we did very few refunds. So it would have  
 18 been, you know, quite clear again to me, if I had been  
 19 looking at that and it had come up to me, I would have  
 20 gone, "Well, that looks a bit odd, let me just  
 21 investigate that, let me give them a call, give them  
 22 a ring and find out what this is all about". That's all  
 23 they had to do, give me a call and say, "Look, you've  
 24 had this gone in, you've had this come in, can you  
 25 explain what it's for?" And I would have been quite

1 happy to explain what it's for. If it was wrong I would  
 2 have been quite happy to, you know, adjust that and say  
 3 "Look, this is when what I did, if there is a procedure  
 4 then please tell me" because at that time there was no  
 5 procedure, there was no procedure until December 2010.  
 6 Q. Had Specsavers previously queried the payment in of  
 7 cheques on your account?  
 8 A. They had -- we had had some discrepancies on the  
 9 accounts, and they had put down "have a look at this  
 10 discrepancy, line so and so." So yes, they had. Or  
 11 they would put, "No discrepancies, no issues".  
 12 Q. This would not flag up a discrepancy at all, all you  
 13 have is the till would balance, money being banked and  
 14 then it is a refund of the same amount?  
 15 A. It doesn't just show a balanced till, it shows a full  
 16 breakdown of what's gone in and what's gone out and it  
 17 tells you what it's gone in as, as a cheque, and it  
 18 would tell you what it's gone out as, in this case it  
 19 was a Visa card, so it would have been a full breakdown.  
 20 Q. The till doesn't identify who the cheque is from, does  
 21 it?  
 22 A. No, it doesn't.  
 23 MR POTTS: In relation to this -- my Lord, I am about to  
 24 move on to a new issue. This might be a little early,  
 25 but it might be a convenient moment?

101

1 MR JUSTICE HILDYARD: I was told that you wanted between 2  
 2 and 2.15 for testing, and that possibly you wanted to  
 3 sit now until 1.15. Maybe we have imagined this.  
 4 MR STUART: I didn't know about this, my Lord.  
 5 MR POTTS: I didn't know my Lord, no.  
 6 MR STUART: There is a test at 2 o'clock.  
 7 MR JUSTICE HILDYARD: I am in your hands, I had steeled  
 8 myself to go on until 1.15 at what I had imagined was  
 9 your joint request. I am perfectly content, either way.  
 10 I do understand that you need between 2 and 2.15 to test  
 11 out the facilities for the videolink, is that right?  
 12 MR STUART: I understand, my Lord, the court has said that  
 13 the test -- I had previously understood the test could  
 14 take place, I didn't realise it was going to stop us,  
 15 but we have been told, and I think it was passed on to  
 16 your Lordship as well, that the test on that machine is  
 17 to take place at 2 o'clock, yes.  
 18 MR JUSTICE HILDYARD: Right. What would you like to do,  
 19 Mr Potts? Would you like to stop now, and I suppose  
 20 I can give you an extra quarter of an hour in the  
 21 evening if you want? I mean, whatever you would prefer.  
 22 MR POTTS: My Lord, could we do that? I had been working  
 23 towards the timetable which sounds like it was different  
 24 from other people.  
 25 MR JUSTICE HILDYARD: Yes.

102

1 A. Can I add something, my Lord, is that okay? This cheque  
 2 is not a normal cheque, this is a rebate cheque, this  
 3 has come back that we have overpaid electricity from our  
 4 profits of the company, and it's not a cheque that  
 5 someone, a customer has given to Specsavers. I am  
 6 saying we have already paid this out of the profits  
 7 which have already been subjected to the 6.5 per cent  
 8 management fee from the company, from Specsavers head  
 9 office. As I say, it's not -- you know, I looked at it  
 10 as though if I had paid my electricity at home, and I've  
 11 already paid tax on my money, it's gone -- and I've got  
 12 a rebate, that I could put that back into my account,  
 13 and I thought this was going straight back into my or  
 14 our profits, which would have then come straight back as  
 15 a dividend or a bonus, you know, benefit in kind or  
 16 a bonus. That's how I looked at it. I didn't look at  
 17 any tax implications or anything like that, that's how  
 18 I understood was what I was doing. This was not just  
 19 putting a cheque into my account at all, I would never  
 20 have done that. This is why I think -- this is why it's  
 21 quite important, and I believe to put across, is that it  
 22 was all fully itemised, yes, it didn't say it was from  
 23 NPower but it was fully itemised in the reconciliation  
 24 report that that money had gone in and that money had  
 25 come back out and that's how I looked at it. I just

103

1 thought I need to get that across, that it's a rebate  
 2 cheque, it's not someone paying for glasses and I am  
 3 putting that into my account.  
 4 MR POTTS: My Lord, given that Mr Parham is continuing,  
 5 I will continue for a few minutes, he is developing  
 6 a point I was going to move on to anyway.  
 7 If you look at paragraph 16 of your witness  
 8 statement, the issue of this cheque was raised by  
 9 Mr McAlindon with you at a meeting on 1 November?  
 10 A. It was, yes.  
 11 Q. Correct? And you discussed that cheque. He asked you  
 12 about it and you accepted in the meeting that the cheque  
 13 was a rebate from NPower to the company; correct?  
 14 A. What I did was explain to him how I --  
 15 Q. Can I --  
 16 A. The chronological events of how I did it. I didn't  
 17 accept anything. My point is I am not going to accept,  
 18 you know, all I am saying is that how I did it was  
 19 I explained the situation which I have just gone through  
 20 with my Lord, that how I dealt with that cheque and how  
 21 I understood why I was, you know, why I was doing it.  
 22 Q. Okay, can we have a look at E3, please, and perhaps we  
 23 will break it down a little.  
 24 A. Do I need --  
 25 Q. Keep your witness statement open.

104

1 A. E1?  
 2 Q. E1 can go.  
 3 A. I have E2 as well.  
 4 Q. Keep E2 there. If you are overwhelmed, you tell me.  
 5 A. Thank you.  
 6 Q. 726. That's the cheque, isn't it?  
 7 A. I believe so.  
 8 Q. It's a rebate from the utility company?  
 9 A. They were supplying us with electricity.  
 10 Q. Right. Then 727 is the bank giro?  
 11 A. That's correct.  
 12 Q. Is that your signature?  
 13 A. It is.  
 14 Q. Is that your writing?  
 15 A. It is.  
 16 Q. Then 729 is the refund using the chip and PIN machine on  
 17 the card, retail transaction details?  
 18 A. It is.  
 19 Q. This was a refund, it was not to the business credit  
 20 card you put it on to, was it, it was your personal  
 21 card?  
 22 A. It was my personal card.  
 23 Q. You did that using the chip and PIN machine in the  
 24 store?  
 25 A. The chip and PIN machine, yes.

105

1 Q. The explanation you gave to Mr McAlindon for this was  
 2 that you said you believed you were entitled to do this  
 3 as you and your wife were entitled to the company's  
 4 profits?  
 5 A. The profits of the business.  
 6 Q. Of the company, the business was owned by the company,  
 7 wasn't it?  
 8 A. I was entitled to the profits of the business, to  
 9 Uckfield Specsavers Limited.  
 10 Q. Yes. Now, that's not the case, is it, Mr Parham? The  
 11 money belonged to the company, not you?  
 12 A. As I've just explained, I didn't see it that way,  
 13 because the company had already borne these costs,  
 14 already borne the 6.5 per cent, I thought it was going  
 15 back to the net profits of the business, which would  
 16 then have come to us via, as I said, dividends, bonuses,  
 17 et cetera.  
 18 Q. You have accepted you were not entitled to take money  
 19 out of the company as and when you felt like it, I think  
 20 you accepted that earlier this morning, do you agree?  
 21 A. What I said was I think I didn't have access to take  
 22 money out from the bank account.  
 23 Q. I am not talking about just the opportunity, I am  
 24 talking you were not entitled, you understood you were  
 25 not entitled to just take money out of the company as

106

1 and when you felt like it, they were mechanisms for  
 2 that?  
 3 A. There were, yes, there were mechanisms. I looked at  
 4 this as one possible mechanism that was available. As  
 5 I say, it was part of the profits, my first point was  
 6 that I thought, well, I can't have this subjected to the  
 7 6.5 per cent. The fact that I may have put it in wrong,  
 8 et cetera, you know, I understood it -- you know,  
 9 I signed up for a lot of -- I am trying to ... I signed  
 10 up for a lot of -- I pay 6.5 per cent of the turnover,  
 11 I am also signed up for the P11D. You know, I get  
 12 Specsavers to do my company accounts, my personal  
 13 accounts, and I signed up for a PSA as well. I looked  
 14 at it as though I am basically trying to cover my own  
 15 backside here, if I do anything wrong because my company  
 16 law, my tax law, my understanding of tax liabilities,  
 17 et cetera, was virtually nil, I didn't understand about  
 18 tax liabilities, they would cover me. That's what, you  
 19 know, my understanding was. If I put it through this  
 20 way, that would be okay, and no-one said otherwise until  
 21 18 months later when it was brought up.  
 22 Q. Mr Parham, you knew that you were entitled to take  
 23 dividends and bonuses based on the bottom line reports  
 24 which effectively were the properly prepared accounts of  
 25 the company, and that was in accordance with the

107

1 shareholders' agreement?  
 2 A. I thought --  
 3 Q. Did you understand that?  
 4 A. I thought that would go straight to that part of what  
 5 was -- I was allowed out of the business. I thought  
 6 that would just go straight to it, because everything  
 7 had been paid on it, and that's how I understood it.  
 8 Q. But you hadn't told Specsavers that you were doing this,  
 9 had you?  
 10 A. As I've just explained, my actions on that day were,  
 11 I thought, quite clear to the accounts department what  
 12 I was doing on that day.  
 13 Q. Mr Parham, it obviously wasn't clear at all. The  
 14 accounts department have no idea whose card that money  
 15 had gone on to, would they?  
 16 A. No, they wouldn't.  
 17 Q. And you didn't tell them?  
 18 A. No, I didn't tell them, but as I am saying, I believed  
 19 that that was quite clear, in what I had done. There  
 20 was a full breakdown of the -- on the reconciliation  
 21 report. It was quite clear how, you know, that that  
 22 amount of money had gone in, and it wasn't a case of it  
 23 was like £300, so it could be misconstrued as something  
 24 else, it was £555.55. So to me that was quite obvious,  
 25 you know.

108

1 Q. If this was all so above board, why didn't you just  
 2 phone up the accounts department and tell them that's  
 3 what you were going to do?  
 4 A. Because at the time there was no procedure or policies  
 5 in place. My actions I believe were correct, which  
 6 would then have shown what had happened on that day. It  
 7 was only in December 2010 when we received instructions  
 8 how to -- which is after my meeting with the loss  
 9 prevention department -- carry out these rebate cheques,  
 10 which was very similar to what I had done, but the only  
 11 thing is you had to bank it separately, and then inform  
 12 the accounts department, which I did, and the accounts  
 13 department didn't have a clue what I was talking about.  
 14 Q. If you say there was no policy in relation to this,  
 15 surely that was all the more reason for you to phone up  
 16 the accounts department in relation to this transaction?  
 17 A. Not at the time, because I deal with hundreds of  
 18 transactions a day, you know, and I took the logical  
 19 process of looking at it and thinking: right, it's not  
 20 in the manual, this sounds right to me, if there are any  
 21 issues I am covered with Specsavers being my  
 22 accountants, business, personal, P11D I've signed up  
 23 for, PSA I've signed up for, and they -- as I say, my  
 24 knowledge on these affairs is quite limited.  
 25 Q. So you are saying you did lots of transactions; how

109

1 often did you take money out of the company's bank  
 2 account to your own on your chip and PIN machine? How  
 3 often did you do that?  
 4 A. That was the only time I've done that. I have put like  
 5 a penny in to check the PDQ machine and then taken the  
 6 penny back out. So this is to check if the PDQ machine  
 7 is working, and that's a known way of doing it, is just  
 8 putting a penny in and then taking a penny back out to  
 9 make sure that it's running.  
 10 Q. This is not putting a penny in and taking a penny out,  
 11 is it?  
 12 A. I know that's not the case.  
 13 Q. It's taking £555 out of the company's bank account to  
 14 your own?  
 15 A. It's taking it out, as I believed, I keep saying, out of  
 16 the profits that I think -- I believed were  
 17 distributable to us.  
 18 Q. You didn't make any tax declaration in relation to this  
 19 money you received either, did you?  
 20 A. As I've just said, I was unaware of the tax implication,  
 21 I looked at it as though I had received it as one  
 22 I would receive from home, and I wouldn't pay tax on  
 23 that again. So that's how I looked at it, I was  
 24 obviously incorrect, but at the time, you know, I was  
 25 not aware of that. But my understanding, again, is that

110

1 I employed Specsavers to do a lot of these things for  
 2 me, and, you know, I feel as though they failed me in  
 3 this.  
 4 Q. You never paid tax on this, did you? The company did,  
 5 you didn't; is that right?  
 6 A. As I understand it, yes.  
 7 Q. I put it to you this was not obvious or clear at all,  
 8 you had not got in touch with the distributions  
 9 department about this to say that you were taking this  
 10 as a dividend, had you?  
 11 A. No.  
 12 Q. You hadn't even got in touch with the accounts  
 13 department to say that this was what you'd done?  
 14 A. I have explained the reason why I haven't.  
 15 Q. I put it to you, Mr Parham, that you must have  
 16 appreciated that the way you did this to your own card  
 17 that they would have no way of knowing to whom that  
 18 money had gone?  
 19 A. I wasn't looking at it as though they would know who it  
 20 had gone to, it was a fact that I knew that they would  
 21 have seen this transaction. They would have seen those  
 22 two transactions, and pointed out to me if it was wrong.  
 23 That's how I looked at it. Seeing as there was nothing  
 24 on that list at that time, saying this, you know,  
 25 cheque, 555 going in on a cheque but get the same amount

111

1 going out on a credit card, there was no action on that.  
 2 Q. I put it to you that as far as Specsavers would have  
 3 been concerned, they would have no reason to understand  
 4 that this had been anything other than a not untypical  
 5 refund transaction?  
 6 A. Well, I do not agree with you at all on that. I think  
 7 they were fully aware of it, to be honest.  
 8 Q. You are saying they were fully aware that you had taken  
 9 this money?  
 10 A. They were fully aware that, what I had done, and I think  
 11 this is shown because obviously where has this come  
 12 from? This is not through an investigation that  
 13 Mr McAlindon's done. This is a concocted story by  
 14 Mr Rajan. So where's he got this from?  
 15 Q. I put it to you that you have not explained to the court  
 16 in any way how the accounts department, let alone the  
 17 distributions department, would have known that you had  
 18 taken this money on to your card?  
 19 A. I've explained how I believe that they would have been  
 20 aware of the situation. I admit that the -- where it  
 21 would have gone to and who it would have gone to, but  
 22 that's not what I was looking at. It's about the  
 23 discrepancy in there. They would have seen that. Now,  
 24 someone has seen that way prior to Mr McAlindon getting  
 25 me in a room or finding it. They have found -- they

112

1 have seen it somewhere else, so I am sure that they were  
 2 fully aware of it in 2009, May, when I did it. Because  
 3 otherwise this concocted story which Mrs Lofting is  
 4 going to disprove, Mr Rajan didn't, you know -- sorry,  
 5 Mrs Lofting did not say that one of her members of staff  
 6 had seen me do this. For one fact, it's that  
 7 Mrs Lofting has never had any member of my staff working  
 8 at her business.  
 9 Q. Now, just looking at the explanation you are giving to  
 10 the court now, and indeed in your witness statement,  
 11 paragraph 1(sic), about this, you say that you were --  
 12 A. Sorry, where are we?  
 13 Q. Paragraph 21 of your statement. You have also given in  
 14 evidence this morning that you are saying that what you  
 15 needed to do was distinguish between your money and  
 16 Specsavers' money, and to make clear that the rebate  
 17 would not be subject to a management charge; is that  
 18 right?  
 19 A. Yeah.  
 20 Q. That's not what you told Mr McAlindon in the meeting, is  
 21 it? What you told Mr McAlindon was that you were  
 22 entitled to the profits?  
 23 A. And I saw it as our money, and that's when Mr McAlindon  
 24 went ballistic on me.  
 25 Q. That's because it wasn't your money, was it, it was the

113

1 company's?  
 2 A. That's how I see it. You have got to look at it,  
 3 my Lord, as that's how I saw it. This already had  
 4 everything paid for on Specsavers' side. I thought this  
 5 was going straight to our net profits. That's how  
 6 I looked at it, and we are then entitled to those net  
 7 profits, and that's how I looked at it.  
 8 Q. This gloss about the management charge is a later  
 9 justification, isn't it, it is not one you gave  
 10 Mr McAlindon at the time?  
 11 A. I did give him that.  
 12 Q. You referred to the management charge?  
 13 A. Yes.  
 14 Q. That's not what he recalls you as having said at all.  
 15 A. I think we disagree on quite a few things that I've said  
 16 in the meetings I have been in with Mr McAlindon.  
 17 Q. I also put it to you that if there was an issue in  
 18 relation to dealing with this rebate, the easiest thing  
 19 in the world would be just to phone up the accounts  
 20 department, as you did at a later stage, after you had  
 21 been caught out, on this matter, and they dealt with it  
 22 in a straightforward way?  
 23 A. There was no fact of being caught out at all, Mr Potts,  
 24 and the reason why I did it in January 2011 was because  
 25 there was a new procedure out in December 2010. I've

114

1 already explained that to you. As I also said, when  
 2 I did phone up the accounts, accounts were -- didn't  
 3 have a clue what I was talking about, which means that  
 4 there was never any procedure or policy in place.  
 5 Q. They were able to deal with it, though, in 2011, weren't  
 6 they?  
 7 A. They were able to deal with it, yes, eventually.  
 8 Q. Yes. All that was needed to be done was allocate the  
 9 rebate to the appropriate accounting reference, wasn't  
 10 it?  
 11 A. Well, I understand that now, yes, but as I say there was  
 12 no procedures in place at the time.  
 13 MR POTTS: My Lord, would that be a convenient moment?  
 14 MR JUSTICE HILDYARD: Yes. What would you like, at  
 15 2 o'clock? Do you wish me to be there?  
 16 MR STUART: I don't think your Lordship needs to be there.  
 17 MR JUSTICE HILDYARD: You are just testing the link?  
 18 MR STUART: I did this in the court next door, actually,  
 19 a couple of months ago, and somebody sits up in  
 20 your Lordship's chair just to make sure that the pan of  
 21 the camera catches, and somebody sits here, and it's  
 22 checked that microphones are picking up. That's what  
 23 happened on that occasion anyway, but it was done  
 24 without his Lordship in that case being there. I shall  
 25 certainly be here, and Mr Potts might be here.

115

1 MR POTTS: I'll have a think about that.  
 2 MR STUART: It's not necessary for him to be here, somebody  
 3 could sit and test his microphone out and check that  
 4 they could be visibly seen.  
 5 MR JUSTICE HILDYARD: 2.15 for me.  
 6 (1.15 pm)  
 7 (The short adjournment)  
 8 (2.15 pm)  
 9 Housekeeping  
 10 MR STUART: My Lord, just before Mr Potts resumes, on the  
 11 video conferencing, the test failed so that another  
 12 method of doing the video conferencing is going to be  
 13 tested again after court, not incurring any loss of  
 14 court time. So the gentleman from the court staff is  
 15 coming back at 4.30, and obviously he will wait until we  
 16 are ready. I explained that we were starting at 9.30 in  
 17 the morning, and therefore there was no possibility of  
 18 testing in the morning, and so it will be done this  
 19 afternoon.  
 20 MR JUSTICE HILDYARD: That's all right with the timing  
 21 differences in Italy?  
 22 MR STUART: We were on the phone to Italy, but they couldn't  
 23 get the connection to work through the ISDN line so they  
 24 were saying we can't deal with it now, we have to get  
 25 on, come back at 4.30, and they said they would come

116

1 back at 4.30 over in Italy, so that's fine. It's only  
2 the technical people in Italy.  
3 MR POTTS: My Lord, just on that, if the other method is  
4 Skypeing, I am not claiming any great technical  
5 expertise, but I have seen video conferencing through  
6 Skype for court, and my experience is that it was far  
7 from satisfactory in terms of clarity, delay, all the  
8 sort of technical issues. I don't know if that's what  
9 the alternative is.  
10 MR JUSTICE HILDYARD: That's what I was given to understand  
11 might be the alternative, yes.  
12 MR STUART: I am in the hands of the gentleman who was here,  
13 who is not here any more. He was from the court. He  
14 was explaining. I suspect they may try and re-do the  
15 connection the first way at 4.30, it's just we didn't  
16 want to be holding up the court, Mr Potts was keen to  
17 get on, and we said can we not do this any longer, we  
18 need to get on. So we are getting on.  
19 MR POTTS: I appreciate that, my Lord, but it's a reluctance  
20 points from us, we are not keen on it, but if it can  
21 work and it is going to work properly, we can understand  
22 that. This seems to be problematic. Would it not be  
23 simpler if she came on Monday morning and we can get her  
24 out of the way?  
25 MR STUART: A week on Monday.

117

1 MR POTTS: No, actually on Monday. Maybe it means she loses  
2 a day of her holiday if she comes back and then goes  
3 back but it's not on the other side of earth, it's only  
4 in Italy. The cost and trouble involved in this, this  
5 is causing more delay than it's worth.  
6 MR JUSTICE HILDYARD: I won't intervene, I think, more than  
7 to say this: the quality is variable according to the  
8 method of transmission which can be put in place. It's  
9 a short cross-examination but on a point which has  
10 acquired some prominence.  
11 MR STUART: Absolutely, my Lord, if this was just  
12 a peripheral point, I wouldn't be ...  
13 MR JUSTICE HILDYARD: No. You may wish to consider, given  
14 the problems which have already emerged (which are not  
15 in my experience altogether unusual), whether you might  
16 persuade her to return but I don't think that I can --  
17 I don't want to put the squeezes on you by simply saying  
18 "Well, I decline video facilities", but you may give up  
19 the ghost in a way if it's ... what happens, as you  
20 probably know, is that there is a delay in the  
21 transmission, so the voice and the picture are not  
22 melded, and the person sort of looks as if they are  
23 moving all over the shop, and it's pretty difficult to  
24 tell quite --  
25 MR STUART: My Lord, I will personally stay behind at 4.30

118

1 and I will personally, if the test is successful this  
2 other way, however it is, I will personally test it for  
3 myself, with an actual person at the other end of the  
4 line, and if I consider that your Lordship --  
5 MR JUSTICE HILDYARD: I will let you get on in a pragmatic  
6 and sensible way.  
7 MR STUART: Exactly, my Lord.  
8 MR JUSTICE HILDYARD: Yes.  
9 MR STUART: I have one other short matter, my Lord. I have  
10 another witness, Mr Hutchings. Can I just pass this up?  
11 (Handed). He is due to be coming on the timetable --  
12 MR JUSTICE HILDYARD: 13th.  
13 MR STUART: He is coming on the 13th. He has indicated to  
14 my instructing solicitors that he requires to be witness  
15 summonsed in order to attend. He is still prepared to  
16 give his evidence, but he says he requires to obtain  
17 a summons. I request your permission to issue a witness  
18 summons for him.  
19 MR JUSTICE HILDYARD: Is this agreed?  
20 MR POTTS: I've just --  
21 MR STUART: It's only just been shown to me. Because of the  
22 time, we don't want to lose time here, we want to go  
23 off --  
24 MR JUSTICE HILDYARD: I can't remember what the rules are  
25 for notice and all that kind of thing.

119

1 MR STUART: I don't think I have to give notice to the other  
2 side for a witness summons, I think I can seek to  
3 witness summons people of my --  
4 MR JUSTICE HILDYARD: Is that right? I just don't know  
5 whether there are any rules, I am sorry.  
6 MR POTTS: I think it's certainly massively out of time.  
7 MR JUSTICE HILDYARD: Of course, yes. This presumably has  
8 just emerged --  
9 MR STUART: It has, my Lord.  
10 MR JUSTICE HILDYARD: -- as a problem.  
11 MR STUART: My Lord, I think it's 34.3.  
12 MR JUSTICE HILDYARD: What does that say?  
13 MR STUART: (ii):  
14 "A party must obtain permission from the court where  
15 he wishes to (a) have a summons issued less than seven  
16 days before the date of the trial ..."  
17 So I am in that position.  
18 MR JUSTICE HILDYARD: Yes. (Pause). Well, I should have  
19 thought this was a matter for anxiety on the other side  
20 of the curtain from you, Mr Potts. You don't mind how  
21 it is that he is here, as long as he is here; is that  
22 right?  
23 MR POTTS: I think that's probably right, my Lord.  
24 MR JUSTICE HILDYARD: Yes, so I would be disposed to make  
25 that order in order that there should be no problem.

120

1 MR STUART: Thank you, my Lord. My Lord, do you think you  
2 could initial that, and then I think my solicitor could  
3 then take that off and get it copied, and I am sure  
4 there won't be a problem.

5 (Handed)

6 Cross-examination by MR POTTS (continued)

7 MR JUSTICE HILDYARD: Sorry about that.

8 THE WITNESS: That's okay.

9 MR POTTS: Good afternoon, Mr Parham.

10 A. Good afternoon.

11 Q. Before the short adjournment, Mr Parham, we were  
12 discussing the payment of the £555 onto your personal  
13 card with the chip and PIN?

14 A. We were.

15 Q. Now, did you tell your wife about doing that at the  
16 time?

17 A. I don't recall actually saying anything to her, but it  
18 doesn't mean I didn't, but I don't recall it.

19 Q. You don't remember one way or another; is that right?

20 A. Yeah.

21 Q. Okay. She says that she certainly was aware of it at  
22 the later stage when Mr McAlindon had raised an issue  
23 over the point?

24 A. Yes.

25 Q. Do you remember that?

1 21

1 A. Yes, that was after I had had the meeting with  
2 Mr McAlindon. Is that what you are saying?

3 Q. Certainly round that time, yes. Did you tell her after  
4 the meeting or before the meeting with him?

5 A. It would have been after the meeting because I didn't  
6 know what the meeting was about.

7 Q. Right, and I think her evidence is she said "Oh my God,  
8 why did you do that, why didn't you tell me, why didn't  
9 you tell me", is that right, is that what she said?

10 A. That's possibly what she said, and the reason why  
11 I hadn't said anything is because I am on the shop  
12 floor, she is testing, I don't have to obviously go  
13 through everything that I do on a day-to-day basis. And  
14 I didn't think, as I've pointed out quite clearly, that  
15 I didn't think there was anything wrong with it.  
16 I thought I was doing a process, a logical process, even  
17 though there was no actual procedure or process in  
18 place.

19 Q. Did you take from her comment, the "Oh my God, why did  
20 you do that, why didn't you tell me?", that what you  
21 were doing was wrong, or she thought it was wrong?

22 A. You would have to ask her if she thought it was wrong or  
23 not.

24 Q. What was your impression of what she said to you?

25 A. She might have thought the procedure was incorrect.

1 22

1 Q. Did she tell you to ring the accounts department and  
2 sort it out?

3 A. No, she didn't, no, because this was already being  
4 discussed or had been discussed with Mr McAlindon.  
5 I thought that obviously this had been resolved with the  
6 meeting with Mr McAlindon.

7 Q. Can you turn up, please, E2, page 428-4? Do you have  
8 that? This is the transcript of the interview from her  
9 interview on 7 March; yes? You have seen this document  
10 before?

11 A. I have, yes.

12 Q. At 428-4, in between the two holepunches, she was asked  
13 about the NPower cheque, and she says -- S is your wife:

14 "First time I was aware of this is when you brought  
15 it up [that's Mr McAlindon] he came home and told me,  
16 secondly I said OMG [I think that's oh my God] why did  
17 you do that, why didn't you tell me? He said exactly  
18 what he told you, he thought it was ours and whatever he  
19 did I don't.

20 "M. Sorry.

21 "He told me exactly what he told you in the room,  
22 generally thought it was ours and not the businesses.  
23 I said incorrect, that's not correct, so I therefore  
24 told him to go to work, find out the procedure, ring  
25 accounts ... and I said to him ... I knew straightaway

1 23

1 that was wrong anyway so then he rang accounts."

2 Now, that's not the same as what you have just --  
3 the evidence you have just given to the court. Did she  
4 say that to you?

5 A. No, this is -- she has not said this to me. This is the  
6 transcript. You mean what the words in there which  
7 are --

8 Q. The "OMG why did you do that, why didn't you tell me?",  
9 she didn't say to you?

10 A. She could have done, yes. But to be fair, I can't --  
11 I can't say categorically.

12 Q. You can't say one way or another. Do you remember her  
13 telling you to phone up the accounts department?

14 A. (Pause). Sorry, I am just going to read above it, just  
15 make sure it all ties in with the actual cheque and  
16 nothing else. (Pause). Okay, so ask the question  
17 again?

18 Q. Mr Parham, I am asking for your recollection of your  
19 discussion with your wife.

20 A. Right.

21 Q. I was asking and I think you said you didn't remember  
22 whether she had said to you "OMG why did you do that,  
23 why didn't you tell me?", giving an explanation, her  
24 saying "That's incorrect, it's not correct" and her  
25 telling you to phone up the accounts department, because

1 24

1 she knew straightaway that it was wrong. Now, do you  
 2 remember that conversation with your wife?  
 3 A. I don't remember the conversation, I remember ringing up  
 4 about the other discrepancies that Mr McAlindon was  
 5 talking about, and I tried to find out where these had  
 6 gone. I looked in the office, and just wanted to make  
 7 sure. But I don't actually recall her saying this, that  
 8 to ring up accounts, because I don't think I rang up  
 9 accounts about that.  
 10 Q. So you didn't phone up the accounts department about  
 11 this --  
 12 A. Not regarding the cheque, no.  
 13 Q. And you don't recall the conversation with her about  
 14 this, in these -- in the terms that she reports in here?  
 15 A. I don't recall -- I don't necessarily not recall the  
 16 conversation, it's the actual wording within the  
 17 conversation, I don't necessarily say that was right or  
 18 wrong.  
 19 Q. Well, what do you recall?  
 20 A. To be honest, it was a complete blur, what had happened,  
 21 as I say, I thought and still believed at the time that  
 22 what I had done was correct. But, you know, obviously  
 23 with the interview with Mr McAlindon there was -- it was  
 24 quite a stressful time with that, so I can't really  
 25 fully recall what I said on that day.

1 25

1 Q. She is giving the impression here that she made it very  
 2 clear to you that, in fact she told you that what you  
 3 had done was wrong and you had to phone up the accounts  
 4 department, but you don't remember that conversation?  
 5 A. As I say, obviously we had conversations about it  
 6 because I came back and said "Look, this is what  
 7 happened, this is what I've done, they are saying it's  
 8 wrong", and she may have said something of the fact  
 9 that, "Yeah, that is the wrong process, that is the  
 10 wrong procedure", but how she would have known that  
 11 I don't know, because I don't -- I looked in the manual  
 12 and the manual didn't have a procedure for a rebate  
 13 cheque.  
 14 Q. And you didn't phone up the accounts department on this  
 15 issue?  
 16 A. Not about that. I don't recall phoning the accounts  
 17 department about that, no.  
 18 Q. Is the reality that your wife didn't tell you to go back  
 19 to the accounts department, and she was content with  
 20 what you had done until you got caught?  
 21 A. We hadn't got caught. We never looked at it as being  
 22 got caught at all. I did a process which I believed was  
 23 correct, and I stood by that process at the time. The  
 24 fact that -- in fact I still stand by the process at the  
 25 time now, because there was no procedures in place at

1 26

1 the time. You know, and if I was in the same situation  
 2 I would probably have still done the same, you know,  
 3 nowadays, if I hadn't had the update of the -- how now  
 4 to enter it into the system.  
 5 Q. You didn't get an update on how to enter it into the  
 6 system on the subsequent occasion you did it, you just  
 7 phoned up the accounts department?  
 8 A. No, we had either a brief or something to tell us how we  
 9 should put rebate cheques through the system, and that  
 10 came in December 2010. I've already explained that,  
 11 Mr Potts.  
 12 Q. I thought the evidence you gave was that when this  
 13 happened in 2011, you phoned up the accounts department  
 14 to ask them how to do it?  
 15 A. That was on -- no, no, I didn't say that all, Mr Potts.  
 16 If you have a look, if you -- what I said was on the  
 17 back of the brief in 2010, December 2010, which  
 18 obviously was post the interview with Mr McAlindon, that  
 19 was showing us how to do it. I rang up accounts in  
 20 January 2011 with the cheque that -- another rebate  
 21 cheque, because both -- you have to understand both  
 22 these rebate cheques were because the contract had ended  
 23 with the present electricity company. That's why we  
 24 ended up with a rebate cheque, and we went on to another  
 25 company. On the back of that partners' brief or brief,

1 27

1 what it was, I then phoned accounts. And accounts were,  
 2 you know, didn't have a clue what I was talking about  
 3 when I phoned them up.  
 4 Q. They told you they were able to deal with the matter by  
 5 making entries?  
 6 A. Eventually they were able to deal with it by -- yeah,  
 7 there was a bit of a conversation about how -- and  
 8 I said, "Look, this is the brief that I have been told,  
 9 this is how it is supposed to be, I am supposed to  
 10 inform you, so you can attribute the amount to whatever  
 11 coding you do, and whatever coding you put it under into  
 12 the accounts", and that's how you do it, otherwise, you  
 13 know ... otherwise where would it go?  
 14 Q. Just to go back to the meeting in November, 1 November  
 15 with Mr McAlindon, your evidence is that you considered  
 16 at the meeting that the matter was at an end and that  
 17 Mr McAlindon had accepted your explanation; is that  
 18 right?  
 19 A. That's how I understood it, yes, because we went on them  
 20 to -- there were a couple of other issues that we had  
 21 with banking differences, but as far as I was  
 22 understand -- as I said, he went ballistic when I said  
 23 it was our money, and I've explained how I understood it  
 24 as being our money, but apart from that, I left the  
 25 meeting thinking: well, obviously you know, I have

1 28

1 probably got this the wrong way round or whatever, but  
 2 he hasn't explained to me how I am supposed to do it, it  
 3 was only subsequently when that brief came out.  
 4 Q. If everything was fine and cleared up in your mind as  
 5 a result of the meeting, why did your wife call up  
 6 Mr McAlindon later that evening?  
 7 A. Because I am sure that was the conversation to do with  
 8 the discrepancies within the accounts.  
 9 Q. Nothing to do with this issue?  
 10 A. I don't know, you will have to ask her about that.  
 11 Q. Were you present when that call took place?  
 12 A. No, I wasn't.  
 13 Q. You weren't present --  
 14 A. No.  
 15 Q. -- when your wife made the call. Did she tell you she  
 16 was going to call him?  
 17 A. I can't recall. I can't recall if she did or didn't.  
 18 Q. You see, because Mr McAlindon's evidence is that she  
 19 discussed the £555 payment with him?  
 20 A. Okay.  
 21 Q. But you have no evidence on that, you don't know --  
 22 A. I have already said to you that when I came back  
 23 I discussed it with her.  
 24 Q. What I am asking about is your knowledge of her  
 25 conversation with Mr McAlindon.

129

1 A. No, I don't know, I know that she rang him, but I don't  
 2 know what the content of the conversation was about.  
 3 Q. You were not present for the call?  
 4 A. As I have just already said, I wasn't present.  
 5 Q. She didn't tell you why she was calling him; is that  
 6 right?  
 7 A. She may have done.  
 8 Q. You don't remember?  
 9 A. I can't remember to be honest.  
 10 Q. Did she tell you after the call what she had discussed  
 11 with him?  
 12 A. Again, she may have done.  
 13 Q. But you don't remember, you have no recollection?  
 14 A. I can't recollect the actual conversation that happened  
 15 between us.  
 16 Q. Isn't the reality that you appreciated that this was  
 17 serious, Mr McAlindon had said that the full remote  
 18 audit was going to be carried out?  
 19 A. He never said anything about an audit at all.  
 20 Q. Isn't the reality that you were concerned about that  
 21 audit, and --  
 22 A. Why --  
 23 Q. -- what had happened about the personal expenses that  
 24 you had been putting through the business?  
 25 A. I am sorry, which audit?

130

1 Q. A remote audit, and indeed Mr McAlindon's enquiries  
 2 generally; you were not concerned by that?  
 3 A. Yes, we were concerned and we wrote a letter back to  
 4 Mr McAlindon regarding what were -- how the issues came  
 5 about. Not in relation to the £555 cheque, it was more  
 6 to do with how the -- there was banking differences. We  
 7 had a crossover point of -- our manager was pregnant,  
 8 and we had stand-in managers at the time, we had  
 9 assistant managers who were covering, and there was  
 10 an issue with their level of access on to the till and  
 11 what they could do. So they hadn't informed me about  
 12 the refund -- I think it was a couple of refunds that we  
 13 had done over a long period of time.  
 14 Now, the reason why we weren't aware of that is  
 15 because obviously the staff member hadn't informed us,  
 16 but also the loss prevention department had already been  
 17 in contact with the accounts and the reconciliation  
 18 reports which obviously I've gone through earlier, we  
 19 never received them, so we would have never been aware  
 20 that these reconciliation -- that there was any issues  
 21 on these reconciliation reports, because they went  
 22 straight to Mr McAlindon. And actually when we  
 23 eventually saw these through litigation, it does  
 24 actually say there is no issue, no issues, no problems  
 25 with the banking difference.

131

1 Now, it sounds a bit odd, my Lord, but there is, on  
 2 the bottom line, we have a RAG system, a traffic light  
 3 system, which basically says if there is any banking  
 4 differences, there is a red, amber green, and up to £900  
 5 per month is the green, which means there is a tolerance  
 6 there which is acceptable within Specsavers that the  
 7 banking difference can be up to £900 per month.  
 8 Well, we spoke to accounts, I think it was Anne in  
 9 accounts, and she explained to us that there is no issue  
 10 because your banking difference to date for the whole of  
 11 2010 was only about £300. And out of £850,000, they  
 12 thought that there was no issue whatsoever. So it was  
 13 about more to do with that that we wrote the letter to  
 14 him.  
 15 Q. Okay, just to break that down, though, you have had your  
 16 meeting but you didn't consider that everything was  
 17 cleared up because you were writing to him afterwards in  
 18 relation to the banking; is that right?  
 19 A. Well, I said I would get back to him anyway about it.  
 20 Q. Yes. So moving on to the following year, you received  
 21 a call on 23 February 2011 from Mr McAlindon asking you  
 22 to attend a meeting in Crawley on 1 March; do you  
 23 remember that?  
 24 A. That's correct, yes.  
 25 Q. There was an exchange of emails with him, you asked

132

1 him -- perhaps I can take you to E2.  
 2 A. Yes. I have it open.  
 3 Q. What else do you have open?  
 4 A. E3.  
 5 Q. D can go away, if that would help.  
 6 A. I have B.  
 7 Q. Excellent, okay. 453, just to place it, is the exchange  
 8 of emails that you had with him. In fact, you had  
 9 a call, and then you see at 454 there was an exchange of  
 10 emails on 27th and 28th. Call was on the 23rd, and then  
 11 27th/28th about the meeting.  
 12 A. Mm.  
 13 Q. Mr McAlindon says in that that it's to discuss the  
 14 audit. Now, you had a meeting on 1 March --  
 15 A. Indeed.  
 16 Q. -- at the hotel. That was a short meeting, wasn't it?  
 17 A. Relatively, about 20 minutes.  
 18 Q. During the meeting, you were suspended at that meeting;  
 19 is that right?  
 20 A. Yeah, which was a bit of a surprise, obviously, because  
 21 the meeting, as it states in here, is basically to do  
 22 with the outcome of the audit. It was never to do with  
 23 the outcome of the audit, it was to suspend us  
 24 straightaway.  
 25 Q. Okay, well, Mr McAlindon explained that you would be

133

1 suspended, and that there would be a need to interview  
 2 store staff; do you remember that?  
 3 A. I don't remember him talking about it, it's obviously on  
 4 the letter.  
 5 Q. Which you got?  
 6 A. Which we have, yes.  
 7 Q. And he said that you would be invited to investigatory  
 8 meetings; do you remember that?  
 9 A. At a later date.  
 10 Q. At a later date, so the meeting was really just to deal  
 11 with the suspension and to tell you what the process  
 12 was, largely?  
 13 A. The first --  
 14 Q. The first meeting on 1 March?  
 15 A. -- 1 March. He did go into a couple of other --  
 16 Q. Yes.  
 17 A. Where the Blu-Ray player was brought up, and nappies and  
 18 stuff like that were brought up --  
 19 Q. He mentioned some of the transactions which were the  
 20 subject of the investigation?  
 21 A. He mentioned some of the transactions, yeah.  
 22 Q. He mentioned the Blu-Ray player?  
 23 A. He did.  
 24 Q. Underwear purchases?  
 25 A. I think so, yes, and nappies.

134

1 Q. Two transactions at Hoopers shop?  
 2 A. I don't remember him talking about the Hoopers.  
 3 Q. Okay, meals out?  
 4 A. I don't remember him talking about the meals out  
 5 either --  
 6 Q. Holidays in Spain?  
 7 A. No.  
 8 Q. When you say you don't remember, are you saying it  
 9 didn't happen, or --  
 10 A. I don't recall --  
 11 Q. -- you don't remember?  
 12 A. I don't think that happened. It was more to do with --  
 13 it's something to do with nappies, Blu-Ray player, and  
 14 some petty cash.  
 15 Q. He mentioned, he told you that neither of you should  
 16 contact members of staff, at the meeting?  
 17 A. No, as I said, I don't remember -- recall him saying  
 18 that, it was on the letter.  
 19 Q. Are you saying that he didn't say it, or are you saying  
 20 you don't remember one way or another?  
 21 A. I don't recall.  
 22 Q. You are not saying you didn't, you don't remember one  
 23 way or another; is that right? Is that fair?  
 24 A. Yeah, there was a lot going in the meeting, and he  
 25 didn't just pass the suspension notices over, the whole

135

1 thing, he wasn't prepared to listen to us at all, he  
 2 was -- when he passed over the letters, he -- my wife  
 3 said "You can't do that, you can't suspend us, you know,  
 4 we haven't done anything wrong, all these, you know,  
 5 subject to P11D which we have all paid our tax on", and  
 6 he laughed and said "Yes I can", and at this point  
 7 I said to him, "What are you laughing at? This is our  
 8 livelihood, you know, this is our whole life you are  
 9 taking away from us", and he got quite irate about this,  
 10 and quite violent -- well, it could have been if  
 11 Mr Barnes hadn't been there, because he stood up and  
 12 said, "I'm not laughing, you jumped up little" -- and  
 13 that's when Mr Barnes actually held him down by his  
 14 hand, and then he just suddenly stopped.  
 15 Q. I put it to you, Mr Parham, that didn't happen?  
 16 A. Well, it did happen.  
 17 Q. It would have been a remarkably stupid thing to do,  
 18 wouldn't it?  
 19 A. No --  
 20 Q. Mr McAlindon is an experienced investigator.  
 21 A. He is very experienced when it comes to being on record.  
 22 When he is off the record, I have been in two meetings  
 23 with Mr McAlindon, both meetings ended up being quite  
 24 verbally abused from him.  
 25 Q. Are you saying he verbally abused you during that

136

1 meeting?  
 2 A. Yes. "You jumped up little" is not a verbal abuse? And  
 3 he was standing up at the time and it was Mr Barnes that  
 4 held him by his arm and put him down again.  
 5 Q. I put it to you that didn't happen?  
 6 A. Well --  
 7 Q. He told you about the terms of your suspension, there  
 8 was an issue about whether you could be suspended and he  
 9 did indicate that if you didn't accept the suspension,  
 10 a board meeting could be convened?  
 11 A. That didn't happen either.  
 12 Q. He didn't say that either?  
 13 A. No, he didn't. Nothing was ever mentioned about a board  
 14 meeting.  
 15 Q. Could I take you to E2/374, please? That's in terms  
 16 of -- no, it's not that one. It's a wrong reference.  
 17 I'll come back to that.  
 18 MR STUART: My Lord, before my learned friend does come back  
 19 to that, given the history of late disclosure in this  
 20 case, to date Mr McAlindon has not disclosed any notes  
 21 of this meeting, the one that he has just asked the  
 22 witness about, and my learned friend was obviously  
 23 cross-examining on the basis of some fairly specifics,  
 24 as to what did and didn't happen at the meeting. I just  
 25 want to be sure that there is not going to be dribbled

1 3 7

1 out to us between now and after this witness has given  
 2 his evidence, some notes of that meeting from  
 3 Mr McAlindon.  
 4 MR POTTS: I have to say, the interruption of my  
 5 cross-examination in that way I find somewhat less than  
 6 helpful, my Lord. These are points which are in  
 7 Mr McAlindon's witness statement, and have been for some  
 8 considerable time. If my friend had an issue on  
 9 disclosure in relation to this matter now, whilst I am  
 10 in the middle of my cross-examination, I would  
 11 respectfully say is not the appropriate point at which  
 12 to raise it.  
 13 MR JUSTICE HILDYARD: I think that that is right, Mr Stuart,  
 14 but you have made your point and of course if it were to  
 15 transpire that there were notes and that they had not  
 16 been disclosed, it would be very disappointing indeed.  
 17 MR POTTS: My Lord, may I move on with my cross-examination  
 18 now?  
 19 MR JUSTICE HILDYARD: Yes.  
 20 MR POTTS: Now, during the afternoon --  
 21 A. I am sorry, you asked me to look to somewhere.  
 22 Q. No. During the afternoon of your suspension, you sent  
 23 a text to Mr Whittaker, the lab manager at the store; is  
 24 that right?  
 25 A. No. I did, but following on from his text. He was the

1 3 8

1 one who contacted me first.  
 2 Q. Okay. Could you turn to E2?  
 3 A. I am in E2.  
 4 Q. Right. Page 396. You say the email is from  
 5 Mr Whittaker, as you say --  
 6 A. To be honest, I can't read any of this.  
 7 Q. That's not helpful. Are yours in colour? Does  
 8 your Lordship have them in colour, my Lord?  
 9 MR JUSTICE HILDYARD: Yes. I do. I see, yours are black  
 10 and white, Mr Parham?  
 11 A. They are, my Lord, and it is just I probably can make  
 12 about three or four words out.  
 13 MR POTTS: I am sorry about that. (Handed). Does that  
 14 assist you?  
 15 A. It does, thank you.  
 16 Q. On the left-hand side, is that from Mr Whittaker?  
 17 A. That's from Mr Whittaker, yes.  
 18 Q. Then you say, your response:  
 19 "Look, mate, this is totally confidential but you  
 20 will find out very soon that Shakila and myself have  
 21 been suspended."  
 22 A. That's correct.  
 23 Q. You say totally confidential, that's because you knew  
 24 you shouldn't be communicating with Mr Whittaker?  
 25 A. No, my point here is that what I didn't want him to do

1 3 9

1 was upset the staff and say something that, you know,  
 2 would have put him in jeopardy as well.  
 3 Q. Then over the page, he responds:  
 4 "If you need anything let me know, anything."  
 5 Your response is:  
 6 "Act surprised when she tells you."  
 7 A. Yeah. That was again that I didn't -- I have been in  
 8 these meetings with Mr McAlindon, and the loss  
 9 prevention department, and I know that they will try and  
 10 use situations like this and this man, who was a very  
 11 good, very good worker, very good member of staff, had  
 12 just had a baby, and I did not want him to be subjected  
 13 to anything like I'd been subjected from Mr McAlindon.  
 14 Q. Isn't the reality that you knew you had been suspended  
 15 and you knew you had had an instruction not to contact  
 16 the staff; correct?  
 17 A. Again, as I say, it does say "Do not contact any member  
 18 of staff" on the letter, he contacted me first, yes,  
 19 I probably should have said something "I can't talk to  
 20 you" but he -- you know, I didn't contact him first, so  
 21 I didn't instigate the conversation.  
 22 Q. No, but you didn't say "I can't talk to you"?  
 23 A. No, I didn't, I have just said that.  
 24 Q. And indeed in fact you said to act surprised, "you  
 25 should tell him to act surprised", that that was to hide

1 4 0

1 the fact that you had been in communication with him,  
 2 wasn't it?  
 3 A. No, as I say, it was more to do with protecting himself.  
 4 As I say, this was a good member of staff, a very hard  
 5 worker, a loyal worker, and I am fully aware, as I say,  
 6 having been in two meetings with this -- with  
 7 Mr McAlindon, how these people work, and they can be  
 8 quite forceful, and I think you know, it shows from his  
 9 witness statements that -- or hearsay statements, that  
 10 he has obviously been pressured into changing his view,  
 11 as he has gone along.  
 12 Q. Your communications with him weren't limited to just  
 13 texts, were they? During the same evening, you went  
 14 over to see him at his home; is that right?  
 15 A. I did, yes.  
 16 Q. Not once but twice?  
 17 A. No, there is a bit of a discrepancy, I don't remember  
 18 the second time, I don't think the second time happened,  
 19 I went over to see him and I spoke to him. He was  
 20 talking about I went over to drop a key off, and the key  
 21 was already in the store.  
 22 Q. So why did you go over to see him?  
 23 A. I went over to reassure him that this was about us and  
 24 it's not about him.  
 25 Q. So at this stage this isn't in relation to contact

141

1 instigated by him?  
 2 A. This is a continuation of the contact instigated by him.  
 3 MR JUSTICE HILDYARD: This is from your mobile, is it?  
 4 A. My mobile and Mr Whittaker's mobile.  
 5 MR POTTS: Could you --  
 6 A. Because it actually states there "I'll speak to you  
 7 later", so it was a continuation.  
 8 Q. Despite the terms of your suspension where you have been  
 9 told not to contact the staff?  
 10 A. Well, again, we turned up to this meeting which was  
 11 supposed to be the outcome of the audit. Now, when  
 12 I look at that, I understand it as being "we are going  
 13 to discuss the audit, there may be some issues within  
 14 the audit, and we need to try and resolve ways around  
 15 this". We turn up, and it's a suspension meeting. So  
 16 in all truth, especially after the words that were  
 17 crossed with Mr McAlindon, that I just wanted to get out  
 18 of there. I didn't really accept the suspension. He  
 19 was treating us as just an employee. He wasn't treating  
 20 us as a director of a company, or a shareholder of the  
 21 company. And we were told that we -- I think it states  
 22 in the paper as well, in the suspension notice, that,  
 23 you know, if we have any issues we look at the Partners'  
 24 Guide to Discipline and Grievance. That's our guide for  
 25 disciplining our people, you know, our staff. That's

142

1 not to discipline directors, et cetera. And I felt that  
 2 was, you know, we were being thrown into this, and  
 3 I didn't really accept it. And it's quite obvious,  
 4 I don't think Specsavers accepted it either, because  
 5 they cut our pay off two days at the end of -- before we  
 6 went into the investigatory meeting. Now, if it does  
 7 actually say -- can I be pointed towards the suspension  
 8 notice, please? Because it does actually say on there,  
 9 my Lord, that we would get full pay --  
 10 Q. 376. Well, I don't dispute, Mr Parham, that your pay --  
 11 there wasn't a right to cut off your pay? There's not  
 12 an issue --  
 13 A. I think you have because we didn't -- we stopped  
 14 receiving pay on 5 March. We didn't go into the  
 15 investigatory meeting until 7 March. That means they  
 16 have cut our pay off prior to that. And we didn't  
 17 receive any more money at the end of March. So I look  
 18 at it, as, you know, they have also -- because I think  
 19 this is where you are going, I've breached the  
 20 suspension, and I think that they have breached our  
 21 suspension.  
 22 Q. You are dealing with some period later on, I am dealing  
 23 with the immediate aftermath of you being given the  
 24 notice of suspension and being told not to contact  
 25 members of staff.

143

1 A. I wasn't being told. I don't remember at all being told  
 2 that we were not to contact. It was in the letter, yes.  
 3 But I don't -- I didn't really accept it. I walked out  
 4 of that meeting not happy, not, you know, about the way  
 5 it had been conducted. He was not prepared to listen at  
 6 all to us. He had already made up his mind what was  
 7 going to happen.  
 8 Q. He had told you that you were being suspended pending  
 9 an investigation, and you were going to be called to  
 10 an investigatory meeting; isn't that right?  
 11 A. No, I've just told you that, he didn't say that, it was  
 12 in the letter.  
 13 Q. Okay, but --  
 14 A. He handed the letter, and that's where it got a bit out  
 15 of control.  
 16 Q. You understood that that was what was going to happen  
 17 whether it was from him or from the letter, you  
 18 understood that?  
 19 A. I understood that there would be an investigatory  
 20 meeting at some time in the near future, and that's what  
 21 it said on the suspension notice.  
 22 Q. Could I ask you to turn up E2, page 412, Mr Whittaker's  
 23 statement? In terms of that initial text, if you look  
 24 halfway down on Sunday 27 February, the initial text  
 25 from him, he says on Sunday 27th you came into the store

144

1 and asked him to text you if anyone arrived from head  
 2 office at the store?  
 3 A. That's correct.  
 4 Q. Yes? So the initial text was contact which in fact you  
 5 had requested him to make at an earlier date; is that  
 6 right?  
 7 A. But at this time I wasn't aware that it was a suspension  
 8 meeting.  
 9 Q. Then he deals with the text that we have already  
 10 discussed. At the second punch it says later in the  
 11 evening he came round to your home and you started to  
 12 tell him about the meeting that had taken place with  
 13 Mr McAlindon; is that right?  
 14 A. I explained that we had been suspended, and it was to do  
 15 with expenses.  
 16 Q. Yes. He says that you mentioned that it was all tax  
 17 related and to do with petty cash going through the  
 18 till. Is that what you said to him?  
 19 A. As I said, it was to do with expenses, now whether that  
 20 be through petty cash or through credit cards,  
 21 et cetera, or the eBis system, that's what I said to  
 22 him.  
 23 Q. Then you left after that, and you phoned him back later,  
 24 and asked him to pop around and get the personnel filing  
 25 key; is that right?

145

1 A. No. No. This is where -- this didn't happen. The key  
 2 was at work. The filing cabinet, in the filing cabinet,  
 3 I had left it in the filing cabinet.  
 4 Q. I see. So you didn't go around the second time, you  
 5 think?  
 6 A. No. I know that I didn't go round a second time.  
 7 Q. Later in the evening, you sent him a text asking him to  
 8 stop by the house on the way to work in the morning to  
 9 take something in for you; is that right?  
 10 A. I did.  
 11 Q. He did go over to your house early the next morning; is  
 12 that right?  
 13 A. Yes. I say he goes over to our house, he has to walk  
 14 past our house on the way to work.  
 15 Q. If you look at the statement, he says that you were both  
 16 stood at the door, and you gave him a black bin liner  
 17 containing a box?  
 18 A. Yeah, I gave him a bag, yeah --  
 19 Q. Is that right, it was a black bin liner?  
 20 A. Well, it could have been, it probably was, I gave him  
 21 a bag just to hold the container that was inside, which  
 22 was the box for the DVD player.  
 23 Q. You asked him to put it in the stock room?  
 24 A. I asked him to put it back into the shop and the reason  
 25 why I asked him to put it back in the shop was, as

146

1 I have just explained, I have been in two meetings with  
 2 Mr McAlindon, and he will not listen to any reasonable  
 3 rebuttal to any of the allegations that he was putting  
 4 to us, so I needed to prove to Mr McAlindon, especially  
 5 him but the loss prevention department as a whole, that  
 6 this item, albeit bought in December 2009, was brand  
 7 spanking new, still wrapped up in a box, you know, this  
 8 had never been used. So I needed him to see this. It  
 9 wasn't a case of it was under any guise, that it was  
 10 being snuck into the shop. All I asked Noel to do was  
 11 to go back to the shop, put it into the shop.  
 12 Q. So you are not saying you asked him to give it to  
 13 Mr McAlindon to show that it was new?  
 14 A. No, you are right, I didn't ask him to give it, but  
 15 I needed him to put it back into the shop, I thought he  
 16 might put it back into the office or whatever, but he  
 17 put it back into the store room.  
 18 Q. He says here, and this is I think the day afterwards,  
 19 that you asked him to put it in the stock room.  
 20 A. Well, that's not true at all. I asked him to put it  
 21 back into the shop. Now, where he put it back into the  
 22 shop, I thought he might, as I say, put it back into the  
 23 office. As I say, this was to show Mr McAlindon.  
 24 What would have happened, my Lord, is I bought it in  
 25 December 2009, it was a Blu-Ray player, but it also

147

1 plays DVDs. The DVD player which we had for the store,  
 2 which we used parts for training, wasn't ours, it was  
 3 borrowed from a member of staff, I needed to buy another  
 4 one, December 2009 was when we had the retrofit in the  
 5 shop, and we had paid £50,000 to have this done, and  
 6 I thought we may as well upgrade, you know, get our own  
 7 DVD player and we can hand the work one back to the  
 8 staff member.  
 9 When I went to buy one, you know, since we had been  
 10 in the store, the ways, the types of media that was used  
 11 to do the training on had changed. We were still using  
 12 flipcharts, we were using the internet, we were using  
 13 laptops, and we were still using DVDs which were sent  
 14 through from head office.  
 15 My look at it was: if I am going to buy a DVD  
 16 player, why don't I just buy something that's the next  
 17 generation, just in case they send out their training on  
 18 Blu-Ray DVDs. So it wasn't a conscious effort that: oh,  
 19 I should buy the best, I thought I may as well just get  
 20 the next generation up.  
 21 Q. Sorry to interrupt this flow, but I am not asking you  
 22 about what you did when you bought the Blu-Ray player,  
 23 I am asking you about the conversation which took place  
 24 with Mr Whittaker at that stage. I'll come on to the  
 25 purchase in a minute.

148

1 A. I just thought I needed to explain why I bought the  
 2 player, you know.  
 3 MR JUSTICE HILDYARD: Why you bought it. Mr Potts, don't  
 4 deal with this now if it's not convenient, and please  
 5 forgive me for interrupting your flow, but what is the  
 6 status of these witness statements? These were given to  
 7 the police, were they?  
 8 MR POTTS: No, my Lord, this is in relation to the  
 9 investigation.  
 10 MR JUSTICE HILDYARD: Mr Whittaker isn't appearing, is he?  
 11 MR POTTS: No, my Lord, he is not.  
 12 MR JUSTICE HILDYARD: Hearsay statements have been produced  
 13 on the footing that this was what was said, but not  
 14 relying on the truth of this.  
 15 MR POTTS: My Lord, it's in terms of the -- the issue we are  
 16 talking about, is as to what was said to SOG, and  
 17 my Lord, I am entitled -- sorry, hearsay statements,  
 18 yes, I am entitled to rely on the truth of the  
 19 statement.  
 20 MR JUSTICE HILDYARD: Are you? Well, I think I am making  
 21 this point so that it's ultimately clarified to me and  
 22 so that Mr Stuart can think about this, if he thinks  
 23 it's appropriate. I had a quick look at the witness  
 24 statements, hearsay notice, and I must say I thought it  
 25 quite limited. Maybe I am wrong about that.

149

1 MR POTTS: My Lord, may I come back at an appropriate  
 2 juncture on that?  
 3 MR JUSTICE HILDYARD: Yes.  
 4 MR STUART: My Lord, may I say that I hadn't understood that  
 5 page 412, which I had read as a Criminal Justice Act,  
 6 Magistrates Court Act, Magistrate Court Rules witness  
 7 statement.  
 8 MR JUSTICE HILDYARD: That's why I rather thought it had  
 9 been given to the police or something.  
 10 MR STUART: Exactly, I had understood that what was  
 11 suggested was the document at 401 being a record of  
 12 a conversation with Mr Whittaker, that's what's referred  
 13 to in the hearsay notice.  
 14 MR JUSTICE HILDYARD: You see, I didn't think that --  
 15 I didn't read the hearsay statement as going beyond the  
 16 thing at 401.  
 17 MR STUART: Yes.  
 18 MR JUSTICE HILDYARD: I don't think that there is any  
 19 hearsay statement on this, I have not clarified my mind  
 20 as to the extent to which in those circumstances you can  
 21 rely on it, but it would be unfair if you were to rely  
 22 on a document as constituting evidence if the person  
 23 giving that evidence were not available for  
 24 cross-examination and there had been no hearsay  
 25 statement provided in respect of it, to which no

150

1 objection had been made.  
 2 So I just -- it's just a shot over your bows,  
 3 Mr Potts, that I am not sure your tackle is in order on  
 4 this.  
 5 MR POTTS: My Lord, is your Lordship saying that I can't put  
 6 these matters as to what the witness did to the witness?  
 7 MR JUSTICE HILDYARD: You can ask him what he did --  
 8 MR POTTS: Yes, or what was said to him.  
 9 MR JUSTICE HILDYARD: -- but what I was slightly concerned  
 10 about was that you were, lest you be introducing this as  
 11 evidence, and I just don't know on what grounds you  
 12 could do that. I'll leave it to Mr Stuart to make of it  
 13 what he will. As I say, it has only just occurred to me  
 14 and I hadn't thought it through, but you were rather --  
 15 I thought you were putting this as being evidence  
 16 contrary or on which you were challenging him. I wonder  
 17 whether that's right.  
 18 MR POTTS: My Lord, there are a number of -- I hesitate on  
 19 the hoof --  
 20 MR JUSTICE HILDYARD: By all means think about it.  
 21 MR POTTS: My Lord, just a brief point I would make, my Lord  
 22 is this document has been in the bundles, there has been  
 23 no objections to the document. These exchanges are  
 24 referred to in our skeleton argument.  
 25 MR JUSTICE HILDYARD: It's authentic, but that's as far as

151

1 it goes, isn't it?  
 2 MR POTTS: No, my Lord, not just the document, but the  
 3 matters, the account and so on is referred to. It's  
 4 also referred to in the witness statements of my clients  
 5 as to these matters as well. No objection has been  
 6 taken until my friend has just popped up and raised it.  
 7 My Lord, I will consider the position.  
 8 MR JUSTICE HILDYARD: Will you? Thank you.  
 9 MR POTTS: My Lord, of course.  
 10 MR JUSTICE HILDYARD: It may be a false point, I don't know  
 11 but when I looked at the hearsay notice, it didn't seem  
 12 to me to cover this document.  
 13 MR POTTS: My Lord, subject to that I am going to continue.  
 14 MR JUSTICE HILDYARD: Of course, yes.  
 15 MR POTTS: You and your wife had a conversation with  
 16 Mr Whittaker at the door of your house about this; is  
 17 that right?  
 18 A. Again, this is not true, what was said here. My wife  
 19 was not at the door when he turned up to the house.  
 20 I went to the door. I spoke to him. I asked him to put  
 21 the DVD player into -- in fact, I didn't tell him,  
 22 I didn't say it was a DVD player, I just handed him  
 23 a bag, "Can you put this back into the shop?" We had  
 24 had our conversation and he was about to go, then my  
 25 wife came down the stairs and met me at the door, and

152

1 this is when the conversation between my wife and  
 2 Mr Whittaker happened.  
 3 Q. I see, so you are saying the conversation took place  
 4 after you had handed the --  
 5 A. Yes.  
 6 Q. -- bag to him?  
 7 A. He was holding the bag in his hand.  
 8 Q. And the conversation, was there a conversation about  
 9 being in shock about the investigation for expenses and  
 10 tax reasons, and that you were seeking advice from  
 11 solicitors and intended to send a letter to Mr Dyson,  
 12 something along those lines, with your wife present?  
 13 A. Yeah, there was a talk about, what it was about, again  
 14 it was expenses and tax implications. I don't recall  
 15 the rest of the conversation on that, what you are  
 16 saying.  
 17 Q. Are you saying it didn't happen or you don't remember?  
 18 A. No, I am not saying it didn't happen because the  
 19 conversation happened, but what was the latter part of  
 20 the question?  
 21 Q. That you were seeking advice from your solicitor and  
 22 intended to send a letter to Mr Dyson.  
 23 A. (Pause) I can't remember that. I don't think that's in  
 24 my witness statement.  
 25 Q. I am not asking you what's in your witness statement or

153

1 not, I am just asking you what you can remember.  
 2 A. No.  
 3 Q. Are you saying it didn't happen or you don't remember  
 4 one way or another?  
 5 A. I am pretty sure that didn't happen. It was more to do  
 6 with just explaining the -- mine was quite short and  
 7 brief. Mine was I handed the box over, I said "Can you  
 8 put this into the shop?", but also this is where the key  
 9 part comes into it. As I said, the key was already in  
 10 the filing cabinet at work, but I knew I had left it in  
 11 there, and I just asked him to lock it, because the  
 12 thing was in there was all the staff appraisals, you  
 13 know, a lot of information to do with the staff, and  
 14 other staff shouldn't have been able to look at it.  
 15 Q. Did you tell him what was in the bag? Could he see it?  
 16 The bag wasn't sealed, was it?  
 17 A. No, it wasn't sealed, he could quite clearly see what  
 18 was in the bag, I just asked him to put the item back  
 19 into the shop.  
 20 Q. If you were trying to get the -- you were saying you  
 21 were trying to convince Mr McAlindon this was all above  
 22 board and clear, why didn't you just give the Blu-Ray  
 23 player to Mr McAlindon and explain it?  
 24 A. Because as I had explained, the two meetings I had had  
 25 with Mr McAlindon were quite volatile.

154

1 Q. So --  
 2 A. I thought it would be a safer process if I got someone  
 3 else to hand it over to him, or at least put it into the  
 4 shop for me.  
 5 Q. You are not saying you didn't tell Mr Whittaker to hand  
 6 it to Mr --  
 7 A. No, I didn't ask him to hand it over to him, I asked him  
 8 to put it into the shop.  
 9 Q. You didn't ask him to give it to anybody in fact at all?  
 10 A. I asked him to put it into the shop.  
 11 Q. Just take it to the shop?  
 12 A. Yeah.  
 13 Q. During the conversation with Mr Whittaker at the front  
 14 door your wife said that if it all went wrong she could  
 15 go and work for Vision Express across the road and she  
 16 felt comfortable her customers would follow; is that  
 17 right?  
 18 A. I didn't hear that, but I think that's in a statement  
 19 somewhere, and I think she was obviously just trying to  
 20 blow off steam, she was obviously very angry with what  
 21 had happened.  
 22 Q. So you accept that happened --  
 23 A. I am not accepting that, no.  
 24 Q. Oh, you are not?  
 25 A. No, because I don't know if that happened or not.

155

1 Q. You don't remember it?  
 2 A. No, I don't know if that happened, not that I don't  
 3 remember that.  
 4 Q. Okay. Now, you had been told the previous day by  
 5 Mr McAlindon that the investigation would include the  
 6 purchase of the Blu-Ray player, hadn't you?  
 7 A. That's why I thought that this item has to be seen by  
 8 him because of the mention of it in the 1 March --  
 9 Q. But you thought the appropriate way to ensure that this  
 10 was seen by him was to contravene an express instruction  
 11 not to contact the staff and to ask a member of staff to  
 12 place it back in the store but without telling the  
 13 member of staff to tell anybody about it; is that right?  
 14 A. No, that's not right because I didn't contravene  
 15 anything, as I looked at it, you -- I have forgotten  
 16 what you said a second ago, the rest of it. All  
 17 I wanted to do was put it back into the store so he  
 18 could see -- I knew he would be in there at some point  
 19 carrying out the investigation, you know, so I looked at  
 20 it as though he would, you know, see this, and he had to  
 21 see that. He would see this, he would see it was brand  
 22 new, he would understand that, you know, we are not  
 23 lying to him. I had taken this home just to have a look  
 24 at the manual, completely forgot all about it, you know,  
 25 we work from home as well, we entertain the staff at

156

1 home, we store -- we have -- because the store, the  
 2 shop, sorry, is not big enough, we use our home as  
 3 a storage area. I put it in there, it was over  
 4 Christmas, completely forgot all about it, we got so  
 5 busy through 2010, it didn't cross my mind until  
 6 1 March 2011 that I still had the Blu-Ray player at  
 7 home. You know, if he had looked at it, if he had  
 8 seen -- any of the loss prevention department had seen  
 9 it when they had gone in there, they would have that  
 10 seen all it was brand spanking new. It had never been  
 11 used, never been opened.

12 Q. If this was all so straightforward and clear cut, why  
 13 didn't you just phone up Mr McAlindon and say, "I've got  
 14 this Blu-Ray player, it's not in the store, this is  
 15 what's happened and here it is", why didn't you do that?

16 A. Because of my meetings with Mr McAlindon, I was not  
 17 happy the way that he conducted them, I didn't think  
 18 that he would even listen to me, he had to physically  
 19 see it, so I thought it could end up in another blazing  
 20 row if we get on the phone with each other.

21 Q. If he had to physically see it, why didn't you just  
 22 phone him up and say, "Look, I have this, can I drop it  
 23 off or can you come and see it"?

24 A. It's quite easy in hindsight to say what I should have  
 25 done, but I didn't do that. I didn't want to speak to

157

1 him, I'd already had two bad experiences with him,  
 2 I didn't want to discuss this with him. I just wanted  
 3 to get it back into the store and let him see for  
 4 himself. I knew that he would be able to see it.

5 Q. Isn't the reality that this was all being done  
 6 surreptitiously because you appreciated it was wrong to  
 7 interfere with the investigation in this way?

8 A. No.

9 Q. The reality is that you were falsely seeking to give the  
 10 impression that the item had always been in the store by  
 11 getting it smuggled into the store without telling  
 12 Mr McAlindon?

13 A. No, that's not correct.

14 Q. When in fact the reality was that this item had been in  
 15 your house for 15 months since it had been purchased?

16 A. Exactly, it had been in my house for 15 months since it  
 17 had been purchased, that's correct.

18 Q. Mr Parham, isn't the reality you must have appreciated  
 19 that this cloak and dagger approach to getting this item  
 20 into the store wasn't an honest way to act?

21 A. We all do things, and you know, retrospectively in  
 22 hindsight or whatever it looks as though we should have  
 23 done it this way. I didn't -- I did not want to speak  
 24 to him, I did not want to talk to him, I did not want to  
 25 see him, so I had got Noel to take it in there for us,

158

1 I didn't think it was surreptitious, I didn't think it  
 2 was lying, I didn't think it was deceitful, all I wanted  
 3 him to do was -- or at least one member of the loss  
 4 prevention department, mainly him because he seemed to  
 5 have the problem with me, every time I spoke to him, he  
 6 has gone mental.

7 Q. On any basis you didn't tell Mr Whittaker to deliver  
 8 this or to tell the loss prevention officers that this  
 9 had arrived in store, or indeed when it had arrived in  
 10 store?

11 A. I didn't specifically say that, no. But again in  
 12 hindsight I probably should have said, you know, "Hand  
 13 it straight to Mr McAlindon". I didn't, I just said  
 14 "Can you put it back in the store for me, please?"

15 Q. In fact what you said is "put it in the store room"?

16 A. No, that's what Mr Whittaker says, but I know  
 17 Mr Whittaker's statement's been under duress and under  
 18 pressure.

19 Q. Can I ask you about the Blu-Ray player?

20 A. Mm.

21 Q. You say it was purchased for use in the store?

22 A. Yes.

23 Q. The position is various members of staff said initially  
 24 that there was not use of a Blu-Ray player in store,  
 25 that's not surprising because it was never used?

159

1 A. There was no Blu-Ray player in the store.

2 Q. No. Now, in fact most of the training was done --  
 3 Mr Whittaker did most of the training in the store,  
 4 didn't he?

5 A. We both did the training.

6 Q. And most of the training was actually done on  
 7 a computer?

8 A. No. As I said to you earlier, the training was done on  
 9 several medias. It was even still being done on  
 10 flipcharts at that time. Depending on what the training  
 11 session was about, we did them on flipcharts, we did  
 12 them on DVD, we did them on laptop. So we did them on  
 13 various different formats. It wasn't a case of the only  
 14 thing we had done them on was laptops.

15 Q. No, okay. There was some stuff which was done over the  
 16 internet in some way, some training?

17 A. The more of the training that was done over the internet  
 18 were the courses that the staff went on to. There was  
 19 a company called WebEx which they would send courses --  
 20 obviously they would speak to Specsavers, they would  
 21 upload certain courses and you would log on and carry  
 22 out the training that way. But the Saturday morning  
 23 trainings were more to do with DVDs, flipcharts, we did  
 24 have some on the laptop.

25 Q. If you turn back to E2/403, please, which is a record of

160

1 a conversation with Mr Whittaker, the first  
 2 conversation, he says at line 90 that it was part of his  
 3 role to conduct the store training, and he was asked how  
 4 it was done, he said:  
 5 "The staff used the WebEx on the laptop."  
 6 You agree with that, do you?  
 7 A. Sorry, you said 90, but you mentioned something that's  
 8 not actually on here.  
 9 Q. 403?  
 10 A. I am on 403, you said --  
 11 Q. Line 88, it says you mentioned earlier that as part of  
 12 your role you conducted --  
 13 A. Sorry, line?  
 14 Q. 88 is a question.  
 15 A. Yes, I see that he's mentioned that, but we both did the  
 16 training.  
 17 Q. You say:  
 18 "The staff used the WebEx on the laptop."  
 19 A. Yes.  
 20 Q. "Any of the training I do is normally on DVD."  
 21 Is that right?  
 22 A. As I say, there was different medias. He did DVD, he  
 23 did flipcharts, we both did flipcharts, we both did  
 24 DVDs, originally it was on by video, they had upgraded  
 25 from video to DVDs.

161

1 Q. You had some DVDs as well, he refers to DVDs, you got  
 2 these -- that's eye to eye training, is that right, they  
 3 are called eye-to-eye?  
 4 A. Yeah, whether they are all eye-to-eye I am not quite  
 5 sure, but there was training that was sent down through  
 6 Specsavers.  
 7 Q. He said at that point:  
 8 "We have a Blu-Ray player, DVD player and  
 9 an all-in-one video combi unit."  
 10 A. That was the initial unit when we opened, that was a TV  
 11 and video unit.  
 12 Q. Yes. If you look at -- keep E2 open -- H, please,  
 13 page 28. I don't know if the photos are going to be  
 14 clear. Let's get some coloured versions, I am sorry for  
 15 those.  
 16 A. These aren't too bad.  
 17 Q. (Handed). I don't want you to be at any disadvantage.  
 18 Is that the combi unit?  
 19 A. That's the combi unit.  
 20 Q. That's a small 14-inch VHS --  
 21 A. You say small, it's obviously about that big  
 22 (indicated). It's quite a -- it's not the little tiny  
 23 things.  
 24 Q. It has room for a VHS thing as well?  
 25 A. Yes.

162

1 Q. These days we are a bit spoilt on TVs --  
 2 A. I think so, this was the old CRT type.  
 3 Q. This is not a modern piece of kit, it's fair to say?  
 4 A. No.  
 5 Q. Then there was also, at 29, that's a DVD player?  
 6 A. Yeah, that was the DVD player from one of the members of  
 7 staff that had lent us their DVD player.  
 8 Q. In fact, although he referred to a Blu-Ray player, in  
 9 fact you had never used a Blu-Ray player, because in  
 10 fact there had never been one in store; correct?  
 11 A. It had been delivered to the store, but as I say I took  
 12 it home to analyse the manuals, and then put it into my  
 13 store at home over the Christmas period and completely  
 14 forgot all about it.  
 15 Q. In fact it had gone straight home after it had been  
 16 purchased, hadn't it?  
 17 A. No, it had come into the store first. Currys were  
 18 across the road from us, they were closing down, there  
 19 was a sale on, so I thought that was an ideal time to,  
 20 you know, buy our own.  
 21 Q. H/197, that's the invoice, the receipt. Purchased on  
 22 29 December 2009.  
 23 A. That's correct.  
 24 Q. That's for a Panasonic DMP, paid for on the company  
 25 credit card; correct?

163

1 A. Yes.  
 2 Q. Specsavers hadn't produced any training materials on  
 3 Blu-Ray, had they?  
 4 A. No, they hadn't, no. Not at that point anyway. As  
 5 I say, this is not just a Blu-Ray player, this is a DVD  
 6 player as well, it plays DVD.  
 7 Q. A Blu-Ray player will play a DVD as well, won't it?  
 8 A. Yes.  
 9 Q. Yes. You entered this into the eBis system as Currys,  
 10 and there is a business code to apply if it's a business  
 11 expense, you apply it as the equipment business expense  
 12 code; yes? Correct?  
 13 A. No.  
 14 Q. No? That's not how you did it?  
 15 A. When it says "Uckfield Equipment Shakila" --  
 16 Q. Not in terms of what you wrote, but in terms of making  
 17 the claim for it, putting it through the expenses, the  
 18 eBis system?  
 19 A. There is a code, I don't know what the code is, we don't  
 20 deal with the code, I put it down as equipment or --  
 21 Q. But this was on the credit card, yes? You bought it on  
 22 the credit card?  
 23 A. It was on my credit card, yes.  
 24 Q. The company credit card, not your personal one?  
 25 A. All right, sorry, yes.

164

1 Q. I just want to be clear.  
 2 A. Yes, the company credit card, yes it is.  
 3 Q. When you went through your expense claim and made the  
 4 claim, submitted it, you didn't put this down as  
 5 a personal expense, you put it down as a business  
 6 expense, as equipment for the business?  
 7 A. That's correct. I can't remember what I put it down as  
 8 but if you are saying it is equipment --  
 9 Q. Yes. You accept that? Would you accept that?  
 10 A. If that is the truth.  
 11 Q. I hope so. That's why I put it to you.  
 12 A. I can't remember what I put it down as, I haven't  
 13 seen --  
 14 Q. You didn't put it down as personal, you put it down --  
 15 okay.  
 16 A. I know it's in here somewhere, it might be in the --  
 17 Q. In fact, if you look at the page before --  
 18 A. The previous page?  
 19 Q. Will that help you, 196?  
 20 A. "Equipment", there you go, business type or expense  
 21 type.  
 22 Q. And you had written on the receipt, is that your writing  
 23 "DVD player for work"?  
 24 A. Yes.  
 25 MR POTTS: If you look at E2/395, that's the photograph.

165

1 Again can we get a colour photo please? Does  
 2 your Lordship have it in colour?  
 3 MR JUSTICE HILDYARD: Just getting there, sorry.  
 4 MR POTTS: Sorry, my Lord. (Handed)  
 5 A. Thank you.  
 6 Q. It is the Panasonic DMP, that's a Blu-Ray disc --  
 7 A. It ties in with what's on the list.  
 8 Q. That's the photograph of the box from the stock room in  
 9 the store.  
 10 A. I didn't take the photograph, I am assuming that's where  
 11 it is.  
 12 Q. This box had been in your home for 15 months?  
 13 A. It had been in my storage area for --  
 14 Q. Storage, in your shed, in your home?  
 15 A. It was in the shed, yes, I've got a 16 by 12 shed that  
 16 I used for all parts of storage of the store because, as  
 17 I say, the store wasn't big enough to hold everything,  
 18 so unitary that -- old unitary that we weren't using,  
 19 all the archives, et cetera, that we couldn't hold in  
 20 the store, they were all held in there.  
 21 Q. Now, Mr Whittaker, you have said that some work was done  
 22 on flipcharts for training?  
 23 A. It was, yes.  
 24 Q. Other training was on WebEx. That's online, is it?  
 25 A. The training for WebEx was more to do with

166

1 a one-to-one -- I say one-to-one training, it was to do  
 2 with just the member of staff being on a course, so if  
 3 it was like a contact lens course, they would do it over  
 4 the WebEx training system. So the WebEx wasn't  
 5 really -- which all our training was on a Saturday  
 6 morning. WebEx wasn't really for Saturday mornings, but  
 7 we did do the odd bit on the DVD player and used DVDs  
 8 from the --  
 9 Q. Okay, the WebEx online stuff. Now, in terms of the  
 10 training DVDs from Specsavers and other sources,  
 11 Mr Whittaker's evidence is that generally he used the  
 12 laptop for those as it was easier than dragging  
 13 equipment out of the store room. Do you remember that,  
 14 in terms of the training?  
 15 A. No, because we did link up the -- because the laptops  
 16 are quite small, I know it's only a 14-inch screen on  
 17 the TV but it did seem to be bigger than just a little  
 18 laptop, and we could just cable it up between the DVD  
 19 player and the TV --  
 20 Q. You could watch --  
 21 A. -- through the SCART socket.  
 22 Q. You could watch DVDs on the computer as well?  
 23 A. We could do, yes.  
 24 Q. Mr Whittaker's evidence is that this is what he  
 25 generally did, because it was easier?

167

1 A. As I said, we both did the training so --  
 2 Q. Are you saying that's wrong?  
 3 A. I am not saying it's wrong, I am saying it's possible to  
 4 do that.  
 5 Q. He is saying that generally when he was doing the  
 6 training he would use the laptop rather than dragging  
 7 stuff out of the store room?  
 8 A. Well, I wasn't always there for all of his training, so  
 9 I couldn't categorically say that was true or not. But  
 10 if he is saying that he used that, I know that I used  
 11 a bit of both, I used a DVD player sometimes with a TV  
 12 or I used a laptop, depending on what it was about.  
 13 MR POTTS: My Lord, I am conscious of the transcribers.  
 14 MR JUSTICE HILDYARD: Is that a convenient moment?  
 15 MR POTTS: My Lord, yes.  
 16 MR JUSTICE HILDYARD: Not too bad. All right, just before  
 17 20 to, then.  
 18 (3.28 pm)  
 19 (A short break)  
 20 (3.38 pm)  
 21 MR POTTS: Mr Parham, could you turn up volume B, your first  
 22 witness statement, at page 73? You refer there to the  
 23 purchase of the DVD and you say that you decided --  
 24 A. Sorry, where are we looking at?  
 25 Q. At the bottom of the page, I think subparagraph (c)

168

1 deals with the Blu-Ray.  
 2 A. Did you say 73?  
 3 Q. It's paragraph 75(c) of your witness statement.  
 4 A. Okay.  
 5 Q. You refer to the paragraph that says:  
 6 "Although at first sight ..."  
 7 Do you see that? You say:  
 8 "It may look odd ... allowances need to be made for  
 9 [your] background in electronic engineering and modern  
 10 technologies. Faced with a more modern and more  
 11 technologically sophisticated alternative, go for the  
 12 latter."  
 13 Yes? So you referred to upgrading the DVD that you  
 14 had been using in store; correct?  
 15 A. Yeah. I wanted to, you know, if I am going to have to  
 16 buy the store's own DVD player, then I may as well get  
 17 the better model.  
 18 Q. You are talking about upgrading the one you already have  
 19 in store; is that right? (Pause). You don't mention  
 20 any reason why you couldn't carry on using, for example,  
 21 the existing laptop player or the DVD player that you  
 22 had in store, do you?  
 23 A. Sorry, I am just looking for the -- I made a decision to  
 24 upgrade the DVD player, okay.  
 25 Q. Correct? Just above that.

169

1 A. Sorry, what was your question again?  
 2 Q. You said you were talking about upgrading the one that  
 3 you already have in store, that's what you say in your  
 4 statement, you don't mention any reason why you couldn't  
 5 carry on using the laptop or the DVD player?  
 6 A. I already have in the fact that it wasn't ours, it  
 7 wasn't the store's.  
 8 Q. You don't mention that anywhere in your witness  
 9 statement, do you?  
 10 A. No, I don't.  
 11 Q. In fact, that has never been mentioned as an explanation  
 12 at any other point until your evidence just now?  
 13 A. Well, it was still upgrading the DVD player that was in  
 14 the store, although it wasn't ours.  
 15 Q. You don't say at any point:  
 16 "We needed to buy a DVD player because the one we  
 17 had in the store wasn't ours and we couldn't carry on  
 18 using it".  
 19 A. But it doesn't make it not true either.  
 20 Q. I am just asking you --  
 21 A. And I am telling you that it wasn't the store's DVD  
 22 player, it was a member of staff's old DVD player, and  
 23 I was, although it says "upgrading the DVD player" I was  
 24 buying a new DVD player for the store. So it was  
 25 upgrading it in the fact that it was a technology

170

1 upgrade, not necessarily upgrading the DVD player that  
 2 was in the store.  
 3 Q. The explanation you give here is that you were upgrading  
 4 the existing one that you already have, not that there  
 5 was some problem with the existing one that you have,  
 6 for example, it was not yours or you couldn't carry on  
 7 using it?  
 8 A. There was nothing actually wrong with the DVD player.  
 9 Q. And you could have carried on using it?  
 10 A. We could have carried on using it, but it wasn't our DVD  
 11 player to continually use at all times, so that's why  
 12 I decided to get a new one for the store. As I've said,  
 13 we spent £50,000 on the retrofit. Surely, you know,  
 14 a couple of hundred quid wouldn't have made much  
 15 difference in getting a new DVD player or Blu-Ray player  
 16 as it was in this case.  
 17 Q. Okay. If the DVD player which was in the store for the  
 18 18 months after your purchase of the Blu-Ray player,  
 19 there was no problem in carrying on using it during  
 20 those 18 months, was there?  
 21 A. There was no problem in carrying on using it, no. As  
 22 I say, it wasn't faulty, it was just a case of I wanted  
 23 to upgrade it. It was just I had completely forgotten  
 24 all about it being at home in storage.  
 25 Q. So the issue wasn't to do with the fact that the DVD

171

1 player apparently wasn't yours, it was just you wanted  
 2 to upgrade the technology, and that's the explanation  
 3 you give in your witness statement; is that right?  
 4 A. I wanted to -- no, I did not want to necessarily upgrade  
 5 the technology. If you look at it, it actually says  
 6 that my -- bearing in mind my background, if I had  
 7 a choice of buying a DVD player or buying a Blu-Ray  
 8 player, which to be fair there wasn't much difference in  
 9 costs especially since Currys were having the sale, the  
 10 closing down sale, that's how I looked at. It was to  
 11 buy one for the store.  
 12 Q. So you are saying that in fact your reason for buying  
 13 a player was not because of upgrading the technology but  
 14 because you were concerned that you didn't have a DVD  
 15 player of your own in the store; is that right?  
 16 A. It was both.  
 17 Q. That's not an explanation which is given in your witness  
 18 statement, is it?  
 19 A. But my decision in here was just to upgrade -- yeah, it  
 20 does say to upgrade it, but it was both. It was the  
 21 fact that, you know, as I've just said.  
 22 Q. This is an explanation you didn't give in this witness  
 23 statement, it's not an explanation you gave in your  
 24 witness statement or in evidence in the ET either, was  
 25 it?

172

1 A. I can't remember what was said in the ET.  
 2 Q. It wasn't, and it wasn't at any time an explanation that  
 3 you have given until your evidence this afternoon?  
 4 A. Well, you are quite welcome to go and check that it  
 5 wasn't the store's DVD player, it was a member of  
 6 staff's DVD player. I don't know why I haven't put it  
 7 in here, but it was definitely a member of staff's DVD  
 8 player, we had had it for a couple of years. To be fair  
 9 it's quite irrelevant in the fact that I bought a new  
 10 player for the store out of the profits of the business,  
 11 and I thought I was entitled to do that, to upgrade it  
 12 as well just in case the media that came from Specsavers  
 13 was changed to Blu-Ray. They were having a sale across  
 14 the road, and I just -- and we had just had a refit. It  
 15 all tied in together. That's how I looked at it at the  
 16 time.  
 17 Q. So having a background in technology, you knew that the  
 18 advantage of Blu-Rays is they have a picture definition  
 19 than DVDs; is that right?  
 20 A. That's not the definition. The definition is it will  
 21 hold more data on the disc.  
 22 Q. Okay, but the picture on a Blu-Ray player --  
 23 A. It will be, because of the amount of data that can be  
 24 held on the disc.  
 25 Q. It's a higher resolution than DVD?

173

1 A. It is a higher resolution, but it is because of the  
 2 amount of data on the disc.  
 3 Q. Okay. The reason for it ... but it's a higher  
 4 resolution picture?  
 5 A. It is, yes.  
 6 Q. In order to take advantage of that, you need two things,  
 7 don't you, one is you need Blu-Ray discs; correct?  
 8 A. Mm.  
 9 Q. And the other thing you need is a high definition TV,  
 10 isn't it?  
 11 A. No, you don't.  
 12 Q. So you can see things at the higher resolution on  
 13 a standard TV?  
 14 A. Not necessarily at the higher resolution, but you don't  
 15 need to be able to see it at the higher resolution, but  
 16 it will still play.  
 17 Q. It will still play?  
 18 A. Yes.  
 19 Q. But you won't get the advantage of the Blu-Ray higher  
 20 definition without both the discs and a high definition  
 21 television?  
 22 A. That's correct, but for training that's quite  
 23 irrelevant.  
 24 Q. But in the case here, you weren't watching high  
 25 resolution feature films at the store, firstly you don't

174

1 have Blu-Ray discs in the store, do you?  
 2 A. The whole point was that I didn't know that was going to  
 3 be the case. We were progressing with technology,  
 4 Specsavers were talking about dispensing on iPads,  
 5 I looked at it, as I say, we had just had a refit, let's  
 6 just upgrade what we have at the moment, hand that one  
 7 back to whoever it belonged to at the time, I still  
 8 can't remember who it belonged to, I just knew it wasn't  
 9 ours, and it played DVDs, you know, and if the data --  
 10 if the media that came through was Blu-Ray, so be it.  
 11 We used to get two or three discs a month, and they  
 12 could limit that down to one disc and have all the data  
 13 down onto one disc. It doesn't necessarily mean it's  
 14 going to be a high definition picture. All it means is  
 15 the amount of data on that disc that can be stored on  
 16 that disc is, I think it's up to four or eight times the  
 17 amount stored on a normal DVD.  
 18 Q. At the same time as this, the only TV you had in store  
 19 was that rather ancient looking Philips 14 inch TV/VHS  
 20 combo, wasn't it?  
 21 A. Absolutely.  
 22 Q. You didn't at the same time as this upgrade to a high  
 23 definition television for the store, did you?  
 24 A. No, I didn't, no.  
 25 Q. So the position was that you have got DVDs not Blu-Ray

175

1 discs coming into your store; correct?  
 2 A. Yes, correct.  
 3 Q. And you have only got -- you don't have a high  
 4 definition TV, you just have this rather ancient small  
 5 14-inch VHS TV which wouldn't play high definition  
 6 pictures?  
 7 A. As I say, it doesn't need to play high definition  
 8 pictures, we are not showing films on these, from these  
 9 DVDs, or the Blu-Rays, if they would eventually come  
 10 through. It would just be to have held more data on the  
 11 Blu-Ray itself, on the Blu-Ray disc, which means they  
 12 could have, as I say, squashed down three DVDs which  
 13 they had sent to us into one DVD, that's all. It  
 14 doesn't matter what the TV is.  
 15 Q. The only reason they would do that is if they  
 16 appreciated that everybody else had, all the stores,  
 17 Blu-Ray players, because otherwise if they compressed  
 18 everything down into the disc that you are talking  
 19 about, which they didn't do, that would only work if  
 20 there were Blu-Ray players, is that what you are saying?  
 21 A. Absolutely, but they didn't inform us when they upgraded  
 22 from video to DVD. This is why we had to go and get  
 23 a DVD player. It was exactly the same concept. They  
 24 didn't inform us, they just sent through DVDs instead of  
 25 videos.

176

1 Q. Isn't the reality, Mr Parham, that there was no purpose  
 2 whatsoever in buying a Blu-Ray player because you could  
 3 either use the laptop or the existing DVD player in  
 4 store?  
 5 A. As I've said, we could have used both, but I looked at  
 6 it as though, one, I wanted to hand back the DVD player,  
 7 and, two, that, you know, I wanted to buy a new DVD  
 8 player for the work. It happened to be a Blu-Ray, it  
 9 didn't really matter. When I went across the road,  
 10 I think there was only a couple left anyway, and they  
 11 just happened to be Blu-Rays, so I bought a Blu-Ray, it  
 12 was at the same cost of what they were selling DVD  
 13 players at.  
 14 Q. This first explanation about wanting to replace the one  
 15 in store because it wasn't yours, that's the first time  
 16 this has happened, it's just in your evidence now; is  
 17 that right?  
 18 A. It does seem to be that way, yes, but --  
 19 Q. I put it to you are just looking for explanations to  
 20 justify the purchase which was for your home?  
 21 A. I don't need any explanation. If it had been at home,  
 22 surely it would have been dusty, it would have, you  
 23 know, it would have shown signs that it had been out in  
 24 my home. There was no signs of that at all. It was  
 25 still wrapped up in the same box, still taped up in the

177

1 same box, and I am sure, although I can't say on this  
 2 because I never opened the box, was that when you buy  
 3 one of these items, the batteries and the remote are  
 4 separate. Surely that would have still been the case in  
 5 the thing, but I never opened it. Yes, it was there  
 6 15 months, I know it's quite hard to believe, but that's  
 7 exactly how it happened. I took it home to have a look  
 8 at it and I never got round to using it, I never got  
 9 round to putting it back in the store.  
 10 Q. You accept, Mr Parham, that this is hard to believe,  
 11 this story, do you?  
 12 A. No.  
 13 Q. I put it to you --  
 14 A. No, no, I am not going to say that, to be honest.  
 15 I know I have just said it, but you are putting words in  
 16 my mouth, to be honest, and I feel as though you are  
 17 trying to pressure me into a corner at the moment.  
 18 I know why I bought that DVD player or Blu-Ray player,  
 19 or whatever you want to call it. I bought it for work.  
 20 It was quite obvious that it was for work because  
 21 I never ever opened the box at home. Why would I buy  
 22 something -- and I have already got a Blu-Ray player at  
 23 home, I don't need another Blu-Ray player.  
 24 Q. This is an item that you didn't need to have in the  
 25 store, you were perfectly able to play the discs that

178

1 you got; correct? Yes or no?  
 2 A. I believe that I needed to update -- say update, it was  
 3 to hand that one back and have our own in the store.  
 4 Q. Right, that's an explanation which is nowhere in your  
 5 statement, to deal with that first point; correct?  
 6 A. Again in hindsight it probably would have been easier,  
 7 you know, better to put that in, I haven't put every  
 8 single nuance that I've done in there, but that was what  
 9 it was for, I bought the DVD player for work, and  
 10 I didn't -- you know, that was the whole thing, I have  
 11 never misrepresented anything in here.  
 12 Q. Secondly, apart from the fact you didn't need this item  
 13 because you could play the DVDs in store on your  
 14 existing equipment, it also sat -- apparently, according  
 15 to you, it was not in store for 15 months, it was at  
 16 your home for 15 months; correct?  
 17 A. It was in my storage at home which I used to store items  
 18 from, you know, from the shop.  
 19 Q. In fact, the box had been opened, hadn't it? Would you  
 20 have a look at E2/395? That shows that the box has been  
 21 opened and has been taped up.  
 22 A. Yeah, but if you also look at it, the "sold" sign is  
 23 over the tape, and that's come from Currys.  
 24 Q. This point is --  
 25 A. So it's been taped up, the "sold" sign has been put on

179

1 top of there, and that's how it was when I received it  
 2 from Currys.  
 3 Q. But you accept that this has been re-taped up, do you?  
 4 A. From the store, yes. From Currys itself, not from  
 5 myself. As I say, this was a closing down sale, these  
 6 were on the shelf. They taped it all up, put a sticker  
 7 over it, and I think there is probably -- might have  
 8 been something on there saying who it belonged to,  
 9 I don't know, but there is some writing on there, and  
 10 that's how I received it. That's how I asked  
 11 Mr Whittaker to put it back into the store 15 months  
 12 later, it was exactly the same boxing, no more tape, no  
 13 entry into the box at all.  
 14 Q. Mr Parham, I put it to you the reality is, as you well  
 15 know, that this Blu-Ray player was never in store and  
 16 never had a purpose in the store, it was for personal  
 17 use?  
 18 A. Well, the reality is, Mr Potts, that it was in the  
 19 store, albeit brief, because it was delivered from  
 20 Currys --  
 21 Q. How brief?  
 22 A. Could have been just half a day or even a day, and  
 23 I took it home to have a look at it at the end of  
 24 December.  
 25 Q. 29th?

180

1 A. Yeah --  
 2 Q. In the afternoon, late in the afternoon?  
 3 A. So it has probably --  
 4 Q. So you took it home at the end of the day?  
 5 A. Took it home at the end of the day.  
 6 Q. So maybe an hour or two then?  
 7 A. Could have been, yes. But I took it home to look at the  
 8 manual, and as I say, I never got round to looking at  
 9 the manual. As you say, the 29th, it's a couple of days  
 10 from New Year's Eve, I put it in the storage, and wanted  
 11 to have a look at it in the New Year, never got round to  
 12 it, forgot all about it. As I say, we got very, very  
 13 busy through 2010, our feet didn't touch the ground in  
 14 2010, it was incredible what the new shop fit had done.  
 15 Q. So in fact for 15 months it was at your home. The  
 16 position is as follows, isn't it: the invoice was marked  
 17 "DVD player for work" and it was put through as  
 18 a business expense?  
 19 A. It was.  
 20 Q. You made a false representation to the accounts  
 21 department that this was for the store when in fact it  
 22 was not in the store for the 15 months up until 2 March?  
 23 A. As I've explained, you are absolutely correct that it  
 24 was not in the store, but it was for the store. It was  
 25 forgotten in my storage. It wasn't at home being used

181

1 at all. It was in the same state as it is here in this  
 2 picture, that I received it on 29 December 2012. Sorry,  
 3 2009.  
 4 Q. After being told that this was part of the subject  
 5 matter of the investigation, you arranged for this item  
 6 to be brought to the store secretly after your  
 7 suspension by a member of staff who you had been  
 8 instructed not to contact?  
 9 A. That's not correct, I've already explained my reasoning  
 10 behind that.  
 11 Q. And on top of that, you didn't have Blu-Ray discs or  
 12 a suitable TV in the store which would make any sense  
 13 for you to watch Blu-Ray discs on either, did you?  
 14 A. Yes, we did. Yes, I've already explained about the TV,  
 15 Mr Potts, you are obviously not listening about the TV.  
 16 The TV does not need to be high definition to watch  
 17 Blu-Ray discs.  
 18 Q. No, but you don't get the benefit of watching Blu-Ray  
 19 discs --  
 20 A. But I am --  
 21 Q. -- on a 14-inch old TV which is not high definition?  
 22 A. But as I explained, we are not watching videos or, you  
 23 know, films, Blu-Ray films, we are not watching -- I am  
 24 trying to just name a film that's Blu-Ray, but we are  
 25 not watching films, that is nothing to do with what we

182

1 were going to be doing it for.  
 2 Q. No. You were watching training videos?  
 3 A. It was training videos.  
 4 Q. You didn't need any particular high definition  
 5 technology for that, did you?  
 6 A. But as I've explained, Specsavers are updating their  
 7 technology all the time, they were looking at iPads for  
 8 dispensing, they had already gone from videos to DVDs,  
 9 there was a good possibility, and I took that chance on  
 10 being a possibility, that they may upgrade the DVDs to  
 11 Blu-Rays because of the amount of data that could be  
 12 held in a DVD player on a Blu-Ray disc. It doesn't mean  
 13 that you have to have a TV that will show Blu-Ray films,  
 14 because that's not what it was for.  
 15 MR JUSTICE HILDYARD: Mr Potts, have we nearly done with the  
 16 Blu-Ray?  
 17 MR POTTS: We have, my Lord, just two more questions.  
 18 MR JUSTICE HILDYARD: We have done it to death, I think.  
 19 MR POTTS: My Lord. Mr Parham, would you accept someone  
 20 looking at this could have concluded that this had not  
 21 been bought for the store but for your personal use at  
 22 home.  
 23 A. No.  
 24 Q. You think that was --  
 25 A. You are looking at it as the Blu-Ray player, and that's

183

1 not the case. Just because a Blu -- just because  
 2 someone says it's a Blu-Ray player you automatically  
 3 think it's for home. No, that's not the case. As  
 4 I have said, the reason why I looked at it was because  
 5 it was, it could hold more data, it was a possibility  
 6 that we could be upgraded to Blu-Rays. I am not to  
 7 know. If I buy a DVD player and six months later they  
 8 change to Blu-Ray, I am stuck with a -- two now then DVD  
 9 players, if I hadn't handed the other one back, in the  
 10 store which is no good. As you say, the DVD player  
 11 won't play the Blu-Rays, but a TV will watch it.  
 12 Q. I also put it to you, Mr Parham, would you accept that  
 13 someone looking at your conduct in relation to the  
 14 investigation and the way that this item was taken back  
 15 to the store could have conclude that had your conduct  
 16 in that regard was improper and dishonest?  
 17 A. Absolutely not. If anybody had been in an interview  
 18 with Mr McAlindon, they would know exactly how I was  
 19 feeling at that time.  
 20 Q. I'll move on to another matter.  
 21 Now, I want to ask you a few questions about the  
 22 processing of expenses and your knowledge of that.  
 23 A. Do I need all these out?  
 24 Q. I would like you to keep E1 available.  
 25 A. I have E3 out.

184

1 Q. I think that can go for the moment. Actually, no, keep  
 2 E3, sorry. Look at E1 first, though, please. You say  
 3 in your statement you were aware of the 2003 expenses  
 4 policy and then later a 2010 version. Is that right?  
 5 A. I was only aware of the 2010 later on, after we had been  
 6 taken out. I've never seen and Specsavers never showed  
 7 any evidence of any communication regarding this 2010  
 8 expenses policy.  
 9 Q. Okay, let us look at the 2003 policy to start with,  
 10 shall we?  
 11 A. Yes.  
 12 Q. If you have E1, I think it's page 01 at the start. Is  
 13 that right? Is that the one you are talking about?  
 14 A. It is Joint Venture Expenses Policy 6 April 2003.  
 15 Q. Yes. You had been processing expenses or been involved  
 16 in that since 2003, had you? Certainly since 2006?  
 17 A. I had been in the process since 2003 but mainly --  
 18 Q. Was it your wife doing them before that?  
 19 A. Yes.  
 20 Q. So your wife did it between 2003 and 2006; is that  
 21 right?  
 22 A. Yeah. I would help with the credit card statements,  
 23 et cetera.  
 24 Q. And the computer --  
 25 A. And the computer side of it, because my wife's not very

185

1 computer literate.  
 2 Q. You are more computer literate than she is, okay.  
 3 A. Most of those prior to that were done on paper, not in  
 4 the eBis system.  
 5 Q. Okay. If you turn over the page to page 2, this deals  
 6 with, it's the definitive document for claiming all  
 7 expenses, the introduction. Do you see that at the top?  
 8 A. Yeah.  
 9 Q. And talks about in 2.1 expenses being paid on production  
 10 of receipts or invoices, the importance of that.  
 11 (Pause)  
 12 A. Yeah.  
 13 Q. Okay. I will ask you a little bit about credit cards.  
 14 Can we turn to page 6, please, the credit card section,  
 15 paragraph 6. Maybe read those paragraphs and let me  
 16 know when you are there.  
 17 (Pause)  
 18 A. Okay.  
 19 Q. So it makes clear that you have to provide receipts  
 20 wherever possible; do you agree?  
 21 A. That's correct.  
 22 Q. You have to identify private expenses separately so that  
 23 disclosure can be made on the P11D, which we will come  
 24 back to?  
 25 A. That's correct.

186

1 Q. The monthly statement has to be analysed by the director  
 2 in sufficient detail provided for each transaction as to  
 3 whether it's business or personal?  
 4 A. Sorry, say that again.  
 5 Q. I am just reading, sufficient detail provided for each  
 6 transaction whether it's business or personal?  
 7 A. Yes.  
 8 Q. You were aware of that? And the analysis had to be  
 9 signed by a director with receipts attached; yes?  
 10 Signed and authorised in the normal way?  
 11 A. It says the normal way, it doesn't say by director.  
 12 Q. But the normal way was for the joint venture director to  
 13 authorise --  
 14 A. That's not what it says here.  
 15 Q. Okay, I am sorry, what was the normal way for  
 16 authorising them? It was for the director to authorise  
 17 them?  
 18 A. It was -- we agreed with what we had spent, whether it  
 19 be personal or business.  
 20 Q. Yes --  
 21 A. And then we sent that through to head office.  
 22 Q. Go back to 2.2 on page 2, "Authorisation". In terms of  
 23 how that works, you fill out the expense claim form;  
 24 correct? And then the expenses of a director is  
 25 authorised by the other director, or an authorised

187

1 signatory of Specsavers; correct?  
 2 A. Correct.  
 3 Q. What would happen is you would, for example for your  
 4 expenses, this required for you to go through and  
 5 analyse your credit card spending, and say whether it  
 6 was business or personal?  
 7 A. Mm.  
 8 Q. And then the other director would authorise that?  
 9 A. That is possibly the normal practice, but most normal  
 10 companies only, they have two separate people -- when  
 11 I say two separate people, in our case we were husband  
 12 and wife, so the -- all the money that was coming in  
 13 from either wages or whether from dividends, et cetera,  
 14 would always go into the same bank. So we looked at it  
 15 as we were like a single store in the fact that --  
 16 single owned store, like Shakila was at the start, that  
 17 there were no equalisation payments. So we didn't need  
 18 necessarily to follow that line, that I would do her --  
 19 you know, check hers, she would check mine. But also  
 20 the amount of time that Shakila was on the shop floor  
 21 was very limited, she was in the test room all the time,  
 22 so I did most of the admin.  
 23 Q. Okay, let's just break that down. In terms of the  
 24 general process --  
 25 A. Yes.

188

1 Q. -- which suggests that if it's a two director position,  
 2 the other director should authorise it, what was the  
 3 purpose of that, do you think?  
 4 A. That was for, so, as I've just stated, that because the  
 5 two people are separate, completely separate people,  
 6 their finances aren't together, if one spends more on  
 7 his credit card, the other would then get  
 8 an equalisation payment at the end of the year. In our  
 9 case that didn't matter because we were, you know,  
 10 both -- all the finances were going into the same pot.  
 11 Q. Mr Parham, the reason for that, surely it's a much more  
 12 straightforward reason. The purpose is that you say one  
 13 director says "These are business expenses" and they are  
 14 passed on to the other director to authorise them, to  
 15 confirm that that's the case. It's a check in store.  
 16 A. Not necessarily, no. No, because they don't -- the  
 17 other person may not necessarily know if that is either  
 18 a business or a personal expense. All I am saying is in  
 19 our case it didn't matter.  
 20 Q. I'll come on to your case in a moment. I put it to you  
 21 that the position is that Specsavers weren't in the  
 22 store, were they, and so in terms of checking what  
 23 expenses were being -- things were being done, that  
 24 needed to be checked by somebody who was in the store,  
 25 and that's the purpose of having the second director --

189

1 A. Which it was, yes.  
 2 Q. Yes? So the purpose was for the fellow director to  
 3 check the expenses claim of the other director?  
 4 A. Well, I'll reiterate the point, in the fact that that is  
 5 so if one person is earning more throughout the year on  
 6 the credit card than the other, which the other should  
 7 be entitled to the equal amounts, then that person would  
 8 get an equalisation payment at the end of the year.  
 9 Whereas in our case, as I say, that didn't matter.  
 10 Q. This isn't to do with any equalisation payment, it was  
 11 important that these matters were accounted for  
 12 properly, it was important that Specsavers, and indeed  
 13 the company of which you were a director, properly  
 14 accounted for matters as either properly business  
 15 expenses or if they were not business expenses and  
 16 personal expenses, that they were accounted for as  
 17 personal expenses? That was important, wasn't it?  
 18 A. It was important but I can do that. I don't necessarily  
 19 need -- I would ask Shakila what her -- quick split of  
 20 what her business and personal was on the credit card,  
 21 and then I would continue -- I would carry out the rest  
 22 of the process.  
 23 Q. The reality is that Specsavers wasn't in the store and  
 24 relied on you as a director, firstly for you to fill in  
 25 the form honestly and properly in accordance with the

190

1 policy, and secondly for your fellow director to confirm  
 2 that you had?  
 3 A. The reality is when you are in the store, on the shop  
 4 floor, and you are running a business, there is not  
 5 necessarily time to do all this. So, you know, we  
 6 looked at it, as I say, because there are no  
 7 equalisation payments, because the finances are going to  
 8 the same pot, there are no differences in finance, and  
 9 you know, we have complete trust between each others,  
 10 that did make a difference. If I was a single person,  
 11 you know, someone would put their credit card receipts  
 12 in and send them off and that would be it.  
 13 Q. This is to do with business expenses incurred on the  
 14 credit card, this policy, isn't it?  
 15 A. This is to do with business and personal.  
 16 Q. No.  
 17 A. You said to me that the -- you know, as long as it was  
 18 separated what was business and what was personal.  
 19 Q. I am talking about the authorisation of business  
 20 expenses. In order to get them authorised as business  
 21 expenses, you needed to fill in the form properly, you  
 22 needed to provide the receipt, and it needed to be  
 23 approved, confirmed by your business partner that they  
 24 accepted that these were business expenses?  
 25 A. My wife had already accepted, she knew what had been

191

1 spent on the cards, and I knew what she had been --  
 2 spent on the cards, so that was the acknowledgement from  
 3 each of us, what we had spent as business. So all  
 4 I did, then, was I just did it myself through the  
 5 system.  
 6 Q. I am not asking you about how you did it through the  
 7 system, I am asking you about the purpose of the policy  
 8 and as to how you understood the policy. The policy  
 9 here is to ensure that if you are putting something  
 10 through as a business expense, not a personal expense  
 11 but as a business expense, that you filled in the form  
 12 properly, provided the receipt and got that authorised  
 13 by your fellow director; that was the policy, wasn't it?  
 14 A. The way I understood it is if -- I had had the  
 15 conversation with my wife and she agreed what was  
 16 business and what was personal and she agreed with what  
 17 mine was and then I did the process. But I didn't do  
 18 that on the actual eBis system, I did it, you know,  
 19 verbally between us. So we agreed what was business and  
 20 what was personal.  
 21 Q. You were doing that authorisation, you were going  
 22 through that exercise?  
 23 A. But not as specific as it says throughout on the system.  
 24 Q. The issue about equalisation payments, that's not in  
 25 relation to business expenses, is it, that's in relation

192

1 to personal expenses --  
 2 A. That's why I thought you were talking about the business  
 3 and personal.  
 4 Q. I am sorry for that lack of clarity. I am talking about  
 5 the business expenses at this point; correct?  
 6 A. Yeah.  
 7 Q. I think you are agreeing with me on that; is that right?  
 8 A. Can you just repeat that?  
 9 Q. Yes. What happens on the business expense, if you are  
 10 saying something is a business expense, it's important  
 11 to separate them out?  
 12 A. It is.  
 13 Q. And in order to get something put through as a business  
 14 expense, you have to put in an expense form, you have to  
 15 provide the receipt, and you have to get it approved by  
 16 your fellow director?  
 17 A. Correct, which is what I did.  
 18 Q. I am putting to you that the reason for that is  
 19 Specsavers is not in the store and therefore relies on  
 20 you to (a) fill in the claim form and provide the  
 21 receipt, and they also rely on your fellow director to  
 22 approve it as well?  
 23 A. Well, as I say, yes, it was a verbal approval, it wasn't  
 24 signed off on her through the -- or by me for her on the  
 25 system.

193

1 Q. Can I just turn forward to page 88-1, because in fact  
 2 there was a 2007 policy which was on IQ.  
 3 A. Sorry, in which?  
 4 MR POTTS: 88-1 in the same bundle.  
 5 My Lord, I am sorry, I don't know what time  
 6 your Lordship is sitting until today? I am sorry to  
 7 ask.  
 8 MR JUSTICE HILDYARD: I am not sure. My understanding is  
 9 that there is to be some re-run of the test for the  
 10 link.  
 11 MR STUART: Only whenever your Lordship is finished.  
 12 I absolutely do not wish to ...  
 13 MR JUSTICE HILDYARD: What are the prospects of finishing  
 14 this witness today?  
 15 MR POTTS: None, my Lord.  
 16 MR JUSTICE HILDYARD: Right. So we will have to interpose  
 17 the next witness, will we?  
 18 MR POTTS: My Lord, yes.  
 19 MR JUSTICE HILDYARD: Yes.  
 20 MR STUART: She is 11 o'clock tomorrow, my Lord.  
 21 MR POTTS: She will be interposed, yes, I am afraid I don't  
 22 think I will finish with this witness before 11 o'clock.  
 23 MR JUSTICE HILDYARD: Well, I am reasonably flexible, but  
 24 I think we don't want too long a day in the interests of  
 25 all, including the witness.

194

1 MR POTTS: I am happy to draw stumps, my Lord, now.  
 2 MR JUSTICE HILDYARD: Shall we go to 4.30, does that suit  
 3 you?  
 4 MR POTTS: Yes, my Lord.  
 5 88-1, this applied from January 2007 and was on IQ.  
 6 Are you saying you didn't see this document?  
 7 A. No.  
 8 Q. Okay. In fact, it provides for similar, effectively the  
 9 same authorisation procedure, if you look at 88-4, in  
 10 relation to the authorisation; do you see that? You are  
 11 saying you didn't see that?  
 12 A. Not if it was on IQ. I don't recall seeing this one.  
 13 Q. 88-18, credit cards. Very similar. The only difference  
 14 is I think there was a reference to eBis. Do you  
 15 remember seeing this?  
 16 A. No.  
 17 Q. Are you saying you didn't see it or you don't remember?  
 18 A. No, I didn't see this at all, because if this was only  
 19 on IQ I would not have seen it.  
 20 Q. Okay. Let me just ask you a little, if I may, about  
 21 eBis. Could you turn back to E1/77-1? You used  
 22 a system called eBis to submit expenses claims from late  
 23 2006; is that right? Do you remember that?  
 24 A. I can't remember the timing, but --  
 25 Q. If you have a look at --

195

1 A. -- it was probably round about --  
 2 Q. 77 maybe that will assist your recollection. This is  
 3 a partners' brief?  
 4 A. Mm.  
 5 Q. You would have seen this?  
 6 A. I would have seen this.  
 7 Q. Yes, and --  
 8 A. As long as this came through as a hard copy, which most  
 9 of the partners' briefs did, through -- via email,  
 10 sorry.  
 11 Q. Via email?  
 12 A. It would have been like a pdf on an email, so it would  
 13 have been -- I would have put it into a hard copy and  
 14 put it in a partners' brief folder.  
 15 Q. This explains that expenses claims and claims for  
 16 corporate credit cards had to be used, done through eBis  
 17 from November 2006?  
 18 A. Okay.  
 19 Q. Do you see that? That's what it says. Do you see that  
 20 in the first line?  
 21 A. I do remember starting at some point, possibly 2006/2007  
 22 on the eBis.  
 23 Q. So there are two types of expenses dealt with here.  
 24 Either for use of the corporate credit card; yes?  
 25 A. Yes.

196

1 Q. Or where an employee or JVP had spent their own money on  
2 a business expense such as buying a train ticket for  
3 business purposes; correct?  
4 A. Correct.  
5 Q. It's not related to using the green bag system for  
6 getting third party suppliers paid by Specsavers?  
7 A. No.  
8 Q. Correct?  
9 A. Correct.  
10 Q. Okay. There was a manual, E3/644. You were computer  
11 literate, you were used to using eBis, weren't you?  
12 A. Yeah, eBis was quite fine, it was just the rest of the  
13 intranet was a waste of space. Sorry, 6 ...?  
14 Q. 644. This is the user manual to eBis, which would have  
15 been available to you?  
16 A. Mm.  
17 Q. Yes?  
18 A. Yes. Sorry.  
19 Q. You were aware of this?  
20 A. I do remember seeing something like this, yes.  
21 Q. This was on the intranet?  
22 A. Whether I had got it through on -- I wouldn't have seen  
23 it on the intranet, I would have received it via  
24 an email.  
25 Q. It was via an email?

197

1 A. Yeah.  
2 Q. Okay. But you were aware of its contents?  
3 A. I do remember seeing something like this.  
4 Q. Okay.  
5 A. Whether this is the exact one I don't know, but --  
6 Q. Okay. 661, what happens on this is you create a claim  
7 form, don't you?  
8 A. You do.  
9 Q. And you have a unique log-in, you create a form?  
10 A. Yeah, you don't create a form, a form pops up and then  
11 you populate that form.  
12 Q. A form pops up you populate. The log-ins are for you,  
13 your wife and the practice manager, it's not everybody  
14 in the store has this?  
15 A. No. I am pretty sure that was the only three that had  
16 access to it.  
17 Q. Okay. Now, let us look at credit cards at 661. What  
18 happens, you enter, at 663, you are talking about, as  
19 you say, populating the form. What happens is the  
20 credit card transactions are on the -- come up, and you  
21 select the particular transaction, credit card  
22 transaction; is that right?  
23 A. That's correct.  
24 Q. You enter an expense type?  
25 A. You do.

198

1 Q. And in fact for credit cards the default on it is a P11  
2 tax code which means that you are treated as a personal  
3 expense, that's the default position on it. Do you  
4 remember that? That's Ms Mancini's evidence of the  
5 system.  
6 A. Yeah. I don't know whether that was the case at the  
7 time. I know that it's the case now. If you clicked  
8 "no receipt" it would default to P11D, but I don't  
9 remember it being defaulted to P11D when you opened up  
10 the form.  
11 Q. Just as a shorthand, P11D means personal?  
12 A. Sorry, yes.  
13 Q. Just for everybody's --  
14 A. Yes.  
15 Q. You were living the system, but everyone else wasn't.  
16 Certainly without the receipt it would default to  
17 a personal expense rather than a business expense?  
18 A. Yeah, if you had no receipt, it automatically would --  
19 Q. As you say, if it was a claim for a business expense you  
20 had to provide the corresponding receipts otherwise it  
21 goes to P11D?  
22 A. That's correct, if we -- if I placed in a business  
23 expense and the reason, and then accepted this and then  
24 sent off the receipt, for argument's sake, if the  
25 receipt didn't get received by head office then they

199

1 would automatically put it back to a P11D.  
2 Q. Okay, and you have to sort of tick a box if you have  
3 a receipt?  
4 A. That's at the top, yes.  
5 Q. There is a mandatory field to make clear what the  
6 expense is, and that it's a business expense?  
7 A. Expense type, yes.  
8 Q. Yes, yes, okay. Then it goes off to Specsavers, and  
9 they process the claim; that's right? Sorry, let me  
10 step back. You fill in the form, yes, and it goes off  
11 to -- it gets sent electronically to the approver, who  
12 is your fellow joint venture partner?  
13 A. As I've said, in our case, what I did was we checked  
14 them, because what I do is print two of these, one for  
15 each of us, and they then itemise what is personal and  
16 what is business on each one, because then we hold  
17 a record of that at home. I then -- sorry.  
18 Q. The first stage is you go through it, populate the form  
19 and say business or personal?  
20 A. No.  
21 Q. No?  
22 A. No. What I first do is I print them off, and I print  
23 two copies for each of us, and then I'll give the ones  
24 to Shakila, you know, or if we are there at the time at  
25 home we will discuss what was business, what was

200

1 personal, what it was for, et cetera, and then I would  
 2 come back and then go through it on here, because  
 3 I needed to keep a copy for our records, and I also  
 4 scanned everything that was business that went off to  
 5 Specsavers, off to SOG.  
 6 Q. Okay, so once you have done the print-out and gone  
 7 through that, but under the way the system works, the  
 8 computer system, it sends it to the other JVP?  
 9 A. It does.  
 10 Q. And the other JVP has to log into the system using their  
 11 log-in details, and everyone has a unique log-in code?  
 12 A. They do.  
 13 Q. And they either approve or reject the claim?  
 14 A. They do.  
 15 Q. So that's how the system works. The system says you  
 16 fill in the form, you populate it, it then gets sent  
 17 electronically to your fellow JVP, they then log in, and  
 18 they either approve or reject it; correct?  
 19 A. Correct.  
 20 Q. Okay. So once it's been approved by the other JVP, it  
 21 then goes off to SOG, Specsavers, and they process the  
 22 claim; is that right?  
 23 A. Yeah. I just want to put a little point into there. As  
 24 obviously we had gone through this prior to going on to  
 25 the system. So I would then log back in as my wife and

201

1 I would authorise it because we had already  
 2 authorised -- she had already said what was business and  
 3 what was personal.  
 4 Q. But you logged in using your wife's log-in details  
 5 rather than your own?  
 6 A. Yes. As I say, we are both of the -- both husband and  
 7 wife, full trust of each other, there is no equalisation  
 8 payment, there is no financial difference between us.  
 9 So whether it be business or personal, it was pointless  
 10 going through just for business to do it that way when  
 11 a lot of it was -- most of it was personal, to be  
 12 honest, and that's -- it would have been a load quicker  
 13 for me to do that, to show her, tick, tick, tick, what's  
 14 business, what's personal, I would then put it on the  
 15 system and then I would go into the system and do that.  
 16 Q. So there is no issue of equalisation payments between  
 17 you which is in relation to personal expenses --  
 18 A. Personal.  
 19 Q. -- but in relation to the business expenses, what you  
 20 are saying is that you had gone through that together --  
 21 A. On the paper, yeah.  
 22 Q. On paper, but you in fact what you were doing was that  
 23 you both submitted your expense claim but you also then  
 24 logged in as your wife and approved them as well?  
 25 A. And sent it off, yeah.

202

1 Q. Yes. Now, the expenses team at Specsavers process those  
 2 claims, don't they?  
 3 A. What they first -- especially with the business ones,  
 4 they will wait until they receive the invoice or receipt  
 5 or whatever it's relating to, the business item, and  
 6 then they will process this and then they will pay --  
 7 I am assuming -- I don't know when the card is paid, but  
 8 obviously they will pay the card because we can't pay  
 9 that because there is only one bank account, as I said  
 10 earlier.  
 11 Q. What they are looking for is that the form has been sent  
 12 in; correct?  
 13 A. Yeah.  
 14 Q. That you have submitted a form. Secondly, that you have  
 15 filled in the form and applied a code, business code.  
 16 I am talking about --  
 17 A. Yeah, I don't know what the business code is. We never  
 18 fitted a business code. We would say what type it was,  
 19 like equipment.  
 20 Q. Yes, okay, but it's not personal equipment, you put that  
 21 in for -- these are business codes, a number of codes  
 22 for different types of business expense?  
 23 A. Yeah, and I would send the receipts off to --  
 24 Q. Yes, and the third thing they would look for is that you  
 25 would put in a receipt?

203

1 A. Yes, they would wait for that --  
 2 Q. They were also looking to see that your fellow director  
 3 had authorised these as business expenses as well?  
 4 A. I don't know whether they were looking to see if it was  
 5 authorised on here as such, but obviously I had  
 6 authorised it via the paper, but I was physically doing  
 7 it myself because I was the one that was computer  
 8 literate.  
 9 Q. As far as what they were seeing in fact at their end --  
 10 A. It had been authorised by --  
 11 Q. -- it had been in fact submitted by you and authorised  
 12 by your wife, in terms of the codes?  
 13 A. Mm.  
 14 Q. They wouldn't have known that you were using her log-in  
 15 code, would they?  
 16 A. No, they wouldn't, no.  
 17 Q. And vice versa because --  
 18 A. Vice versa.  
 19 Q. -- you were doing it the other way round in terms of her  
 20 form would be --  
 21 A. Absolutely, it was exactly the same. We would discuss  
 22 this, we had marked them up on the payments, which she  
 23 had been doing for, up until 2006, that's what -- it was  
 24 all on paper.  
 25 Q. So the approval of the transaction, it wasn't being

204

1 given by Specsavers, it was being given by your fellow  
2 JVP who is signing off the expenses?  
3 A. No, they do approve, because if I don't get a receipt  
4 they will automatically put it to P11D.  
5 Q. Subject to you ticking the boxes, if you like, and  
6 putting in the forms, submitting an expense receipt and  
7 the authorisation, they would process the transaction?  
8 A. They would still approve it if -- if they never received  
9 a receipt for it, they wouldn't then approve it to go on  
10 to be paid.  
11 Q. In fact --  
12 A. They would then put it into the P11D.  
13 Q. Fine, but in terms of a business expense, if they  
14 received the form and a receipt and the authorisation  
15 from your fellow JVP, all saying this is a business  
16 expense, they would then process that transaction;  
17 correct?  
18 A. They would process what came through.  
19 Q. Yes. So the authorisation of the matter as a business  
20 expense, subject to the submission of the receipt, was  
21 being done by your fellow JVP?  
22 A. No, because they have rejected stuff before. They have  
23 rejected payments that we have put through, and they  
24 have come back and said "No, you can't put this down as  
25 a business", for whatever reason, so we have then

205

1 changed it. So they will approve or disapprove whatever  
2 is on there. It's not just a case of them, just because  
3 I approve it, they accept it and go on. No, they do  
4 approve what comes through.  
5 Q. There are almost 700 stores in the UK, 15,000 employees  
6 roughly in the group, aren't there?  
7 A. Mm.  
8 Q. Now, Ms Mancini's evidence is there are 42,000 claims  
9 for expenses every year. Now, you are not suggesting  
10 that it's the job of the accounts payable team to audit  
11 every transaction on your credit card, are you?  
12 A. I think you will find in those 42,000 there is personal,  
13 there is other expenses, et cetera, so --  
14 Q. I am talking about credit cards at the moment.  
15 A. You are just talking about credit cards. I don't see  
16 why there shouldn't. There should be a robust system,  
17 which I thought there was a robust system at Specsavers  
18 head office to cover this.  
19 Q. They are not in store. The position under the system is  
20 that your fellow JVP is -- well, firstly you are making  
21 the submission, they trust you to make an honest and  
22 accurate submission?  
23 A. That's a different point, yes.  
24 Q. Do you agree with that?  
25 A. That's a different point from what you are saying. I am

206

1 saying that they approve it.  
2 Q. Let me take it in stages. Do you agree that they rely  
3 on you to put in honest and accurate submissions of what  
4 you say is your business expenses on the credit card?  
5 A. They do, and which we have.  
6 Q. Yes. Secondly, do you agree that they also rely on your  
7 fellow JVP to approve those in accordance with the  
8 system honestly and accurately?  
9 A. I think as long as the -- it's approved in one way or  
10 another, so it was quickly to have a look at these  
11 forms, I see that as being approval and being, you know,  
12 that I then put it on to the system. As I say, it's  
13 a lot quicker if I do it than my wife does it, and she  
14 can test --  
15 Q. The JVPs are approving the expenses and they are then  
16 processes by Specsavers?  
17 A. They are not just processed, no, because as I've said,  
18 they will reject them, so they are approving these  
19 business expenses.  
20 MR POTTS: My Lord, I see it's gone 4.30, I don't know if  
21 that would be a convenient moment.  
22 MR JUSTICE HILDYARD: Yes. So we are to continue at 9.30,  
23 and then at some time close to 11 o'clock, assuming that  
24 that's what we are going to do, rather than her  
25 attending personally, we go on to the video, and we

207

1 would hope to complete that by 12.15, 12.30?  
2 MR POTTS: I would think so, my Lord, yes.  
3 MR JUSTICE HILDYARD: We will then have a break and then we  
4 will have an early short adjournment, and then I must  
5 leave at 2.30, so we might miss about half an hour or  
6 quarter of an hour of the day, but not much more than  
7 that from a standard day.  
8 Mr Parham, you mustn't speak to anybody, including  
9 your wife, about this case whilst you are in the witness  
10 box, as you know.  
11 THE WITNESS: Yes.  
12 MR JUSTICE HILDYARD: We will reconvene at 9.30.  
13 (4.35 pm)  
14 (The court adjourned until 9.30 am  
15 on Friday, 10 January 2014)  
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208

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	INDEX	
		PAGE
3	Housekeeping .....	1
4	Opening submissions by MR POTTS .....	17
5	Submissions by MR STUART .....	26
6	MR JOHN PARHAM (sworn) .....	29
7	Examination-in-chief by MR STUART .....	30
8	Cross-examination by MR POTTS .....	33
9	Housekeeping .....	116
10	Cross-examination by MR POTTS (continued) ...	121

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

<b>A</b>	<b>acknowledgments (1)</b> 23:20	57:24,24 58:3,9,10 59:1,19 60:7 78:13 81:5 83:5 85:25 87:15,17 108:1	60:20	<b>assistant (3)</b> 6:16,18 131:9	128:14 129:22 131:3 132:19 137:17,18 145:23 146:24,25 147:11 147:15,16,17,21,21 147:22 148:7 150:1 152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	126:22 <b>belong (6)</b> 47:1,3,7,21 47:24 49:7 <b>belonged (7)</b> 44:3,4 100:12 106:11 175:7,8 180:8 <b>belongs (5)</b> 44:22 45:5 47:2,4,6 <b>beneficial (1)</b> 72:8 <b>benefit (6)</b> 48:11,13 48:15 80:14 103:15 182:18 <b>benefits (1)</b> 42:15 <b>best (4)</b> 7:25 29:12 78:23 148:19 <b>better (5)</b> 4:7 10:6 29:11 169:17 179:7 <b>beyond (2)</b> 16:7 150:15 <b>big (5)</b> 59:7 61:4 157:2 162:21 166:17 <b>bigger (4)</b> 56:18,18 70:14 167:17 <b>bin (2)</b> 146:16,19 <b>Bishop (1)</b> 12:13 <b>bit (15)</b> 24:22 51:7 55:25 56:20 77:9 100:20 128:7 132:1 133:20 141:17 144:14 163:1 167:7 168:11 186:13 <b>black (5)</b> 30:8 80:21 139:9 146:16,19 <b>blasts (1)</b> 15:12 <b>blazing (1)</b> 157:19 <b>blow (1)</b> 155:20 <b>Blu (1)</b> 184:1 <b>blur (1)</b> 125:20 <b>Blu-Ray (60)</b> 18:24 20:3,4,12 92:4,6 134:17,22 135:13 147:25 148:18,22 154:22 156:6 157:6 157:14 159:19,24 160:1 162:8 163:8 163:9 164:3,5,7 166:6 169:1 171:15 171:18 172:7 173:13,22 174:7,19 175:1,10,25 176:11 176:11,17,20 177:2 177:8,11 178:18,22 178:23 180:15 182:11,13,17,18,23 182:24 183:12,13 183:16,25 184:2,8 <b>Blu-Rays (6)</b> 173:18 176:9 177:11 183:11 184:6,11 <b>board (27)</b> 39:3 55:2 60:4,5,9,10 75:15 76:2,4,4,5,6 78:20 79:11,12,16,17 81:14 82:9 83:21 87:1,8 96:8 109:1 137:10,13 154:22 <b>Bognor (4)</b> 25:20 51:3 51:20 53:2 <b>bone (1)</b> 66:18 <b>bonus (3)</b> 42:21 103:15,16 <b>bonuses (6)</b> 42:12 43:21 47:9 49:3 106:16 107:23 <b>book (1)</b> 7:16 <b>booked (2)</b> 60:23 85:19 <b>booklet (1)</b> 6:10 <b>borne (2)</b> 106:13,14 <b>borrowed (1)</b> 148:3
<b>abide (1)</b> 67:18	<b>acquire (2)</b> 22:7 84:21	81:5 83:5 85:25 87:15,17 108:1	<b>appointments (1)</b> 60:22	<b>assisted (1)</b> 28:11	159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>able (16)</b> 7:6,9 13:2,4 43:21 58:16 67:7 67:24 115:5,7 128:4,6 154:14 158:4 174:15 178:25	<b>acted (6)</b> 140:6,24,25 150:5,6 158:20	<b>Aid (1)</b> 60:16	<b>apportionment (1)</b> 55:16	<b>assume (4)</b> 47:6 48:24 98:10,24	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>absolutely (16)</b> 1:18 8:4 10:12 14:13 15:18,24 24:7 82:14 94:20 118:11 175:21 176:21 181:23 184:17 194:12 204:21	<b>action (9)</b> 12:5 22:22 63:6 64:16,24 65:5 73:14 83:22 112:1	<b>aide (1)</b> 16:12	<b>appraisals (1)</b> 154:12	<b>assuming (3)</b> 166:10 203:7 207:23	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>abuse (1)</b> 137:2	<b>actions (9)</b> 62:21,24 64:7,11,13 65:7 86:16 108:10 109:5	<b>albeit (5)</b> 29:19 47:21 59:14 147:6 180:19	<b>appreciate (2)</b> 68:6 117:19	<b>attached (1)</b> 187:9	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>abused (2)</b> 136:24,25	<b>actual (7)</b> 87:17 119:3 122:17 124:15 125:16 130:14 192:18	<b>allegation (9)</b> 21:15 22:1,5,18 23:3,13 25:3,6 94:8	<b>appreciated (11)</b> 38:17 39:10 40:21 44:2 50:1 52:13 111:16 130:16 158:6,18 176:16	<b>attaches (1)</b> 62:1	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accept (29)</b> 18:18 29:10,14 45:8,19 45:22 47:1,4 50:23 53:18 87:9 92:2,2 99:6,8 104:17,17 137:9 142:18 143:3 144:3 155:22 165:9 165:9 178:10 180:3 183:19 184:12 206:3	<b>admitted (2)</b> 17:20 70:17	<b>allegations (4)</b> 22:14 23:4 82:21 147:3	<b>approach (1)</b> 158:19	<b>attempt (1)</b> 12:20	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>acceptable (1)</b> 132:6	<b>advised (1)</b> 10:3	<b>allege (1)</b> 12:19	<b>appropriate (7)</b> 4:18 70:4 115:9 138:11 149:23 150:1 156:9	<b>attend (3)</b> 39:11 119:15 132:22	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accepted (9)</b> 73:18 104:12 106:18,20 128:17 143:4 191:24,25 199:23	<b>addressed (2)</b> 17:20 70:17	<b>alleged (2)</b> 22:1 92:16	<b>approval (3)</b> 193:23 204:25 207:11	<b>attending (2)</b> 67:14 207:25	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accepting (3)</b> 90:18,21 155:23	<b>admin (2)</b> 34:23 188:22	<b>allocate (1)</b> 115:8	<b>approve (11)</b> 193:22 201:13,18 205:3,8 205:9 206:1,3,4 207:1,7	<b>attribute (1)</b> 128:10	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>access (3)</b> 106:21 131:10 198:16	<b>admissions (1)</b> 23:21	<b>allow (1)</b> 11:4	<b>approved (7)</b> 37:12,13 191:23 193:15 201:20 202:24 207:9	<b>audits (2)</b> 65:3 97:20	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>account (24)</b> 26:10,14 26:21 27:2,24 45:17 48:2,3,4,7,8 48:10,19 49:6 91:12 101:7 103:12 103:19 104:3 106:22 110:2,13 152:3 203:9	<b>admit (1)</b> 112:20	<b>allowances (1)</b> 169:8	<b>approver (1)</b> 200:11	<b>audio (1)</b> 7:24	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accountants (1)</b> 109:22	<b>adopted (1)</b> 58:12	<b>allowed (2)</b> 45:20 108:5	<b>approving (4)</b> 35:2 43:3 207:15,18	<b>audit (14)</b> 64:20,24 130:18,19,21,25 131:1 133:14,22,23 142:11,13,14 206:10	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accounted (5)</b> 45:15 47:17 190:11,14,16	<b>advance (3)</b> 36:20,21 92:18	<b>amount (20)</b> 43:15,16 43:19 54:5 91:12 98:25 99:1,17 100:3,4 101:14 108:22 111:25 128:10 173:23 174:2 175:15,17 183:11 188:20	<b>April (1)</b> 185:14	<b>audits (2)</b> 65:3 97:20	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accounting (2)</b> 18:16 115:9	<b>advised (1)</b> 60:18	<b>amounts (1)</b> 190:7	<b>archives (1)</b> 166:19	<b>authentic (1)</b> 151:25	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accounts (55)</b> 35:2,2,4 35:5,6 43:1,7,24 44:22 47:16,18 49:11 91:10,17 98:1,3 101:9 107:12,13,24 108:11,14 109:2,12 109:12,16 111:12 112:16 114:19 115:2,2 123:1,25 124:1,13,25 125:8 125:9,10 126:3,14 126:16,19 127:7,13 127:19 128:1,1,12 129:8 131:17 132:8 132:9 181:20 206:10	<b>advertisements (1)</b> 59:13	<b>analyse (2)</b> 163:12 188:5	<b>area (6)</b> 59:8 63:2 65:17 66:14 157:3 166:13	<b>authorisation (8)</b> 187:22 191:19 192:21 195:9,10 205:7,14,19	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accuracy (1)</b> 10:9	<b>advice (2)</b> 153:10,21	<b>analysis (1)</b> 187:8	<b>areas (3)</b> 62:6,20 65:22	<b>authorise (6)</b> 187:13 187:16 188:8 189:2 189:14 202:1	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accurate (2)</b> 206:22 207:3	<b>advertisements (1)</b> 59:13	<b>ancient (2)</b> 175:19 176:4	<b>argument (3)</b> 17:15 22:19 151:24	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>accurately (2)</b> 15:13 207:8	<b>advice (2)</b> 153:10,21	<b>angry (1)</b> 155:20	<b>argument's (1)</b> 199:24	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>achieve (1)</b> 14:15	<b>advertisements (1)</b> 59:13	<b>Anne (1)</b> 132:8	<b>arm (1)</b> 137:4	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>achieved (2)</b> 15:4 88:10	<b>advertisements (1)</b> 59:13	<b>annotate (1)</b> 21:3	<b>arranged (1)</b> 182:5	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>acknowledged (1)</b> 55:13	<b>advertisements (1)</b> 59:13	<b>answer (7)</b> 13:1 28:3 71:4 80:23 86:13 90:5 91:19	<b>arrangements (12)</b> 3:1 3:12 4:2,19 5:16,19 9:15,21 10:8,18 11:23 19:15	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>acknowledgement (1)</b> 192:2	<b>advertisements (1)</b> 59:13	<b>answers (1)</b> 73:18	<b>arranging (2)</b> 5:17 11:16	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	
<b>acknowledges (1)</b> 68:6	<b>advertisements (1)</b> 59:13	<b>anxiety (1)</b> 120:19	<b>arrive (1)</b> 57:22	<b>authorised (11)</b> 187:10,25,25 191:20 192:12 202:2 204:3,5,6,10 204:11	152:23 154:18 156:12,17 158:3 159:14 160:25 175:7 177:6 178:9 179:3 180:11 184:9 184:14 186:24 187:22 195:21 200:1,10 201:2,25 205:24	

<b>bottom (13)</b> 43:7,8,9 63:1 64:5,9 75:19 75:23 76:23 89:4 107:23 132:2 168:25	173:10 181:18 187:3,6,19 188:6 189:13,18 190:14 190:15,20 191:4,13 191:15,18,19,20,23 191:24 192:3,10,11 192:16,19,25 193:2 193:5,9,10,13 197:11 178:18,19 179:9 183:21	156:19 171:19,21 <b>carve (1)</b> 2:10 <b>case (61)</b> 5:1 12:11 15:18,23 18:10 21:12,15 22:16 23:19 24:9,11,15 24:17 25:1,14,16 25:17 26:12,13 27:7,14 29:18 50:12 51:3 53:2 61:16 81:24 82:4 82:11 84:20 93:14 94:25 96:5 101:18 106:10 108:22 110:12 115:24 137:20 147:9 148:17 160:13 171:16,22 173:12 174:24 175:3 178:4 184:1,3 188:11 189:9,15,19,20 190:9 199:6,7 200:13 206:2 208:9	<b>check (14)</b> 2:2 5:21 19:16 79:20,22 99:4 110:5,6 116:3 173:4 188:19,19 189:15 190:3 <b>checked (3)</b> 115:22 189:24 200:13 <b>checking (2)</b> 7:17 189:22 <b>cheque (30)</b> 18:8 91:12 98:8,14,16 99:15,17 101:17,20 103:1,2,2,4,19 104:2,8,11,12,20 105:6 111:25,25 123:13 124:15 125:12 126:13 127:20,21,24 131:5 <b>chequebook (1)</b> 48:9 <b>cheques (11)</b> 98:9,12 98:13 99:19,21 190:15,15 101:7 109:9 127:9,22 <b>children (1)</b> 67:12 <b>chip (6)</b> 98:20 105:16 105:23,25 110:2 121:13 <b>choice (1)</b> 172:7 <b>chose (1)</b> 43:11 <b>Chris (1)</b> 35:22 <b>Christmas (3)</b> 30:23 157:4 163:13 <b>chronological (1)</b> 104:16 <b>chronology (2)</b> 17:25 20:7 <b>church (1)</b> 67:14 <b>churches (1)</b> 61:1 <b>circular (2)</b> 96:16 97:11 <b>circumstances (3)</b> 3:11 7:25 150:20 <b>City (1)</b> 19:9 <b>claim (13)</b> 21:19 164:17 165:3,4 187:23 190:3 193:20 198:6 199:19 200:9 201:13,22 202:23 <b>claimant (1)</b> 22:4 <b>claimants (7)</b> 12:21 18:11 20:23 22:21 22:23 23:4,5 <b>claimant's (1)</b> 22:7 <b>claiming (2)</b> 117:4 186:6 <b>claims (5)</b> 195:22 196:15,15 203:2 206:8 <b>clarified (2)</b> 149:21 150:19 <b>clarify (2)</b> 33:3,4 <b>clarifying (1)</b> 32:5 <b>clarity (2)</b> 117:7 193:4 <b>Clark (10)</b> 74:24 75:2 75:3,6 87:2,4,5,7 96:10 97:3 <b>Clark's (1)</b> 97:11 <b>clause (4)</b> 15:21 41:22 41:22 42:5 <b>cleaner (1)</b> 92:25 <b>cleaners (1)</b> 19:8 <b>cleaning (1)</b> 19:7 <b>clear (37)</b> 1:20 4:4 10:14 23:16 24:7 28:14,21 29:6 39:5 43:22,25 77:14 94:9 97:22,22,24 98:1,3,7 99:2,19,25 100:1,18 108:11,13	108:19,21 111:7 113:16 126:2 154:22 157:12 162:14 165:1 186:19 200:5 <b>cleared (2)</b> 129:4 132:17 <b>clearly (2)</b> 122:14 154:17 <b>clerk (1)</b> 14:23 <b>clerks (1)</b> 1:9 <b>clicked (1)</b> 199:7 <b>clients (3)</b> 11:24 14:21 152:4 <b>clinic (5)</b> 66:22,22 68:24 71:24 85:20 <b>cliquey (3)</b> 61:2 67:2 67:24 <b>cloak (1)</b> 158:19 <b>close (2)</b> 75:4 207:23 <b>closed (1)</b> 61:6 <b>closing (5)</b> 4:6 9:13 163:18 172:10 180:5 <b>closings (2)</b> 9:11,12 <b>clothing (1)</b> 19:24 <b>clue (3)</b> 109:13 115:3 128:2 <b>code (12)</b> 164:10,12 164:19,19,20 199:2 201:11 203:15,15 203:17,18 204:15 <b>codes (3)</b> 203:21,21 204:12 <b>coding (2)</b> 128:11,11 <b>collated (1)</b> 91:17 <b>colleagues (2)</b> 96:15 96:18 <b>colour (4)</b> 139:7,8 166:1,2 <b>coloured (1)</b> 162:14 <b>combi (3)</b> 162:9,18,19 <b>combo (1)</b> 175:20 <b>come (43)</b> 4:5 18:25 44:21,24 46:22 49:16 52:9 56:19 57:13 60:11 67:4 67:22 89:1,2 90:16 90:20 91:19 98:5 99:1,21 100:4,19 100:24 103:3,14,25 106:16 112:11 116:25,25 137:17 137:18 148:24 150:1 157:23 163:17 176:9 179:23 186:23 189:20 198:20 201:2 205:24 <b>comes (6)</b> 24:16 74:21 118:2 136:21 154:9 206:4 <b>comfortable (1)</b> 155:16 <b>coming (8)</b> 9:1,3 42:18 116:15 119:11,13 176:1 188:12 <b>commence (1)</b> 2:12 <b>commenced (1)</b> 20:22 <b>comment (1)</b> 122:19 <b>comments (2)</b> 13:18 32:17 <b>common (1)</b> 18:19 <b>communicate (1)</b> 10:25 <b>communicating (6)</b> 80:16,17 81:8,9 85:22 139:24 <b>communication (4)</b> 59:24 75:8 141:1	185:7 <b>communications (8)</b> 1:7 58:18 76:8 78:25 79:1 85:23 87:11 141:12 <b>community (1)</b> 27:12 <b>companies (2)</b> 48:1 188:10 <b>company (57)</b> 18:12 18:18,19 23:15 35:1,5 38:25 39:17 41:12 44:3,4,6,9 45:3,6 47:2,4,7,21 47:24,25 48:11,11 48:14 49:17,23 50:4,8 56:18 58:6 59:7 78:23 80:15 90:11 103:4,8 104:13 105:8 106:6 106:6,11,13,19,25 107:12,15,25 111:4 127:23,25 142:20 142:21 160:19 163:24 164:24 165:2 190:13 <b>company's (12)</b> 44:9 44:18 45:12,21 47:18 48:22 49:7 58:9 106:3 110:1 110:13 114:1 <b>competition (1)</b> 55:4 <b>complete (3)</b> 125:20 191:9 208:1 <b>completely (10)</b> 16:17 50:24 59:11,14 82:18 156:24 157:4 163:13 171:23 189:5 <b>completeness (1)</b> 49:19 <b>compliance (2)</b> 97:15 97:18 <b>comply (3)</b> 40:19 60:8 76:2 <b>compressed (1)</b> 176:17 <b>compulsory (4)</b> 56:10 59:20,21,22 <b>computer (12)</b> 37:21 37:22,23 160:7 167:22 185:24,25 186:1,2 197:10 201:8 204:7 <b>computerised (1)</b> 51:12 <b>concede (1)</b> 13:2 <b>concept (1)</b> 176:23 <b>concerned (9)</b> 54:12 74:18 96:4 112:3 130:20 131:2,3 151:9 172:14 <b>concerns (2)</b> 5:22 93:12 <b>conclude (4)</b> 18:4 23:18 26:24 184:15 <b>concluded (1)</b> 183:20 <b>concluding (1)</b> 23:17 <b>conclusion (4)</b> 26:20 26:22 27:2,4 <b>concoct (1)</b> 22:5 <b>concocted (2)</b> 112:13 113:3 <b>concrete (8)</b> 78:11,12 78:17 79:4 80:9,13 81:2,3 <b>concurrently (1)</b> 87:22 <b>conduct (4)</b> 23:14 161:3 184:13,15 <b>conducted (3)</b> 144:5 157:17 161:12	<b>conferencing (3)</b> 116:11,12 117:5 <b>confidential (2)</b> 139:19,23 <b>confirm (5)</b> 7:13 30:17 91:7 189:15 191:1 <b>confirmation (3)</b> 7:13 12:17,22 <b>confirmed (2)</b> 96:8 191:23 <b>confronted (1)</b> 20:11 <b>confusing (1)</b> 18:16 <b>connection (2)</b> 116:23 117:15 <b>conscious (4)</b> 12:11 57:9 148:18 168:13 <b>consent (5)</b> 4:15 5:13 5:21 9:20 10:15 <b>consider (8)</b> 10:11 14:5 24:8 26:1 118:13 119:4 132:16 152:7 <b>considerable (4)</b> 16:1 16:3 20:18 138:8 <b>considerations (2)</b> 28:11 29:7 <b>considered (2)</b> 26:18 128:15 <b>considering (1)</b> 28:2 <b>conspiracy (6)</b> 21:16 22:21 25:4,11 82:12 96:2 <b>constituting (1)</b> 150:22 <b>construed (1)</b> 15:22 <b>consultant (1)</b> 88:18 <b>contact (16)</b> 20:3 88:21 131:17 135:16 140:15,17 140:20 141:25 142:2,9 143:24 144:2 145:4 156:11 167:3 182:8 <b>contacted (2)</b> 139:1 140:18 <b>container (1)</b> 146:21 <b>containing (1)</b> 146:17 <b>content (3)</b> 102:9 126:19 130:2 <b>contention (1)</b> 66:18 <b>contents (4)</b> 32:13,22 33:6 198:2 <b>context (2)</b> 45:21 24:6 <b>contexts (1)</b> 17:21 <b>continually (2)</b> 73:25 171:11 <b>continuation (2)</b> 142:2 142:7 <b>continue (10)</b> 65:10 66:2,6 73:9,12 88:7 104:5 152:13 190:21 207:22 <b>continued (3)</b> 67:5 121:6 209:10 <b>continues (1)</b> 24:4 <b>continuing (2)</b> 68:3 104:4 <b>contract (5)</b> 49:20,20 50:9 68:9 127:22 <b>contractual (4)</b> 17:21 38:18 39:7 47:22 <b>contrary (1)</b> 151:16 <b>contravene (2)</b> 156:10 156:14 <b>control (3)</b> 82:25 94:6 144:15 <b>convened (1)</b> 137:10 <b>convenient (6)</b> 14:12 101:25 115:13 149:4 168:14
--	--	---	---	---	--	---

C

<b>c (3)</b> 6:9 9:18 168:25 <b>cabinet (4)</b> 146:2,2,3 154:10 <b>cable (1)</b> 167:18 <b>call (19)</b> 12:24 13:8 24:6 27:10 29:22 36:15 88:23 100:21 100:23 129:5,11,15 129:16 130:3,10 132:21 133:9,10 178:19 <b>called (11)</b> 12:13 15:14 16:12 51:12 54:20 79:15,17 144:9 160:19 162:3 195:22 <b>calling (1)</b> 130:5 <b>camera (2)</b> 7:1 115:21 <b>capable (1)</b> 26:9 <b>car (1)</b> 42:17 <b>card (45)</b> 18:18,22 89:19,24 90:8,11 91:8,13 98:20,22 99:11,16 100:11,12 101:19 105:17,20 105:21,22 108:14 111:16 112:1,18 121:13 163:25 164:21,22,23,24 165:2 185:22 186:14 188:5 189:7 190:6,20 191:11,14 196:24 198:20,21 203:7,8 206:11 207:4 <b>cards (11)</b> 18:19 145:20 186:13 192:1,2 195:13 196:16 198:17 199:1 206:14,15 <b>career (1)</b> 36:15 <b>carried (7)</b> 64:20 65:3 65:7 92:8 130:18 171:9,10 <b>carry (9)</b> 12:1 88:11 109:9 160:21 169:20 170:5,17 171:6 190:21 <b>carrying (4)</b> 94:24
--

207:21	29:10 31:18 36:11	77:15,16 78:15,16	<b>deny (1)</b> 22:25	<b>disapprove (1)</b> 206:1	<b>documents (6)</b> 3:4 6:2	195:22 196:16,22
<b>conveniently (2)</b> 3:22	36:12 60:11 120:7	80:10,11 120:16	<b>department (34)</b> 91:7	<b>disc (11)</b> 166:6 173:21	16:15 18:2 97:8,10	197:11,12,14
14:4	138:14 152:9,14	132:10 134:9,10	91:18,20 94:16	173:24 174:2	<b>doing (24)</b> 11:19	<b>echo (1)</b> 10:19
<b>conversation (26)</b>	167:2,3	137:20 145:5	98:2,3 108:11,14	175:12,13,15,16	34:17,19 66:21	<b>economy (1)</b> 12:2
125:2,3,13,16,17	<b>courses (8)</b> 36:22 37:6	<b>dates (4)</b> 33:4 79:3	109:2,9,12,13,16	176:11,18 183:12	68:24 84:4 87:24	<b>effective (1)</b> 21:9
126:4 128:7 129:7	37:9,10,11 160:18	80:18 81:10	111:9,13 112:16,17	<b>discipline (2)</b> 142:24	103:18 104:21	<b>effectively (5)</b> 20:3
129:25 130:2,14	160:19,21	<b>Dave (2)</b> 96:10 97:3	114:20 123:1	143:1	108:8,12 110:7	44:24,24 107:24
140:21 148:23	<b>court (21)</b> 1:9,14 3:13	<b>David (6)</b> 36:10 74:24	124:13,25 125:10	<b>disciplining (1)</b> 142:25	116:12 121:15	195:8
150:12 152:15,24	10:22 29:11 40:12	75:2,3,6 87:2	126:4,14,17,19	<b>disclosed (2)</b> 137:20	122:16,21 168:5	<b>effects (1)</b> 24:9
153:1,3,8,8,15,19	102:12 112:15	<b>day (23)</b> 13:15 14:5	127:7,13 131:16	138:16	183:1 185:18	<b>effort (2)</b> 62:14
155:13 161:1,2	113:10 115:18	36:19 60:16,21	140:9 147:5 157:8	<b>disclosure (4)</b> 97:9	192:21 202:22	148:18
192:15	116:13,14,14 117:6	61:22 68:25 85:20	159:4 181:21	137:19 138:9	204:6,19,23	<b>efforts (1)</b> 11:12
<b>conversations (1)</b>	117:13,16 120:14	108:10,12 109:6,18	<b>depending (2)</b> 160:10	186:23	<b>domiciled (1)</b> 4:24	<b>eight (2)</b> 60:25 175:16
126:5	124:3 150:6,6	118:2 125:25	168:12	<b>disclosures (3)</b> 59:2	<b>door (8)</b> 65:20 115:18	<b>either (27)</b> 2:9 9:20
<b>conversions (1)</b> 62:13	208:14	147:18 156:4	<b>depends (1)</b> 88:23	72:11 95:25	146:16 152:16,19	22:15 58:24 64:1
<b>conveyed (2)</b> 73:18,20	<b>courts (1)</b> 30:3	180:22,22 181:4,5	<b>deprive (1)</b> 23:8	<b>discontinued (1)</b> 53:7	152:20,25 155:14	72:12 79:15 81:15
<b>conveying (1)</b> 72:20	<b>court's (2)</b> 2:4 6:23	194:24 208:6,7	<b>depth (1)</b> 61:21	<b>discrepancies (4)</b>	<b>doubt (1)</b> 5:22	83:4 95:4 102:9
<b>convince (1)</b> 154:21	<b>cover (16)</b> 39:15 66:2	<b>days (16)</b> 13:17 19:23	<b>Derek (3)</b> 94:6 95:5,8	101:8,11 125:4	<b>dragging (2)</b> 167:12	110:19 127:8 135:5
<b>copied (1)</b> 121:3	66:7 67:7 68:3,16	39:22 66:17 68:7,8	<b>describe (1)</b> 92:19	129:8	168:6	137:11,12 143:4
<b>copies (1)</b> 200:23	69:3,5,12 71:24	68:10 76:9,10,22	<b>desire (1)</b> 29:17	<b>discrepancy (6)</b> 43:12	<b>draw (1)</b> 195:1	170:19 172:24
<b>copy (9)</b> 51:4,10,17,21	72:25 74:9 107:14	76:24 78:2 120:16	<b>despite (2)</b> 20:20	51:2 101:10,12	<b>dribbled (1)</b> 137:25	177:3 182:13
51:22 53:3 196:8	107:18 152:12	143:5 163:1 181:9	142:8	112:23 141:17	<b>driven (2)</b> 84:21 93:19	188:13 189:17
196:13 201:3	206:18	<b>day-to-day (1)</b> 122:13	<b>detail (2)</b> 187:2,5	<b>discrete (1)</b> 4:8	<b>drop (2)</b> 141:20	190:14 196:24
<b>corner (1)</b> 178:17	<b>covered (2)</b> 67:8	<b>deal (15)</b> 3:6 12:24	<b>detailed (1)</b> 17:25	<b>discretion (1)</b> 11:6	157:22	201:13,18
<b>corporate (4)</b> 16:2	109:21	13:1 39:2 53:15	<b>details (8)</b> 6:20 10:18	<b>discs (10)</b> 174:7,20	<b>due (6)</b> 1:6 21:5 31:18	<b>electrical (2)</b> 19:9,9
17:21 196:16,24	<b>covering (4)</b> 61:23	109:17 115:5,7	30:21 39:6 46:21	175:1,11 176:1	60:11 85:14 119:11	<b>electricity (4)</b> 103:3
<b>correct (99)</b> 32:21	62:17 63:8 131:9	116:24 128:4,6	105:17 201:11	178:25 182:11,13	<b>duress (1)</b> 159:17	103:10 105:9
34:15,20,21 35:3	<b>co-operate (1)</b> 10:3	134:10 149:4	202:4	182:17,19	<b>dusty (1)</b> 177:22	127:23
37:16,20 38:9	<b>Crawley (1)</b> 132:22	164:20 179:5	<b>develop (1)</b> 62:12	<b>discuss (5)</b> 133:13	<b>duty (1)</b> 2:3	<b>electronic (1)</b> 169:9
42:10,23 43:1	<b>create (4)</b> 22:11 198:6	<b>dealing (4)</b> 34:11	<b>developing (2)</b> 63:3	142:13 158:2	<b>DVD (59)</b> 146:22	<b>electronically (3)</b>
45:21 47:13,14,18	198:9,10	114:18 143:22,22	104:5	200:25 204:21	148:1,7,15 152:21	52:17 200:11
47:19 49:25 51:16	<b>credit (33)</b> 18:18,19	<b>deals (9)</b> 4:17 17:24	<b>development (4)</b>	<b>discussed (13)</b> 15:15	152:22 160:12	201:17
58:8 63:7 64:2,4,21	18:22 91:13 105:19	18:1,3 19:4 62:20	31:25 36:15 61:9	63:11,12 65:2,4,13	161:20,22 162:8	<b>electronics (1)</b> 38:1
65:1,5,6,12,14,25	112:1 145:20	145:9 169:1 186:5	63:2	104:11 123:4,4	163:5,6,7 164:5,6,7	<b>element (2)</b> 15:23
66:7,8 68:4 69:13	163:25 164:21,22	<b>dealt (4)</b> 34:22 104:20	<b>difference (10)</b> 8:3	129:19,23 130:10	165:23 167:7,18	26:7
69:25 70:1 75:13	164:23,24 165:2	114:21 196:23	85:9 131:25 132:7	145:10	168:11,23 169:13	<b>eligible (1)</b> 37:14
77:3,15 78:6,7,16	185:22 186:13,14	<b>death (1)</b> 183:18	132:10 171:15	<b>discussing (3)</b> 35:21	169:16,21,24 170:5	<b>email (23)</b> 14:10 15:16
80:3,11 86:8,12	188:5 189:7 190:6	<b>debts (1)</b> 48:8	172:8 191:10	57:23 121:12	170:13,16,21,22,23	52:10 61:23 62:17
93:2,7,10 95:14	190:20 191:11,14	<b>debit/credit (2)</b> 89:19	195:13 202:8	<b>discussion (3)</b> 63:15	170:24 171:1,8,10	62:18 63:8 77:21
98:17,20 100:7	195:13 196:16,24	90:7	<b>differences (5)</b> 116:21	63:16 124:19	171:15,17,25 172:7	77:24 86:24,25
104:11,13 105:11	198:17,20,21 199:1	<b>debt (1)</b> 61:20	128:21 131:6 132:4	<b>discussions (4)</b> 6:8	172:14 173:5,6,7	89:4,12,25 90:22
109:5 123:23	206:11,14,15 207:4	<b>debt (1)</b> 61:20	191:8	<b>discussions (3)</b> 63:15	173:25 175:17	96:6,8 139:4 196:9
124:24 125:22	<b>Criminal (1)</b> 150:5	<b>deceitful (1)</b> 159:2	<b>differ (23)</b> 25:18	63:16 124:19	176:13,22,23 177:3	196:11,12 197:24
126:23 132:24	<b>criteria (3)</b> 40:25	<b>December (11)</b> 101:5	25:22 29:4 30:1,24	<b>discussions (4)</b> 6:8	177:6,7,12 178:18	197:25
139:22 140:16	46:17 52:11	109:7 114:25	30:25 31:6 39:15	<b>discussions (4)</b> 6:8	179:9 181:17	<b>emails (7)</b> 59:2,3
145:3 158:13,17	<b>cross (1)</b> 157:5	127:10,17 147:6,25	39:17 45:16,17	<b>discussions (3)</b> 63:15	183:12 184:7,8,10	72:10 95:25 132:25
163:10,23,25	<b>crossed (1)</b> 142:17	148:4 163:22	47:23 59:11,14	63:16 124:19	176:13,22,23 177:3	197:25
164:12 165:7	<b>crossover (1)</b> 131:7	180:24 182:2	67:3 82:18 94:22	<b>discussions (4)</b> 6:8	177:6,7,12 178:18	<b>emails (7)</b> 59:2,3
169:14,25 174:7,22	<b>cross-examination (9)</b>	<b>decide (1)</b> 24:16	39:17 45:16,17	<b>discussions (4)</b> 6:8	179:9 181:17	72:10 95:25 132:25
176:1,2 179:1,5,16	33:10 118:9 121:6	<b>decided (3)</b> 49:1	47:23 59:11,14	<b>discussions (4)</b> 6:8	183:12 184:7,8,10	133:8,10
181:23 182:9	138:5,10,17 150:24	168:23 171:12	67:3 82:18 94:22	<b>dishonest (15)</b> 23:18	176:13,22,23 177:3	<b>emerged (3)</b> 79:21
186:21,25 187:24	209:8,10	<b>decision (5)</b> 29:13	102:23 160:13	92:19,22,24 93:1,5	177:6,7,12 178:18	118:14 120:8
188:1,2 193:5,17	<b>cross-examining (2)</b>	49:2 80:13 169:23	161:22 203:22	93:13,23,25 94:10	179:9 181:17	<b>emerges (1)</b> 22:21
197:3,4,8,9 198:23	7:8 137:23	172:19	206:23,25	<b>dishonesty (4)</b> 22:6,15	183:12 184:7,8,10	<b>emphasis (1)</b> 16:3
199:22 201:18,19	<b>CRIT (1)</b> 163:2	<b>decision-making (2)</b>	<b>difficult (5)</b> 27:20	184:16	173:25 175:17	<b>emphasised (1)</b> 29:3
203:12 205:17	<b>curiosity (1)</b> 30:2	26:11,12	43:19 56:20 66:23	<b>dishonesty (4)</b> 22:6,15	176:13,22,23 177:3	<b>employed (2)</b> 34:13
<b>corrected (4)</b> 1:25	<b>Currys (7)</b> 163:17	<b>declaration (1)</b> 110:18	118:23	92:19,22,24 93:1,5	177:6,7,12 178:18	111:1
31:19,22 79:20	164:9 172:9 179:23	<b>declared (1)</b> 49:3	<b>difficulties (1)</b> 66:14	93:13,23,25 94:10	179:9 181:17	<b>employee (5)</b> 20:2
<b>correction (2)</b> 31:17	180:2,4,20	<b>decline (1)</b> 118:18	<b>difficulty (2)</b> 69:9,22	94:11,13,17 96:1	183:12 184:7,8,10	34:9 49:17 142:19
32:2	<b>curtain (1)</b> 120:20	<b>deductions (1)</b> 20:16	<b>direct (1)</b> 48:7	184:16	176:13,22,23 177:3	197:1
<b>correctly (1)</b> 56:24	<b>customer (5)</b> 65:10	<b>default (4)</b> 199:1,3,8	<b>directed (2)</b> 6:6 27:6	<b>dishonesty (4)</b> 22:6,15	177:6,7,12 178:18	<b>employees (1)</b> 206:5
<b>corresponding (1)</b>	68:19,21 100:13	199:16	<b>direction (5)</b> 4:17 5:9	92:19,22,24 93:1,5	179:9 181:17	<b>employer (4)</b> 44:8,9
199:20	103:5	<b>defaulted (1)</b> 199:9	9:23 10:2 17:23	93:13,23,25 94:10	183:12 184:7,8,10	50:5,8
<b>cost (2)</b> 118:4 177:12	<b>customers (5)</b> 65:19	<b>defendant (1)</b> 22:3	<b>director (31)</b> 34:5,7,8	94:11,13,17 96:1	176:13,22,23 177:3	<b>enabling (10)</b> 56:14,16
<b>costs (3)</b> 20:16 106:13	72:7,16 80:15	<b>defendants (1)</b> 9:17	34:16 35:1,12 43:3	184:16	177:6,7,12 178:18	56:23 57:11,22
172:9	155:16	<b>definitely (3)</b> 82:10	59:10 142:20 187:1	<b>dishonesty (4)</b> 22:6,15	179:9 181:17	58:3,21,25 59:19
<b>counsel (1)</b> 2:3	<b>cut (6)</b> 43:22,25 143:5	85:3 173:7	187:9,11,12,16,24	<b>dispense (1)</b> 12:16	183:12 184:7,8,10	60:7
<b>counter (1)</b> 54:23	143:11,16 157:12	<b>definition (14)</b> 173:18	187:25 188:8 189:1	<b>dispensing (2)</b> 175:4	176:13,22,23 177:3	<b>encourage (3)</b> 56:3,5
<b>counterclaim (1)</b>		173:20,20 174:9,20	189:2,13,14,25	183:8	177:6,7,12 178:18	59:4
12:14	<b>D</b>	174:20 175:14,23	190:2,3,13,24	<b>disposed (1)</b> 120:24	179:9 181:17	<b>encouraged (2)</b> 55:6
<b>couple (17)</b> 17:12,13	<b>D (3)</b> 18:3 38:3 133:5	176:4,5,7 182:16	191:1 192:13	<b>disprove (1)</b> 113:4	183:12 184:7,8,10	59:20
19:1,7,8 43:18	<b>dagger (1)</b> 158:19	182:21 183:4	193:16,21 204:2	<b>dispute (1)</b> 143:10	176:13,22,23 177:3	<b>ended (5)</b> 68:18,24
53:15 76:9 86:1	<b>daily (2)</b> 41:3,15	<b>definitive (1)</b> 186:6	41:6 50:15 67:19	<b>dispute (1)</b> 143:10	177:6,7,12 178:18	127:22,24 136:23
115:19 128:20	<b>dangerous (1)</b> 1:21	<b>definitely (3)</b> 82:10	88:6 143:1	<b>distinguish (1)</b> 113:15	179:9 181:17	<b>engineering (1)</b> 169:9
131:12 134:15	<b>data (9)</b> 173:21,23	85:3 173:7	<b>disadvantage (1)</b>	<b>distributable (5)</b> 42:20	183:12 184:7,8,10	<b>enquiries (4)</b> 4:18 8:5
171:14 173:8	174:2 175:9,12,15	118:20	162:17	44:21,23 47:17	176:13,22,23 177:3	13:3 131:1
177:10 181:9	176:10 183:11	<b>delayed (1)</b> 1:3	<b>disagree (2)</b> 56:22	110:17	177:6,7,12 178:18	<b>ensure (3)</b> 8:8 156:9
<b>couriered (1)</b> 6:12	184:5	<b>deliver (1)</b> 159:7	114:15	<b>distributed (5)</b> 42:20	179:9 181:17	192:9
<b>course (16)</b> 5:12 9:15	<b>date (18)</b> 2:17 21:2,4	<b>delivered (2)</b> 163:11	<b>disagreed (2)</b> 79:7,10	44:21,23 47:17	183:12 184:7,8,10	<b>ensuring (1)</b> 15:2
13:8 14:12 21:5	52:22 75:16 77:13	180:19	<b>disallowed (1)</b> 46:10	110:17	176:13,22,23 177:3	<b>enter (4)</b> 127:4,5
		<b>delivery (1)</b> 13:22	<b>disappointing (1)</b>	<b>distribution (2)</b> 42:22	177:6,7,12 178:18	198:18,24
		<b>demand (1)</b> 8:24	138:16	43:10	179:9 181:17	<b>entered (6)</b> 38:2,6,7
				<b>distributions (7)</b> 42:9	183:12 184:7,8,10	38:10 72:11 164:9
				42:11 43:6 47:10	176:13,22,23 177:3	
				47:22 111:8 112:17	17	

<b>entertain (1)</b> 156:25	<b>exactly (18)</b> 7:10,17	128:23 129:2 132:9	160:2 163:8,9,10	202:8	181:12	<b>genuine (1)</b> 93:12
<b>entirely (6)</b> 1:14 10:7	9:12 16:25 36:17	133:25 145:14	163:15 165:17	<b>find (15)</b> 6:19 8:7,12	<b>forgotten (3)</b> 156:15	<b>genuinely (1)</b> 94:18
10:8 11:5,6 40:18	59:17 71:4 99:17	147:1 154:24	170:6,11,25 171:25	25:10 31:15 51:8	171:23 181:25	<b>getting (25)</b> 23:12,14
<b>entitled (23)</b> 18:5	119:7 123:17,21	181:23 182:9,14,22	172:12,21 173:9	53:12 73:25 86:23	<b>form (22)</b> 187:23	44:2 46:8 56:18
27:24 41:8 42:9,11	150:10 158:16	183:6	179:12,19 181:15	100:22 123:24	190:25 191:21	59:7,17 66:14,19
44:25 45:4,8,9	176:23 178:7	<b>explaining (2)</b> 117:14	181:21 188:15	125:5 138:5 139:20	192:11 193:14,20	66:22 69:22 70:14
48:25 106:2,3,8,18	180:12 184:18	154:6	190:4 194:1 195:8	206:12	198:7,9,10,10,11	72:13 80:3 82:7
106:24,25 107:22	204:21	<b>explains (1)</b> 196:15	199:1 202:22 204:9	<b>finding (2)</b> 69:19	198:12,19 199:10	84:17 88:10 95:21
113:22 114:6	<b>Examination-in-chie...</b>	<b>explanation (14)</b>	204:11 205:11	112:25	200:10,18 201:16	112:24 117:18
149:17,18 173:11	30:4 209:7	106:1 113:9 124:23	<b>facts (6)</b> 23:9 25:17	<b>fine (10)</b> 12:7,8 13:11	203:11,14,15	158:11,19 166:3
190:7	<b>example (15)</b> 16:22,25	128:17 170:11	26:22 27:3 29:6,12	29:14 33:17 61:19	204:20 205:14	171:15 197:6
<b>entitlement (3)</b> 47:12	25:2,8 26:14,17,25	171:3 172:2,17,22	<b>factual (2)</b> 15:21 17:3	117:1 129:4 197:12	<b>formal (1)</b> 42:22	<b>ghost (1)</b> 118:19
49:8,10	27:24 28:5 59:9	172:23 173:2	<b>failed (2)</b> 111:2	205:13	<b>format (4)</b> 6:10,10	<b>gifts (1)</b> 55:14
<b>entries (1)</b> 128:5	62:25 64:18 169:20	177:14,21 179:4	116:11	<b>finish (2)</b> 13:21 194:22	39:1 41:4	<b>giro (1)</b> 105:10
<b>entry (1)</b> 180:13	171:6 188:3	<b>explanations (1)</b>	<b>faints (1)</b> 20:12	<b>finished (1)</b> 194:11	<b>formats (1)</b> 160:13	<b>give (24)</b> 3:2 17:22
<b>envisaged (1)</b> 36:3	<b>examples (3)</b> 18:24	177:19	<b>fair (6)</b> 39:13 124:10	<b>finishing (2)</b> 13:14	<b>formatting (1)</b> 53:21	20:23 24:23 25:23
<b>envisaging (2)</b> 13:14	19:1,7	<b>explore (2)</b> 22:25	135:23 163:3 172:8	194:13	<b>formed (1)</b> 29:20	26:6 60:13 100:21
15:3	<b>Excellent (1)</b> 133:7	46:24	173:8	<b>first (38)</b> 1:6 3:17	<b>forms (4)</b> 42:11,15	100:21,23 102:20
<b>equal (1)</b> 190:7	<b>excessively (1)</b> 29:9	<b>explored (2)</b> 23:21	<b>fairly (2)</b> 12:21 137:23	18:17 22:3 30:11	205:6 207:11	114:11 118:18
<b>equalisation (8)</b>	<b>exchange (3)</b> 132:25	28:14	<b>fait (1)</b> 10:8	31:9,10 33:18 36:6	<b>forum (1)</b> 53:6	119:16 120:1
188:17 189:8 190:8	133:7,9	<b>express (3)</b> 9:20	<b>falling (1)</b> 65:17	47:20 51:4 62:19	<b>forward (12)</b> 8:23	147:12,14 154:22
190:10 191:7	<b>exchanges (1)</b> 151:23	155:15 156:10	<b>false (4)</b> 18:22 19:22	64:11,12,12 65:10	11:10 13:22 57:12	155:9 158:9 171:3
192:24 202:7,16	<b>exciting (1)</b> 8:15	<b>expressly (1)</b> 95:4	152:10 181:20	79:21 92:18 107:5	76:22 77:15,16	172:3,22 200:23
<b>equipment (10)</b>	<b>excuse (1)</b> 22:11	<b>extended (9)</b> 10:23	<b>falsely (3)</b> 18:13 23:15	117:15 123:14	78:15 79:2 80:11	<b>given (21)</b> 12:23 25:2
164:11,15,20 165:6	<b>exercise (5)</b> 12:15	18:11 19:8,20	158:9	134:13,14 139:1	85:2 194:1	28:5 29:4 85:24
165:8,20 167:13	18:5 21:1,4 192:22	55:25 56:3,5,8,9	<b>familiar (1)</b> 89:13	140:18,20 161:1	<b>found (4)</b> 30:23 51:3	87:15 103:5 104:4
179:14 203:19,20	<b>exercised (1)</b> 11:6	<b>extent (3)</b> 9:24 24:11	<b>family (4)</b> 19:23 27:14	163:17 168:21	57:11 112:25	113:13 117:10
<b>escalated (9)</b> 60:5	<b>exhaustion (1)</b> 2:13	150:20	67:10,14	169:6 177:14,15	<b>four (4)</b> 37:2,10	118:13 124:3
75:6,15 87:1,3,7,8	<b>existing (5)</b> 169:21	<b>extra (1)</b> 102:20	<b>far (13)</b> 10:6 26:16	179:5 185:2 196:20	139:12 175:16	137:19 138:1
96:7,10	171:4,5 177:3	<b>extremely (1)</b> 46:6	46:19 54:11 58:23	200:18,22 203:3	<b>fourth (1)</b> 33:12	143:23 149:6 150:9
<b>especially (5)</b> 29:15	179:14	<b>eye (2)</b> 162:2,2	74:17 79:25 96:3	<b>firstly (10)</b> 23:5 41:22	<b>frame (3)</b> 53:7,7,9	172:17 173:3 205:1
142:16 147:4 172:9	<b>expansion (1)</b> 54:23	<b>eyes (3)</b> 5:6 27:11	112:2 117:6 128:21	45:19 52:22 88:18	<b>France (1)</b> 4:13	205:1
203:3	<b>expenditure (4)</b> 16:2	97:25	151:25 204:9	90:5 96:18 174:25	<b>frankly (1)</b> 16:17	<b>gives (2)</b> 4:8 7:22
<b>et (24)</b> 3:22 9:19 17:3	18:20,21 19:22	<b>eye-to-eye (2)</b> 162:3,4	<b>fault (2)</b> 1:14,17	190:24 206:20	<b>fraud (1)</b> 22:5	<b>giving (7)</b> 6:5 55:11,11
17:3 20:22 39:16	<b>expense (33)</b> 19:14	<b>E1 (12)</b> 6:10 9:18	<b>faulty (1)</b> 171:22	<b>fish (1)</b> 40:4	<b>fraudulent (1)</b> 23:18	113:9 124:23 126:1
40:24 46:1 53:22	164:11,11 165:3,5	56:25 57:22 61:7	<b>favour (1)</b> 11:7	<b>fit (3)</b> 3:22 23:9	<b>free (2)</b> 40:18 50:24	150:23
59:13 61:20 93:3	165:6,20 181:18	75:4 88:17 105:1,2	<b>feasible (1)</b> 10:3	181:14	<b>Friday (6)</b> 9:1,2,3,5,6	<b>glasses (3)</b> 40:7,8
106:17 107:8,17	187:23 189:18	184:24 185:2,12	<b>feature (1)</b> 174:25	<b>fitted (1)</b> 203:18	208:15	104:2
143:1 145:21	192:10,10,11 193:9	<b>E1/244 (1)</b> 61:8	<b>February (3)</b> 77:25	<b>five (2)</b> 68:8,10	<b>friend (7)</b> 13:4 14:1	<b>glorified (1)</b> 50:14
166:19 172:24	193:10,14,14 197:2	<b>E1/250 (1)</b> 89:3	132:21 144:24	<b>fixed (6)</b> 4:25 29:3	15:16 137:18,22	<b>gloss (1)</b> 114:8
173:1 185:23	198:24 199:3,17,17	<b>E1/77-1 (1)</b> 195:21	<b>fee (6)</b> 41:7,21,22,23	75:16 77:13 78:16	138:8 152:6	<b>go (60)</b> 10:17 20:18
188:13 201:1	199:19,23 200:6,6	<b>E2 (9)</b> 75:7 105:3,4	45:2 103:8	80:10	<b>front (9)</b> 68:22 76:2	25:12 29:17 30:8
206:13	200:7 202:23	123:7 133:1 139:2	<b>feel (9)</b> 59:21 65:18	<b>flag (1)</b> 101:12	78:20 79:11,16,17	31:23 32:7 40:2
<b>European (1)</b> 4:13	203:22 205:6,13,16	139:3 144:22	65:19 66:12 70:6,9	<b>flexible (1)</b> 194:23	81:14 82:9 155:13	42:17 45:25 53:8
<b>Eve (1)</b> 181:10	205:20	162:12	72:5 111:2 178:16	<b>flies (1)</b> 8:25	<b>frustration (2)</b> 93:20	60:4,9,10,14 64:22
<b>evening (5)</b> 102:21	<b>expenses (62)</b> 18:10	<b>E2/374 (1)</b> 137:15	<b>feeling (1)</b> 184:19	<b>flights (1)</b> 19:1	94:21	68:1 74:4 79:12
129:6 141:13	18:12,13,17,23	<b>E2/395 (2)</b> 165:25	<b>feels (1)</b> 15:17	<b>flipcharts (7)</b> 148:12	<b>full (7)</b> 46:16 101:15	81:7 88:17 90:13
145:11 146:7	19:20 23:15,16	179:20	<b>fees (2)</b> 42:16 45:2	160:10,11,23	101:19 108:20	91:18 92:17 93:16
<b>event (1)</b> 99:6	25:20 35:9 82:20	<b>E2/403 (1)</b> 160:25	<b>feet (1)</b> 181:13	161:23,23 166:22	130:17 143:9 202:7	102:8 105:2 108:4
<b>events (2)</b> 60:12	85:7 93:3,4,6,13,24	<b>E3 (4)</b> 104:22 133:4	<b>fell (1)</b> 58:20	<b>floating (1)</b> 5:7	<b>fully (17)</b> 39:6 49:5	108:6 119:22
104:16	94:19 95:12 130:23	184:25 185:2	<b>fellow (13)</b> 190:2	<b>floor (4)</b> 33:2 122:12	54:10 66:13 80:20	122:12 123:24
<b>eventually (6)</b> 47:12	145:15,19 153:9,14	<b>E3/644 (1)</b> 197:10	191:1 192:13	188:20 191:4	88:13,14 91:10	126:18 128:13,14
67:8 115:7 128:6	164:17 184:22	<b>F</b>	193:16,21 200:12	<b>flow (2)</b> 148:21 149:5	98:25 103:22,23	133:5 134:15
131:23 176:9	185:3,8,14,15	<b>face (3)</b> 7:1 14:15	201:17 204:2 205:1	<b>flowers (1)</b> 19:8	112:7,8,10 113:2	141:22 143:14
<b>everybody (9)</b> 1:19	186:7,9,22 187:24	99:20	205:15,21 206:20	<b>flying (1)</b> 9:2	125:25 141:5	146:4,6,11 147:11
56:19,21 58:13,20	188:4 189:13,23	<b>Faced (1)</b> 169:10	207:7	<b>fobbing (1)</b> 74:18	<b>fund (1)</b> 19:21	152:24 155:15
59:17 60:9 176:16	190:3,15,15,16,17	<b>faces (1)</b> 7:3	70:6 78:17 106:19	<b>focus (4)</b> 15:14 16:1	<b>funds (1)</b> 43:17	165:20 169:11
198:13	191:13,20,21,24	<b>facilities (2)</b> 102:11	107:1 143:1 155:16	62:21 63:2	<b>further (8)</b> 8:5 14:24	173:4 176:22 185:1
<b>everybody's (1)</b>	192:25 193:1,5	118:18	<b>field (2)</b> 29:16 200:5	<b>folder (1)</b> 196:14	23:4 24:25 26:1,3	187:22 188:4,14
199:13	195:22 196:15,23	<b>facility (5)</b> 3:15 6:23	<b>figures (2)</b> 43:8,9	<b>follow (4)</b> 40:25 59:12	32:4 51:21	195:2 200:18 201:2
<b>evidence (60)</b> 3:2,8,24	202:17,19 203:1	8:10,14,18	<b>filing (5)</b> 145:24 146:2	155:16 188:18	<b>future (1)</b> 144:20	202:15 205:9 206:3
4:9 6:6 9:8 10:15	204:3 205:2 206:9	<b>fact (79)</b> 9:18 14:19	146:2,3 154:10	<b>followed (3)</b> 53:2 54:3		207:25
10:16 12:5,6,13,17	206:13 207:4,15,19	16:4 18:23 19:5	<b>fill (7)</b> 69:20 187:23	80:9	<b>G</b>	<b>God (3)</b> 122:7,19
13:9,15 16:4,21	<b>experience (9)</b> 10:5,21	20:21 21:9 22:9	190:24 191:21	<b>following (4)</b> 30:20	<b>G (2)</b> 6:10 9:18	123:16
17:4,9 20:12,23	35:23 36:4,6 37:19	23:11 24:18 25:17	193:20 200:10	46:5 132:20 138:25	<b>gain (1)</b> 35:22	<b>goes (14)</b> 12:13 20:21
23:22 24:17 25:8	69:15 117:6 118:15	27:24 28:9 33:12	201:16	<b>follows (2)</b> 62:15	<b>gained (2)</b> 36:4 37:18	26:16 30:13 64:13
26:4,9,10,15,21,23	<b>experienced (2)</b>	41:20 55:17 56:9	<b>filled (2)</b> 192:11	181:16	<b>gap (1)</b> 21:10	76:21 91:15 118:2
28:9,14 29:4 30:17	136:20,21	59:22 60:13 66:18	203:15	<b>footing (2)</b> 5:20	<b>general (3)</b> 15:18	146:13 152:1
30:18 31:12 83:23	<b>experiences (1)</b> 158:1	68:6 69:14,15 70:2	<b>film (1)</b> 182:24	149:13	29:10 188:24	199:21 200:8,10
84:13 97:14 113:14	<b>expertise (1)</b> 117:5	73:19 78:17 79:24	<b>films (6)</b> 174:25 176:8	<b>force (1)</b> 27:20	<b>generally (8)</b> 29:12	201:21
119:16 122:7 124:3	<b>explain (6)</b> 98:7	82:15 83:7 85:12	182:23,23,25	<b>forced (3)</b> 78:19 79:6	49:7 63:25 123:22	<b>going (88)</b> 8:7 11:14
127:12 128:15	100:25 101:1	87:4,10 89:23 91:1	183:13	81:13	131:2 167:11,25	11:14 13:9 15:23
129:18,21 138:2	104:14 149:1	91:7 92:14 95:5	<b>final (2)</b> 65:7 66:1	<b>forceful (1)</b> 141:8	168:5	16:10 25:13 35:25
150:22,23 151:11	<b>explained (25)</b> 84:19	107:7 111:20 113:6	<b>Finally (1)</b> 32:24	<b>forcing (2)</b> 22:11	<b>generated (2)</b> 48:19	36:1,3,24 38:20
151:15 167:11,24	86:9,25 90:12	114:23 126:2,8,24	<b>finance (6)</b> 36:11,12	78:24	48:21	40:23 46:18 53:24
170:12 172:24	104:19 106:12	126:24 133:8	36:25 37:1,7 191:8	<b>foreign (1)</b> 5:22	<b>generates (1)</b> 94:23	53:25 55:3,5 60:18
173:3 177:16 185:7	108:10 111:14	140:24 141:1 145:4	<b>finances (3)</b> 189:6,10	<b>forget (1)</b> 67:10	<b>generation (2)</b> 148:17	63:17 73:4,11
199:4 206:8	112:15,19 115:1	152:21 155:9	191:7	<b>forgot (1)</b> 149:5	148:20	77:11,14 78:14
<b>ex (1)</b> 15:22	116:16 127:10	158:14 159:15	<b>financial (3)</b> 17:3 43:4	<b>forgot (4)</b> 156:24	<b>gentleman (2)</b> 116:14	79:1,2,3,11,12,16
<b>exact (2)</b> 100:3 198:5				157:4 163:14	117:12	80:10,18,19 81:10

81:16 82:10 85:2,4 85:23 86:17 87:3 87:12 88:14 90:15 90:16 94:23 96:4 97:23,24 102:14 103:13 104:6,17 106:14 109:3 111:25 112:1 113:4 114:5 116:12 117:21 124:14 129:16 130:18 135:24 137:25 142:12 143:19 144:7,9,16 145:17 148:15 150:15 152:13 162:13 169:15 175:2,14 178:14 183:1 189:10 191:7 192:21 201:24 202:10 207:24	135:12 141:18 147:24 153:2,19 155:21,22,25 156:2 157:15 177:8,11,16 178:7 <b>happens (6)</b> 88:9 118:19 193:9 198:6 198:18,19 <b>happy (11)</b> 2:5 38:25 71:22,25 79:7 80:13 101:1,2 144:4 157:17 195:1 <b>harassed (1)</b> 22:3 <b>harassment (1)</b> 22:1 <b>hard (14)</b> 51:4,10,17 51:21,21 53:3 55:10,13,15 141:4 178:6,10 196:8,13 <b>Hart (1)</b> 78:2 <b>hassled (1)</b> 65:20 <b>head (9)</b> 50:12 76:5 94:4 103:8 145:1 148:14 187:21 199:25 206:18 <b>headings (2)</b> 16:15 17:1 <b>headline (1)</b> 19:17 <b>hear (5)</b> 9:7 14:6 16:21 40:11 155:18 <b>heard (4)</b> 3:19 26:15 26:23 51:19 <b>hearing (1)</b> 2:18 <b>hearsay (9)</b> 141:9 149:12,17,24 150:13,15,19,24 152:11 <b>heart (1)</b> 72:12 <b>held (7)</b> 48:10 136:13 137:4 166:20 173:24 176:10 183:12 <b>Helen (8)</b> 31:5,12 32:1 61:7 72:20 79:25 88:23,25 <b>help (6)</b> 24:18 43:18 93:11 133:5 165:19 185:22 <b>helped (1)</b> 62:9 <b>helpful (6)</b> 13:6,11 29:21 57:8 138:6 139:7 <b>helps (1)</b> 56:25 <b>hesitate (2)</b> 17:11 151:18 <b>hiatus (1)</b> 3:9 <b>hiccup (1)</b> 54:1 <b>hide (1)</b> 140:25 <b>high (15)</b> 39:20,21 61:5 64:1 174:9,20 174:24 175:14,22 176:3,5,7 182:16 182:21 183:4 <b>higher (7)</b> 173:25 174:1,3,12,14,15 174:19 <b>highlight (2)</b> 100:6,8 <b>highlighted (2)</b> 42:16 100:5 <b>highlights (2)</b> 17:22 18:1 <b>highly (2)</b> 4:6 37:23 <b>HILDYARD (136)</b> 1:16 1:20 2:21,25 3:16 3:21,23 4:8,11,21 5:6,11,17,20 6:4,13 6:18,21,25 7:5,8,15 7:19,24 8:9,15,20 8:22 9:3,5,10,22 10:13,21 11:9,13 11:18,22 12:1,7	14:15 15:3,11,20 15:25 16:13,19,24 17:10,16,19 18:7 19:11,13 21:6,18 21:21,23,25 24:3 24:14,21 27:5,9,18 27:23 28:7,10,17 29:1,24 30:1 31:18 31:24 32:3 57:11 57:17 74:15,21,23 102:1,7,18,25 115:14,17 116:5,20 117:10 118:6,13 119:5,8,12,19,24 120:4,7,10,12,18 120:24 121:7 138:13,19 139:9 142:3 149:3,10,12 149:20 150:3,8,14 150:18 151:7,9,20 151:25 152:8,10,14 166:3 168:14,16 183:15,18 194:8,13 194:16,19,23 195:2 207:22 208:3,12 <b>hindsight (5)</b> 59:1 157:24 158:22 159:12 179:6 <b>history (1)</b> 137:19 <b>hold (6)</b> 146:21 166:17,19 173:21 184:5 200:16 <b>holding (2)</b> 117:16 153:7 <b>holepunches (1)</b> 123:12 <b>holiday (6)</b> 2:6 5:1 8:15,25 9:1 118:2 <b>Holidays (1)</b> 135:6 <b>home (38)</b> 19:7,10 20:6 77:8 103:10 110:22 123:15 141:14 145:11 156:23,25 157:1,2 157:7 163:12,13,15 166:12,14 171:24 177:20,21,24 178:7 178:21,23 179:16 179:17 180:23 181:4,5,7,15,25 183:22 184:3 200:17,25 <b>honest (17)</b> 38:23 39:2,4 51:7 53:10 53:20 66:10 112:7 125:20 130:9 139:6 158:20 178:14,16 202:12 206:21 207:3 <b>honestly (2)</b> 190:25 207:8 <b>hoof (1)</b> 151:19 <b>Hoopers (2)</b> 135:1,2 <b>hope (8)</b> 2:5,16 12:1 13:4 29:3 74:16 165:11 208:1 <b>hopefully (2)</b> 12:24 30:5 <b>horrors (1)</b> 10:16 <b>hotel (6)</b> 8:10,13,16 8:19,19 133:16 <b>hour (4)</b> 102:20 181:6 208:5,6 <b>hours (7)</b> 28:17,22 56:1,5,8,10 68:8 <b>house (8)</b> 146:8,11,13 146:14 152:16,19 158:15,16 <b>housekeeping (5)</b> 1:5 12:4 116:9 209:3,9	<b>Howarth (1)</b> 35:22 <b>hundred (1)</b> 171:14 <b>hundreds (1)</b> 109:17 <b>husband (3)</b> 67:11 188:11 202:6 <b>Hutchings (1)</b> 119:10 <b>hypothesi (1)</b> 15:22 <b>H/197 (1)</b> 163:21	<b>I</b> <b>idea (15)</b> 4:3 23:7,12 35:20 36:6,18 55:9 59:18 69:6,11 76:15,19,21 83:13 108:14 <b>ideal (1)</b> 163:19 <b>identified (4)</b> 91:25 92:2,4 94:2 <b>identify (3)</b> 18:21 101:20 186:22 <b>idiosyncratic (1)</b> 2:11 <b>ii (1)</b> 120:13 <b>imagine (1)</b> 4:25 <b>imagined (2)</b> 102:3,8 <b>immediate (2)</b> 28:8 143:23 <b>immediately (1)</b> 99:20 <b>implausibility (1)</b> 23:2 <b>implement (1)</b> 10:9 <b>implication (1)</b> 110:20 <b>implications (2)</b> 103:17 153:14 <b>implicit (1)</b> 9:20 <b>importance (1)</b> 186:10 <b>important (12)</b> 15:23 123:12 18:15 59:6 81:21 82:2,16 103:21 190:11,12,17,18 193:10 <b>importing (1)</b> 29:7 <b>impression (3)</b> 122:24 126:1 158:10 <b>improper (3)</b> 4:23 12:20 184:16 <b>improperly (1)</b> 29:7 <b>improvement (3)</b> 65:14,15,22 <b>improving (1)</b> 62:13 <b>inch (1)</b> 175:19 <b>include (3)</b> 93:9 94:15 156:5 <b>included (2)</b> 52:15 56:10 <b>including (4)</b> 7:20 56:3 194:25 208:8 <b>income (2)</b> 94:23,25 <b>incorrect (4)</b> 110:24 122:25 123:23 124:24 <b>increase (1)</b> 12:19 <b>increased (2)</b> 13:17 70:15 <b>incredible (1)</b> 181:14 <b>incurred (1)</b> 191:13 <b>incurring (1)</b> 116:13 <b>independent (1)</b> 50:2 <b>INDEX (1)</b> 209:1 <b>indicate (2)</b> 28:18 137:9 <b>indicated (3)</b> 12:12 119:13 162:22 <b>indicates (1)</b> 5:9 <b>indicating (1)</b> 71:21 <b>indication (1)</b> 60:23 <b>individual (1)</b> 48:17 <b>individuals (1)</b> 22:16 <b>indulgence (2)</b> 1:22 17:12 <b>influence (1)</b> 12:20 <b>influenced (1)</b> 29:5	<b>inform (4)</b> 109:11 128:10 176:21,24 <b>information (8)</b> 12:14 14:24 44:2 89:22 90:8,25 91:15 154:13 <b>informed (6)</b> 76:1,11 90:1 97:2 131:11 131:15 <b>informing (1)</b> 78:2 <b>inherent (1)</b> 23:2 <b>initial (6)</b> 65:15 121:2 144:23,24 145:4 162:10 <b>initially (6)</b> 34:8 51:10 51:11 77:1 80:4 159:23 <b>initiative (6)</b> 54:2,19 56:1,2,10 58:12 <b>initiatives (5)</b> 54:8,11 54:22 58:10 84:2 <b>inside (1)</b> 146:21 <b>instance (1)</b> 47:20 <b>instant (3)</b> 24:24 25:23 26:7 <b>instigate (1)</b> 140:21 <b>instigated (2)</b> 142:1,2 <b>Instore (2)</b> 62:11 63:1 <b>instructed (2)</b> 60:2 182:8 <b>instructing (1)</b> 119:14 <b>instruction (2)</b> 140:15 156:10 <b>instructions (1)</b> 109:7 <b>intended (3)</b> 12:19 153:11,22 <b>intending (1)</b> 7:11 <b>intention (1)</b> 74:14 <b>interested (1)</b> 23:25 <b>interests (3)</b> 49:22 78:23 194:24 <b>interfere (1)</b> 158:7 <b>interfered (1)</b> 158:7 148:12 160:16,17 <b>interplay (1)</b> 24:4 <b>interpose (1)</b> 194:16 <b>interposed (1)</b> 194:21 <b>interrupt (2)</b> 90:16 148:21 <b>interrupting (1)</b> 149:5 <b>interruption (1)</b> 138:4 <b>intervene (1)</b> 118:6 <b>interview (9)</b> 20:9 36:13,19 123:8,9 125:23 127:18 134:1 184:17 <b>interviewed (1)</b> 20:10 <b>intranet (4)</b> 51:12 197:13,21,23 <b>introduced (2)</b> 51:13 58:11 <b>introducing (1)</b> 151:10 <b>introduction (1)</b> 186:7 <b>intrusion (1)</b> 27:14 <b>investigate (1)</b> 100:21 <b>investigation (19)</b> 20:1,9,16 88:12 91:6,20,24 92:7,10 112:12 134:20 144:9 149:9 153:9 156:5,19 158:7 182:5 184:14 <b>investigations (1)</b> 94:24 <b>investigator (1)</b> 136:20 <b>investigatory (6)</b> 20:9 134:7 143:6,15 144:10,19 <b>invited (1)</b> 134:7	<b>invoice (3)</b> 163:21 181:16 203:4 <b>invoices (4)</b> 19:2 49:15,16 186:10 <b>involved (6)</b> 22:16 82:11 95:9 96:23 118:4 185:15 <b>iPads (2)</b> 175:4 183:7 <b>IQ (16)</b> 51:6,12,14,18 52:2,8,8 53:2,4,5,6 53:14 194:2 195:5 195:12,19 <b>irate (1)</b> 136:9 <b>irrelevant (2)</b> 173:9 174:23 <b>irritating (1)</b> 2:4 <b>ISDN (1)</b> 116:23 <b>issue (51)</b> 21:12,12,13 25:9,22,25 28:16 33:16 46:17 59:16 62:17 65:18 66:19 67:6,6,25 69:18 71:23 72:16 80:3 81:21 82:2,15 84:25 85:7 91:21 93:4,9 94:18 95:12 99:2,12 100:5 101:24 104:8 114:17 119:17 121:22 126:15 129:9 131:10,24 132:9,12 137:8 138:8 143:12 149:15 171:25 192:24 202:16 <b>issued (1)</b> 120:15 <b>issues (24)</b> 8:6 13:12 15:18 17:2,3 23:25 25:17 62:24 80:4,7 88:22 92:2 97:15 97:18 98:6 101:11 109:21 117:8 128:20 131:4,20,24 142:13,23 <b>IST (2)</b> 62:9,10 <b>Italian (2)</b> 4:12 11:19 <b>Italy (8)</b> 3:1 8:11,12 116:21,22 117:1,2 118:4 <b>item (12)</b> 46:18 147:6 154:18 156:7 158:10,14,19 178:24 179:12 182:5 184:14 203:5 <b>itemised (1)</b> 200:15 <b>itemised (2)</b> 103:22,23 <b>items (6)</b> 16:23 17:1 19:24 45:25 178:3 179:17 <b>I/we (1)</b> 58:18	<b>J</b> <b>January (17)</b> 1:1 2:14 51:12 52:20,21 60:2 75:8 76:24 78:14 80:10 85:1 85:21 86:20 114:24 127:20 195:5 208:15 <b>jeopardy (1)</b> 140:2 <b>job (2)</b> 35:22 206:10 <b>John (3)</b> 29:23 62:2 209:6 <b>joined (3)</b> 34:1,4 38:22 <b>joining (1)</b> 55:3 <b>joint (8)</b> 16:8 40:8,10 70:4 102:9 185:14 187:12 200:12 <b>jolly (1)</b> 10:4	<b>judge (1)</b> 2:4 <b>July (3)</b> 21:3,6 34:14 <b>jumped (2)</b> 136:12 137:2 <b>jurcture (1)</b> 150:2 <b>jurisdictions (1)</b> 4:22 <b>Justice (137)</b> 1:16,20 2:21,25 3:16,21,23 4:8,11,21 5:6,11,17 5:20 6:4,13,18,21 6:25 7:5,8,15,19,24 8:9,15,20,22 9:3,5 9:10,22 10:13,21 11:9,13,18,22 12:1 12:7 14:15 15:3,11 15:20,25 16:13,19 16:24 17:10,16,19 18:7 19:11,13 21:6 21:18,21,23,25 24:3,14,21 27:5,9 27:18,23 28:7,10 28:17 29:1,24 30:1 31:18,24 32:3 57:11,17 74:15,21 74:23 102:1,7,18 102:25 115:14,17 116:5,20 117:10 118:6,13 119:5,8 119:12,19,24 120:4 120:7,10,12,18,24 121:7 138:13,19 139:9 142:3 149:3 149:10,12,20 150:3 150:5,8,14,18 151:7,9,20,25 152:8,10,14 166:3 168:14,16 183:15 183:18 194:8,13,16 194:19,23 195:2 207:22 208:3,12 <b>justification (2)</b> 87:16 114:9 <b>justified (3)</b> 24:9,10 26:18 <b>justify (1)</b> 177:20 <b>JVP (17)</b> 34:14,25 35:11,14,25 37:15 38:8 197:1 201:8 201:10,17,20 205:2 205:15,21 206:20 207:7 <b>JVPs (2)</b> 18:19 207:15	<b>K</b> <b>keen (5)</b> 13:6,8 59:4 117:16,20 <b>keep (15)</b> 10:7 13:20 13:24 15:5 26:11 55:2 80:12 82:8 104:25 105:4 110:15 162:12 184:24 185:1 201:3 <b>key (6)</b> 141:20,20 145:25 146:1 154:8 154:9 <b>kind (4)</b> 42:15,22 103:15 119:25 <b>kit (1)</b> 163:3 <b>knew (18)</b> 53:1 67:4 69:15 70:13 107:22 111:20 123:25 125:1 139:23 140:14,15 154:10 156:18 158:4 173:17 175:8 191:25 192:1 <b>know (240)</b> 1:11,23 4:2,20 6:19 8:1,11 8:13 10:20 14:22 14:25 15:9 17:2,2
---	--	---	---	--	--	---	--	---	--

23:24,24 27:19,23 29:2 36:1 38:24 39:5,17,24,24 40:15,22,24,24 43:20,22,23 44:14 44:24 46:12 49:6 50:11,13,15 51:19 52:3,10,11,23 53:20,21 54:2,5,8 54:25 55:11,13 56:21,25 58:20,23 59:1,9,16 60:6,8,21 60:25 61:18 66:25 67:7,10,15,18 68:20,22 69:20 70:11,12,12 71:1,4 71:5,10,11,12,14 71:19 72:7 76:17 77:9,10,18,23,24 78:18,21 79:5,8,11 80:5,6,21 81:3,4,13 82:1,8,10,21 83:1,7 83:9,10 85:3,5 87:20 88:8,9 91:14 91:15 94:24,25 95:3,5 96:10 97:3 97:13,19 100:3,12 100:15,18 101:2 102:4,5 103:9,15 104:18,21 107:8,8 107:11,19 108:21 108:25 109:18 110:12,24 111:2,19 111:24 113:4 117:8 118:20 120:4 122:6 125:22 126:11 127:1,2 128:2,13 128:25 129:10,21 130:1,1,2 136:3,4,8 140:1,4,9,20 141:8 142:23,25 143:2,18 144:4 146:6 147:7 148:6,9 149:2 151:11 152:10 154:13 155:25 156:2,19,20,22,24 157:7 158:21 159:12,16 162:13 163:20 164:19 165:16 167:16 168:10 169:15 171:13 172:21 173:6 175:2,9 177:7,23 178:6,15 178:18 179:7,10,18 180:9,15 182:23 184:7,18 186:16 188:19 189:9,17 191:5,9,11,17 192:18 194:5 198:5 199:6,7 200:24 203:7,17 204:4 207:11,20 208:10 <b>knowing (1)</b> 111:17 <b>knowledge (3)</b> 109:24 129:24 184:22 <b>known (7)</b> 99:7,9,10 110:7 112:17 126:10 204:14 <b>knows (2)</b> 29:11 60:9 <b>know-how (1)</b> 42:2	168:6,12 169:21 170:5 177:3 <b>laptops (3)</b> 148:13 160:14 167:15 <b>largely (1)</b> 134:12 <b>late (8)</b> 1:15 2:16 85:6 87:23,25 137:19 181:2 195:22 <b>latest (1)</b> 2:19 <b>laugh (1)</b> 51:7 <b>laughed (1)</b> 136:6 <b>laughing (2)</b> 136:7,12 <b>launched (1)</b> 56:2 <b>law (7)</b> 4:12 11:19 <b>law (5)</b> 20:22 17:21 107:16,16 <b>lawyer (1)</b> 39:5 <b>learning (1)</b> 30:2 <b>learned (5)</b> 13:4 14:1 15:16 137:18,22 <b>leave (2)</b> 151:12 208:5 <b>led (1)</b> 35:19 <b>left (6)</b> 41:9 128:24 145:23 146:3 154:10 177:10 <b>left-hand (1)</b> 139:16 <b>lengthy (1)</b> 77:8 <b>lens (1)</b> 167:3 <b>lent (1)</b> 163:7 <b>lest (2)</b> 5:21 151:10 <b>letter (14)</b> 20:13,20 21:4 131:3 132:13 134:4 135:18 140:18 144:2,12,14 144:17 153:11,22 <b>letters (1)</b> 136:2 <b>let's (11)</b> 2:6 17:10 45:19 53:15 74:4 74:23 88:16 94:15 162:14 175:5 188:23 <b>level (1)</b> 131:10 <b>levels (1)</b> 30:1 <b>Lewes (3)</b> 59:9,10 67:24 <b>liabilities (2)</b> 107:16 107:18 <b>liaise (1)</b> 9:16 <b>liaising (1)</b> 14:23 <b>lie (1)</b> 70:4 <b>life (2)</b> 27:14 136:8 <b>light (2)</b> 5:24 132:2 <b>liked (1)</b> 40:3 <b>likelihood (1)</b> 25:12 <b>limit (1)</b> 175:12 <b>limited (6)</b> 58:6 106:9 109:24 141:12 149:25 188:21 <b>line (19)</b> 11:23 31:20 43:7,8,9 58:20 68:22 89:5 91:3 101:10 107:23 116:23 119:4 132:2 161:2,11,13 188:18 196:20 <b>liner (2)</b> 146:16,19 <b>lines (2)</b> 22:2 153:12 <b>link (3)</b> 115:17 167:15 194:10 <b>list (5)</b> 1:25 16:22 55:20 111:24 166:7 <b>listen (4)</b> 136:1 144:5 147:2 157:18 <b>listening (1)</b> 182:15 <b>listing (3)</b> 1:9 14:19,23 <b>literate (7)</b> 37:21,22 37:23 186:1,2 197:11 204:8 <b>litigation (1)</b> 131:23 <b>little (19)</b> 2:16 3:9	6:10 15:9,19 16:12 18:16 55:25 70:11 70:11 101:24 104:23 136:12 137:2 162:22 167:17 186:13 195:20 201:23 <b>live (1)</b> 60:18 <b>livelihood (1)</b> 136:8 <b>living (1)</b> 199:15 <b>load (1)</b> 202:12 <b>local (1)</b> 65:18 <b>lock (1)</b> 154:11 <b>Lofting (8)</b> 2:24 3:19 5:1 59:10 90:1 113:3,5,7 <b>log (4)</b> 160:21 201:10 201:17,25 <b>logged (2)</b> 202:4,24 <b>logical (2)</b> 109:18 122:16 <b>log-in (5)</b> 198:9 201:11,11 202:4 204:14 <b>log-ins (1)</b> 198:12 <b>London (1)</b> 36:17 <b>long (9)</b> 3:8 4:11 9:25 120:21 131:13 191:17 194:24 196:8 207:9 <b>longer (2)</b> 11:2 117:17 <b>look (67)</b> 2:22 3:5 12:8 16:14 25:1 38:3,13 38:23 39:2,4 44:20 53:4,5,9 59:8 61:15 62:25 64:18,22 72:16 74:10,11 80:7 89:3,12 94:12 100:1,23 101:3,9 103:16 104:7,22 114:2 126:6 127:16 128:8 138:21 139:19 142:12,23 143:17 144:23 146:15 148:15 149:23 154:14 156:23 157:22 162:12 165:17,25 169:8 172:5 178:7 179:20,22 180:23 181:7,11 185:2,9 195:9,25 198:17 203:24 207:10 <b>looked (36)</b> 12:10 38:24 39:25 44:11 44:15 50:16 53:5 61:17 72:19 82:22 91:10 99:15 103:9 103:16,25 107:3,13 110:21,23 111:23 114:6,7 125:6 126:11,21 152:11 156:15,19 157:7 172:10 173:15 175:5 177:5 184:4 188:14 191:6 <b>looking (41)</b> 5:5,12 53:9 61:16 66:9,11 67:16 68:19,20,21 70:12 72:10 73:3 73:23,25 74:2,5,6,8 84:17 92:18 95:1 97:18,19 100:19 109:19 111:19 112:22 113:9 168:24 169:23 175:19 177:19 181:8 183:7,20,25 184:13 203:11 204:2,4	<b>looks (8)</b> 11:4 12:7,8 50:10 78:21 100:20 118:22 158:22 <b>Lord (126)</b> 1:6,18 3:10 3:17 4:2,16 5:4,19 6:8,20,24 7:11,21 8:4,4,13,24 10:12 10:14 11:5,17 12:3 12:4,9,16 13:1,12 13:20,25 14:16,17 15:1,5,6,15,24 16:10 17:4,11,22 18:8,9,15 19:17,25 20:8,25 21:13,19 22:13 23:23 24:13 24:23 26:6,8 28:5 28:12,13,14,21 29:21,22 31:20 44:19 57:8,16 72:4 74:20 86:9 101:23 102:4,5,12,22 103:1 104:4,20 114:3 115:13 116:10 117:3,19 118:11,25 119:7,9 120:9,11,23 121:1 121:1 132:1 137:18 138:6,17 139:8,11 143:9 147:24 149:8 149:11,15,17 150:1 150:4 151:5,18,21 151:21 152:2,7,9 152:13 166:4 168:13,15 183:17 183:19 194:5,15,18 194:20 195:1,4 207:20 208:2 <b>Lordship (50)</b> 2:19,23 5:4 7:22 11:6,11 12:10 13:13,15 14:2,4,10,25 15:8 15:10,17 16:11,16 16:18,22 17:5,15 17:17,20 18:25 21:2,5,11,13 23:25 24:24,25 25:10,15 25:18,23,25 26:2 26:10 31:16 32:2 102:16 115:16,24 119:4 139:8 151:5 166:2 194:6,11 <b>Lordship's (12)</b> 3:6,18 9:8,15 10:19 13:18 13:23 17:11 21:20 26:14,17 115:20 <b>lose (1)</b> 119:22 <b>loses (1)</b> 118:1 <b>loss (12)</b> 88:13 94:12 94:16 97:19 109:8 116:13 131:16 140:8 147:5 157:8 159:3,8 <b>lost (1)</b> 48:1 <b>lot (16)</b> 16:7 39:18 40:11 43:12,15 55:15 94:25 98:9 100:16 107:9,10 111:1 135:24 154:13 202:11 207:13 <b>lots (4)</b> 10:17 50:25 52:8 109:25 <b>low (1)</b> 22:12 <b>loyal (1)</b> 141:5 <b>lunch (4)</b> 46:9,16 79:20,22 <b>lunches (5)</b> 19:23 46:2 46:6,10,12 <b>lunchtime (1)</b> 14:9 <b>lying (3)</b> 70:6 156:23	159:2 <b>M</b> <b>M (1)</b> 123:20 <b>machine (8)</b> 90:11 102:16 105:16,23 105:25 110:2,5,6 <b>Magistrate (1)</b> 150:6 <b>Magistrates (1)</b> 150:6 <b>main (3)</b> 19:17 69:21 96:25 <b>making (13)</b> 13:3 15:12 19:4 24:6 77:14 81:22 86:15 89:22 90:8 128:5 149:20 164:16 206:20 <b>man (1)</b> 140:10 <b>manage (1)</b> 39:11 <b>managed (2)</b> 57:21 62:6 <b>management (10)</b> 41:7,21,22,23 43:7 45:2 103:8 113:17 114:8,12 <b>manager (13)</b> 31:25 33:24 34:3,4,13 55:18,19 61:9 62:9 89:5 131:7 138:23 198:13 <b>managers (6)</b> 28:23 50:14,16 55:18 131:8,9 <b>Mancini's (2)</b> 199:4 206:8 <b>mandatory (2)</b> 55:7 200:5 <b>manual (30)</b> 39:12,15 40:20 41:17 50:25 51:2,3 52:15,15,18 53:1,3 54:20,21 55:7 56:11,12,12 58:24,25 90:14 99:25 109:20 126:11,12 156:24 181:8,9 197:10,14 <b>manuals (1)</b> 163:12 <b>March (29)</b> 20:10 77:1 77:15 78:16 85:8 85:10,11,14,19,24 86:4,18 87:15 88:3 88:4,4,6 96:3 123:9 132:22 133:14 134:14,15 143:14 143:15,17 156:8 157:6 181:22 <b>mark (2)</b> 80:21 95:5 <b>marked (2)</b> 181:16 204:22 <b>Markham (1)</b> 36:10 <b>massively (1)</b> 120:6 <b>mate (1)</b> 139:19 <b>materials (1)</b> 164:2 <b>matter (29)</b> 12:4 14:2 15:7 16:1 19:25 22:13,24 28:9 33:2 45:16 56:11 59:20 86:21 90:6 92:14 114:21 119:9 120:19 128:4,16 138:9 176:14 177:9 182:5 184:20 189:9 189:19 190:9 205:19 <b>matters (10)</b> 12:14 27:3 32:5 52:16 92:5 151:6 152:3,5 190:11,14 <b>McAlindon (52)</b> 32:18 92:1,7 94:15 104:9	106:1 112:24 113:20,21,23 114:10,16 121:22 122:2 123:4,6,15 125:4,23 127:18 128:15,17 129:6,25 130:17 131:4,22 132:21 133:13,25 136:20,23 137:20 138:3 140:8,13 141:7 142:17 145:13 147:2,4,13 147:23 154:21,23 154:25 156:5 157:13,16 158:12 159:13 184:18 <b>McAlindon's (7)</b> 91:7 91:9,20 112:13 129:18 131:1 138:7 <b>meals (2)</b> 135:3,4 <b>mean (21)</b> 4:8 24:12 26:20 28:3,4 42:16 44:5,21,23 53:24 70:2,3,23 76:4,17 84:5 102:2,121:18 124:6 175:13 183:12 <b>means (10)</b> 7:1 115:3 118:1 132:5 143:15 151:20 175:14 176:11 199:2,11 <b>meant (1)</b> 37:14 <b>measures (1)</b> 84:13 <b>mechanism (3)</b> 57:23 58:10 107:4 <b>mechanisms (2)</b> 107:1 107:3 <b>media (3)</b> 148:10 173:12 175:10 <b>medias (2)</b> 160:9 161:22 <b>meet (4)</b> 19:19 65:10 65:15,17 <b>meeting (63)</b> 20:13 31:3,5,6,13 58:18 61:8,21 63:20 71:17 72:21 74:25 75:8,10,24,25 76:3 76:8 79:25 84:12 84:14 96:7 104:9 104:12 109:8 113:20 122:1,4,4,5 122:6 123:6 128:14 128:16,25 129:5 132:16,22 133:11 133:14,16,18,18,21 134:10,14 135:16 135:24 137:1,10,14 137:21,24 138:2 142:10,15 143:6,15 144:4,10,20 145:8 145:12 <b>meetings (11)</b> 59:24 84:8 114:16 134:8 136:22,23 140:8 141:6 147:1 154:24 157:16 <b>melded (1)</b> 118:22 <b>member (16)</b> 90:2 113:7 131:15 140:11,17 141:4 148:3,8 156:11,13 159:3 167:2 170:22 173:5,7 182:7 <b>members (9)</b> 54:6 96:21,21,22 113:5 135:16 143:25 159:23 163:6 <b>membership (1)</b> 42:16 <b>memoire (1)</b> 16:12	<b>mental (1)</b> 159:6 <b>mention (7)</b> 2:7 62:16 76:15 156:8 169:19 170:4,8 <b>mentioned (17)</b> 1:12 1:24 14:1 41:19 79:10 83:10,13 134:19,21,22 135:15 137:13 145:16 161:7,11,15 170:11 <b>Meridian (1)</b> 96:23 <b>met (3)</b> 61:13,14 152:25 <b>method (3)</b> 116:12 117:3 118:8 <b>mettle (1)</b> 11:15 <b>microphone (1)</b> 116:3 <b>microphones (1)</b> 115:22 <b>middle (2)</b> 64:3 138:10 <b>Mike (1)</b> 96:9 <b>miles (2)</b> 8:18 59:15 <b>milk (1)</b> 45:25 <b>million (1)</b> 72:14 <b>mind (7)</b> 29:6 120:20 129:4 144:6 150:19 188:19 192:17 <b>minds (1)</b> 51:5 <b>mine (5)</b> 57:5 154:6,7 188:19 192:17 <b>minute (2)</b> 46:22 148:25 <b>minutes (6)</b> 1:15 17:12 46:7 57:17 104:5 133:17 <b>misconstrued (1)</b> 108:23 <b>misrepresented (1)</b> 179:11 <b>misunderstood (1)</b> 46:20 <b>Mm (13)</b> 61:25 62:4 62:23 65:9 68:5 133:12 159:20 174:8 188:7 196:4 197:16 204:13 206:7 <b>mobile (3)</b> 142:3,4,4 <b>model (5)</b> 39:9 40:5 53:22,23 169:17 169:9,10 <b>moment (19)</b> 1:24 31:15 49:16 55:12 67:20 70:7 90:18 90:20 91:19 97:6 101:25 115:13 168:14 175:6 178:17 185:1 189:20 206:14 207:21 <b>Monday (8)</b> 9:8,9 13:15 14:7,20 117:23,25 118:1 <b>money (58)</b> 19:21 20:21 44:19,22,23 44:25 45:1,1,4,5,7 45:9,11,12,12,13 45:14,15,17,20,21 45:23,24 46:25 47:1,3 48:3,8,23 49:6,7 99:7,8 100:10 101:13 103:11,24,24 106:11,18,22,25 108:14,22 110:1,19 111:18 112:9,18 113:15,16,23,25
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128:23,24 143:17 188:12 197:1 <b>monies (2)</b> 16:4 55:22 <b>month (9)</b> 40:12 60:18 76:18 78:10 81:4 83:8 132:5,7 175:11 <b>monthly (3)</b> 43:6 91:18 187:1 <b>months (19)</b> 20:6 75:18 76:20 77:17 78:15 107:21 115:19 158:15,16 166:12 171:18,20 178:6 179:15,16 180:11 181:15,22 184:7 <b>morning (12)</b> 2:10,23 3:25 106:20 113:14 116:17,18 117:23 146:8,11 160:22 167:6 <b>mornings (2)</b> 67:15 167:6 <b>motivated (3)</b> 22:11 29:16 93:12 <b>motivation (6)</b> 26:13 85:24 94:22 95:17 95:18 96:2 <b>motive (5)</b> 22:21 24:6 24:11,11 29:5 <b>mouth (1)</b> 178:16 <b>move (11)</b> 11:14 13:7 26:4 27:6 74:23 88:16 97:15 101:24 104:6 138:17 184:20 <b>moved (4)</b> 3:13 35:16 35:16 77:16 <b>moves (1)</b> 21:11 <b>moving (3)</b> 77:15 118:23 132:20 <b>mustn't (1)</b> 208:8 <b>mystery (8)</b> 52:7,9,12 53:15,16 54:4 65:11 84:1	190:19 <b>needed (15)</b> 53:7 113:15 115:8 147:4 147:8,15 148:3 149:1 170:16 179:2 189:24 191:21,22 191:22 201:3 <b>needs (1)</b> 115:16 <b>negative (1)</b> 80:21 <b>neither (1)</b> 135:15 <b>net (3)</b> 106:15 114:5,6 <b>never (47)</b> 20:5 43:24 45:7 46:3,9 48:2 51:5,20 52:18 53:12,24 58:21 66:24 69:16 75:3 85:16 89:25 103:19 111:4 113:7 115:4 126:21 130:19 131:19,19 133:22 147:8 157:10,11 159:25 163:9,10 170:11 178:2,5,8,8 178:21 179:11 180:15,16 181:8,11 185:6,6 203:17 205:8 <b>nevertheless (1)</b> 8:2 <b>new (19)</b> 2:5,5,13 42:17 78:2 101:24 114:25 147:7,13 156:22 157:10 170:24 171:12,15 173:9 177:7 181:10 181:11,14 <b>news (2)</b> 46:1,14 <b>night (1)</b> 91:16 <b>nil (1)</b> 107:17 <b>Noel (5)</b> 62:9 63:3,13 147:10 158:25 <b>noises (1)</b> 86:15 <b>normal (11)</b> 89:19 91:4,5 103:2 175:17 187:10,11 187:12,15 188:9,9 <b>normally (1)</b> 161:20 <b>notes (3)</b> 137:20 138:2 138:15 <b>notice (12)</b> 24:8 26:18 26:25 119:25 120:1 142:22 143:8,24 144:21 149:24 150:13 152:11 <b>notices (1)</b> 135:25 <b>notified (1)</b> 52:16 <b>notions (1)</b> 29:20 <b>notwithstanding (1)</b> 28:1 <b>November (10)</b> 21:10 91:22,23,24 92:6,7 104:9 128:14,14 196:17 <b>nowadays (2)</b> 100:16 127:3 <b>no-one (2)</b> 60:21 107:20 <b>NPower (5)</b> 18:8 99:18 103:23 104:13 123:13 <b>nuance (1)</b> 179:8 <b>nuances (2)</b> 29:1,2 <b>number (17)</b> 20:11 23:21 28:22 31:21 31:23 32:4 33:13 33:20 47:22 48:2 62:24 68:1 91:25 92:3,13 151:18 203:21 <b>numbering (3)</b> 57:1,4 57:14	<b>numbers (1)</b> 62:20 <b>nursery (4)</b> 19:11,12 19:13,16  <b>O</b> <b>oath (4)</b> 4:20,21 7:12 7:14 <b>objection (3)</b> 4:12 151:1 152:5 <b>objections (2)</b> 27:16 151:23 <b>objective (3)</b> 63:3 84:13 88:10 <b>objectives (1)</b> 62:21 <b>obligations (7)</b> 5:25 11:15 28:1 38:12 38:18 39:8 49:22 <b>obliged (2)</b> 52:13 55:21 <b>obtain (2)</b> 119:16 120:14 <b>obvious (5)</b> 99:22 108:24 111:7 143:3 178:20 <b>obviously (48)</b> 13:20 14:23 17:6 22:25 25:25 28:13 30:20 38:20 40:10,11 48:6 51:2 53:24 58:1 59:2 63:12 67:9 77:7 84:24 88:7 92:25 95:4 96:5 97:17 108:13 110:24 112:11 116:15 122:12 123:5 125:22 126:5 127:18 128:25 131:15,18 133:20 134:3 137:22 141:10 155:19,20 160:20 162:21 182:15 201:24 203:8 204:5 <b>occasion (3)</b> 11:7 115:23 127:6 <b>occasionally (1)</b> 98:14 <b>occurred (1)</b> 151:13 <b>occurrence (3)</b> 89:19 91:4,5 <b>October (3)</b> 34:1,13 35:11 <b>odd (6)</b> 54:1 57:4 100:20 132:1 167:7 169:8 <b>offer (1)</b> 21:8 <b>offered (2)</b> 23:10 46:15 <b>offering (1)</b> 39:1 <b>office (12)</b> 50:12 76:5 94:4 103:9 125:6 145:2 147:16,23 148:14 187:21 199:25 206:18 <b>officers (1)</b> 159:8 <b>oh (5)</b> 122:7,19 123:16 148:18 155:24 <b>okay (71)</b> 3:21 6:13 31:1,7 37:25 38:12 38:16 39:9 42:20 44:1 46:14,19,23 48:13 53:15 54:10 56:9 60:11 63:17 66:6 72:20 74:4 83:2 88:16 89:3,16 91:6,19 92:12 103:1 104:22 107:20 121:8,21 124:16 129:20 132:15 133:7,25	135:3 139:2 144:13 156:4 160:15 165:15 167:9 169:4 169:24 171:17 173:22 174:3 185:9 186:2,5,13,18 187:15 188:23 195:8,20 196:18 197:10 198:2,4,6 198:17 200:2,8 201:6,20 203:20 <b>old (4)</b> 163:2 166:18 170:22 182:21 <b>OMG (3)</b> 123:16 124:8 124:22 <b>once (3)</b> 141:16 201:6 201:20 <b>ones (3)</b> 19:17 200:23 203:3 <b>one-to-one (2)</b> 167:1 167:1 <b>ongoing (1)</b> 73:10 <b>online (2)</b> 166:24 167:9 <b>onwards (2)</b> 62:19 72:5 <b>OO (21)</b> 66:2,4,7 68:3 68:15 69:3,4,6,11 69:16,19 71:24 72:24 73:12,21,25 74:3,5 80:3,5 84:18 <b>OOs (4)</b> 66:14,19 69:10,22 <b>open (110)</b> 10:7 22:23 23:5 25:5 28:19 38:20 39:18,21,22 39:23 40:3,24 59:25 60:4,17,22 60:24 61:2,3 66:12 66:13,15 67:5,18 67:25 68:11,12,15 70:8,9,10,14,18,20 71:2,8,22,25 72:5,6 72:17,18 73:2,5,7 74:3,5,8 75:11,14 75:16,20 76:14 77:5,6,10,11,14 78:14,19,19,22 79:2,6 80:7,10,14 80:15,18 81:1,1,3,4 81:10,11 82:6,13 82:16,22 83:3,4,5,7 83:17 84:17,22 85:4,14,25 86:17 87:15,17,19 88:3,9 88:11,15 91:13 93:20 94:14 95:6 95:13,22,23 96:11 97:14 104:25 133:2 133:3 162:12 <b>opened (12)</b> 39:20 40:15 66:21 72:9 157:11 162:10 178:2,5,21 179:19 179:21 199:9 <b>opening (30)</b> 15:7,12 16:16 17:14 22:13 22:20 26:3 28:16 28:22,25 39:21 54:1 55:1,1 56:8 60:15 72:21 73:21 74:14,19 78:3,21 82:6 84:24 85:23 86:7 87:12 96:4 97:17 209:4 <b>openings (2)</b> 39:16 56:3 <b>operate (2)</b> 50:25 52:14 <b>operated (4)</b> 44:4,7	48:13,15 <b>operates (1)</b> 25:10 <b>operating (4)</b> 27:13 50:2,3,24 <b>operation (1)</b> 39:11 <b>operational (4)</b> 50:21 61:17,19 62:5 <b>operations (1)</b> 41:15 <b>ophthalmic (1)</b> 66:5 <b>opportunity (2)</b> 17:5 106:23 <b>optical (4)</b> 34:17 35:18 35:20,23 <b>optician (5)</b> 39:23 55:19 66:5,23,24 <b>opticians (5)</b> 40:5,6 50:2 55:2 67:3 <b>option (5)</b> 9:14 11:11 12:15 18:5 21:1 <b>oral (4)</b> 8:3 13:17 14:6 14:7 <b>order (10)</b> 2:3 6:4 12:5 119:15 120:25,25 151:3 174:6 191:20 193:13 <b>orders (1)</b> 19:3 <b>ordinarily (2)</b> 10:24 24:15 <b>originally (1)</b> 161:24 <b>outcome (3)</b> 133:22 133:23 142:11 <b>outside (1)</b> 2:21 <b>overpaid (1)</b> 103:3 <b>overrun (1)</b> 12:11 <b>Overseas (1)</b> 60:16 <b>overview (1)</b> 15:17 <b>overwhelmed (1)</b> 105:4 <b>owned (4)</b> 44:5,7 106:6 188:16 <b>o'clock (14)</b> 1:11,12 2:1,17 3:2,3,7 60:19 102:6,17 115:15 194:20,22 207:23	92:22 93:16,19 96:12 104:7 113:11 113:13 169:3,5 186:15 <b>paragraphs (2)</b> 33:13 186:15 <b>Parham (41)</b> 15:25 16:21 20:10,17 27:14,15 28:2 29:22,23 30:5 32:7 75:7 79:14,19 81:21 90:16 93:14 94:8 96:1 100:8 104:4 106:10 107:22 108:13 111:15 121:9,11 124:18 136:15 139:10 143:10 158:18 168:21 177:1 178:10 180:14 183:19 184:12 189:11 208:8 209:6 <b>Parhams (1)</b> 16:4 <b>par (20)</b> 21:16 55:3 56:2 63:14,16 67:6 67:6 91:2,24 93:1 94:16,17 95:9 96:24,25 98:14 154:9 161:2,11 182:4 <b>participate (2)</b> 55:6 59:5 <b>participated (4)</b> 54:10 54:17 55:8 84:7 <b>participating (1)</b> 84:1 <b>particular (8)</b> 18:24 19:15 27:15 29:5 29:15 46:21 183:4 198:21 <b>particularisation (3)</b> 22:14,15 29:19 <b>particularity (1)</b> 23:3 <b>particulars (3)</b> 21:19 22:17,20 <b>parties (1)</b> 27:9 <b>partner (6)</b> 44:14 51:24 52:3 70:5 191:23 200:12 <b>partners (6)</b> 42:13 127:25 142:23 196:3,9,14 <b>partnership (4)</b> 40:10 40:12,15,16 <b>parts (3)</b> 54:6 148:2 166:16 <b>party (14)</b> 4:18 5:17 11:16 19:4 56:14 58:5,7 63:14,16 93:25 94:2,10 120:14 197:6 <b>pass (2)</b> 119:10 135:25 <b>passed (4)</b> 84:13 102:15 136:2 189:14 <b>path (1)</b> 59:12 <b>patients (1)</b> 34:19 <b>Pause (19)</b> 8:11 31:15 38:15 41:24 42:6 57:8 72:3 75:23 89:14 92:23 93:10 93:15 120:18 124:14,16 153:23 169:19 186:11,17 <b>pay (19)</b> 17:1 18:12 19:4 23:15 42:20 45:25 49:2 98:14 107:10 110:22 143:5,9,10,11,14	143:16 203:6,8,8 <b>payable (1)</b> 206:10 <b>paying (1)</b> 104:2 <b>payment (9)</b> 11:24 42:21 101:6 121:12 129:19 189:8 190:8 190:10 202:8 <b>payments (8)</b> 19:4 49:13 188:17 191:7 192:24 202:16 204:22 205:23 <b>pdf (1)</b> 196:12 <b>PDQ (3)</b> 90:10 110:5,6 <b>PD3 (1)</b> 10:9 <b>pedantic (1)</b> 29:8 <b>pen (1)</b> 48:9 <b>pence (3)</b> 90:10 97:23 97:24 <b>pending (1)</b> 144:8 <b>penny (6)</b> 110:5,6,8,8 110:10,10 <b>people (38)</b> 10:24 27:11,20 35:19,19 50:12 53:6 55:17 55:20 58:17 59:13 61:2 67:2,16,17,22 68:23 72:6 88:9 94:5,5,6,6 95:9,24 96:24,25 98:14 100:16 102:24 117:2 120:3 141:7 142:25 188:10,11 189:5,5 <b>people's (1)</b> 25:5 <b>perceived (1)</b> 27:10 <b>perfectly (4)</b> 71:21,21 102:9 178:25 <b>performance (2)</b> 88:18,21 <b>period (16)</b> 18:11 19:8 19:21 20:18 30:24 34:16 37:17 77:18 77:19 78:10 81:4 81:12 85:6 131:13 143:22 163:13 <b>peripheral (1)</b> 118:12 <b>permission (6)</b> 3:6 7:21,23 9:16 119:17 120:14 <b>person (15)</b> 1:22 31:6 59:24 60:3,20 67:4 85:18,18 118:22 119:3 150:22 189:17 190:5,7 191:10 <b>personal (53)</b> 14:17 18:12,20,23 19:6 19:22 23:15 48:4 89:18,24 90:7,11 91:13 105:20,22 107:12 109:22 121:12 130:23 164:24 165:5,14 180:16 183:21 187:3,6,19 188:6 189:18 190:16,17 190:20 191:15,18 192:10,16,20 193:1 193:3 199:2,11,17 200:15,19 201:1 202:3,9,11,14,17 202:18 203:20 206:12 <b>personally (9)</b> 44:8 47:2,3 48:14 58:4 118:25 119:1,2 207:25 <b>personnel (1)</b> 145:24 <b>persuade (1)</b> 118:16 <b>petition (1)</b> 21:12
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<p><b>petty (5)</b> 19:18,18 135:14 145:17,20 <b>phase (1)</b> 54:19 <b>Philips (1)</b> 175:19 <b>phone (13)</b> 109:2,15 114:19 115:2 116:22 124:13,25 125:10 126:3,14 157:13,20,22 <b>phoned (5)</b> 127:7,13 128:1,3 145:23 <b>phoning (1)</b> 126:16 <b>photo (1)</b> 166:1 <b>photograph (3)</b> 165:25 166:8,10 <b>photos (1)</b> 162:13 <b>physically (6)</b> 41:1,2 52:18 157:18,21 204:6 <b>picked (2)</b> 8:16 20:8 <b>picking (1)</b> 115:22 <b>picture (6)</b> 118:21 173:18,22 174:4 175:14 182:2 <b>pictures (2)</b> 176:6,8 <b>piece (1)</b> 163:3 <b>pieces (1)</b> 16:1 <b>PIN (6)</b> 98:20 105:16 105:23,25 110:2 121:13 <b>pipeline (1)</b> 35:25 <b>place (22)</b> 4:19,25 5:10,14,15,22 7:22 21:1 102:14,17 109:5 115:4,12 118:8 122:18 126:25 129:11 133:7 145:12 148:23 153:3 156:12 <b>placed (1)</b> 199:22 <b>Plainly (1)</b> 14:4 <b>plan (7)</b> 62:12 63:5,18 75:20 76:13 81:3 85:4 <b>planned (1)</b> 63:5 <b>planning (1)</b> 30:3 <b>plans (1)</b> 36:15 <b>PLATO (1)</b> 91:17 <b>plausible (1)</b> 27:5 <b>play (9)</b> 27:15 164:7 174:16,17 176:5,7 178:25 179:13 184:11 <b>played (2)</b> 88:6 175:9 <b>player (84)</b> 18:25 20:3 20:4,12 92:4,6 134:17,22 135:13 146:22 147:25 148:1,7,16,22 149:2 152:21,22 154:23 156:6 157:6 157:14 159:19,24 160:1 162:8,8 163:5,6,7,8,9 164:5 164:6,7 165:23 167:7,19 168:11 169:16,21,21,24 170:5,13,16,22,22 170:23,24 171:1,8 171:11,15,15,17,18 172:1,7,8,13,15 173:5,6,8,10,22 176:23 177:2,3,6,8 178:18,18,22,23 179:9 180:15 181:17 183:12,25 184:2,7,10 <b>players (4)</b> 176:17,20 177:13 184:9</p>	<p><b>plays (2)</b> 148:1 164:6 <b>pleaded (2)</b> 21:12,13 <b>pleading (1)</b> 94:1 <b>please (16)</b> 33:18 38:3 88:17 99:3 101:4 104:22 123:7 137:15 143:8 149:4 159:14 160:25 162:12 166:1 185:2 186:14 <b>plot (12)</b> 22:25 92:19 92:22,24 93:1,5,13 93:23,25 94:3,11 94:17 <b>pm (5)</b> 116:6,8 168:18 168:20 208:13 <b>pocket (1)</b> 45:24 <b>point (66)</b> 5:5 7:15 10:20 13:25 14:18 22:10,13,18,19 23:7 24:17 28:13 31:3 34:6 36:1 40:2 47:7,24 48:12 51:2 51:17 60:1 64:18 65:2 66:1 70:14,16 73:22 77:6 81:1 82:5,7 85:1 87:18 88:8,21 90:21 96:9 104:6,17 107:5 118:9,12 121:23 131:7 136:6 138:11 138:14 139:25 149:21 151:21 152:10 156:18 162:7 164:4 170:12 170:15 175:2 179:5 179:24 190:4 193:5 196:21 201:23 206:23,25 <b>pointed (5)</b> 60:8 99:13 111:22 122:14 143:7 <b>pointing (2)</b> 80:12 99:3 <b>pointless (1)</b> 202:9 <b>points (10)</b> 17:13 24:1 56:7 64:11,16 65:7 68:2 98:6 117:20 138:6 <b>poker (1)</b> 14:15 <b>police (2)</b> 149:7 150:9 <b>policies (1)</b> 109:4 <b>policy (17)</b> 41:20 42:5 42:7 49:12 109:14 115:4 185:4,8,9,14 191:1,14 192:7,8,8 192:13 194:2 <b>pop (2)</b> 7:4 145:24 <b>popped (1)</b> 152:6 <b>pops (3)</b> 7:2 198:10,12 <b>populate (4)</b> 198:11 198:12 200:18 201:16 <b>populating (1)</b> 198:19 <b>port (1)</b> 88:23 <b>portrayed (1)</b> 94:13 <b>position (15)</b> 28:2 72:20 74:16 77:13 79:24 99:14 120:17 152:7 159:23 175:25 181:16 189:1,21 199:3 206:19 <b>possibility (6)</b> 1:12 14:7 116:17 183:9 179:9 180:15 <b>possible (4)</b> 17:9 107:4 168:3 186:20 <b>possibly (6)</b> 2:12 6:15 102:2 122:10 188:9</p>	<p>196:21 <b>post (2)</b> 64:6 127:18 <b>pot (2)</b> 189:10 191:8 <b>potentially (1)</b> 18:16 <b>Potts (112)</b> 3:7 4:2,10 4:16 5:4,8,11,16,18 7:8 9:7 10:13,14 12:9 13:6,11 14:14 14:17 15:5 17:11 17:14,15,17,20 18:8 19:12,15 21:7 21:19,22,24 22:1 24:13,20,23 28:13 28:21 29:21 33:8 33:10,11 43:23 57:7,13,16,21 74:15,24 80:12 84:19 101:23 102:5 102:19,22 104:4 114:23 115:13,25 116:1,10 117:3,16 117:19 118:1 119:20 120:6,20,23 121:6,9 127:11,15 138:4,17,20 139:13 142:5 149:3,8,11 149:15 150:1 151:3 151:5,8,18,21 152:2,9,13,15 165:25 166:4 168:13,15,21 180:18 182:15 183:15,17,19 194:4 194:15,18,21 195:1 195:4 207:20 208:2 209:4,8,10 <b>powered (1)</b> 53:11 <b>practice (6)</b> 4:16 5:9 11:19 35:16 188:9 198:13 <b>pragmatic (1)</b> 119:5 <b>pre (1)</b> 42:18 <b>precaution (1)</b> 8:1 <b>precision (1)</b> 15:3 <b>prefer (1)</b> 102:21 <b>preferable (1)</b> 9:14 <b>preferred (3)</b> 11:1,11 46:16 <b>pregnant (1)</b> 131:7 <b>premises (1)</b> 39:11 <b>prepared (12)</b> 29:17 43:1 49:11 70:19 71:2,8 80:25 88:7 107:24 119:15 136:1 144:5 <b>present (9)</b> 6:16 8:7 67:19 127:23 129:11,13 130:3,4 153:12 <b>presently (1)</b> 13:13 <b>press (1)</b> 2:6 <b>pressure (8)</b> 60:1 79:5 87:13,14 95:24 97:13 159:18 178:17 <b>pressured (4)</b> 60:6 82:5 95:21 141:10 <b>pressurised (2)</b> 72:4 78:18 <b>presumably (1)</b> 120:7 <b>presume (2)</b> 7:22 8:17 <b>pretty (5)</b> 78:11 79:23 118:23 154:5 198:15 <b>prevention (11)</b> 88:14 94:12,16 97:20 109:9 131:16 140:9 147:5 157:8 159:4 159:8 <b>previous (4)</b> 46:7</p>	<p>73:18 156:4 165:18 <b>previously (5)</b> 38:7 65:13 90:2 101:6 102:13 <b>price (1)</b> 22:12 <b>primary (2)</b> 39:10 88:21 <b>principle (2)</b> 4:3 5:21 <b>print (3)</b> 200:14,22,22 <b>print-out (1)</b> 201:6 <b>prior (11)</b> 4:18 36:24 60:18 63:19 66:21 77:7 92:10 112:24 143:16 186:3 201:24 <b>prissy (1)</b> 29:9 <b>private (1)</b> 186:22 <b>probabilities (1)</b> 26:24 <b>probably (15)</b> 12:23 37:23 77:21 118:20 120:23 127:2 129:1 139:11 140:19 146:20 159:12 179:6 180:7 181:3 196:1 <b>problem (16)</b> 14:21,21 56:17 59:7 66:25 82:23 100:5,6,9 120:10,25 121:4 159:5 171:5,19,21 <b>problematic (1)</b> 117:22 <b>problems (4)</b> 10:17 23:4 118:14 131:24 <b>procedure (12)</b> 101:3 101:5,5 109:4 114:25 115:4 122:17,25 123:24 126:10,12 195:9 <b>procedures (8)</b> 47:8 51:1 52:7,8,9 99:24 115:12 126:25 <b>proceeded (1)</b> 27:25 <b>proceedings (6)</b> 1:3 20:22,23,24 51:20 92:15 <b>process (24)</b> 73:10 97:22 99:23 109:19 122:16,16,17 126:9 126:22,23,24 134:11 155:2 185:17 188:24 190:22 192:17 200:9 201:21 203:1 203:6 205:7,16,18 <b>processed (4)</b> 90:4 98:20 100:11 207:17 <b>processes (2)</b> 99:24 207:16 <b>processing (2)</b> 184:22 185:15 <b>produce (1)</b> 1:8 <b>produced (2)</b> 149:12 164:2 <b>Product (2)</b> 64:19,22 <b>production (1)</b> 186:9 <b>products (2)</b> 19:6,9 <b>professional (1)</b> 33:19 <b>profit (3)</b> 29:17 54:4 54:16 <b>profits (30)</b> 41:8 42:4 42:19,20,23,24,25 43:10 44:21 47:13 47:15,16,17,20 49:8,10 54:7 103:4 103:6,14 106:4,5,8 106:15 107:5 110:16 113:22 114:5,7 173:10</p>	<p><b>progressing (1)</b> 175:3 <b>project (1)</b> 33:24 <b>prominence (1)</b> 118:10 <b>promise (1)</b> 11:10 <b>promote (1)</b> 49:22 <b>promoting (2)</b> 50:3,6 <b>proper (1)</b> 16:2 <b>properly (12)</b> 26:14 42:25 47:17 49:11 107:24 117:21 190:12,13,14,25 191:21 192:12 <b>proportionate (1)</b> 3:11 <b>proposal (1)</b> 63:21 <b>proposals (1)</b> 79:4 <b>propose (1)</b> 2:8 <b>proposed (3)</b> 2:17 6:1 58:21 <b>proposition (1)</b> 29:11 <b>prospects (1)</b> 194:13 <b>protagonists (1)</b> 25:13 <b>protecting (1)</b> 141:3 <b>prove (1)</b> 147:4 <b>proved (1)</b> 96:6 <b>provide (8)</b> 42:2 72:24 97:14 186:19 191:22 193:15,20 199:20 <b>provided (9)</b> 6:11 9:19 10:19 22:20 25:21 150:25 187:2,5 192:12 <b>provides (1)</b> 195:8 <b>provisions (1)</b> 42:8 <b>PSA (2)</b> 107:13 109:23 <b>punch (1)</b> 145:10 <b>punish (1)</b> 29:17 <b>purchase (6)</b> 20:19 148:25 156:6 168:23 171:18 177:20 <b>purchased (5)</b> 158:15 158:17 159:21 163:16,21 <b>purchases (1)</b> 134:24 <b>pure (1)</b> 25:19 <b>purely (1)</b> 14:17 <b>purpose (7)</b> 177:1 180:16 189:3,12,25 190:2 192:7 <b>purposes (1)</b> 197:3 <b>pursed (1)</b> 19:12 <b>pursuing (1)</b> 84:21 <b>pursuit (1)</b> 93:24 <b>put (114)</b> 4:18 5:9,14 8:22 11:10,14 15:15 16:9,11 28:20 31:2 45:23 49:13,14,15 56:9 66:10 70:12 71:5 74:1,16 76:2 79:11 82:9 83:16 86:15 91:11,11 95:23 96:1 98:4 100:8 101:9,11 103:12,21 105:20 107:7,19 110:4 111:7,15 112:2,15 114:17 118:8,17 127:9 128:11 136:15 137:4,5 140:2 146:23,24,25 147:11,15,16,17,19 147:20,21,22 151:5 152:20,23 154:8,18 155:3,8,10 156:17 157:3 159:14,15 163:12 164:20 165:4,5,7,11,12,14</p>	<p>165:14 173:6 177:19 178:13 179:7,7,25 180:6 180:11,14 181:10 181:17 184:12 189:20 191:11 193:13,14 196:13 196:14 200:1 201:23 202:14 203:20,25 205:4,12 205:23,24 207:3,12 <b>putting (15)</b> 19:2 54:9 103:19 104:3 110:8 110:10 130:24 147:3 151:15 164:17 178:9,15 192:9 193:18 205:6 <b>P11 (1)</b> 199:1 <b>P11D (11)</b> 107:11 109:22 136:5 186:23 199:8,9,11 199:21 200:1 205:4 205:12</p>	<p><b>Q</b> <b>quality (4)</b> 64:19,23 64:24 118:7 <b>quarter (2)</b> 102:20 208:6 <b>queried (1)</b> 101:6 <b>question (16)</b> 15:6 28:24 40:2 46:20 48:20 71:7,9 75:7 80:23 81:7 90:5 93:10 124:16 153:20 161:14 170:1 <b>questionable (4)</b> 89:17 90:3 92:1,13 <b>questions (3)</b> 33:9 183:17 184:21 <b>quick (5)</b> 2:22 12:7 38:14 149:23 190:19 <b>quicker (3)</b> 15:2 202:12 207:13 <b>quickly (1)</b> 207:10 <b>quid (1)</b> 171:14 <b>quite (64)</b> 5:11 15:23 16:7 17:24 23:2 24:5 25:18 38:20 39:14 40:11 47:5 56:6,25 57:13 61:21 65:16 67:1,1 67:23 85:22 91:9 91:13 94:25 97:22 97:22,24 98:9 99:2 99:22,25 100:1,2 100:18,25 101:2 103:21 108:11,19 108:21,24 109:24 114:15 118:24 122:14 125:24 136:9,10,23 141:8 143:3 149:25 154:6 154:17,25 157:24 162:4,22 167:16 173:4,9 174:22 178:6,20 197:12</p>	<p><b>R</b> <b>RAG (1)</b> 132:2 <b>Raines (6)</b> 95:5,16,22 97:1,2,4 <b>raise (2)</b> 17:13 138:12 <b>raised (6)</b> 68:1 86:21 99:2 104:8 121:22 152:6 <b>Rajan (26)</b> 31:2,13 32:1 60:3,3 61:24 75:6,11,14 76:17 78:10 81:6,23 86:24 87:6 88:16 88:18 89:4,8,21 96:5,13,15,25 112:14 113:4 <b>Rajan's (1)</b> 89:5 <b>ramped (1)</b> 60:1 <b>ramping (1)</b> 97:13 <b>rang (4)</b> 124:1 125:8 127:19 130:1 <b>ranged (1)</b> 29:18 <b>rarely (3)</b> 53:14 98:15 100:14 <b>RC (1)</b> 58:17 <b>RCM (5)</b> 75:24,25 76:7 77:4,6 <b>RCMs (1)</b> 83:10 <b>RDM (1)</b> 31:3 <b>reached (5)</b> 24:7 26:20,22 27:1,3 <b>reacting (1)</b> 96:14 <b>reacts (1)</b> 7:9 <b>read (15)</b> 10:9 14:5,10 15:10 16:16 17:5 17:17 31:5 38:14 89:12 124:14 139:6 150:5,15 186:15 <b>reading (3)</b> 13:16,23 187:5 <b>ready (2)</b> 88:6 116:16 <b>real (1)</b> 23:9 <b>realise (1)</b> 102:14 <b>realised (1)</b> 3:23 <b>realistic (1)</b> 13:18 <b>reality (13)</b> 126:18 130:16,20 140:14 158:5,9,14,18 177:1 180:14,18 190:23 191:3 <b>really (19)</b> 2:15 4:4 14:2 38:23 39:2,20 43:25 46:8 51:5 66:11 82:4 125:24 134:10 142:18 143:3 144:3 167:5 167:6 177:9 <b>reason (37)</b> 44:19 53:5 60:22 70:22,23 72:9 73:4 75:13 77:3 82:19,21 83:20 86:17 90:13 109:15 111:14 112:13 114:24 122:10 131:14 146:24 169:20 170:4 172:12 174:3 176:15 184:4 189:11,12 193:18 199:23 205:25 <b>reasonable (3)</b> 12:2 19:14 147:2 <b>reasonably (1)</b> 194:23 <b>reasoning (1)</b> 182:9 <b>reasons (7)</b> 69:21 70:20 71:3,9,20 90:19 153:10 <b>reassurance (1)</b> 141:23 <b>rebate (14)</b> 103:2,12 104:1,13 105:8 109:9 113:16 114:18 115:9 126:12 127:9,20,22 127:24 <b>rebuttal (1)</b> 147:3 <b>recall (17)</b> 11:12 121:17,18 125:7,13 125:15,15,19,25 126:16 129:17,17</p>
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135:10,17,21 153:14 195:12 <b>recalls (1)</b> 114:14 <b>receipt (19)</b> 163:21 165:22 191:22 192:12 193:15,21 199:8,16,18,24,25 200:3 203:4,25 205:3,6,9,14,20 <b>receipts (6)</b> 186:10,19 187:9 191:11 199:20 203:23 <b>receive (12)</b> 14:3 42:9 47:13,22 50:19 51:21 54:6 74:24 87:4 110:22 143:17 203:4 <b>received (14)</b> 41:21 50:20 109:7 110:19 110:21 131:19 132:20 180:1,10 182:2 197:23 199:25 205:8,14 <b>receiving (1)</b> 143:14 <b>recollect (1)</b> 130:14 <b>recollection (3)</b> 124:18 130:13 196:2 <b>reconciliation (9)</b> 98:4 98:6 99:3,5 103:23 108:20 131:17,20 131:21 <b>reconsider (1)</b> 21:8 <b>reconvene (1)</b> 208:12 <b>record (5)</b> 136:21,22 150:11 160:25 200:17 <b>recording (1)</b> 7:19 <b>records (1)</b> 201:3 <b>recruit (14)</b> 66:2,7,9 68:3 69:24 71:24 72:24 73:3,9,11,12 73:21,22,23 <b>recruited (2)</b> 69:11,12 <b>recruiting (2)</b> 69:10 73:4 <b>red (1)</b> 132:4 <b>refer (4)</b> 41:20 92:22 168:22 169:5 <b>reference (9)</b> 24:16 29:13 48:2,12 63:23,24 115:9 137:16 195:14 <b>referred (13)</b> 6:15 41:24 61:7 63:6 64:8 88:17 114:12 150:12 151:24 152:3,4 163:8 169:13 <b>referring (3)</b> 41:23 57:25 89:16 <b>refers (1)</b> 162:1 <b>Refining (1)</b> 64:22 <b>refit (4)</b> 46:4,5 173:14 175:5 <b>refresh (1)</b> 15:8 <b>refund (9)</b> 93:9 98:19 99:16 100:10 101:14 105:16,19 112:5 131:12 <b>refunded (2)</b> 89:18,23 <b>refunds (3)</b> 100:17,17 131:12 <b>refurbishment (1)</b> 55:22 <b>refusal (3)</b> 22:23 84:22 93:20 <b>refuse (1)</b> 88:9 <b>refused (2)</b> 11:3 82:22 <b>refusing (3)</b> 94:14	95:6,13 <b>regard (1)</b> 184:16 <b>regarding (4)</b> 46:2 125:12 131:4 185:7 <b>regards (1)</b> 28:2 <b>region (1)</b> 59:25 <b>regional (7)</b> 58:11,12 58:17 59:23 61:9 75:8 76:8 <b>regular (2)</b> 64:20 65:3 <b>reinstatement (1)</b> 20:17 <b>reiterate (1)</b> 190:4 <b>reiterating (1)</b> 82:8 <b>reject (3)</b> 201:13,18 207:18 <b>rejected (2)</b> 205:22,23 <b>related (3)</b> 46:18 145:17 197:5 <b>relates (1)</b> 33:15 <b>relating (4)</b> 33:2 92:25 97:10 203:5 <b>relation (37)</b> 4:19 12:18 15:6,7 19:16 23:14 25:9 26:12 33:11 40:18 48:17 48:22 58:4,22 71:17 89:21 92:3 92:21 93:12,24 96:13 101:23 109:14,16 110:18 114:18 131:5 132:18 138:9 141:25 149:8 184:13 192:25,25 195:10 202:17,19 <b>relationship (3)</b> 53:19 53:23 83:23 <b>Relatively (1)</b> 133:17 <b>relax (1)</b> 15:8 <b>relevant (5)</b> 7:16 14:18 18:1 27:3 29:12 <b>relied (1)</b> 190:24 <b>relies (1)</b> 193:19 <b>religious (10)</b> 7:16 27:15 28:1 61:1 67:9,23 70:20 71:3 71:9,20 <b>reluctance (2)</b> 82:12 117:19 <b>reluctant (1)</b> 10:14 <b>reluctantly (1)</b> 12:23 <b>rely (6)</b> 149:18 150:21 150:21 193:21 207:2,6 <b>relying (1)</b> 149:14 <b>remarkably (1)</b> 136:17 <b>remember (58)</b> 2:24 31:2 36:17 56:15 56:16 63:11,12 71:15,16,16,17,19 80:7 119:24 121:19 121:25 124:12,21 125:2,3,3 126:4 130:8,9,13 132:23 134:2,3,8 135:2,4,8 135:11,17,20,22 141:17 144:1 153:17,23 154:1,3 156:1,3 165:7,12 167:13 173:1 175:8 195:15,17,23,24 196:21 197:20 198:3 199:4,9 <b>remind (1)</b> 16:10 <b>remote (7)</b> 6:17,22 8:9 97:20 130:17 131:1 178:3 <b>repeat (2)</b> 18:2 193:8	<b>repetition (1)</b> 17:8 <b>rephrase (1)</b> 93:10 <b>replace (1)</b> 177:14 <b>replaced (1)</b> 51:18 <b>reply (1)</b> 22:9 <b>replying (1)</b> 32:17 <b>report (12)</b> 62:2,15,19 62:20 91:18 96:14 98:5,6 99:3,5 103:24 108:21 <b>reported (1)</b> 89:8 <b>reports (5)</b> 43:7 107:23 125:14 131:18,21 <b>representation (1)</b> 181:20 <b>representations (3)</b> 2:9 18:22 19:22 <b>represented (1)</b> 18:13 <b>representing (1)</b> 23:16 <b>request (4)</b> 3:17 21:7 102:9 119:17 <b>requested (2)</b> 20:21 145:5 <b>requesting (1)</b> 4:17 <b>requests (2)</b> 49:13,14 <b>require (3)</b> 12:13 70:7 70:8 <b>required (10)</b> 5:15 7:25 28:23 49:1 51:1 53:13 66:16 68:7,16 188:4 <b>requirements (2)</b> 40:20 84:7 <b>requires (4)</b> 4:17 24:24 119:14,16 <b>requiring (1)</b> 28:15 <b>resident (1)</b> 4:24 <b>resign (1)</b> 20:14 <b>resignation (1)</b> 20:14 <b>resigned (1)</b> 23:20 <b>resolution (8)</b> 58:21 173:25 174:1,4,12 174:14,15,25 <b>resolve (1)</b> 142:14 <b>resolved (1)</b> 123:5 <b>resort (1)</b> 8:17 <b>respect (3)</b> 11:15 42:1 150:25 <b>respectfully (2)</b> 27:13 138:11 <b>responds (1)</b> 140:3 <b>response (7)</b> 24:24 25:24 26:7 28:8 96:16 139:18 140:5 <b>responsibility (1)</b> 39:10 <b>responsible (2)</b> 35:1 43:3 <b>rest (9)</b> 39:20 62:3 65:16 89:25 95:20 153:15 156:16 190:21 197:12 <b>result (1)</b> 129:5 <b>resulting (1)</b> 64:7 <b>resumes (1)</b> 116:10 <b>retail (16)</b> 31:25 34:3 34:4,11,13,22 35:12 37:2,12,13 37:15 62:5 63:23 63:25 88:18 105:17 <b>retain (2)</b> 54:25 55:2 <b>retaining (1)</b> 54:24 <b>retrofit (2)</b> 148:4 171:13 <b>retrospectively (1)</b> 158:21 <b>return (2)</b> 55:15 118:16 <b>revert (1)</b> 8:6	<b>review (3)</b> 13:20,24 15:5 <b>re-do (1)</b> 117:14 <b>re-run (1)</b> 194:9 <b>re-taped (1)</b> 180:3 <b>rid (1)</b> 82:12 <b>right (104)</b> 1:16 5:6,11 6:1,6,21,23 7:3,7 7:17 8:20,23 13:25 24:25 25:15 28:10 33:5,14 34:25 36:14 37:12 38:8 38:19 40:17 41:19 41:24 42:5 43:11 44:16 47:9,22 48:15,25 51:15 52:24 54:24 56:4 57:13 58:13 60:1,3 61:23 75:12 86:4 88:19 89:6 102:11 102:18 105:10 109:19,20 111:5 113:18 116:20 120:4,22,23 121:19 122:7,9 124:20 125:17 128:18 130:6 132:18 133:19 135:23 138:13,24 139:4 141:14 143:11 144:10 145:6,13,25 146:9,12,19 147:14 151:17 152:17 155:17 156:13,14 161:21 162:2 164:25 168:16 169:19 172:3,15 173:19 177:17 179:4 185:4,13,21 193:7 194:16 195:23 198:22 200:9 201:22 <b>rightly (1)</b> 41:20 <b>ring (4)</b> 100:22 123:1 123:24 125:8 <b>ringing (1)</b> 125:3 <b>riposte (2)</b> 25:24,24 <b>risk (1)</b> 2:4 <b>Riyaz (5)</b> 31:2,13 32:1 75:6,14 <b>road (5)</b> 69:18 155:15 163:18 173:14 177:9 <b>robust (2)</b> 206:16,17 <b>role (2)</b> 161:3,12 <b>room (13)</b> 65:14,15 112:25 123:21 146:23 147:17,19 159:15 162:24 166:8 167:13 168:7 188:21 <b>roughly (2)</b> 36:2 206:6 <b>round (10)</b> 122:3 129:1 145:11 146:6 178:8,9 181:8,11 196:1 204:19 <b>row (1)</b> 157:20 <b>Rowe (8)</b> 61:24 76:23 86:24 89:5,5,8 96:9 96:25 <b>RPC (1)</b> 65:8 <b>RST (5)</b> 95:21 96:20,21 96:22,22 <b>rules (4)</b> 7:5 119:24 120:5 150:6 <b>run (9)</b> 37:4 40:4,6 41:14 50:13,24 57:10 61:18 82:25 <b>running (9)</b> 38:13 40:19 53:25 82:20	82:23 84:23 87:22 110:9 191:4 <b>ruse (12)</b> 66:15 68:2 69:14,21,23 70:11 73:6,19 74:2,12,22 86:10 <hr/> <b>S</b> <b>S (1)</b> 123:13 <b>safer (1)</b> 155:2 <b>sake (1)</b> 199:24 <b>salaries (1)</b> 12:20 <b>salary (1)</b> 50:18 <b>sale (5)</b> 163:19 172:9 172:10 173:13 180:5 <b>sales (1)</b> 41:25 <b>sanctioned (2)</b> 42:14 70:24 <b>sat (1)</b> 179:14 <b>satisfactory (1)</b> 117:7 <b>satisfied (1)</b> 6:5 <b>Saturday (7)</b> 14:9 60:19 66:22,23 160:22 167:5,6 <b>Saturdays (2)</b> 39:23 69:16 <b>Save (3)</b> 54:13,14,15 <b>saved (1)</b> 52:3 <b>saving (1)</b> 30:20 <b>saw (4)</b> 1:25 113:23 114:3 131:23 <b>saying (80)</b> 1:10 16:15 29:14 45:16,22,23 47:12 52:19 56:21 67:21 69:14,17 70:2,22 71:19,23 73:2,10 74:1,17 76:25 79:1,13 81:2 83:4 90:22 93:11 94:9,17 95:11 96:9 97:11 103:6 104:18 108:18 109:25 110:15 111:24 112:8 113:14 116:24 118:17 121:17 122:2 124:24 125:7 126:7 135:8,17,19,19,22 136:25 147:12 151:5 153:3,16,17 153:18 154:3,20 155:5 165:8 168:2 168:3,3,5,10 172:12 176:20 180:8 189:18 193:10 195:6,11,17 202:20 205:15 206:25 207:1 <b>says (38)</b> 17:20 62:5 63:2,5 64:19,23 66:1 69:2 73:8 75:19,24 76:13 83:6 91:1 119:16 121:21 123:13 132:3 133:13 144:25 145:10,16 146:15 147:18 159:16 161:2,11 164:15 169:5 170:23 172:5 184:2 187:11,14 189:13 192:23 196:19 201:15 <b>scam (1)</b> 18:11 <b>scanned (1)</b> 201:4 <b>SCART (1)</b> 167:21 <b>scheme (1)</b> 54:16 <b>school (1)</b> 42:16 <b>screen (1)</b> 167:16	<b>scruples (1)</b> 28:1 <b>sealed (2)</b> 154:16,17 <b>second (15)</b> 12:4 19:2 23:7 32:8,17 63:25 66:22 91:1 141:18 141:18 145:10 146:4,6 156:16 189:25 <b>secondly (6)</b> 18:25 123:16 179:12 191:1 203:14 207:6 <b>secretly (1)</b> 182:6 <b>section (8)</b> 17:22,23 <b>salary (1)</b> 50:18 18:3 62:20 64:5,12 64:12 186:14 <b>see (82)</b> 2:23 7:6,9 11:18 13:13 14:14 14:24 21:5 24:12 28:3,3 31:8,10 32:8 32:15 33:3 46:13 46:17 58:6 59:1 61:23 62:1,22,25 63:13,14,24 64:8 64:10,12,25 65:8 67:4,12 76:3,7,13 76:15,20 88:16 106:12 114:2 129:18 133:9 139:9 141:14,19,22 146:4 147:8 150:14 153:3 154:15,17 156:18 156:20,21,21,21 157:19,21,23 158:3 158:4,25 161:15 169:7 174:12,15 186:7 195:6,10,11 195:17,18 196:19 196:19 204:2,4 206:15 207:11,20 <b>seeing (7)</b> 67:3 111:23 195:12,15 197:20 198:3 204:9 <b>seek (1)</b> 120:2 <b>seeking (4)</b> 22:6 153:10,21 158:9 <b>seeks (1)</b> 20:17 <b>seen (26)</b> 12:11 46:14 97:21 99:6,14 100:9 111:21,21 112:23,24 113:1,6 116:4 117:5 123:9 156:7,10 157:8,8 157:10 165:13 185:6 195:19 196:5 196:6 197:22 <b>sees (1)</b> 25:25 <b>select (1)</b> 198:21 <b>sell (6)</b> 20:15,20 23:22 40:4,6,8 <b>selling (1)</b> 177:12 <b>semantics (2)</b> 74:10 74:13 <b>send (6)</b> 148:17 153:11,22 160:19 191:12 203:23 <b>sends (1)</b> 201:8 <b>sense (6)</b> 5:4 14:21 24:19,25 25:15 182:12 <b>sensible (1)</b> 119:6 <b>sent (15)</b> 3:4 51:25 76:24 138:22 146:7 148:13 162:5 176:13,24 187:21 199:24 200:11 201:16 202:25 203:11 <b>separate (11)</b> 25:16 25:16,17 26:12 56:7 178:4 188:10	188:11 189:5,5 193:11 <b>separated (1)</b> 191:18 <b>separately (3)</b> 25:1 109:11 186:22 <b>September (8)</b> 31:14 56:3 61:11 79:25 84:16 86:6,7,19 <b>serious (1)</b> 130:17 <b>server (1)</b> 91:17 <b>service (3)</b> 24:8 26:25 49:20 <b>services (3)</b> 19:5 25:21 33:21 <b>session (2)</b> 69:13 160:11 <b>sessions (1)</b> 63:4 <b>set (7)</b> 17:24,25 38:12 42:5 43:13 48:7 55:22 <b>sets (1)</b> 64:7 <b>setting (1)</b> 19:3 <b>seven (4)</b> 46:7 66:17 68:7 120:15 <b>Shakila (8)</b> 46:11 67:14 139:20 164:15 188:16,20 190:19 200:24 <b>sham (1)</b> 88:12 <b>shamed (2)</b> 59:23 77:5 <b>shaming (1)</b> 79:15 <b>share (2)</b> 42:4 54:16 <b>shareholder (5)</b> 34:8 42:9 44:11,12 142:20 <b>shareholders (10)</b> 38:2 41:5,5,7,12 49:4 50:15 52:14 55:21 108:1 <b>shareholding (1)</b> 22:7 <b>shares (10)</b> 20:15,19 22:12 23:8,10,10 23:13,22 25:5 84:21 <b>sharing (1)</b> 54:5 <b>shed (3)</b> 166:14,15,15 <b>shelf (1)</b> 180:6 <b>shift (1)</b> 2:15 <b>shock (1)</b> 153:9 <b>shop (27)</b> 46:4,5 70:8 118:23 122:11 135:1 146:24,25 147:10,11,11,15,21 147:22 148:5 152:23 154:8,19 155:4,8,10,11 157:2 179:18 181:14 188:20 191:3 <b>shopper (8)</b> 52:7,9,12 53:16,16 54:4 65:11 84:1 <b>shops (8)</b> 27:12 39:15 55:1 56:20 61:2,3,5 72:18 <b>short (17)</b> 8:5 11:3,4 12:5 16:22 18:9 32:7,24 57:19 116:7 118:9 119:9 121:11 133:16 154:6 168:19 208:4 <b>shorthand (1)</b> 199:11 <b>shortly (2)</b> 12:25 78:15 <b>shot (1)</b> 151:2 <b>show (9)</b> 6:4 72:13 88:7 92:20 101:15 147:13,23 183:13 202:13 <b>showed (2)</b> 48:22
--	---	---	--	--	--	--

185:6	38:7	72:13,17 76:5	32:8,13,18,24 33:6	167:13 168:7	205:20	42:2
<b>showing (3)</b> 2:12	<b>solely (1)</b> 19:19	78:20,24 79:9 80:1	33:12,12,13,18	169:14,19,22 170:3	<b>subjected (4)</b> 103:7	<b>suppose (3)</b> 10:6
127:19 176:8	<b>solicitor (2)</b> 121:2	80:16 81:8,13	48:17 79:14 81:15	170:14,17,24 171:2	107:6 140:12,13	26:18 102:19
<b>shown (9)</b> 3:24 42:25	153:21	82:11 83:24 84:16	81:16,25 82:8	171:12,17 172:11	<b>submission (5)</b> 3:10	<b>supposed (5)</b> 40:13
47:17 53:11 95:24	<b>solicitors (3)</b> 6:9	84:20 86:16 87:11	83:19 86:22 90:12	172:15 173:10	26:19 205:20	128:9,9 129:2
109:6 112:11	119:14 153:11	93:1,5,11,20,23,25	92:17,18 96:12	174:25 175:1,18,23	206:21,22	142:11
119:21 177:23	<b>somebody (7)</b> 66:9	94:2,4,10 96:3	99:20 104:8,25	176:1 177:4,15	<b>submissions (14)</b> 4:6	<b>supposing (1)</b> 24:8
<b>shows (3)</b> 101:15	69:24 100:11	101:6 103:5,8	113:10,13 138:7	178:9,25 179:3,13	9:13 13:17,19,22	<b>sure (26)</b> 3:13 7:18
141:8 179:20	115:19,21 116:2	106:9 107:12 108:8	144:23 146:15	179:15,17 180:4,11	14:3,6,7,8 17:14	11:22 31:10 39:14
<b>side (21)</b> 1:7 10:8	189:24	109:21 111:1 112:2	149:19 150:7,15,19	180:15,16,19	26:5 207:3 209:4,5	47:5 48:17 56:6
12:12 14:2 15:1	<b>Somerfield (1)</b> 61:4	113:16 114:4 132:6	150:25 153:24,25	181:21,22,24,24	<b>submit (2)</b> 26:16	59:3 61:18 79:23
25:7,13 34:11,17	<b>somewhat (1)</b> 138:5	143:4 160:20 162:6	155:18 168:22	182:6,12 183:21	195:22	91:9 110:9 113:1
34:22 37:7 50:21	<b>soon (2)</b> 65:20 139:20	164:2 167:10	169:3 170:4,9	184:10,15 188:15	<b>submitted (4)</b> 165:4	115:20 121:3
61:17 82:24,24	<b>sooner (1)</b> 77:1	173:12 175:4 183:6	172:3,18,23,24	188:16 189:15,22	202:23 203:14	124:15 125:7 129:7
114:4 118:3 120:2	<b>sophisticated (1)</b>	185:6 188:1 189:21	179:5 185:3 187:1	189:24 190:23	204:11	137:25 151:3 154:5
120:19 139:16	169:11	190:12,23 193:19	<b>statements (19)</b> 15:7	191:3 193:19	<b>submitting (1)</b> 205:6	162:5 178:1 194:8
185:25	<b>sorry (60)</b> 30:2 31:21	197:6 200:8 201:5	17:6 22:22 30:21	198:14 206:19	<b>subparagraph (1)</b>	198:15
<b>sides (1)</b> 61:19	36:21 46:11,20	201:21 203:1 205:1	32:5 43:4 48:19,21	<b>stored (2)</b> 175:15,17	168:25	<b>surely (6)</b> 40:23
<b>sight (1)</b> 169:6	48:20 57:2,7,16	206:17 207:16	80:9 83:14,14	<b>stores (16)</b> 25:16	<b>subject (3)</b> 91:6	109:15 171:13
<b>sign (2)</b> 179:22,25	68:1 70:8 71:16	<b>spending (1)</b> 188:5	141:9,9 149:6,12	40:24 48:16 49:23	91:24 127:6	177:22 178:4
<b>signatory (1)</b> 188:1	73:16,17 75:1,10	<b>spends (1)</b> 189:6	149:17,24 152:4	55:6 58:11,12 59:4	<b>subsequently (2)</b> 2:1	189:11
<b>signature (3)</b> 33:5,7	75:22,23 82:5	<b>spent (8)</b> 46:5 62:2	185:22	83:9 84:22 94:23	129:3	<b>surprise (2)</b> 9:25
105:12	86:19,19 87:1 89:7	171:13 187:18	<b>statement's (1)</b>	97:16,19,21 176:16	<b>substitute (1)</b> 10:24	133:20
<b>signed (16)</b> 20:14	92:9 93:18 113:4	192:1,2,3 197:1	159:17	206:5	<b>successful (1)</b> 119:1	<b>surprised (3)</b> 140:6,24
30:15 32:11,22	113:12 120:5 121:7	<b>split (1)</b> 190:19	<b>states (3)</b> 133:21	<b>store's (6)</b> 44:17 45:11	<b>suddenly (1)</b> 136:14	140:25
38:17 58:2 73:24	123:20 124:14	<b>spoilt (1)</b> 163:1	142:6,21	169:16 170:7,21	<b>sufficient (2)</b> 187:2,5	<b>surprising (1)</b> 159:25
107:9,9,11,13	130:25 138:21	<b>spoke (6)</b> 46:11 67:20	<b>stating (3)</b> 74:7 76:24	173:5	<b>suggest (2)</b> 78:25	<b>surprisingly (1)</b> 19:19
109:22,23 187:9,10	139:13 148:21	132:8 141:19	86:24	<b>story (4)</b> 96:14 112:13	81:16	<b>surreptitiously (1)</b> 159:1
193:24	149:17 157:2 161:7	152:20 159:5	<b>status (1)</b> 149:6	113:3 178:11	<b>suggested (5)</b> 42:13	<b>surreptitiously (1)</b>
<b>significant (1)</b> 62:16	161:13 162:14	<b>spoken (1)</b> 67:19	<b>statutory (2)</b> 27:18,19	<b>straight (12)</b> 45:4,7,9	62:21,25 64:11	158:6
<b>signing (1)</b> 205:2	164:25 166:3,4	<b>squashed (1)</b> 176:12	<b>stay (3)</b> 69:16 81:3	45:20 103:13,14	150:11	<b>Susannah (1)</b> 78:2
<b>signs (3)</b> 2:13 177:23	168:24 169:23	<b>squeeze (1)</b> 28:17	118:25	108:4,6 114:5	<b>suggesting (6)</b> 4:5	<b>suspect (2)</b> 16:17
177:24	170:1 182:2 185:2	<b>squeezes (2)</b> 28:19	<b>stealing (1)</b> 16:5	131:22 159:13	77:13 78:13 97:8,9	117:14
<b>similar (5)</b> 22:10 24:18	187:4,15 193:4	118:17	<b>steam (1)</b> 155:20	163:15	206:9	<b>suspend (4)</b> 85:24
109:10 195:8,13	194:3,5,6 196:10	<b>staff (41)</b> 12:19,20	<b>steeled (1)</b> 102:7	<b>straightaway (3)</b>	<b>suggests (2)</b> 73:9	86:17 133:23 136:3
<b>simpler (1)</b> 117:23	197:13,18 199:12	46:15,15 54:24,25	<b>step (1)</b> 200:10	132:25 125:1	189:1	<b>suspended (11)</b> 20:1
<b>simply (1)</b> 118:17	200:9,17	55:2,10,11,15 90:2	<b>steps (2)</b> 28:18 64:6	133:24	<b>suit (1)</b> 195:2	85:8,17 88:4
<b>single (4)</b> 179:8	<b>sort (24)</b> 4:13,14,22	113:5,7 116:14	<b>stern (1)</b> 2:2	<b>straightforward (4)</b>	<b>suitable (2)</b> 3:20	133:18 134:1 137:8
188:15,16 191:10	5:25 6:25 16:12	131:15 134:2	<b>sticker (1)</b> 180:6	18:10 114:22	182:12	139:21 140:14
<b>sit (2)</b> 102:3 116:3	21:15 24:18 25:4	135:16 140:1,11,16	<b>stock (3)</b> 146:23	157:12 189:12	<b>summary (2)</b> 18:6	144:8 145:14
<b>site (5)</b> 6:17,22 8:9	25:19 27:12 28:10	140:18 141:4 142:9	147:19 166:8	<b>street (3)</b> 39:21,21	64:7	<b>suspending (1)</b> 87:16
53:12,13	29:9 36:3 41:19	142:25 143:25	<b>stood (3)</b> 126:23	61:6	<b>summons (5)</b> 119:17	<b>suspension (19)</b> 23:7
<b>sites (2)</b> 53:6,8	46:7 87:18,20 95:1	148:3,8 154:12,13	136:11 146:16	<b>stressful (1)</b> 125:24	119:18 120:2,3,15	92:10 96:3 134:11
<b>sits (2)</b> 115:19,21	95:3 117:8 118:22	154:14 156:11,11	<b>stop (11)</b> 2:8,11,13	<b>strict (2)</b> 4:13,14	<b>summons (1)</b>	135:25 137:9
<b>sitting (1)</b> 194:6	123:2 200:2	156:13,25 159:23	15:12 55:3,5 85:6	<b>structure (1)</b> 44:1	119:15	138:22 142:8,15,18
<b>situation (6)</b> 60:6	<b>sought (3)</b> 3:6 12:16	160:18 161:5,18	87:23 102:14,19	<b>Stuart (93)</b> 1:6,18 2:19	<b>Sunday (81)</b> 23:1,6	142:22 143:7,20,21
66:24 70:17 104:19	22:4	163:7 167:2 182:7	146:8	2:23 3:1,17,22 4:1	25:4,6,11 27:7,11	143:24 144:21
112:20 127:1	<b>sound (3)</b> 29:8 52:22	<b>staff's (3)</b> 170:22	<b>stopped (3)</b> 51:17	5:3 6:3,8,14,19,22	27:21,25 28:16,24	145:7 182:7
<b>situations (1)</b> 140:10	52:24	173:6,7	136:14 143:13	7:3,7,10,17,21 8:4	54:1,10,14 56:1,4,8	<b>swapping (1)</b> 68:23
<b>six (5)</b> 14:18 85:9 86:4	<b>sounds (5)</b> 10:4 27:5	<b>stage (9)</b> 37:12,13	<b>storage (8)</b> 157:3	8:10,16,21,24 9:4,6	58:22,24 60:13,13	<b>sworn (3)</b> 6:1 29:23
87:20 184:7	102:23 109:20	91:22 92:21 114:20	166:13,14,16	9:12 10:12 11:5,10	60:15,17,19 61:3	209:6
<b>skeleton (8)</b> 17:15,23	132:1	121:22 141:25	171:24 179:17	11:17,21,25 12:3	62:16 66:3,7,9,21	<b>system (34)</b> 53:2
20:25 21:11 22:19	<b>source (1)</b> 90:24	148:24 200:18	181:10,25	13:1,8,25 14:16	67:5,8,12,14,18,25	91:11 127:4,6,9
24:2 26:2 151:24	<b>sources (1)</b> 167:10	<b>stages (1)</b> 207:2	<b>store (147)</b> 20:4,5	15:1,15,24 16:10	68:4,15,16,24 69:4	132:3 145:21
<b>Skelmersdale (5)</b> 36:8	<b>space (1)</b> 197:13	<b>staggered (1)</b> 67:13	22:23 23:6 28:16	16:14,20,25 26:5,6	69:5,7,12,24 70:20	164:9,18 167:4
36:9,16,18,22	<b>Spain (2)</b> 19:1 135:6	<b>stairs (1)</b> 152:25	28:22,24,24 35:17	27:8,17,22 28:5,8	71:22 72:1,14,18	186:4 192:5,7,18
<b>sketch (1)</b> 23:23	<b>spanking (2)</b> 147:7	<b>stand (1)</b> 126:24	35:17 37:4,18,19	28:12 29:22 30:4,5	73:5,7,21 74:8,19	192:23 193:25
<b>ski (1)</b> 8:17	157:10	<b>standard (2)</b> 174:13	38:13 39:19 40:3,4	31:15,20 32:2,4	74:25 75:11,20	195:22 197:5 199:5
<b>skiing (1)</b> 8:18	<b>speak (6)</b> 88:25 142:6	208:7	40:18 41:1,2,10	33:8 102:4,6,12	76:12,25 78:5,13	199:15 201:7,8,10
<b>Skype (1)</b> 117:6	157:25 158:23	<b>standards (5)</b> 62:5	44:4,7,16 46:3	115:16,18 116:2,10	80:2,15 82:13,16	201:15,15,25
<b>Skypeing (1)</b> 117:4	160:20 208:8	63:23,24,25 65:11	53:10 55:19,22	116:22 117:12,25	83:18 84:22,24	202:15,15 206:16
<b>slightly (10)</b> 2:11 10:4	<b>Specialist (1)</b> 63:1	<b>standing (2)</b> 19:3	56:14 58:5 61:5,11	118:11,25 119:7,9	85:4,13,14,25 86:7	206:17,19 207:8,12
24:14 25:22 29:4	<b>specific (4)</b> 11:22	137:3	61:13,14 64:6	119:13,21 120:1,9	86:17 88:15 94:2:1	
30:24,25 57:4	55:17,17 192:23	<b>stand-in (1)</b> 131:8	66:17,20 68:7,11	120:11,13 121:1	95:23 96:4 144:24	<b>T</b>
60:12 151:9	<b>specifically (1)</b> 159:11	<b>start (12)</b> 1:12 2:8	68:12,12,15 70:7	137:18 138:13	144:25	<b>tab (5)</b> 21:20 30:8
<b>small (8)</b> 39:19,19	<b>specifics (1)</b> 137:23	52:10 68:1 69:17	70:20 71:2,8,22,25	149:22 150:4,10,17	<b>Sundays (25)</b> 22:24	32:7,15,24
60:25 67:1 162:20	<b>Specsavers (113)</b> 16:8	77:13 80:18 81:10	75:11,19,20 83:17	151:12 194:11,20	28:19 39:23 59:25	<b>tackle (1)</b> 151:3
162:21 167:16	18:4,14 19:3 21:16	85:12 185:9,12	84:10 88:22 89:1,2	209:5,7	67:21,22 70:9,10	<b>tailor (1)</b> 39:24
176:4	22:17 25:9,13	188:16	89:20 95:2 98:17	<b>stuck (1)</b> 184:8	70:18 72:9,17,22	<b>tailored (1)</b> 40:1
<b>smooth (1)</b> 53:24	27:25 28:15 29:16	<b>started (3)</b> 26:17 51:4	100:14 105:24	<b>stuff (9)</b> 3:25 18:16	73:2 74:5 79:6 82:6	<b>take (49)</b> 3:8,20 4:11
<b>smuggled (2)</b> 20:3	29:20 34:1 38:24	145:11	134:2 138:23	59:13 61:20 134:18	82:6,23 84:17	7:11,22 24:15 25:5
158:11	39:1,12 40:5,7,9,16	<b>starting (4)</b> 14:20	141:21 144:25	160:15 167:9 168:7	88:11 93:21 94:14	26:10,14 27:6,24
<b>snuck (1)</b> 147:10	40:17,23 41:1,9,14	76:25 116:16	145:2 147:17 148:1	205:22	95:6,13 97:14	28:5 31:16 39:3
<b>socket (1)</b> 167:21	41:21 44:25 45:14	196:21	148:10 156:12,17	<b>stumps (1)</b> 195:1	<b>supermarkets (1)</b>	42:14 43:11,14,20
<b>SOG (6)</b> 41:10 44:14	48:3,19,21 49:23	<b>starts (2)</b> 57:14,14	157:1,1,14 158:3	<b>stupid (1)</b> 136:17	54:24	43:21,24 45:4,9,20
92:18 149:16 201:5	49:24 50:3,7,12	<b>state (1)</b> 182:1	158:10,11,20 159:9	<b>subject (13)</b> 1:13 2:9	<b>suppliers (2)</b> 19:5	45:23,24 46:10,13
201:21	51:5 53:19,21 54:8	<b>stated (4)</b> 2:1 21:2	159:10,14,15,21,24	9:15 13:23 84:17	197:6	48:8 49:5 56:25
<b>sold (4)</b> 23:11 40:14	58:5 59:4 68:6 69:1	75:5 189:4	160:1,3 161:3	92:14 113:17	<b>supplying (1)</b> 105:9	59:8 60:12 102:14
179:22,25	69:3,8,23 70:19,25	<b>statement (53)</b> 12:18	163:10,11,13,17	134:20 136:5	<b>support (5)</b> 22:17	102:17 106:18,21
<b>sole (5)</b> 34:6,7,25,25	71:8,11 72:10,12	30:11 31:9,10,16	166:9,16,17,20	152:13 182:4 205:5	23:12 27:19,19	106:25 107:22

110:1 121:3 122:19 133:1 137:15 146:9 155:11 158:25 166:10 174:6 207:2 <b>taken (15)</b> 8:19 19:18 19:21 27:2 45:7 87:21 90:7 110:5 112:8,18 145:12 152:6 156:23 184:14 185:6 <b>takes (1)</b> 21:1 <b>talk (4)</b> 140:19,22 153:13 158:24 <b>talked (2)</b> 47:9,15 <b>talking (28)</b> 28:21 35:4 50:21 77:7 82:19 106:23,24 109:13 115:3 125:5 128:2 134:3 135:2,4 141:20 149:16 169:18 170:2 175:4 176:18 185:13 191:19 193:2,4 198:18 203:16 206:14,15 <b>talks (1)</b> 186:9 <b>tape (2)</b> 179:23 180:12 <b>taped (4)</b> 177:25 179:21,25 180:6 <b>tax (16)</b> 46:1,4 103:11,17 107:16 107:16,18 110:18 110:20,22 111:4 136:5 145:16 153:10,14 199:2 <b>team (13)</b> 54:4,5,6,16 55:18 62:3,13 63:4 88:14 94:12 95:20 203:1 206:10 <b>tech (1)</b> 6:25 <b>technical (4)</b> 33:21 117:2,4,8 <b>technically (1)</b> 6:24 <b>technologically (1)</b> 169:11 <b>technologies (1)</b> 169:10 <b>technology (8)</b> 170:25 172:2,5,13 173:17 175:3 183:5,7 <b>television (3)</b> 11:1 174:21 175:23 <b>tell (36)</b> 10:10 31:18 43:9 70:25 71:7 72:3 101:4,18 105:4 108:17,18 109:2 118:24 121:15 122:3,8,9 122:20 123:1,17 124:8,23 126:18 127:8 129:15 130:5 130:10 134:11 140:25 145:12 152:21 154:15 155:5 156:13 159:7 159:8 <b>telling (22)</b> 69:1,3,8,9 69:23 70:19 71:17 72:2 73:8 74:9 80:1 80:1,25 84:16 86:6 86:11,12 124:13,25 156:12 158:11 170:21 <b>tells (2)</b> 101:17 140:6 <b>Ten (1)</b> 57:17 <b>terms (39)</b> 10:15 18:9 19:17 20:7,20 25:19 26:3 33:19 38:12 39:9 41:11	41:19 42:4 43:6 46:25 49:3 52:22 78:11 87:11 90:6 93:16 96:2 117:7 125:14 137:7,15 142:8 144:23 149:15 164:16,16 167:9,14 187:22 188:23 189:22 204:12,19 205:13 <b>Tesco's (2)</b> 55:1 61:4 <b>test (13)</b> 3:3 102:6,10 102:13,13,16 116:3 116:11 119:1,2 188:21 194:9 207:14 <b>tested (2)</b> 27:11 116:13 <b>testimony (1)</b> 8:3 <b>testing (5)</b> 34:19 102:2 115:17 116:18 122:12 <b>text (10)</b> 76:25 77:22 138:23,25 144:23 144:24 145:1,4,9 146:7 <b>texts (1)</b> 141:13 <b>thank (10)</b> 12:3 21:25 29:25 31:24 33:17 105:5 121:1 139:15 152:8 166:5 <b>theirs (1)</b> 16:5 <b>theory (1)</b> 100:4 <b>thing (26)</b> 1:21 2:14 3:11 4:14 6:7 7:20 25:14 41:18 47:25 59:17 82:18 83:9 99:8 109:11 114:18 119:25 136:1,17 150:16 154:12 160:14 162:24 174:9 178:5 179:10 203:24 <b>things (22)</b> 1:23 2:2,7 10:10,17 13:7 24:4 33:20 36:22 42:17 53:15 55:11 82:19 84:23 88:5 111:1 114:15 158:21 162:23 174:6,12 189:23 <b>think (144)</b> 2:17 3:12 4:13 5:4,5,21,23,25 7:5,24,25 8:25 9:13 10:22,24 14:12,14 15:3,12 16:7,10,24 19:12,15,16 24:21 24:23 26:7 31:23 33:15,15 43:22 46:16 47:1 48:4 52:19 55:12 56:23 57:2,4,7,9,12,22 58:1 59:16 60:2 61:4 70:4 73:16 74:15,17 78:23 79:13,18,19,21 80:14 82:2 83:9 84:25 85:1,5 86:23 86:23 88:13 90:18 90:24 94:22 95:9 95:24 96:8 97:3,6 99:22 102:15 103:20 106:19,21 110:16 112:6,10 114:15 115:16 116:1 118:6,16 120:1,2,6,11,23 121:1,2 122:7,14 122:15 123:16 124:21 125:8	131:12 132:8 134:25 135:12 138:13 141:8,18 142:21 143:4,13,18 143:20 146:5 147:18 149:20,22 150:14,18 151:20 153:23 155:18,19 157:17 159:1,1,2 163:2 168:25 175:16 177:10 180:7 183:18,24 184:3 185:1,12 189:3 193:7 194:22 194:24 195:14 206:12 207:9 208:2 <b>thinking (2)</b> 109:19 128:25 <b>thinks (1)</b> 149:22 <b>third (6)</b> 19:4,18 33:11 33:13 197:6 203:24 <b>thought (47)</b> 19:13 24:25 38:23 53:20 53:23 55:9 56:6,7 59:5 87:18 103:13 104:1 106:14 107:6 108:2,4,5,11 114:4 120:19 122:16,21 122:22,25 123:5,18 123:22 125:21 127:12 132:12 147:15,22 148:6,19 149:1,24 150:8 151:14,15 155:2 156:7,9 157:19 163:19 173:11 193:2 206:17 <b>threaten (1)</b> 86:19 <b>threatened (2)</b> 83:21 96:6 <b>threatening (1)</b> 81:13 <b>three (14)</b> 18:17 22:2 55:19 75:18 76:18 76:20 78:10 81:4 83:8 84:25 139:12 175:11 176:12 198:15 <b>three-month (1)</b> 83:11 <b>thrown (1)</b> 143:2 <b>thumbnail (1)</b> 23:23 <b>Thursday (1)</b> 1:1 <b>tick (4)</b> 200:2 202:13 202:13,13 <b>ticket (1)</b> 197:2 <b>ticking (1)</b> 205:5 <b>tie (1)</b> 64:11 <b>tied (1)</b> 173:15 <b>ties (3)</b> 63:8 124:15 166:7 <b>tiles (1)</b> 33:2 <b>till (21)</b> 19:19,21 45:5 45:7,10,13,15,21 45:23,24 46:11,13 46:18,25 91:16 100:16 101:13,15 101:20 131:10 145:18 <b>time (81)</b> 2:4 3:20 8:21 13:18,22 16:11 18:11 20:19 34:19 35:1 43:15 46:8 47:6 53:1 60:1 60:3 61:3 62:2 66:25 67:3,11,22 69:20 70:15,17 71:12,13 72:15 79:21 80:8,17 81:9 99:23 101:4 109:4 109:17 110:4,24 111:24 114:10	115:12 116:14 119:22,22 120:6 121:16 122:3 123:14 125:21,24 126:23,25 127:1 131:8,13 137:3 138:8 141:18,18 144:20 145:7 146:4 146:6 159:5 160:10 163:19 173:2,16 175:7,18,22 177:15 183:7 184:19 188:20,21 191:5 194:5 199:7 200:24 207:23 <b>times (8)</b> 43:18 56:18 68:11 69:22 78:3,6 171:11 175:16 <b>timetable (6)</b> 2:20 9:9 12:9 13:12 102:23 119:11 <b>timetabling (1)</b> 3:18 <b>timing (2)</b> 116:20 195:24 <b>timings (1)</b> 39:16 <b>tiny (2)</b> 15:18 162:22 <b>today (4)</b> 1:12 13:5 194:6,14 <b>told (40)</b> 3:7 5:18 6:14 6:22 9:7 20:2 31:21 66:16 68:2 71:11 74:4 75:14 79:9,16 89:16 90:1 102:1 102:15 108:8 113:20,21 123:15 123:18,21,21,24 126:2 128:4,8 135:15 137:7 142:9 142:21 143:24 144:1,1,8,11 156:4 182:4 <b>tolerance (1)</b> 132:5 <b>tomorrow (7)</b> 2:8,23 3:3,7,18 6:11 194:20 <b>top (12)</b> 19:25 21:24 22:10 54:4,16 55:18 58:6 64:14 180:1 182:11 186:7 200:4 <b>tops (2)</b> 86:5 87:21 <b>total (1)</b> 95:1 <b>totally (2)</b> 139:19,23 <b>touch (4)</b> 5:24 111:8 111:12 181:13 <b>town (21)</b> 8:11,12 39:19,25 40:1 59:10,11 60:23,24 60:25 61:1,2 67:1,2 67:15,16,17,23,24 70:8,14 <b>towns (1)</b> 59:18 <b>trading (29)</b> 23:1,6 25:4,11 27:7,25 54:10,14 56:1,1,8 58:22,24 60:13,13 62:16 66:3,7 68:4 74:25 75:11,21 76:12,25 78:13 80:2 84:10 85:13 94:21 <b>traffic (2)</b> 28:18 132:2 <b>trail (2)</b> 59:3 95:25 <b>train (1)</b> 197:2 <b>training (1)</b> 62:11 <b>trainer (40)</b> 54:11 62:12 63:3,5,18 84:4,5,7 148:2,11 148:17 160:2,3,5,6 160:8,10,16,17,22	161:3,16,20 162:2 162:5 164:2 166:22 166:24,25 167:1,4 167:5,10,14 168:1 168:6,8 174:22 183:2,3 <b>trainings (1)</b> 160:23 <b>trample (1)</b> 17:11 <b>transaction (20)</b> 89:17 89:18,21,23 90:4,6 96:16,19 105:17 109:16 111:21 112:5 187:2,6 198:21,22 204:25 205:7,16 206:11 <b>transactions (13)</b> 20:11 46:21 91:25 92:1,4,14 109:18 109:25 111:22 134:19,21 135:1 198:20 <b>transcribers (2)</b> 57:9 168:13 <b>transcript (3)</b> 1:21 123:8 124:6 <b>transfer (1)</b> 21:8 <b>transferred (1)</b> 90:10 <b>translate (1)</b> 11:1 <b>transmission (2)</b> 118:8 118:21 <b>transparent (1)</b> 91:14 <b>transpire (1)</b> 138:15 <b>treated (1)</b> 199:2 <b>treating (2)</b> 142:19,19 <b>trial (27)</b> 6:9,14 14:19 15:2 30:11 60:14 75:18 76:19,20 77:18,19 78:8,10 81:4,12,17 82:16 83:1,5,8,10,13,17 83:18,20 85:5 120:16 <b>trailing (1)</b> 76:15 <b>trick (1)</b> 48:20 <b>tried (1)</b> 125:5 <b>Trish (1)</b> 90:1 <b>trouble (2)</b> 24:4 118:4 <b>troubled (1)</b> 24:22 <b>true (11)</b> 30:19,20 32:13,22 33:6,7 90:23 147:20 152:18 168:9 170:19 <b>trumped (2)</b> 24:10 26:25 <b>trust (3)</b> 191:9 202:7 206:21 <b>trusted (1)</b> 41:18 <b>trusting (1)</b> 41:14 <b>truth (4)</b> 142:16 149:14,18 165:10 <b>try (10)</b> 13:7 43:18 66:6 68:3 73:12,25 77:9 117:14 140:9 142:14 <b>trying (23)</b> 13:3 23:8 43:23 46:24 54:23 66:2 69:24 71:23 73:9,11,20,22 74:6 74:6,7 97:12 107:9 107:14 154:20,21 155:19 178:17 182:24 <b>Tuesday (1)</b> 13:16 <b>turn (19)</b> 21:14 33:18 38:3 41:21 49:19 61:7 76:22 89:3 96:12 123:7 139:2 142:15 144:22 160:25 168:21	186:5,14 194:1 195:21 <b>turned (2)</b> 142:10 152:19 <b>turning (1)</b> 84:8 <b>turnover (5)</b> 41:8,25 42:1 72:14 107:10 <b>TV (17)</b> 162:10 167:17 167:19 168:11 174:9,13 175:18 176:4,5,14 182:12 182:14,15,16,21 183:13 184:11 <b>TVs (1)</b> 163:1 <b>TV/VHS (1)</b> 175:19 <b>twice (1)</b> 141:16 <b>two (40)</b> 2:7 13:17 18:24 23:3 24:5 35:22 36:2 37:10 37:17 45:17 56:7 57:7 65:7 69:18 76:10 77:17 78:15 82:18 111:22 123:12 135:1 136:22 141:6 143:5 147:1 154:24 158:1 174:6 175:11 177:7 181:6 183:17 184:8 188:10,11 189:1,5 196:23 200:14,23 <b>tying (1)</b> 3:17 <b>type (7)</b> 53:9 163:2 165:20,21 198:24 200:7 203:18 <b>types (3)</b> 148:10 196:23 203:22	<b>U</b> <b>Uckfield (19)</b> 25:8,11 25:19 26:13 34:1 35:17 38:22 48:11 48:11,13,18 50:4,8 58:5 59:11 76:4 90:3 106:9 164:15 <b>UK (1)</b> 206:5 <b>ultimately (2)</b> 66:20 149:21 <b>unassisted (1)</b> 6:6 <b>unaware (1)</b> 110:20 <b>uncontroversial (1)</b> 12:22 <b>uncovered (1)</b> 92:13 <b>understand (31)</b> 1:10 7:3 9:6 11:4,5,7,13 14:16,19 15:25 39:6,7 43:18 46:19 56:23 72:4,15 100:2 102:10,12 107:17 108:3 111:6 112:3 115:11 117:10,21 127:21 128:22 142:12 156:22 <b>understanding (14)</b> 35:15,18 46:24 58:14,15 81:11,12 81:23 89:6,10 107:16,19 110:25 194:8 <b>understood (32)</b> 1:7 1:13 9:17,19 11:17 28:12 40:22 48:10 56:16 74:15 76:5 77:12 86:12,13 87:23 99:11,23 102:13 103:18 104:21 106:24 107:8 108:7 128:19 128:23 144:16,18 144:19 150:4,10	192:8,14 <b>undertaken (1)</b> 92:11 <b>undertakes (1)</b> 16:8 <b>Undertaking (1)</b> 38:18 <b>Underwear (1)</b> 134:24 <b>unduly (2)</b> 2:2 90:16 <b>unfair (2)</b> 4:23 150:21 <b>unique (2)</b> 198:9 201:11 <b>unit (5)</b> 162:9,10,11 162:18,19 <b>unitary (2)</b> 166:18,18 <b>unjustifiably (1)</b> 22:5 <b>unlawfully (1)</b> 22:4 <b>unnecessary (1)</b> 16:17 <b>unsatisfactory (1)</b> 4:6 <b>untypical (1)</b> 112:4 <b>unusual (1)</b> 118:15 <b>unwilling (1)</b> 81:1 <b>update (4)</b> 127:3,5 179:2,2 <b>updated (4)</b> 51:5,6,17 52:18 <b>updates (2)</b> 51:18,21 <b>updating (1)</b> 183:6 <b>upgrade (12)</b> 148:6 169:24 171:1,23 172:2,4,19,20 173:11 175:6,22 183:10 <b>upgraded (3)</b> 161:24 176:21 184:6 <b>upgrading (9)</b> 169:13 169:18 170:2,13,23 170:25 171:1,3 172:13 <b>upload (1)</b> 160:21 <b>upset (1)</b> 140:1 <b>use (16)</b> 6:11 18:18,19 19:6 27:10 100:16 140:10 157:2 159:21,24 168:6 171:11 177:3 180:17 183:21 196:24 <b>user (1)</b> 197:14 <b>utility (1)</b> 105:8	<b>V</b> <b>vague (1)</b> 47:25 <b>value (2)</b> 22:8 23:9 <b>variable (1)</b> 118:7 <b>various (3)</b> 16:1 159:23 160:13 <b>vehicle (1)</b> 50:4 <b>venture (6)</b> 40:8,10 70:5 185:14 187:12 200:12 <b>ventures (1)</b> 16:8 <b>verbal (2)</b> 137:2 193:23 <b>verbally (3)</b> 136:24,25 192:19 <b>versa (3)</b> 12:6 204:17 204:18 <b>versed (1)</b> 10:21 <b>version (4)</b> 1:24 2:19 3:4 185:4 <b>versions (1)</b> 162:14 <b>VHS (3)</b> 162:20,24 176:5 <b>vice (3)</b> 12:6 204:17 204:18 <b>video (18)</b> 3:15 7:20 8:1,10,13,18 10:15 10:16 116:11,12 117:5 118:18 161:24,25 162:9,11 176:22 207:25 <b>videolink (4)</b> 3:2,9,24
--	---	--	--	--	---	---	---	--

102:11 <b>videolinking (2)</b> 8:3 10:23 <b>videos (5)</b> 176:25 182:22 183:2,3,8 <b>view (10)</b> 4:22 11:2 14:18 22:6 24:7 29:3 72:7 73:21 74:7 141:10 <b>views (1)</b> 13:23 <b>violent (1)</b> 136:10 <b>virtually (1)</b> 107:17 <b>Visa (1)</b> 101:19 <b>visibly (1)</b> 116:4 <b>Vision (2)</b> 60:16 155:15 <b>visit (9)</b> 62:1,2 64:6,8 65:8 74:24 75:2,3 87:4 <b>voice (2)</b> 7:2 118:21 <b>volatile (1)</b> 154:25 <b>volume (4)</b> 21:14 38:3 57:22 168:21 <b>vote (1)</b> 58:11	204:25 <b>waste (3)</b> 2:3 67:22 197:13 <b>watch (6)</b> 97:15 167:20,22 182:13 182:16 184:11 <b>watching (7)</b> 97:19 174:24 182:18,22 182:23,25 183:2 <b>water (1)</b> 29:24 <b>way (64)</b> 2:11 7:14 8:22 10:1,3 11:11 15:15 16:8,9 24:1 25:9 29:18 41:4 42:7 43:10 44:20 50:11 53:25 70:5 74:11 87:22 91:11 102:9 106:12 107:20 110:7 111:16,17 112:16 112:24 114:22 117:15,24 118:19 119:2,6 121:19 124:12 129:1 135:20,23 138:5 144:4 146:8,14 154:4 156:9 157:17 158:7,20,23 160:16 160:22 177:18 184:14 187:10,11 187:12,15 192:14 201:7 202:10 204:19 207:9 <b>ways (4)</b> 10:25 47:23 142:14 148:10 <b>WebEx (9)</b> 160:19 161:5,18 166:24,25 167:4,4,6,9 <b>Wednesday (2)</b> 13:14 13:16 <b>week (12)</b> 13:14 14:18 14:20 62:12 63:5 66:17 67:13 68:8,8 68:10 77:9 117:25 <b>weekend (2)</b> 13:23 14:11 <b>weeks (7)</b> 69:18 85:9 86:1,2,4 87:20 88:1 <b>weird (1)</b> 10:25 <b>welcome (1)</b> 173:4 <b>went (22)</b> 36:6,9 48:3 61:16 100:15 113:24 127:24 128:19,22 131:21 141:13,19,20,23 143:6 148:9 152:20 155:14 160:18 165:3 177:9 201:4 <b>weren't (22)</b> 41:1,10 43:4 46:8 48:25 49:17 50:1 52:2,8 68:9,12 80:12 85:17 97:17 115:5 129:13 131:14 141:12 166:18 174:24 189:21 197:11 <b>whatsoever (2)</b> 132:12 177:2 <b>whichever (1)</b> 43:10 <b>whilst (6)</b> 23:15 24:6 26:11 55:6 138:9 208:9 <b>white (1)</b> 139:10 <b>Whittaker (18)</b> 138:23	161:1 166:21 180:11 <b>Whittaker's (5)</b> 142:4 144:22 159:17 167:11,24 <b>wholeheartedly (1)</b> 39:3 <b>wholly (1)</b> 50:2 <b>wife (46)</b> 34:6,16 35:15,21 38:7,21 38:25 44:13 46:11 66:20 67:8,11 68:18,23 69:4,7,19 77:7 85:19 106:3 121:15 123:13 124:19 125:2 126:18 129:5,15 136:2 152:15,18,25 153:1,12 155:14 185:18,20 188:12 191:25 192:15 198:13 201:25 202:7,24 204:12 207:13 208:9 <b>wife's (5)</b> 58:2 81:15 83:14 185:25 202:4 <b>willing (1)</b> 73:6 <b>Willmott (1)</b> 13:3 <b>Willmott's (1)</b> 12:17 <b>Wilson (8)</b> 31:5,12 32:1 61:7 72:20 79:25 88:23,25 <b>wish (5)</b> 5:8 15:11 115:15 118:13 194:12 <b>wishes (1)</b> 120:15 <b>wishing (1)</b> 2:1 <b>withdraw (1)</b> 33:13 <b>withdrawn (1)</b> 20:24 <b>witness (52)</b> 11:2,3 17:6 22:22 29:25 30:11,20 32:17 74:16 79:14 81:25 82:7 83:13,19 86:22 90:12 92:17 96:12 104:7,25 113:10 119:10,14 119:17 120:2,3 121:8 137:22 138:1 138:7 141:9 149:6 149:23 150:6 151:6 151:6 152:4 153:24 153:25 168:22 169:3 170:8 172:3 172:17,22,24 194:14,17,22,25 208:9,11 <b>witnessed (1)</b> 90:3 <b>witnesses (3)</b> 8:2 13:9 15:14 <b>wonder (1)</b> 151:16 <b>wonderful (1)</b> 10:25 <b>wondering (1)</b> 57:8 <b>word (4)</b> 6:25 55:11 55:12 92:23 <b>wording (3)</b> 74:1 92:23 125:16 <b>words (9)</b> 26:17 73:13 73:23 86:24 87:7 124:6 139:12 142:16 178:15 <b>work (30)</b> 25:21 27:20 28:15 55:13,16 65:10,24 68:16 83:12,12 116:23 117:21,21 123:24 141:7 146:2,8,14 148:7 154:10 155:15 156:25 165:23 166:21	176:19 177:8 178:19,20 179:9 181:17 <b>worked (5)</b> 28:23 33:24 55:10 58:14 90:2 <b>worker (3)</b> 140:11 141:5,5 <b>working (16)</b> 37:18 46:2 68:8,10,12,19 69:6 72:24 75:20 76:12,13 80:2 86:7 102:22 110:7 113:7 <b>works (5)</b> 42:7 47:5 187:23 201:7,15 <b>world (1)</b> 114:19 <b>worried (1)</b> 24:15 <b>worry (1)</b> 11:13 <b>worse (1)</b> 9:24 <b>worst (1)</b> 53:12 <b>worth (1)</b> 118:5 <b>wouldn't (20)</b> 27:11 39:15 56:12 59:12 66:11 67:7 69:7 83:2 98:24 99:9 108:16 110:22 118:12 136:18 171:14 176:5 197:22 204:14,16 205:9 <b>WP (1)</b> 20:13 <b>wrapped (3)</b> 15:2 147:7 177:25 <b>wrinkles (1)</b> 10:5 <b>writes (1)</b> 76:23 <b>writing (6)</b> 52:16 88:2 105:14 132:17 165:22 180:9 <b>written (7)</b> 9:10,12 14:3,8 70:24 77:21 165:22 <b>wrong (26)</b> 10:17 79:19 101:1 107:7 107:15 111:22 122:15,21,21,22 124:1 125:1,18 126:3,8,9,10 129:1 136:4 137:16 149:25 155:14 158:6 168:2,3 171:8 <b>wrote (3)</b> 131:3 132:13 164:16	46:7 84:25 173:8 <b>Year's (1)</b> 181:10 <b>yesterday (3)</b> 1:10 6:12 15:16 <b>0</b> <b>01 (1)</b> 185:12 <b>1</b> <b>1 (24)</b> 54:19 64:13 72:14 75:12,17,21 76:12 78:14 88:4,6 91:23,24 92:6,7 96:3 104:9 128:14 132:22 133:14 134:14,15 156:8 157:6 209:3 <b>1(sic) (1)</b> 113:11 <b>worse (1)</b> 9:24 <b>1.15 (4)</b> 2:12 102:3,8 116:6 <b>10 (5)</b> 1:11,12 2:1 70:16 208:15 <b>10.00 (1)</b> 1:2 <b>10.20 (1)</b> 1:4 <b>10.30 (3)</b> 1:8,10,24 <b>10.45 (1)</b> 2:16 <b>102 (1)</b> 22:9 <b>104 (1)</b> 21:11 <b>11 (13)</b> 2:17 3:2,7 8:21 57:2,3,14 64:11,13 64:16 194:20,22 207:23 <b>11s (1)</b> 57:7 <b>11.40 (1)</b> 57:18 <b>11.55 (1)</b> 57:20 <b>111 (1)</b> 57:1 <b>116 (1)</b> 209:9 <b>12 (2)</b> 31:23 166:15 <b>12.15 (1)</b> 208:1 <b>12.30 (2)</b> 2:11 208:1 <b>121 (1)</b> 209:10 <b>13 (5)</b> 62:12 63:5 93:16,18,19 <b>13th (2)</b> 119:12,13 <b>14 (3)</b> 21:15,17 175:19 <b>14-inch (4)</b> 162:20 167:16 176:5 182:21 <b>15 (18)</b> 18:3 20:6 21:3 21:6 31:14 61:11 70:16 79:25 84:16 158:15,16 166:12 178:6 179:15,16 180:11 181:15,22 <b>15,000 (1)</b> 206:5 <b>16 (4)</b> 4:16 18:6 104:7 166:15 <b>160,000 (1)</b> 95:2 <b>17 (3)</b> 38:4,5 209:4 <b>17th (7)</b> 75:9,10,25 76:1,3 86:20 96:7 <b>18 (3)</b> 107:21 171:18 171:20 <b>19 (2)</b> 22:9 75:8 <b>19th (2)</b> 75:25 76:7 <b>19.6 (1)</b> 15:21 <b>196 (1)</b> 165:19 <b>1984 (1)</b> 40:23	<b>2.30 (3)</b> 2:8,13 208:5 <b>20 (4)</b> 1:15 46:7 133:17 168:17 <b>20th (3)</b> 9:9 14:8,20 <b>2003 (11)</b> 34:1,13 38:8 51:10 53:18 185:3 185:9,14,16,17,20 <b>2005 (4)</b> 46:2 51:12 52:20,21 <b>2006 (9)</b> 34:14 35:11 38:6 52:19 185:16 185:20 195:23 196:17 204:23 <b>2006/2007 (1)</b> 196:21 <b>2007 (3)</b> 56:3 194:2 195:5 <b>2008 (7)</b> 42:13 60:14 60:15 66:21 72:5 97:12,18 <b>2009 (7)</b> 46:4 113:2 147:6,25 148:4 163:22 182:3 <b>2010 (17)</b> 31:14 46:2,4 61:11 101:5 109:7 <b>10.20 (1)</b> 1:4 114:25 127:10,17 127:17 132:11 157:5 181:13,14 185:4,5,7 <b>2011 (18)</b> 21:6,7,10 22:3 53:19 60:2 75:12 77:1 85:1,10 86:20 96:3 114:24 115:5 127:13,20 132:21 157:6 <b>2012 (2)</b> 67:20 182:2 <b>2014 (2)</b> 1:1 208:15 <b>21 (1)</b> 113:13 <b>22 (1)</b> 57:15 <b>22nd (1)</b> 2:14 <b>23 (2)</b> 96:12 132:21 <b>23rd (1)</b> 133:10 <b>244 (1)</b> 61:23 <b>245 (2)</b> 62:19 64:22 <b>246 (3)</b> 63:25 64:9,14 <b>247 (1)</b> 64:18 <b>26 (1)</b> 209:5 <b>27 (3)</b> 76:24 85:1 144:24 <b>27th (2)</b> 133:10 144:25 <b>27th/28th (1)</b> 133:11 <b>28 (2)</b> 21:10 162:13 <b>28th (1)</b> 133:10 <b>29 (4)</b> 163:5,22 182:2 209:6 <b>29th (2)</b> 180:25 181:9	<b>4</b> <b>4 (3)</b> 32:7 42:5 64:13 <b>4.30 (7)</b> 116:15,25 117:1,15 118:25 195:2 207:20 <b>4.35 (1)</b> 208:13 <b>40 (1)</b> 20:8 <b>401 (2)</b> 150:11,16 <b>403 (2)</b> 161:9,10 <b>412 (2)</b> 144:22 150:5 <b>42,000 (2)</b> 206:8,12 <b>428-4 (2)</b> 123:7,12 <b>453 (1)</b> 133:7 <b>454 (1)</b> 133:9 <b>5</b> <b>5 (9)</b> 17:1 32:15 33:20 41:22,22 60:19 64:18,24 143:14 <b>5.30 (1)</b> 39:22 <b>50,000 (3)</b> 46:5 148:5 171:13 <b>500,000 (1)</b> 20:21 <b>550 (1)</b> 4:9 <b>555 (8)</b> 89:18 90:7 91:8 110:13 111:25 121:12 129:19 131:5 <b>555.55 (4)</b> 90:10 97:23 97:24 108:24 <b>57 (1)</b> 28:17 <b>58 (2)</b> 20:25 21:3 <b>6</b> <b>6 (12)</b> 32:24 77:1,15 78:16 85:14,19 88:3 97:12 185:14 186:14,15 197:13 <b>6.5 (6)</b> 41:7 45:2 103:7 106:14 107:7,10 <b>61 (2)</b> 21:9 30:9 <b>62 (1)</b> 20:8 <b>63 (1)</b> 31:23 <b>64 (1)</b> 197:14 <b>66 (1)</b> 18:6 <b>661 (2)</b> 198:6,17 <b>663 (1)</b> 198:18 <b>7</b> <b>7 (4)</b> 20:10 88:4 123:9 143:15 <b>70,000 (1)</b> 95:1 <b>700 (2)</b> 48:15 206:5 <b>726 (1)</b> 105:6 <b>727 (1)</b> 105:10 <b>729 (1)</b> 105:16 <b>73 (2)</b> 168:22 169:2 <b>75(c) (1)</b> 169:3 <b>77 (1)</b> 196:2 <b>8</b> <b>8 (2)</b> 17:24 59:15 <b>80 (2)</b> 58:12,16 <b>80,000 (1)</b> 95:1 <b>80/20 (2)</b> 56:24,24 <b>81 (1)</b> 30:13 <b>82 (2)</b> 32:7,8 <b>85 (2)</b> 32:8,11 <b>850,000 (1)</b> 132:11 <b>86 (2)</b> 32:15,20 <b>88 (2)</b> 161:11,14 <b>88-1 (3)</b> 194:1,4 195:5 <b>88-18 (1)</b> 195:13 <b>88-4 (1)</b> 195:9 <b>9</b> <b>9 (3)</b> 1:1 39:22 63:6 <b>9.30 (5)</b> 2:10 116:16
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January 9, 2014

207:22 208:12,14  
90 (2) 161:2,7  
900 (2) 132:4,7  
93 (3) 32:15,20,22  
94 (1) 32:24  
95 (2) 32:25 33:5