

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 17

January 10, 2014

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1 Friday, 10 January 2014
 2 (9.30 am)
 3 Housekeeping
 4 MR JUSTICE HILDYARD: Good morning.
 5 MR STUART: My Lord, one short matter. I hope you heard
 6 from your clerk yesterday evening that we will not be
 7 hearing from Mrs Lofting today.
 8 As I said I would, I stayed behind and a test was
 9 run to try to achieve -- and although we could see
 10 Italy, and actually the voice was fine, they couldn't
 11 see us, and it was not satisfactory. So I said, "Look,
 12 this is not on, and we are not wasting time tomorrow
 13 messing around with it". It didn't seem to me that
 14 Mrs Lofting had to be heard today, which is out of order
 15 anyway. We would be having to put her in out of order.
 16 And therefore, we are going to renew our efforts and our
 17 enquiries of her as to how we can get her to give her
 18 evidence, and it may be, we are hoping -- certainly,
 19 I hope -- that it would be more convenient for her,
 20 frankly, to be flown back here on Tuesday morning, give
 21 her evidence and fly back to Italy.
 22 I don't know if your Lordship remembers, but when
 23 she told us about why she was in Italy for such a long
 24 period of time, she said that it was a mixture of a
 25 business conference and a gift of a skiing holiday that

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1 had been tagged on to the front of that. So it seemed
 2 to me possible that she is actually going to be in
 3 a city where there is a business conference at some
 4 point next week, whilst we know at the moment she is in
 5 a ski resort somewhere in the mountains. So it seemed
 6 to me that there is at least a realistic possibility
 7 that she will be a lot more available, either to fly
 8 back or to be in a proper big city solicitors'
 9 conference facility that is connected to the high court,
 10 et cetera, et cetera.

11 So one way or the other, I am hoping that we will
 12 achieve a very much more satisfactory giving of her
 13 evidence, and we are making every effort to do so.

14 MR JUSTICE HILDYARD: Thank you.
 15 MR JOHN PARHAM (continued)
 16 Cross-examination by MR POTTS (continued)

17 MR POTTS: Good morning, Mr Parham.
 18 A. Good morning.

19 Q. Yesterday afternoon before we finished, we were
 20 discussing the 2003 expenses policy in relation to
 21 credit card expenses; do you remember that?

22 A. Yes, yes.

23 Q. Then we also looked at the processing system under eBis
 24 for processing the credit card claims; yes?

25 A. Yes.

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1 Q. Okay, and the role of the department.
 2 Now, you also discussed as part of that the P11D
 3 procedures. You have mentioned that in fact in your
 4 evidence, the P11D?
 5 A. Okay.
 6 Q. And you mentioned that from your witness statement.
 7 Could I take you back to E1, please?
 8 If you turn to page 06, we looked at this document
 9 yesterday.
 10 A. Okay.
 11 Q. Do you remember the bit about credit cards?
 12 A. Yes.
 13 Q. You read those two paragraphs, and there is a reference
 14 to "private expenditure" that goes on the P11D, and you
 15 agreed, I think, with me that P11D means that that's
 16 personal expenses which you pay tax on in your tax
 17 return?
 18 A. That's correct, it is.
 19 Q. Yes. Now, could you just turn on a couple of pages to
 20 page 08, and just read paragraph 11.1, please.
 21 (Pause)
 22 A. Okay.
 23 Q. So because of this dispensation which is referred to,
 24 that meant that, as we discussed, only your personal
 25 expenses would appear on the P11D, and you would be

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1 taxed on those; correct?
 2 A. That's correct.
 3 Q. Business expenses, due to this dispensation, wouldn't
 4 appear on the P11D and you wouldn't have to seek to
 5 reclaim them?
 6 A. Business expenses wouldn't appear on there unless
 7 Specsavers stated that what I put through and what
 8 I believed at the time was a business expense. If they
 9 deemed it as not a business expense, as I say, my tax
 10 knowledge is very, very limited, and if it wasn't deemed
 11 then they would put it on to the P11D.

12 Q. Yes, but in terms of sending them in, on your credit
 13 card, we have already discussed that you would go
 14 through it with your wife and you would say "this is
 15 business" or "this is personal" on your credit card?

16 A. What I believed, yes, would be business and what was
 17 personal, we sent that through.

18 Q. You see, in fact this was a dispensation, this was
 19 a policy.

20 Now, Ms Mancini's evidence is that if the system was
 21 abused by JVPs, it could jeopardise the Revenue's
 22 willingness to grant the dispensation. You understood
 23 that this was not a standard position, this was
 24 a dispensation from the Revenue, didn't you?

25 A. I just understood my end, that if I believed that

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1 a business expense was a business expense, and
 2 a personal expense was a personal expense, that's how
 3 I entered in the book(?). I paid for, obviously, my
 4 management fee and my P11D, and I also signed up for
 5 personal tax, was that Specsavers would look after me,
 6 and it was basically, you know, a covering my backside
 7 if I had made any mistakes through that and they would
 8 look after me, which they, you know, they did. They
 9 would reject items, they would send stuff back, not
 10 approve it.
 11 Q. Just to deal with the first point, the final paragraph
 12 makes clear that the dispensation is reviewable, the
 13 revenue is only valid so long as it's adhered to by all
 14 stores. So you appreciated it was important to process
 15 your claims properly in relation to --
 16 A. It was -- as I am saying, yes, it was. As long as I put
 17 it down properly, that's fine. But as long as -- what
 18 I believed at the time, as I say I'm no tax expert, I am
 19 very limited in my tax knowledge. It was what I put in
 20 there and believed at the time was either a business or
 21 a personal expense.
 22 Q. You say for part of the period you paid Specsavers,
 23 I think, £325 a year to complete your personal
 24 self-assessment tax form; is that right?
 25 A. It was, yes. That was just to complete it, yes.

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1 Q. Well, that was what they were obliged to do; they
 2 weren't your personal tax accountant, they were
 3 completing your tax return?
 4 A. Well, that's -- I pay -- if I pay an accountant to look
 5 after my accounts, which is what I believed Specsavers
 6 were doing, my look at it is that they are -- their sort
 7 of point of looking after me is to make sure that I am
 8 not putting anything through that I am not allowed to
 9 put through. So if I put through, as, you know -- it
 10 will come up later -- I put through a trip to Spain,
 11 then if my accountant doesn't believe that's right, then
 12 he will reject it, as I believe that Specsavers were
 13 doing that on my behalf as well.
 14 That's how I looked at it. They were my
 15 accountants. That's what I would pay -- in fact,
 16 I think I would pay probably less if I had got
 17 a personal accountant, but I wanted to sign up to the
 18 Specsavers one because they had all the details.
 19 Q. Well, the details that they had were based on the
 20 information which you provided to them; correct?
 21 A. Which I believed at the time was correct.
 22 Q. Yes. So, for example, if you look at P11D, if you turn
 23 on to page 50 in E1. (Pause) Do you see that?
 24 Pages 50 to 52. Do you see that says:
 25 "P11 return of expenses not covered by

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1 dispensation."
 2 At the top of the page?
 3 A. Yeah, I see that, yes.
 4 Q. So the information you provided to your personal tax
 5 return, if you had any separate income from dividends or
 6 something from some other investment, you would provide
 7 that to them; correct?
 8 A. Yes, which I did, yes.
 9 Q. In terms of your, for example, if you owned a property,
 10 you would provide that information?
 11 A. Yes, exactly.
 12 Q. So they were reliant on you to provide the information?
 13 A. Yes, on that case, yes.
 14 Q. In relation to expenses, the information they would
 15 include in your tax return was the P11D?
 16 A. Was the expenses I put through the eBis system, yes.
 17 Q. So in fact, what they were reliant on was the
 18 information, it's the same information that you were
 19 providing to the accounts department, it's the P11D, so
 20 it's based on the information that you provide to the
 21 accounts department on your P11D?
 22 A. I am sorry, I don't quite understand what you are saying
 23 there.
 24 Q. The information in relation to personal benefits, they
 25 weren't doing an audit of that. You were providing that

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1 information to them, you were telling them what were
 2 your personal benefits?
 3 A. I was providing it through the eBis system. The only
 4 thing extra that I would send off to them would be to do
 5 with the properties, and as you say, if there was
 6 anything from other, like interest on banks, the rest of
 7 it I relied on what I put through the system and what
 8 they came back to me with, which was all SOG held.
 9 Q. But in relation to credit card matters, the information
 10 that they would put on your tax return was based on the
 11 returns that you had given to them through the eBis
 12 system, saying, "Yes, this is a business and this is
 13 personal"?
 14 A. It was based on that information at the time that I gave
 15 through to them, which I said earlier.
 16 Q. Yes. And if you had said "This is personal", then it
 17 would go straight on to the P11D, and these are sort of
 18 the items which you can see at page 51?
 19 A. Yes, that's how I understand it. Whatever I put in
 20 personal, they would then send me this at the end of the
 21 year and it would list all the items.
 22 Q. Yes, so these are, one would imagine, largely credit
 23 card -- these are items which have come off the credit
 24 cards?
 25 A. I think so, yes. I am not 100 per cent sure. But they

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1 would also contain, as you say, business items which
 2 I believed at the time were business, but they deemed
 3 not as business.
 4 Q. Such as?
 5 A. If we had have bought flowers, they would have -- and
 6 they didn't deem them as being business, then they would
 7 put them on to here. They would revert it back to the
 8 P11D. That's how I understood it. And that's how
 9 I believed it happened.
 10 You know, we had stuff come back. I am trying to
 11 think of -- in my wife's case, we paid for a honeymoon
 12 for our assistant manager, and that was rejected. So
 13 that was put back on to our P11D, or my wife's P11D.
 14 But that's how they worked, and that's how we understood
 15 it all the time. That's the fallback system that, you
 16 know, we were signed up for.
 17 Q. But they were heavily reliant on the information that
 18 you provided. So, for example, if you had said, if you
 19 had bought a TV for your home, but you had put it
 20 through the system and said "TV for store" and put it
 21 through on the credit card, they would process that and
 22 put it on the P11D -- sorry, it wouldn't go on to the
 23 P11D because you put it down as business?
 24 A. I understand where you are going here, but what
 25 I believed at the time, and I still believe on all the

1 expenses, was that if it was a business and I put it
 2 down as a business, then that was a business. If they
 3 decided otherwise, as you say, for the Blu-Ray player,
 4 they wouldn't know if it was in the home or for work.
 5 But all the items which I put down for business were for
 6 business.
 7 Q. Right. If there were errors in relation to this in
 8 terms of the information that you provided, if you
 9 provided incorrect information in relation to this, it
 10 would result in an underdeclaration of your personal
 11 tax?
 12 A. As I understand.
 13 Q. In addition to that, it would also mean that the
 14 accounts that were prepared for the company would be
 15 inaccurate, wouldn't it?
 16 A. As far as I understand, that's what I have been told,
 17 yeah, since --
 18 Q. Well, you were a director of the company, you were
 19 responsible for approving the accounts, weren't you?
 20 A. We signed the accounts off, but everything was -- came
 21 down from Specsavers, and they were the ones that sent
 22 it in to the BDO. BDO are the auditors, and -- but we
 23 never signed off the year end of 31/10/2010.
 24 Q. No, because that's just in terms of timing. But I am
 25 talking about generally.

1 A. Because we were taking out before --
 2 Q. I am talking about generally. In terms of the accounts,
 3 whilst they were preparing the accounts, that was based
 4 on the information which was provided by you to them?
 5 A. It would have been initially, as I say, but it was all
 6 held and Specsavers were the people who entered all this
 7 on to the accounts, not us.
 8 Q. But based on --
 9 A. Sorry to interrupt you. All I am just saying is that,
 10 like, for my credit card, as I said, I would put down as
 11 personal and then I send it through, they approve it,
 12 and then it goes on to -- they formulate the bottom line
 13 and the year end accounts from that.
 14 Q. Just in terms of the first stage, we have dealt with
 15 this yesterday, but the first stage of the process in
 16 fact was for you to submit your claim, the policy for
 17 your fellow JVP was then to approve it, and it then went
 18 off to the accounts department, wasn't it? I appreciate
 19 you say you operated it in a slightly different way with
 20 your wife.
 21 A. Well, the initial part was slightly different, but
 22 I still believe that Specsavers approved the -- any of
 23 the invoices and credit card statements, because they
 24 would reject certain items if it was wrong. So they
 25 have to approve it. And also if the receipt -- as

1 I said yesterday, the receipt didn't get to them for
 2 whatever reason, whether I didn't send it or it was lost
 3 in the post or it was lost at SOG, then, you know, they
 4 wouldn't put it as a business expense, they would revert
 5 it back to a P11D, or come back to me and say, "Look, we
 6 haven't received a receipt for this". So they then
 7 approve that to make sure that it's all tied up for this
 8 robust system that Specsavers have.
 9 Q. You appreciated that it was important that you provided
 10 truthful and accurate information, firstly in relation
 11 to your P11D; correct?
 12 A. Yes.
 13 Q. And that it was important to do so to ensure that the
 14 returns were properly prepared?
 15 A. As I say, what I provided to them were the details which
 16 were whether it was business and whether it was
 17 personal, my explanations why each of those. And that
 18 would be sent off to them. They were the ones that then
 19 approved it and then did the accounts.
 20 Q. But you also appreciated that the information, you were
 21 responsible for providing information for the accounts
 22 and it was important that the accounts were accurate?
 23 A. I provided the information which I was aware of, which
 24 was how I had spent on the credit cards and what the
 25 invoices were for.

1 Q. But I am saying you appreciated the importance of
2 supplying accurate information for the accounts?
3 A. Yes, I appreciate the importance of it.
4 Q. And you also appreciated that, based on the accounts,
5 your distributions were calculated?
6 A. Yeah, I assume -- I don't know how they worked that out,
7 but I am assuming that's a part of it, yes.
8 Q. You got monthly management accounts which said what the
9 distributable profits were, and that would allow you to
10 take your distributions?
11 A. We did, yes.
12 Q. So the accounts were important, you appreciated, in
13 order to calculate what profits you were entitled to
14 take from the business?
15 A. It would -- yeah, I would suppose that everything was
16 taken out and it would then show what the net profit was
17 at the end, and then we would receive benefits from
18 that.
19 Q. So just to ask my question again -- I am not sure you
20 quite answered it: so you appreciated the importance
21 that the accounts needed to be accurate in order to
22 calculate your profits accurately?
23 A. I appreciated that the information that I gave to them
24 was accurate.
25 Q. And you also appreciated that Specsavers had to make tax

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1 returns, deal with PAYE, and it was important, they were
2 relying on you to ensure that information was accurate
3 in that regard so the returns they made were accurate?
4 A. In what way? You said PAYE.
5 Q. They had PAYE reporting obligations in terms of benefits
6 for employees?
7 A. You mean the salaries? PAYE is the salaries for --
8 Q. Yeah, remuneration and benefits for employees.
9 A. Yeah, that was all provided on the contracts. You know,
10 we would set up on the system, and it would basically
11 say how many hours and what their hourly rate was, and
12 then they would work that out from there.
13 Q. That included you as well? You were on PAYE as well,
14 weren't you?
15 A. I was on PAYE. I was an employee of the company,
16 although I wasn't on the system for me to view.
17 Q. You appreciated that the honesty and integrity of JVPs
18 was important to Specsavers in relation to all these
19 matters we have just been discussing?
20 A. Well, I've said how I understand it. You know, what
21 I enter into the system is -- you know, as long as that
22 is true and what I believed at the time, that's how
23 I understand it, and that's what I've done.
24 Q. Okay. Could we move on to another use of the credit
25 card?

14

1 On 29 March you used your credit card to buy some
2 flights to Spain. You can put away E1. If you can take
3 out H, please, at page 170. (Pause) And over to 171,
4 in fact, as well. (Pause) Yes?
5 A. Yes. Sorry.
6 Q. That's the booking receipt, is it?
7 A. That is the email booking receipt which I received from
8 Aer Lingus.
9 Q. Just looking at 171 -- I am trying to decipher this.
10 A. I know.
11 Q. You are flying from -- at the bottom, the itinerary at
12 170, it says "Mr John Parham, Mrs Shakila Parham --
13 A. Sorry, where?
14 Q. Bottom of 170.
15 A. Yes, I know, yes.
16 Q. Then it carries on: you were flying from Gatwick to
17 Malaga. It says "John Parham and Shakila Parham", and
18 then it says -- I think this may be coming back --
19 "John Parham", "Ethan Parham", in terms of bags?
20 A. Yes.
21 Q. In the middle of the page, it says in terms of tickets,
22 there is one adult and two children?
23 A. Correct.
24 Q. The fare is the same. So three tickets were booked; is
25 that right?

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1 A. Three tickets were booked, and it was one adult, two
2 children. I know it does look a bit odd on here.
3 I obviously didn't send the invoice back through from
4 Aer Lingus, it's come through, but there was only myself
5 and my two children.
6 Q. So why was Shakila Parham shown as the itinerary for --
7 because it says at the top "John Parham" --
8 A. I know. I am not quite sure why that is the case, but
9 there was no issue when we got to the airport.
10 Q. Did you book this online?
11 A. I did, yes.
12 Q. So you must have inputted your wife's name as
13 travelling?
14 A. I can't say what I inputted, and I don't know why
15 Mrs Parham is on there, but I have used Aer Lingus in
16 the past.
17 Now, whether something has come up from that,
18 I don't know. But it was certainly only myself and the
19 two children. My wife stayed at home while she was
20 looking after the practice, and I was only there for two
21 days.
22 Q. I'll come to that. I am just trying to understand this.
23 A. Well, I know.
24 Q. It's a slightly confusing document.
25 Then at 173, if you look at the booking, again the

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1 confirmation of the booking, the passengers, rather than
2 three passengers, there were two passengers named. How
3 old were your children at the time?
4 A. This was April 2009, so they would have been four and
5 six.
6 Q. So Ethan and Rowan --
7 A. Rohan.
8 Q. Right. On 173, again the passenger is listed as
9 Shakila Parham?
10 A. Yeah, I've never actually seen this. I've seen the
11 first two pages or three pages, but I've never actually
12 seen this one.
13 Q. Well, this is a document which you generated.
14 A. I am saying this is what I sent into -- the first three
15 pages were what I sent in to Specsavers. I don't recall
16 actually seeing this. This is from Specsavers.
17 Q. This is from the airline, isn't it?
18 A. No, no, what I mean is -- sorry -- this is Specsavers'
19 disclosures. I haven't given this.
20 Q. Right, I see. Okay.
21 What I am asking you is: does this suggest, though,
22 that in terms of at the time you made the booking, you
23 booked for you and your wife to fly to Spain?
24 I appreciate you say that your wife didn't fly to Spain
25 in the end, but you did book for the two of you to go to

1 Spain? Is that right?
2 A. No. As I've just pointed out, I booked for myself and
3 the two children. That's why the receipt part is broken
4 down into one adult and two children.
5 Q. I see. So you are saying that you proposed for you to
6 fly and for your two children to fly?
7 A. Yes, because it was the -- I think it was on the Easter
8 break, and the reason why I booked this, my Lord, was
9 to -- I was investigating opening another Specsavers --
10 I say opening another Specsavers, opening a Specsavers
11 in possibly Malaga, or around the Nerja area where my
12 parents live.
13 I looked at it as a new venture. It wasn't anything
14 to do with Uckfield. I'll agree with that. But it was
15 looking at a new venture: selling up Uckfield, going out
16 to Spain and starting up a new business. They were
17 already running Specsavers out in Spain, and to date
18 I think they only had one, which is over by Fuengirola,
19 which is the one I visited. Up to now I think they have
20 about eight. So they were looking to expand. There are
21 two other stores that are owned by a husband and wife,
22 which are both English.
23 So that was my intention: to go out there and sort
24 of be close to my parents -- my parents were getting
25 quite old, so I wanted to make sure I could look after

1 them.
2 Now, that's why this is not a holiday, because it
3 was two days. It was literally fly in, spend the
4 Tuesday going round looking, looking for spaces near
5 where my parents were, and then fly back. My wife was
6 the one who stayed at home. I just took the two
7 children because they were on holiday at the time. And
8 I explained this in the eBis system. I quite clearly
9 put in there what it was for, and the -- you know, that
10 it was for a business trip.
11 Now, this is again my point, that I expect, if I've
12 put something in incorrectly, and accounts believe
13 that's incorrect, I am paying a lot of money for them to
14 say -- you know, to look at these inputs and say whether
15 that is right or whether that is wrong. In this case,
16 they agreed that it was correct, even though my -- it's
17 obviously in here somewhere -- explanation in the credit
18 card receipt was that the reason why I am going to, you
19 know, Spain is to look at a new venture, is to open
20 a new Specsavers.
21 Q. So what you are saying now is actually, firstly, that
22 you were thinking about selling up Uckfield and moving
23 to Spain? That's what you say?
24 A. Yeah, as Shakila had done with Hammersmith -- she was
25 with Hammersmith before. We were looking to, you know,

1 to sort of move, to go out to abroad, and that was
2 an ideal opportunity.
3 As I say, my parents live out there. Where we live
4 actually in Uckfield, when we went down there, there was
5 no childcare, none of our family live near Uckfield,
6 it's all sort of 40, 50 miles away. So it was quite
7 a good idea and that's the reason why I went.
8 Q. So you were saying that you thought it might be an idea
9 to set up a new business in Spain; sell up Uckfield and
10 set up a new business in Spain. Correct?
11 A. A Specsavers business.
12 Q. Yes, but not Uckfield?
13 A. Not Uckfield, no. It was a Specsavers -- opening
14 another -- like, as I say, when we moved to Uckfield,
15 when people sell up -- I have had some friends who have
16 sold up and moved to Australia and opened Specsavers in
17 Australia. You know, it was just like one of those --
18 you know, that's how we looked at it.
19 Q. And your parents lived in Spain?
20 A. My parents live in a place -- in Torrox, which is
21 between Malaga and Nerja.
22 Q. Now, Specsavers operates in Spain through a dedicated
23 Spanish business, doesn't it?
24 A. I understand that it's Specsavers, and it's all -- they
25 have all got "Specsavers Opticians" written on the --

1 the one I saw, anyway, had "Specsavers Opticians"
 2 written on there, so I look at it as though it's
 3 Specsavers. Whether the background point is another
 4 Spanish entity, I don't know.
 5 Q. Surely you must have appreciated getting the company to
 6 pay for your children to fly out to Spain wasn't
 7 a business expense? Did you appreciate that, Mr Parham?
 8 A. Well, I believe that it was -- you know, I was going on
 9 a business trip. I explained fully in the eBis system
 10 what it was for. The invoice says who was going. You
 11 know, the receipt is saying who was going. When they
 12 put two and two together, if it's wrong -- I pay, as
 13 I say, a lot of money. I pay sort of £70,000 to £80,000
 14 a year for the accounts and I expect them to say if it's
 15 right or wrong. I don't know if it's right or wrong.
 16 I believed at the time that I could claim this as
 17 a business trip. If I can't, I've not falsified
 18 anything, I've not misrepresented it, I quite clearly
 19 put down what it was for.
 20 Q. Just two points: firstly, did you not think that it was
 21 not appropriate to get the company to pay for your
 22 children's flights to Spain?
 23 A. As I said, I look at it as a business trip. I'm a part
 24 of, you know, going on to that business, and my family
 25 are a part of, I look at it, my business. If that was

1 incorrect, they should have done a partial -- you know,
 2 partially rejected it, or whatever. I looked at it,
 3 I put it through and I believed at the time it was
 4 a business expense, and I still believe that I was
 5 correct in what I was thinking at the time.
 6 Q. So quite apart from your children, did you not think
 7 this wasn't appropriate, to get the company to pay for
 8 your business trip when your idea about setting up a new
 9 Specsavers had nothing to do with this company, did it,
 10 with Uckfield?
 11 A. As I say, I didn't look at it that way. We had moved
 12 from Ealing, when my wife had the Hammersmith store, and
 13 as far as I understood, when we moved, the money from
 14 that business went to the Uckfield business, to open
 15 that business. So this is how I was looking at it: that
 16 this was a part of what, you know, could have been a new
 17 business venture.
 18 Q. Wasn't the reality that this was actually a family visit
 19 with your children to visit over the Easter break your
 20 family?
 21 A. Why would I visit for two days? Why would I fly in and
 22 fly back out? There was no reason to do that. It was
 23 just a two-day trip. I went in, flew back out, and
 24 dropped the kids off at my parents', and did some
 25 reconnaissance, research, went to the store in

1 Fuengirola, looked around Malaga, looked around Nerja.
 2 Q. And it certainly wasn't a business trip for the benefit
 3 of Uckfield Specsavers, was it?
 4 A. As I say, I thought it was a business trip in relation
 5 to the store because it was a Specsavers. You know, we
 6 see all these Specsavers. I see people moving, you
 7 know, as we did -- I see people moving to Australia, you
 8 know. It's all a part and parcel of the system. That's
 9 what I believed at the time.
 10 Q. That may be a personal decision for them, but it doesn't
 11 mean that the previous company should pay for it?
 12 A. But I was already a part of Uckfield as it was at the
 13 time. So I believed, you know, I'm a part of that
 14 company. Me looking out into Spain for a business,
 15 which is also Specsavers, we have all got "Specsavers
 16 Opticians" written on the door, we are all one big happy
 17 family apparently, and this, you know, we -- that's how
 18 I looked at it. It was a part of the business.
 19 The fact that I was going to sell it up, you know,
 20 and then move it, I didn't look at it at that point.
 21 I looked at it as though it was a part of me being
 22 a part of that business and me opening a new business,
 23 Specsavers business, in Spain.
 24 Q. If you sold up the business, you would get the money
 25 from that business and you would buy shares in a new

1 business, wouldn't you?
 2 A. You can do, yes. That's how, I suppose, that part of it
 3 works as well.
 4 Q. Yes. But it's not the same business, it's a different
 5 business which you are buying into?
 6 A. But as I say, I didn't look at it -- I looked -- this --
 7 it is a different business, you know, when you are
 8 purchasing it, yes. This was, you know, a research
 9 looking at the business. It wasn't actually buying the
 10 business.
 11 Q. I put it to you that there is no distinction. The idea
 12 of setting up a new business in Spain and getting
 13 Specsavers Uckfield to pay for it, you must have
 14 appreciated that wasn't a proper business expense for
 15 Uckfield to pay for?
 16 A. Well, if that's the case, then, Mr Potts, why didn't
 17 they just pick up the phone? Why didn't they ask me?
 18 Why didn't they just reject it? Why didn't they do
 19 something and call me back, or whatever?
 20 I pay -- as I say, I pay a lot of money for the
 21 accounts to do this. They quite openly admit in
 22 Ms Mancini's witness statement that they do not pay
 23 business items unless they receive a receipt. You put
 24 them both together, at that point they should have come
 25 back and said, "This is not a business receipt". If

1 I had put this through my accountant, you know, as
2 a personal accountant, I would expect him to offer me
3 the same information and, you know, looking after me in
4 that way. Whether it was right or wrong, you know, he
5 should have told me. And I will be that Specsavers
6 should have told me.

7 I believed that that was a business trip at the
8 time. I put it through on business. I am quite clear
9 and transparent what I wrote on the eBis system. It was
10 quite clear there was no ambiguity about it at all. It
11 was not misrepresented, it was not misconstrued. They
12 believed that it could be accepted as a business trip,
13 otherwise they would have thrown it back.

14 Q. Let's move on to external invoices.

15 Now, we have been talking about credit card use.
16 Now, there is a difference in terms of third party
17 invoices or standing orders; yes? Because those come
18 into the store, you send them on to the accounts
19 department, and the accounts department then pays them;
20 correct?

21 A. They do, yes.

22 Q. Let's have a look at page 204, please, in H.

23 This is you writing to the accounts department
24 instructing them to set up -- sorry, I said standing
25 order, maybe it's a direct debit. And it says here:

25

1 "... for cleaning services provided to the store.
2 I require the DD ... first of [the] month of £100."
3 Actually I think that may be a standing order,
4 in fact.

5 A. I have put down direct debit.

6 Q. But a standing order is a fixed amount per month, rather
7 than a direct debit allows the person to just apply
8 a different sum as and when. I don't think anything
9 turns on it.

10 A. I'm not quite fully sure of what the implications are on
11 it, but --

12 Q. Okay. It doesn't matter. The details are it's
13 Kathy Lewis, trading as Florian Home Services. Yes?
14 And that's your signature at the bottom?

15 A. That is my signature at the bottom.

16 Q. This is not a credit card transaction, it's a standing
17 order to be paid by Specsavers on behalf of the store?

18 A. This is a standing -- as you say, I've put it down as
19 a direct debit. Whether it came through as a standing
20 order I don't know, but I've asked Specsavers to set up
21 a direct debit because, as I've stated, we can't set up
22 direct debits and we have no access to the bank account.

23 I've set it up, as I've put down here, "to provide
24 cleaning -- sorry:

25 "Cleaning services provided to the store."

26

1 Q. This was actually your home cleaner, wasn't it?

2 A. This was our home cleaner, who cleaned our home. The
3 reason why it was cleaning the home, because as
4 I mentioned yesterday we used our home for an array of
5 things. We interviewed staff at home, we used to
6 entertain the staff, the top team especially, at home.
7 I worked from home. We also used our home as a storage.
8 We were only five minutes' walk away from the store, and
9 instead of, you know, paying for a storage company to
10 store everything, we used our home. So we believed that
11 this, our home, was an extension of the business, and we
12 believed that this was a valid business reason for, you
13 know, to clean the home.

14 So then we could stay in the business and, you know,
15 looking at it as the best interests of the business, for
16 Uckfield Specsavers Limited, was that we spend as much
17 time as we could within the business.

18 Q. Okay. Could I ask you to look at paragraph 38 of your
19 witness statement? (Pause)

20 A. Okay.

21 Q. Just looking at the first sentence, you say that this
22 was a conscious decision in your letter in terms of the
23 wording you had used; is that right?

24 A. That's correct.

25 Q. You say that -- I am paraphrasing -- you consciously

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1 used that wording for cleaning the store because you
2 knew it was not for cleaning the store and you were not
3 representing it was for the store; it was for cleaning
4 your home, which you viewed as an extension of the
5 store?

6 A. As I say, it states in here it's cleaning services
7 provided to the store, and the reason why I put that is
8 if I have a storage company, as in Bognor, they had
9 a storage company who looked at -- you know, a lock-up
10 or whatever, they put all their unitary, their files,
11 et cetera, archives in their lock-up.

12 If I had put that down and I wanted that to be
13 attributed to the store, I would put down: this is
14 services provided to the store. It's not actually
15 a part of the store, it's not in the store, you know,
16 it's provided to the store. That's how I see it, as our
17 home, as I say, was an extension of the business.

18 Q. I see. So you are saying this is some careful wording
19 to distinguish the fact that it's not actually in the
20 store, it's provided to your home which is an extension
21 of the store; is that right?

22 A. This wording, how I understood it is to be, you know,
23 provide -- because I knew that it wasn't for -- you
24 know, we have never represented that we have had
25 a cleaner in the store.

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1 Q. Would you accept that a reasonable reader of this letter
 2 would conclude that the cleaning you are referring to is
 3 at the store?
 4 A. Well, if you look at this, as you say, if you look at
 5 the name of the company. Now, this is the second
 6 company because the first company we had, Myhome
 7 Residential Cleaning Services, which quite clearly says
 8 "Myhome", it's residential, they went into receivership.
 9 This was the company following on from that, and again,
 10 it says:
 11 "Trading as Florian Home Services."
 12 So when I put that through, tying in with "provided
 13 to the store", that looks quite obvious to me that it's
 14 not for cleaning the store, it's a home cleaning
 15 service.
 16 Q. Well, let us look at the first sentence. Are you saying
 17 that, reading that first sentence, a reasonable reader
 18 would understand that that wasn't actually for cleaning
 19 the store, but for cleaning in some other way? Is that
 20 right? Is that what you are saying?
 21 A. That's how I understand it. And then if you put both
 22 together, the name of the company and that, I think that
 23 becomes very apparent.
 24 Q. Look at the second point. All that they know is that
 25 there is a cleaner, an individual cleaner, using

1 a trading name, and you are asking a standing order to
 2 be paid for the company for cleaning services provided
 3 to the store.
 4 It would hardly be obvious to the finance department
 5 that Ms Lewis was in fact only cleaning your house,
 6 would it?
 7 A. Yes, I think it's very obvious. And as I said, if you
 8 look at the, you know, way it happened and the reason
 9 why we have got this company, it's because the Myhome
 10 Residential Cleaning Services went into receivership.
 11 And the reference on the invoices from Specsavers for
 12 my -- was my home. It's quite clear they understood
 13 what it was for: it was for my home. I am looking at
 14 that, and that's how I would see it: it's for a home
 15 service cleaning.
 16 Q. Your explanation is that you viewed your home as
 17 an extension of the store, and so this was a perfectly
 18 proper business expense?
 19 A. This was a perfectly valid business reason to put
 20 a business expense through, yes.
 21 Q. If this was all so straightforward, why didn't you just
 22 set up, when you put in the instruction to the standing
 23 order, why didn't you say, "This is for cleaning my
 24 home, which is an extension of the store"?
 25 A. If you look at that, that's how I believe that should be

1 understood.
 2 Q. Mr Parham, I put it to you that's just not real, is it?
 3 You would have appreciated that any reasonable reader of
 4 this document would have viewed this as
 5 a straightforward instruction to set up a standing order
 6 for the store, cleaner, wouldn't they?
 7 A. No. I am quite adamant that that's how I would look at
 8 it, and also tying this in with our previous cleaner it
 9 was quite obvious that these were for cleaning the home,
 10 not for cleaning the store.
 11 Q. Isn't the true position you were asking them to set up
 12 the standing order, direct debit, on really a false
 13 representation that this was to pay the store cleaners?
 14 A. No. I can't go into any more. That's how I look at it.
 15 Q. Isn't the true position that if you had said to them,
 16 "Actually, I would like you to pay our home cleaners"
 17 you appreciated they would have challenged what you were
 18 seeking to do?
 19 A. Well, we have just gone through the flights, Mr Potts.
 20 Should they have not challenged that if they thought
 21 that was wrong?
 22 Q. I'm asking about this document --
 23 A. And I am also saying about the flights, Mr Potts.
 24 Q. Could you answer my question, Mr Parham?
 25 A. Obviously not, then, Mr Potts.

1 Q. Now, you also put in your witness statement another
 2 justification. You also refer, I think, to a circular;
 3 is that right? About taking money out of the business?
 4 A. I am sorry, where are we looking?
 5 Q. Give me one second to check the reference on that.
 6 (Pause) If you go to page 73 --
 7 A. Of?
 8 Q. Sorry, I think it may be 73 or 74 of your witness
 9 statement. I think it's paragraph 75.
 10 A. Mm. Do you want me to -- do I need to read through it?
 11 Because there's ...
 12 Q. Well, (b) is the bit about the circular of May 2008.
 13 (Pause) You have read that short paragraph?
 14 A. I am just making sure that I am reading all prior to
 15 that as well. (Pause)
 16 Q. If it assists, could I take you to E1, which is the
 17 document?
 18 A. Sorry, I haven't finished.
 19 Q. It's quite a short paragraph.
 20 A. I know, but I want to make sure that there is nothing
 21 I am missing.
 22 Q. Can I --
 23 A. It does say "as explained above" in that paragraph.
 24 Q. I see. Okay.
 25 A. Yeah. Obviously I don't want to miss -- because that's

1 what it's obviously referring to. (Pause) Okay.
 2 Q. Okay? Could I take you to E1.
 3 A. Yeah.
 4 Q. Page 95.
 5 A. Okay.
 6 Q. This is the document you were referring to, is it?
 7 A. It is, yes.
 8 Q. You are familiar with this document, since you refer to
 9 it in your statement?
 10 A. Yeah, I am familiar to certain parts of this document,
 11 yes.
 12 Q. It says at the opening paragraph -- this is dealing with
 13 bonus versus dividends:
 14 "There are several ways in which a company can
 15 distribute its profits to the shareholders."
 16 Yes?
 17 A. Yeah.
 18 Q. Then there is some discussion about ways that
 19 distributions could be made. And you talked about bonus
 20 and dividends. That's the bottom line reports, isn't
 21 it, that you got?
 22 A. These calculations here, they are examples of what can
 23 be -- and how it works.
 24 Q. Yes. This is how you could take the profits as shown in
 25 your bottom line, how you can take them out; correct?

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1 A. Correct.
 2 Q. At the end of the memo they talk about some other
 3 options in which the profits could be distributed; yes?
 4 A. Sorry, which page?
 5 Q. Page 96. "Other options" on the right-hand side.
 6 A. Yes.
 7 Q. It talks about a number of other ways of getting
 8 distributable profits out by, for example, a new car,
 9 school fees --
 10 A. Golf club membership.
 11 Q. Yes. That's got nothing to do with getting the company
 12 to pay for your cleaner as a business expense, has it?
 13 A. These are personal items.
 14 Q. No.
 15 A. This is items which we can redistribute the net profits
 16 prior -- so for argument's sake, if you are saying
 17 a car, they said we can buy a car, a new car from this.
 18 This money would have ultimately been as a dividend, but
 19 what they are saying is: you can buy a new car through
 20 the business to -- you know, out of those profits.
 21 That's how I understand this, because what's golf
 22 membership got to do with the business?
 23 Q. Yes.
 24 A. Sorry, this is not business, this is personal.
 25 Q. The explanation that you have given, the first

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1 explanation you have given this morning is that you
 2 understood that paying for your cleaner at home was
 3 a business expense, was a proper business expense;
 4 correct?
 5 A. There's a valid business reason for it, which was, you
 6 know, as I said, the working from home. We used our
 7 home as the storage and we entertained at home, we
 8 interviewed staff at home.
 9 Q. So you are saying that was your understanding, this was
 10 a proper business expense?
 11 A. It's a proper business expense, a valid business reason.
 12 Q. This, as you have just said, the idea about sort of
 13 buying a car or golf club membership, that's got nothing
 14 to do with the company. What this is talking about is
 15 how you can take distributions from the company in
 16 relation to matters which are not business expenses.
 17 Correct?
 18 A. These are personal, but also, you know, you can say it
 19 was like the loan-backs. A loan-back is like a business
 20 expense, paying loans that you have bought the business
 21 through.
 22 You know, when we looked at this, this is what we
 23 thought we could -- and believed that distributing the
 24 profits of the business in that way.
 25 Q. They are completely inconsistent, aren't they,

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1 Mr Parham? The first one is that this is a legitimate
 2 business expense, to get my house cleaned, and that
 3 would mean that it would not hit your personal tax
 4 return at all, would it, because it would not come up on
 5 your P11D?
 6 A. No, but it would reduce those profits.
 7 Q. You wouldn't personally pay tax out of it, would you?
 8 A. I wouldn't personally pay tax on it.
 9 Q. No. The second justification, this one, is that you
 10 could take a profit distribution in a number of
 11 different ways, such as actually buying a car out of the
 12 profits; correct?
 13 A. That was -- it was a personal -- that's a personal item:
 14 school fees, golf club membership.
 15 Q. And that would count towards your income and you would
 16 pay tax on it?
 17 A. I would pay tax on that.
 18 Q. If you look at the bottom of page 96, for example,
 19 talking about benefits, it says:
 20 "Partners will be assessed by HMRC on the benefits
 21 which may result in being drawn into payments on the
 22 account process."
 23 So it's clear that that sort of approach would be
 24 subject to income tax; correct?
 25 A. Yes.

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1 Q. Do you accept they are completely inconsistent?
 2 A. To me, it still comes out, you know, the profits of the
 3 business. One is personal, one is business, but they
 4 are still coming out the profits of the business.
 5 Q. The second one comes out of the profits as shown on the
 6 bottom line reports; correct?
 7 If you are going to buy a car, that is based on the
 8 fact that you have -- you've seen the figures above,
 9 "I've got £10,000 shown on the bottom line report.
 10 Rather than taking it in cash, I could get a car
 11 instead"?
 12 A. I don't know how that works. I don't know if that's the
 13 way you can analyse that.
 14 What it says on the bottom line, that's what
 15 I looked at as being able to take as a dividend or
 16 a bonus from the business. I don't know if there is
 17 a correlation between those two, between --
 18 Q. How would Specsavers, if you thought that this was a way
 19 of taking a distribution out of profits, your second
 20 explanation, if you were sending this in to the accounts
 21 payable department, how would they know that actually
 22 you were seeking to take this as a distribution of
 23 profits?
 24 A. Sorry, say that again?
 25 Q. If you put this in to the accounts payable department --

1 A. What are we putting in, sorry?
 2 Q. The invoice.
 3 A. This invoice here?
 4 Q. Yes, the instruction.
 5 A. The one about the Florian Home Services?
 6 Q. Yes.
 7 A. Okay.
 8 Q. If you send that to the accounts payable department,
 9 actually your second explanation is you viewed this as
 10 a distribution, you were taking a distribution; is that
 11 right? That's your second explanation?
 12 A. No, I haven't said I was taking it as a distribution at
 13 all. You are talking about -- when you say "taking
 14 a distribution", are you talking about this, this
 15 invoice that I am taking as a distribution?
 16 Q. Your second explanation is that you appreciated, looking
 17 at this, that you could take the profits out of the
 18 business in a number of other ways?
 19 A. Yes.
 20 Q. Yes? If you wanted to take a distribution or a bonus or
 21 something like that, you didn't speak to the accounts
 22 department, you spoke to the distribution and investment
 23 team, didn't you? You put in a request?
 24 A. I would phone up the FCR, which is the finance customer
 25 response team.

1 Q. It's not the accounts payable department, it's
 2 a different department?
 3 A. I don't know who is who over there. We have one number
 4 that we call down through the FCR, and that is then --
 5 you are then put through to whichever department via
 6 them if they can't help us. But --
 7 Q. When you made a bonus or dividend request, you would
 8 make that request to the distribution and investment
 9 team, wouldn't you?
 10 A. It would go to the FCR team.
 11 Q. You would make a specific request to them to take
 12 a distribution?
 13 A. We used to, yes, but then that changed. With the
 14 introduction of this eBis system it progressed, and we
 15 were told to set up a standing order or direct debit,
 16 whatever it was, for a monthly amount which we could
 17 take as a dividend.
 18 If there wasn't enough in the company at the time to
 19 be able to take that, then that would be rejected. So
 20 it changed slightly. Initially we used to fill out
 21 an FCR form, distribution form, and sent it off to FCR.
 22 Q. The point I'm making to you, Mr Parham, is if you put in
 23 your cleaning invoice to the accounts payable
 24 department, they had no way of knowing that in fact you
 25 were thinking that you were seeking to take this out as

1 a distribution of profits out of the business?
 2 A. I was not taking it out as a distribution of profits,
 3 I am saying that was a business expense. This was put
 4 towards -- this was a business expense. This was quite
 5 clearly shown that it was for the -- you know, provided
 6 to the store. And it's quite clearly -- shows that it's
 7 a residential cleaning services, as in Florian Home
 8 Services.
 9 It followed on from the other company, which was
 10 Myhome Residential Cleaning Services. They are quite
 11 obviously home cleaning services. These are not
 12 business cleaning services. That tied in with what
 13 I asked up here, which was provided to the store, my
 14 analogy on that was to say if I had paid for storage, it
 15 would -- I would put that as services provided to the
 16 store.
 17 Q. Mr Parham, we have explored in terms of the tax
 18 treatment of these two options, the distributions and
 19 the business expenses, and you have said, and I think
 20 you understand, that if you put something through as
 21 a business expense it doesn't hit your personal tax
 22 return; correct?
 23 A. That's correct.
 24 Q. And you have also explained that you understand that if
 25 you got a benefit through this idea, the

1 bonus v dividend route, yes, that would hit your tax
 2 return?
 3 A. If I had bought a car, or like I've --
 4 Q. Or took any of these benefits in this way under this --
 5 A. Which benefits are you talking about? Are you talking
 6 about a new car? Are you talking about golf membership?
 7 Are you talking about the invoice here?
 8 Q. You are saying that you thought the invoice here would
 9 be treated in the same way as the other items --
 10 A. I looked at it that it was a part of -- although the
 11 golf membership would go to my personal, it's still out
 12 of the company's money. This -- one is a business, one
 13 is personal. That's how I look at it.
 14 I have to quite simplify how I understand it,
 15 because I am not, as I say -- you know, I am not legally
 16 savvy or tax savvy. I just know that that's how I look
 17 at it: One is business and one is personal.
 18 Q. Could you open, please, volume G, tab 3, page 76? You
 19 commenced an employment tribunal claim, didn't you?
 20 A. I did.
 21 Q. You put in witness statements in that, those
 22 proceedings?
 23 A. We did.
 24 Q. It went to hearing and there was cross-examination at
 25 the hearing?

1 A. There was.
 2 Q. At 18(b), page 76, at the bottom of the page.
 3 Paragraph 18 is in many ways similar to what you say in
 4 your current witness statement in these proceedings.
 5 If you look at section (b), you deal with the
 6 cleaner there. (Pause)
 7 A. Yes.
 8 Q. There, you are suggesting, you are giving the first
 9 explanation which you have given to his Lordship this
 10 morning, which is that you viewed your home effectively
 11 as an extension of the business, and this was a proper
 12 business expense; correct?
 13 A. Yes.
 14 Q. There is nothing in this memo relating to your second
 15 explanation which is in your witness statement now about
 16 this memo about distributions, is there?
 17 A. I don't know whether we had access to this information
 18 at the time, because the reason why the ET was stopped
 19 and we didn't want to continue with it is because
 20 Specsavers refused to divulge all -- disclose all the
 21 information.
 22 Q. Isn't the reality that this new suggestion of it being
 23 a distribution in profits pursuant to this memo? This
 24 is just a recent invention to try and justify your
 25 conduct on this, isn't it?

1 A. No. Not at all. I've explained why I've done this and
 2 I don't know how I can explain it any more.
 3 Q. Secondly, as I put to you, the second explanation is
 4 flatly inconsistent with the first, isn't it?
 5 A. No.
 6 Q. If we could go back --
 7 A. Do I need to close --
 8 Q. Just one second. (Pause)
 9 Do you still have H/204?
 10 A. Yes, I think I have. Do I need E1?
 11 Q. You don't need E1. Is your position -- just to go back
 12 to this point, this is being sent to the accounts
 13 department. Your position is you don't accept that this
 14 reference to cleaning services provided to the store was
 15 in any way misleading; is that right?
 16 A. No, because if you actually look at the previous page,
 17 203, which I can see, it actually says this is the
 18 company prior that went into liquidation. This is
 19 Myhome. So I think it's quite obvious that this is
 20 a business expense. And the page before that as well,
 21 Myhome Residential Cleaning Services.
 22 Q. Is your position that you believe you don't think that
 23 anybody could come to the conclusion that this was
 24 misleading and that what you had done was to get the
 25 company to pay for your home cleaner, and that you were

1 misleading the accounts department?
 2 A. Definitely not, there was no way that I misrepresented
 3 it. It was quite easy to understand, I made it quite
 4 obvious, as I did with the flights. These all put
 5 together -- the name, the wording that's in there --
 6 it's quite obvious that it was a business expense.
 7 Q. Mr Parham, I put it to you that somebody looking at this
 8 plainly would have concluded, from the manner in which
 9 you set this up and the wording of this claim, that this
 10 was a deliberate and dishonest attempt to mislead the
 11 accounts department to get the company to pay for your
 12 home cleaner?
 13 A. As I've just said, I can't say it any more, that's not
 14 the case at all.
 15 Q. Isn't the position in fact during the ET proceedings
 16 that you accepted during your cross-examination that you
 17 could see why someone could come to the conclusion that
 18 you should not have got the company to pay for your home
 19 cleaner and that you had misled the accounts department?
 20 A. No.
 21 Q. You didn't say that?
 22 A. I -- the ET was a very traumatic time for me.
 23 I couldn't even remember my name on the day. I was
 24 very, very terrified on that day. So -- and I don't --
 25 the only transcript we have of the ET is the law firm

1 that took it, which wasn't ours. So I don't --
2 I wouldn't accept what was said on there anyway.
3 Q. You know that that transcript says, the notes of that
4 transcript say that that is what you said?
5 A. No, I don't, because I don't accept it.
6 Q. You have read the transcript, haven't you?
7 A. No, I haven't.
8 Q. You haven't?
9 A. Because I didn't accept it, as I've just said.
10 Q. So you have never read it?
11 A. I don't think so, no. I am pretty sure I haven't
12 read it.
13 MR STUART: Is there a transcript?
14 MR POTTS: As he says, it's the notes.
15 MR STUART: It's not a transcript, it's a solicitor's note.
16 MR POTTS: It's a solicitor's note of the hearing.
17 A. So I haven't read the transcript.
18 Q. Just deal with it in stages. You are saying that it was
19 all very traumatic. Are you saying that you don't
20 remember what you said, or are you denying that you did
21 say it?
22 A. I said it was very traumatic on the day, but I didn't
23 read the transcript.
24 Q. Okay. Forget the solicitor's notes, I am asking for
25 your recollection as to what you said under

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1 cross-examination in relation to this.
2 Are you saying that you didn't accept that under
3 cross-examination, or that you don't remember because it
4 was very traumatic?
5 A. I don't remember.
6 Q. Okay, can I show you the note to see if it refreshes
7 you? G/163. The manuscript notes are, if you go back
8 to 139, the document that's been typed up, at 163. Yes?
9 Can I take you to the bottom of page 163?
10 A. Mm.
11 Q. That deals with the K Lewis receipt, do you see that,
12 about five lines up?
13 A. Yes.
14 Q. You say:
15 "I used home as part of the store."
16 Do you remember saying that?
17 (Pause)
18 "I used the home as part of the store."
19 Do you accept that that was your answer at the ET?
20 Do you remember?
21 A. No, I can't remember that.
22 Q. The following question:
23 "It's clear that you were aware that you shouldn't
24 have used ... pay the home cleaner, therefore you
25 misled?

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1 "Answer: I can see why you would come to that
2 conclusion."
3 Are you saying you didn't say that or you just don't
4 remember?
5 A. I don't remember saying that.
6 Q. You don't remember one way or another?
7 A. I don't remember saying that. I wouldn't -- I don't
8 believe I would have said that.
9 As I say, I don't accept this transcript because
10 this was done on -- by the defendants, and I think it
11 was just notes someone took at the back. So I don't
12 accept that.
13 Q. You are suggesting now that you don't believe that
14 somebody looking at this now could have concluded that
15 this was misleading?
16 A. No.
17 MR POTTS: Okay.
18 My Lord, a break for the transcribers, my Lord?
19 MR JUSTICE HILDYARD: We were going to soldier on to 11, but
20 I am perfectly happy to stop now, if you would like.
21 Ten to, then.
22 MR POTTS: My Lord, can I just get some sense as to the
23 row-back for the rest of the day timing-wise?
24 MR JUSTICE HILDYARD: I had originally thought we would go
25 on until 11, but we are not any longer. I thought that

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1 we would go on until 12.30ish and then break until, say,
2 1.15ish, and then I must stop by 2.30 sharp.
3 I am perfectly content to divide that time into
4 other bite-sized morsels more convenient to anybody,
5 really. I thought if we had the short adjournment at
6 the usual 1 o'clock and then came back, it was too tiny
7 a morsel in the afternoon.
8 MR POTTS: My Lord, I think 12.30 is quite a long session
9 for the witness. That seems sensible to break at 12.30.
10 We've had an early start and quite a long day, I am just
11 wondering whether a usual short adjournment -- I don't
12 mind.
13 MR JUSTICE HILDYARD: I am not going to fight against that,
14 if it's only to assist you.
15 MR POTTS: Well, no, let's say 1.15, my Lord. That's fine.
16 MR JUSTICE HILDYARD: We can see how you are at 12.30, see
17 how the witness is at 12.30. If everyone would really
18 rather appreciate slightly -- well, the usual time,
19 which is anyway quite short, we will do that then.
20 In the meantime, we will break until ten to 11.
21 (10.40 am)
22 (A short break)
23 (10.50 am)
24 MR POTTS: Mr Parham, just before we broke I was asking
25 about whether your description of the cleaning services

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1 was misleading; you remember?
 2 A. Yes.
 3 Q. Could you turn up H, please, page 177? At the top
 4 right-hand side there is an invoice there from K Lewis.
 5 A. Yes.
 6 Q. That's the K Lewis, same lady?
 7 A. It is the same lady, yes.
 8 Q. That's 17 December; yes?
 9 A. It is.
 10 Q. 2009. So this is before you set up the standing order?
 11 A. Yes.
 12 Q. It says "Cleaning for December, £80". You put this
 13 through as a cash expenses claim, a business expenses
 14 claim through eBis, didn't you? (Pause) If it helps,
 15 if you turn back --
 16 A. Yes, I am just --
 17 Q. Let me help you. Turn to 175, item 8. Do you see that,
 18 the £80?
 19 A. Mm.
 20 Q. Yes?
 21 A. Yes.
 22 Q. It's the same date. You have put through the expense
 23 type -- you remember we went through the system, you
 24 have to say what kind of business expense it is -- and
 25 you elected the code "cleaning", didn't you?

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1 A. Yes.
 2 Q. Then we also said you have to put in a description?
 3 A. You do, yes.
 4 Q. The description you put through is "cleaning store"?
 5 A. Yes, it is.
 6 Q. Are you saying that that's not a misleading description?
 7 A. No, because I say it was the same company as before. It
 8 was a roll-on from the Myhome company, and it was, you
 9 know, a service provided to the store.
 10 Q. Well, let's just break that down.
 11 Firstly, it's not actually a company, it's
 12 an individual. If you turn back to 177, it's K Lewis.
 13 A. Yes.
 14 Q. Yes? That doesn't say anything about it being home or
 15 anything else, does it? It just says K Lewis?
 16 A. It doesn't on there, no. But she was K Lewis trading as
 17 Florian Home Services. She hasn't put that on there,
 18 no.
 19 Q. How would the accounts department know that at the time
 20 you put this in?
 21 A. They probably wouldn't.
 22 Q. Right. So are you still saying that that's not
 23 misleading, then?
 24 A. No, because I understood what it was for.
 25 Q. I am not saying whether you understood it, I am saying

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1 whether this was misleading for the accounts department?
 2 A. No, it's not. It isn't, because I didn't misrepresent
 3 it. I knew what it was for and that's what I put it in
 4 for. So that's how I understand it.
 5 Q. I put it to you that it was misleading and you must have
 6 appreciated that it was misleading?
 7 A. No.
 8 Q. Okay. Turn on, please, to page 137?
 9 A. This is also a point I would like just to point out on
 10 the -- 202, the -- about Myhome. And, as I say, this --
 11 Florian Home Services rolled on from Myhome. There is
 12 a paragraph underneath that quite clearly states what
 13 this company do. They don't mention at all that it is a
 14 business cleaner. And this was, as I say, just
 15 a follow-on from this company, and this was also in the
 16 same vein, that it was for our home but as a business
 17 expense.
 18 So it was quite clear, I think, you know, throughout
 19 what we had intended it for.
 20 Q. Are you saying that because a company has the name
 21 "home" in it, it should be obvious to the accounts
 22 department that it's not a service provided to the
 23 store? Is that right?
 24 A. Well, Myhome Residential Cleaning Services, Florian Home
 25 Services, one was following on from the other. The

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1 accounts department were fully aware that Myhome had
 2 gone into receivership, because there were issues about
 3 that: Accounts had paid when we had asked them not to
 4 pay due to this company going into receivership. So
 5 they were fully aware that one was following on from the
 6 other.
 7 As I say, this quite clearly states that this has
 8 nothing to do with business-related, you know -- sorry,
 9 business cleaning services. This is quite obviously
 10 a home cleaning services as was Florian Home Services.
 11 Kathy Lewis, who was trading as Florian Home Services,
 12 followed on from this.
 13 Q. Okay, I'll just move on to the flowers.
 14 A. Sorry, you did say a number?
 15 Q. Yes, H/137.
 16 A. Yes.
 17 Q. Now, that's a schedule from the investigation file
 18 showing that invoices totalling £1,331.57 pence for
 19 flowers ordered between April 2006 and December 2010 and
 20 paid for by the store company?
 21 A. That's correct.
 22 Q. Look at an example, I think they are all from the same
 23 supplier.
 24 A. They are all from the same supplier.
 25 Q. 155 is an invoice. It's initialled by you; is that

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1 right? I think it's initialled by you?
 2 A. Yes.
 3 Q. It says "Flowers, waiting area", doesn't it?
 4 A. It does.
 5 Q. You are aware that Mr Whittaker said that flowers were
 6 not on display in the store?
 7 A. That's correct. I understand that's what he has put in
 8 his witness statement, but obviously that's not true.
 9 Q. You are aware of that allegation?
 10 A. I am aware of that allegation.
 11 Q. What's your response to that allegation?
 12 A. My response to that is that Mr Whittaker wasn't working
 13 for us at this time.
 14 Q. What about in the later time?
 15 A. When are we talking about?
 16 Q. When did he start working for you?
 17 A. He started in April 2008.
 18 Q. Okay. Well, these orders run all the way through to
 19 2010. I'm not asking --
 20 A. Can you show me ones that say on the shop floor?
 21 Q. Okay, the next one: 156.
 22 A. Okay.
 23 Q. 161.
 24 A. Okay.
 25 Q. 163 says "store, "store". 162 says "store".

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1 A. 162, did you say?
 2 Q. 162 says "store".
 3 A. Yeah.
 4 Q. Flowers, 164, 165, 166.
 5 A. Okay. If you look at, there is only -- I think there
 6 were only four actual sets of flowers that were on
 7 the -- for the waiting area or on the actual shop floor,
 8 and that was early 2008 when Mr Whittaker was there. It
 9 was eight in total -- in full total, which four of those
 10 were before Mr Whittaker arrived.
 11 Where it says "store" here, this could relate to
 12 a member of staff, that it was a birthday. For
 13 argument's sake, you are looking at 162, it says "John
 14 collect store 13/2". That's my wife's birthday. And we
 15 bought all staff -- and as you have already pointed out
 16 we are an employee of Uckfield Specsavers Limited -- for
 17 their birthdays we bought flowers, for any bereavements,
 18 any family bereavements, they were also, you know -- I
 19 would have possibly, you know, more than likely put
 20 "store" down because it was not in the store, but they
 21 were for the people, staff, of the store.
 22 Q. I am just trying to break this down. Are you saying
 23 that in the earlier period you did have them in the
 24 store and then you stopped?
 25 A. Yeah, we thought that no-one was really appreciating the

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1 flowers that we had this the waiting area, so we
 2 discontinued to do that. But we have always been buying
 3 flowers for staff, for other stores, for customers. And
 4 as I said before, when we moved to Uckfield, we had, you
 5 know -- we didn't know anybody and a lot of our patients
 6 became our friends as well. So if they had bereavements
 7 they would go to -- you know, we would buy them flowers.
 8 For the customers' side of it, it's quite good PR in
 9 the fact that, you know, these flowers come from
 10 Specsavers. We are taking an interest in our customers,
 11 albeit they do turn into friends a lot of the time.
 12 Things like where it says "store" on these, you
 13 know, most of these are actually for staff, you know,
 14 for the staff, birthdays, et cetera.
 15 Q. So just looking at 162, you talked about bereavements,
 16 so --
 17 A. Yes, which -- the one above it.
 18 Q. You said "store". In fact, that's your wife's birthday?
 19 A. Yes.
 20 Q. It doesn't say that.
 21 A. I know it doesn't say that, but it's --
 22 Q. Above it it makes it clear that that's for
 23 a bereavement; correct?
 24 A. Yes.
 25 Q. You get, 154, one which says "mum died". Who was

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1 Karen Bracknell?
 2 A. Karen Bracknell was the manager.
 3 Q. And above, it says "store"?
 4 A. Sorry, 154 did you say?
 5 Q. Yes.
 6 A. Yeah, again, if you look at that, that's 12/2, that's
 7 Shakila's birthday the following day.
 8 Q. So in terms of Mr Whittaker, you are saying he is
 9 correct that during his time they weren't displayed --
 10 A. No, I didn't say that, Mr Potts.
 11 Q. I see.
 12 A. I said there were four sets of flowers. Having gone
 13 through these, I found out that there were four sets of
 14 floors on the shop floor during his time there. There
 15 were about eight sets of flowers in total from these
 16 invoices that we have on the shop floor from starting
 17 until 2011 when we were taken out.
 18 Q. But you said that there was a change of heart, that it
 19 wasn't working, so you stopped doing it, I think. Isn't
 20 that what you said?
 21 A. I didn't say it wasn't working, I just don't think
 22 people necessarily appreciated in store -- a couple of
 23 kids may have been playing with them, et cetera. We
 24 looked -- plus it was also taking up a bit of the area,
 25 of the waiting area.

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1 Now, we only had a small store as it was. There was
 2 only a small area, so it was taking up a lot of that
 3 area. We have to put all the leaflets on the wall, we
 4 couldn't put them on tables, et cetera, because there
 5 wasn't enough room. So it was a change of heart, yes --
 6 Q. Okay. That's what I am trying to get so to. You are
 7 saying that there was a change of policy -- maybe that's
 8 a little formal?
 9 A. Yeah.
 10 Q. A change of approach, whereas initially you had bought
 11 flowers for the store, you decided it really wasn't
 12 working and you stopped doing it; is that right?
 13 A. For the store, yes.
 14 Q. Yes. On display.
 15 A. On display in the shop.
 16 Q. Okay.
 17 Now, in your witness statement, you talk, at --
 18 I think it's probably page 75 of your -- I am afraid
 19 there is a formatting thing. It's section (d). It's
 20 quite a long paragraph, 75(d) of your first statement.
 21 A. Okay.
 22 Q. You appreciated that the allegation of Mr Whittaker is
 23 that the flowers weren't on display in the store?
 24 A. No.
 25 Q. You appreciated that was his allegation?

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1 A. That was his allegation. That's not true.
 2 Q. No, which you are responding to in this statement,
 3 because that was the matter which was put to you. And
 4 this is your response.
 5 Now, you don't actually say anything here about the
 6 flowers being on display in the store in this
 7 paragraph at all, do you? You talk about customers and
 8 employees on special occasions, the birthdays and
 9 bereavements; correct?
 10 A. Yeah, I've shortly gone into this. I know a lot of
 11 what's in my statement is expanded in my wife's
 12 statement, as of -- you know, as we -- well, I found out
 13 last night, as we -- I think both of us said that we
 14 would look into the naming and shaming, and I was quite
 15 confident that it was in my witness statement. And when
 16 I look at it, you are absolutely right, it wasn't. But
 17 there is a point in my statement that says about Sunday
 18 opening, referring to in my wife's statement,
 19 exaggerated -- sorry, it's gone on through there.
 20 If you look at point 13 of my witness statement. So
 21 I think a lot of things are --
 22 Q. I am asking you about this --
 23 A. I know. All I am saying is this was more to do with the
 24 flowers -- sorry, more to do with my wife's statement,
 25 the flowers.

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1 Q. So you are saying that she has given the fuller
 2 explanation on it?
 3 A. I think so, yes, I understand.
 4 Q. Do you accept that flowers were sometimes bought for
 5 your home?
 6 A. No, I don't accept that at all. They were never bought
 7 for the home per se. As I've already explained to you,
 8 that because both my wife and I are employees of the
 9 company, we, you know, bought flowers on birthdays as we
 10 would for the rest of the staff.
 11 Q. In relation to going back to 74(d), this was
 12 an important point for your statement, wasn't it,
 13 Mr Parham? You know that the allegation is that
 14 Mr Whittaker says that flowers weren't on display in the
 15 store, but you say nothing about it. If that was the
 16 case --
 17 A. As I say --
 18 Q. If that was the case, wouldn't it have been an obvious
 19 and straightforward thing to say in your statement?
 20 A. As I say, I've highlighted this in here. There would be
 21 more information in my wife's statement regarding the
 22 flowers.
 23 Q. You have denied that flowers were sometimes bought for
 24 your home; is that right?
 25 A. I have denied that flowers were ever bought for our

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1 home.
 2 Q. Could you turn up volume G, please, your witness
 3 statement in the ET?
 4 A. Page?
 5 Q. Page 77. Look at paragraph (d), the first two
 6 sentences. You say:
 7 "... sometimes for customers and for staff on
 8 special occasions and sometimes for home."
 9 A. Yeah. What I mean by that is that we would have been
 10 given, you know -- Shakila would have bought me flowers
 11 on a birthday. I would have given her flowers on her
 12 birthday. We would have taken them home. That's how
 13 they get home.
 14 Q. They are flowers which are displayed in your home,
 15 aren't they?
 16 A. They will be displayed in our home, but they are not
 17 for, you know, the home. They are for each other. And
 18 they turn up, they are bound to end up in our home. So
 19 they will be then displayed at home.
 20 Q. Did your wife order flowers for the business as well?
 21 A. Yes, I think she did, yes.
 22 Q. And you as well?
 23 A. Both of us, yes. We were the only two.
 24 Q. So would you just go back to H, please, 139. Is that
 25 your wife's initial?

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1 A. It is.
 2 Q. She signed that, did she? Is that her writing?
 3 A. It is.
 4 Q. 140, is that her?
 5 A. It is.
 6 Q. Then 142 says "ordered by Shakila"; is that right? And
 7 you actually signed that one; yes?
 8 A. Yes.
 9 Q. Okay.
 10 Now, we have looked at credit card expense claims.
 11 A. Yes.
 12 Q. Third party supplier invoices were dealt with by the
 13 accounts payable team, weren't they, in Nottingham?
 14 They processed them?
 15 A. The -- sorry, which invoices?
 16 Q. Third party suppliers. Credit card we have dealt with.
 17 A. Okay, are you talking about the --
 18 Q. Let's say a flower invoice.
 19 A. Okay, yes.
 20 Q. A utilities bill, a third party supplier to the store
 21 who sends an invoice to the store. Now, obviously we
 22 have dealt with you using your own cash or using the
 23 credit card. That's eBis; correct?
 24 A. Yes.
 25 Q. There is a different system in relation to invoices sent

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1 to the store, isn't there?
 2 A. There is.
 3 Q. What happens is you look at the invoice, the JVP are
 4 responsible for approving them; correct?
 5 A. We look at them and we send them off to Nottingham, and
 6 they look at them and then they approve and pay them.
 7 Q. Well, yes, okay. You don't just send them off straight
 8 on, do you? You sign them, you initial them and date
 9 them?
 10 A. Yeah, I don't necessarily always initial them. I don't
 11 think these might all be initialled, but --
 12 Q. Do you accept that was the system? It may be easier to
 13 take you to Ms Mancini's statement on this. It's
 14 volume C, tab 7. This is the green bag system, isn't
 15 it? I think it was known as the green bag system. Do
 16 you remember that?
 17 A. Apparently so, yes.
 18 Q. Yes. You say "apparently" --
 19 A. Well --
 20 Q. Did you know it by name?
 21 A. I didn't know it by that name, no. We sent them off
 22 to --
 23 Q. They were couriered off, weren't they, in a bag?
 24 A. They were couriered off to Nottingham, I think.
 25 Q. The process is that you get the invoice from --

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1 paragraph 65. I'll just take you through it. You get
 2 the invoice in from the supplier, you approve it by
 3 checking it, the cost was validly incurred by the store,
 4 it's for the right amount, that the services had been
 5 provided, because obviously you wouldn't send it off if
 6 you actually hadn't had the service, would you?
 7 A. I wouldn't --
 8 Q. If you had had an invoice --
 9 A. Sorry, I was reading.
 10 Q. I am trying to take it fairly quickly. I am sorry if
 11 I am rushing.
 12 If you had received an invoice for something that
 13 you actually hadn't received, yes, you wouldn't send
 14 that off for payment, obviously, would you?
 15 A. No, I wouldn't, no.
 16 Q. So you would check that, yes, this is something --
 17 A. I would just check it, yes --
 18 Q. Yes, you would look at it.
 19 A. -- and put it in the bag and send it off.
 20 Q. And you would sign it, wouldn't you? It says you --
 21 A. Sometimes I did, sometimes I didn't, but it actually
 22 says a stamp here, doesn't it? It says --
 23 Q. It does also say "sign", doesn't it?
 24 She says that the position is that their function is
 25 to process that. She says that they don't authorise or

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1 approve 30 invoices. It's been authorised and signed by
 2 the JVP prior to it being received, and that they
 3 process the invoices received and carry out the tax
 4 compliance function. You say she is wrong on that?
 5 A. I am just saying all I would do is -- most of the time.
 6 Sometimes I've signed some, I haven't signed others.
 7 It's like my explanations in here, sometimes it said
 8 "store", sometimes said who it was for. I didn't
 9 necessarily follow all the time rigidly to the rules,
 10 you know.
 11 Q. No.
 12 A. There is a lot of work to do in the store, and I would
 13 quickly go through these.
 14 Q. What about --
 15 A. Most of the ones that were business -- sorry. The ones
 16 that were business I would label or at least stamp.
 17 Q. Yes. The additional point that she says is that she
 18 reiterates that it's not the department's role to
 19 approve or authorise third party supplier invoices,
 20 that's what you do at the store, and that their role is
 21 to process the invoices and deal with the tax compliance
 22 function.
 23 Do you say that she is wrong in that?
 24 A. I look at it as though they do approve them, because we
 25 have had, you know, invoices for flowers that have come

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1 back and they have rejected them because they didn't
 2 have the Specsavers logo on, or it wasn't to do with
 3 that.
 4 So they have, you know, looked at it. They have
 5 either approved it or non-approved it, and then either
 6 rejected it or paid it. So, you know, my view, they do
 7 approve them.
 8 Q. She also makes the point at paragraph 67, she reiterates
 9 that it wasn't possible for the accounts payable team to
 10 know whether the service provided or stock purchased had
 11 actually been provided or delivered to the store for the
 12 benefit of the store company, and that they rely on the
 13 JVPs in relation to that because they are not in the
 14 store. That's true as well, isn't it?
 15 A. Specsavers are not in the store, but they do rely on
 16 what I put down as a reason. But they do approve and
 17 reject invoices that go through to head office.
 18 Q. But you accept that they rely on you to be confirming
 19 that these are for the purposes of the business and that
 20 they have been received for the business and by the
 21 business, because they are not there?
 22 A. Yeah. What I put on there is, you know, that when
 23 I send it through, they have understood that it's either
 24 business or it's personal.
 25 Q. The reality is that you have accepted that, at least

65

1 certainly in relation to a number of these invoices,
 2 these are flowers which are purchased in fact for you or
 3 for your wife and are displayed at home?
 4 A. A few are bought for my wife and myself, as I say,
 5 birthdays, et cetera. A lot of them, most of them, are
 6 bought for customers, they are bought for other staff,
 7 they are bought for other stores.
 8 We have sent them -- when Haywards Heath opened we
 9 sent them flowers, we sent Hammersmith flowers on their
 10 10-year anniversary. You know, we sent a lot of flowers
 11 out over the time period that we were in the store.
 12 Q. The one at 162 which we looked at, which you had
 13 labelled as "store", which you say were for your wife's
 14 birthday, you didn't label that. Where you had dealt
 15 with other people, you had named them; you didn't put
 16 the fact that this was for your wife's birthday on
 17 there, did you?
 18 A. No, I haven't, no. I put most -- a lot of the ones that
 19 were for store for people in the -- birthdays in the
 20 store were -- I put down as store just for speed.
 21 Q. Isn't the reality you appreciated that if you had put
 22 down "for the wife" they might have raised a query about
 23 that and queried that this wasn't a business expense?
 24 A. No, because they haven't raised a query if it was about
 25 Dee Pilbeam's sister died. So what is the difference

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1 when Dee Pilbeam is one of our members of staff?
 2 Q. When it was a staff birthday, at 153, for example, you
 3 named the member of staff, didn't you?
 4 A. Yes, as I say, I am not necessarily consistent in
 5 entering the correct stuff on what it's for at all
 6 times.
 7 Q. You are not consistent in doing it when it's for you or
 8 your wife. Isn't that the position?
 9 A. No, because there are other dates on here for the store
 10 that don't tie in with my birthday and Shakila's
 11 birthday.
 12 Q. Okay, let us move on from flowers.
 13 City Electrical, these are third party invoices as
 14 well?
 15 A. They are.
 16 Q. If you have H/99, please.
 17 A. Do I need C?
 18 Q. Let's put C away. We are all getting a bit crowded.
 19 A. I am sorry, the page number?
 20 Q. 99. That's an example, City Electrical Factors; yes?
 21 They run through to, I think, 136. We are not going to
 22 look at every one, just to get a sense of the number.
 23 Yes?
 24 A. Mm.
 25 Q. These are between July 2010 and October 2010, and in

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1 fact there are three more in March and April 2011, which
 2 are 134 to 136.
 3 A. Sorry --
 4 Q. Does that sound about right?
 5 A. Where is the 11 ones?
 6 Q. The 2011? 134. March and April. The final three.
 7 A. Okay.
 8 Q. Yes?
 9 A. (Pause) Okay.
 10 Q. Okay, so they total £1,300-odd?
 11 A. Mm.
 12 Q. Does that sound about right? Would you take that from
 13 me?
 14 A. Well, it says there is a Listing on -- oh, that's
 15 a flower shop, sorry. £1,300?
 16 Q. Yes. I put it to you that it's £1,300.
 17 A. Okay.
 18 Q. You don't know. Okay. Now, those invoices related to
 19 works done at your home, didn't they?
 20 A. They were. Most of them were. Looking at the 134
 21 onwards, that's obviously well after we left the
 22 business.
 23 Q. Ah, that's true, okay. That's a fair point. The ones
 24 before, up to 133?
 25 A. I guess it was only up until sort of --

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1 Q. This is up until October 2010.
 2 A. Yeah. I think they came up to the end of the year,
 3 actually.
 4 Q. No, 133 is the last one, 15 October 2010.
 5 A. Okay.
 6 Q. Okay?
 7 A. 133, you say?
 8 Q. 133.
 9 A. Right, okay.
 10 Q. Do you see that? Do you see in October? So they are
 11 between July and October 2010.
 12 A. Mm.
 13 Q. The question is: these were for works done at your home?
 14 A. It was, yes.
 15 Q. Now, Mr Whittaker was asked about this. Do you
 16 remember? He confirmed that the only electrical work
 17 that he could recall was the installation of a socket
 18 for a microwave?
 19 A. Yes, I did see that, and that is a very sort of
 20 understated view of what I did in the store and what
 21 electrical jobs that I did in the store.
 22 But this, as I've already pointed out, was for my
 23 home. I never stated otherwise when I sent it through
 24 to head office to pay, and the accounts department were
 25 fully aware of that, and they attributed that to my P11D

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1 and I paid that in my tax return of April 2011.
 2 Q. Okay. Can we just look at your witness statement,
 3 please, paragraph 75?
 4 Sorry, I should say that's your ... give me one
 5 second. (Pause) Paragraph 75 at the bottom of the
 6 page --
 7 A. Of 73?
 8 Q. Sorry, 73, yes. You say:
 9 "We felt justified in paying for these items through
 10 the business as P11D because we both work in the
 11 business and we do lots of work at home as well as in
 12 the store. We never labelled any of the invoices ...
 13 invoices without a label were automatically treated as
 14 personal and put in P11D."
 15 A. Which is correct and which is what the accounts
 16 department did.
 17 Q. If you turn on to your second statement, paragraph 9
 18 there, this is a witness statement which is in response
 19 in this regard to Ms Mancini's evidence --
 20 A. Paragraph 9?
 21 Q. And Mr McAlindon's evidence in relation to --
 22 A. Okay.
 23 Q. -- the processing of invoices; yes? At paragraph 9 you
 24 say that:
 25 "It would have been obvious to the finance

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1 department that these were for [your] home since [you]
 2 didn't label the invoices as being for the business."
 3 And then you refer to Ms Mancini's evidence; yes?
 4 A. Mm.
 5 Q. That that confirms that in those circumstances the
 6 payment on the invoices would automatically be treated
 7 as personal on which you would pay tax; correct?
 8 A. Yes.
 9 Q. What you are saying is that, in reply to the point in
 10 Ms Mancini's evidence on processing, it would have been
 11 obvious to the finance department that they were for
 12 your home, because you didn't label the invoices as
 13 being for the business and they would therefore
 14 automatically be treated as personal?
 15 A. If I did not label -- yes, if I didn't not label them as
 16 business, they would be treated as personal.
 17 Q. If you just turn up Ms Mancini's statement in volume C,
 18 tab 7, 100, we have been through this already about the
 19 green bag system. This was not put through on the
 20 credit card, was it?
 21 A. No.
 22 Q. These were put through --
 23 A. These were invoices from City Electrical Factors.
 24 Q. Yes, and we went through the system on this, and we went
 25 through her evidence on this. She doesn't say anything

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1 about labelling invoices as being for business, as being
 2 the requirement, does she, in relation to this aspect of
 3 the process?
 4 A. Without going through the whole of her witness
 5 statements --
 6 Q. I put it to you she doesn't, and we went through it
 7 before and we went through the process a few minutes ago
 8 in relation to this.
 9 There would not be any need to do that, would there?
 10 What you are doing is you are forwarding to the accounts
 11 payable team an invoice from a third party supplier
 12 which is addressed to the company, and which you, by
 13 signing it, are saying you are authorising the company
 14 to pay that invoice; correct?
 15 A. But as you see, none of these are signed.
 16 Q. Why would there be a need to say that it was for the
 17 company?
 18 A. Sorry, why would need to say that it was for the
 19 company?
 20 Q. If you sent it through to the accounts department --
 21 A. Yes.
 22 Q. -- saying "pay this invoice" --
 23 A. Okay.
 24 Q. -- why would you need to say that it was for the
 25 company expressly?

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1 A. To differentiate between the business invoice and
2 a personal invoice, and --
3 Q. There is a difference. The position is different for
4 credit cards, which we have been through, because your
5 credit card, it's accepted, might be used for personal
6 use or it might be used for business use; correct?
7 A. Okay.
8 Q. So in terms of credit cards, you had to specify which it
9 was; correct?
10 A. Correct.
11 Q. But in relation to supplying an invoice to the accounts
12 department for payment by the company, the only reason
13 for sending an invoice for payment by the company was
14 because it was a company expense, wasn't it?
15 A. No, it wasn't a company expense. I made it quite clear,
16 and accounts have quite clearly understood that it was
17 for personal.
18 I haven't labelled these in any way; I've just sent
19 them off. They have then seen that they are not stamped
20 or signed by me, and they have attributed them to my
21 P11D. The only reason why, you know, it's got
22 Specsavers' address on there is because that's the name
23 of the company -- you know, it's the name of our
24 company, and I opened an account with City Electrical
25 Factors, because I did use, as many other stores have

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1 used, City Electrical Factors to buy electrical
2 equipment for business.
3 The other reason why I used these through the
4 business and to go on to my P11D was because of the
5 discount I get.
6 Now, if you look at some of these discounts, on
7 page 100 I have a 92 per cent discount. So it was just,
8 you know, using the account that I had with City
9 Electrical Factors through the business, and they have
10 gone off to head office, or Nottingham, and Nottingham
11 have understood what I've sent them through for. They
12 have then put them on to my P11D. The P11D, the tax has
13 been paid on these, at the end of my -- on my April 2011
14 tax return.
15 Q. This is after you ceased to be in the business?
16 A. Yes.
17 Q. That was because, after you left the business, personal
18 matters, you received correspondence, and in fact they
19 were then put on to your P11D, weren't they, as a result
20 of -- after your resignation?
21 A. No. They did do that, they did send some information,
22 but it was already -- I had put it into my tax --
23 because by this time we had our own accountants. So
24 I had given him the -- all the receipts which I kept
25 a copy of to my tax accountant.

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1 Q. But this wasn't on the P11D. This hadn't been put on
2 the P11D by Specsavers, had it? You are saying that you
3 declared it for tax through your accountants; is that
4 right?
5 A. They were aware and they put it through as a P11D.
6 Q. Your explanation is you are saying that if it was going
7 to be for the business, it was obvious because you
8 didn't write on the invoice "for the business"; that's
9 your evidence?
10 A. We had a big stamp that had just "0640" on it, that was
11 it. Just one big stamp that had "0640" on it.
12 Q. Yes.
13 A. And I see on here there is "Uckfield 06 -- that's not my
14 stamp. Mine was just a "0640" with the store number.
15 Q. So yours was -- sorry, what did it say?
16 A. 0640, sorry, is the store number.
17 Q. Yes.
18 A. So they know then to attribute that, and none of mine on
19 here have got the 0640 stamp on it.
20 Q. You say none of these are stamped with the Uckfield 0640
21 stamp?
22 A. No, not Uckfield. My stamp wasn't "Uckfield 0640", my
23 stamp was just "0640".
24 Q. I see, but your witness statement doesn't talk about
25 applying a stamp, it talks about labelling them "for the

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1 business". That means you writing "for the business"
2 on it?
3 A. That's the label, to me. The stamp of there is the
4 label to say it's for the business.
5 Q. I put it to you that, as I said, in relation to third
6 party invoices, the process was that for third party
7 invoices only business invoices should be forwarded to
8 the accounts department; that was the only reason for
9 sending something to the accounts department, for them
10 to pay it?
11 A. No. When we did the house in 2010, my Lord,
12 I approached Maurice Braehout(?) of one of the
13 departments, personnel services department, and I asked
14 him about purchasing kitchen appliances through the
15 store, if that would be okay. He said yes, that would
16 be no problem, I could do that.
17 The only issue at the time was that there was -- it
18 was the start of 2010's tax year, because it was just in
19 April. So the NI applicable to that would have been
20 quite high. But, you know, we went ahead with that, and
21 they set up and they paid for, from the business,
22 personal items as -- you know, with an invoice as this
23 third party invoices. That was for £12,600. They
24 sanctioned that.
25 Q. You are saying that it would have been obvious to the

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1 accounts department that this was personal?
 2 A. Because I --
 3 Q. Because you hadn't labelled it?
 4 A. Because I hadn't labelled it. I didn't label the one
 5 that went through as from the -- from Optimum, who were
 6 the suppliers of the kitchen appliances.
 7 Q. In relation to this matter, you also have another
 8 explanation about this: you say you felt it was
 9 justified to put this through the business, because you
 10 both worked at home as well as the store, this was
 11 an extension of the business as well; is that right?
 12 A. It was an extension of the business, and we felt that,
 13 you know, although it wasn't a business expense, it
 14 was ... we could, you know, spend the personal -- that
 15 amount of personal expenditure through the business, but
 16 it wasn't a business expense.
 17 I've never -- I don't think I specified it as
 18 a business expense. I've just said that obviously we
 19 were only five minutes' walk, we used the home for the
 20 business, and that's how I looked at that side of it.
 21 Q. You have given that explanation before about the
 22 cleaner, about that being an extension of the home and
 23 so, therefore, that's a proper business expense;
 24 correct? In relation to your cleaner?
 25 A. The cleaner was a business compensation. That's

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1 different.
 2 Q. You say you thought it was a business expense. The
 3 explanation is: home is an extension of the store?
 4 A. Yes.
 5 Q. So if I get a cleaner for home, that's a business
 6 expense?
 7 A. Doesn't necessarily state that it -- just because it's
 8 a business expense that, you know, my explanation for
 9 being five minutes and it's an extension of the store,
 10 it doesn't just -- you know, this point it out on that
 11 area.
 12 Q. Just in relation to the cleaner, you have accepted that
 13 you thought this was appropriate for the company to pay
 14 and for it to be treated by the company as a business
 15 expense because home was an extension of the store and
 16 cleaning the home was a benefit, therefore, to the
 17 store; correct?
 18 A. I agreed that it was because the business was
 19 an extension -- sorry, because the home was an extension
 20 of the business, I could put that through as a business
 21 expense.
 22 Q. You are also giving the same explanation in relation to
 23 this electrical work as well, because you were doing
 24 work at home as well as in the store, and therefore it's
 25 a business expense?

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1 A. No, I've never said it's a business expense. I've
 2 never -- please find to me where I've said it's
 3 a business expense, the City Electrical Factors. Can
 4 you point it out to me?
 5 Q. You are saying that this is why you felt justified in
 6 paying for this through the business?
 7 A. But it is through the business. It's like the car.
 8 It's like -- it all still comes through the business.
 9 If you buy a brand new car, if you buy the golf
 10 membership, it still comes through the business. The
 11 business are paying for it.
 12 Q. So you are saying that this is a distribution of
 13 profits?
 14 A. This is a benefit in kind.
 15 Q. Benefit in kind. You didn't speak to the distributions
 16 department about saying that this should be treated as
 17 benefits in kind, did you?
 18 A. No, I didn't, no.
 19 Q. Can I take you to E2, please --
 20 MR JUSTICE HILDYARD: Before you do that -- I am sorry --
 21 MR POTTS: Yes.
 22 MR JUSTICE HILDYARD: -- I am just hoping I've understood
 23 this properly.
 24 Mr Parham, you were drawing a distinction according
 25 to the mark put on the invoices, for example, from CEF,

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1 between those which are marked "Uckfield 640", such as
 2 we see at page 125, and ones which only have "640"
 3 without "Uckfield" on, for example, page 126. Is that
 4 right?
 5 I just want to make sure I've fully understood it.
 6 A. Yeah. Although in this case, my Lord, I've actually
 7 written -- that's been written on there.
 8 MR JUSTICE HILDYARD: Yes.
 9 A. The thing that I was talking about, I had a large stamp
 10 that only just said "0640". Now, this --
 11 MR JUSTICE HILDYARD: Yes, I couldn't find one of those.
 12 A. No, there won't be on these ones.
 13 MR JUSTICE HILDYARD: Right.
 14 A. But this, oddly enough, is actually for a tool for the
 15 store.
 16 MR JUSTICE HILDYARD: Yes. Well, that's what I was
 17 wondering about. I understand that if it says "Uckfield
 18 0640" that is intended to be something supplied for the
 19 store.
 20 A. No, that's not my stamp. That's what I am trying to
 21 say. That's not my stamp. My stamp is a "0640".
 22 MR JUSTICE HILDYARD: I see. So someone else has put the
 23 Uckfield --
 24 A. Well, it could have been from accounts, I don't know.
 25 MR JUSTICE HILDYARD: I see.

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1 A. Like they have got -- mind you, that's 2000 ...
 2 MR JUSTICE HILDYARD: When you put your stamp of 640, or you
 3 write in 640, what does that signify? Does that signify
 4 that --
 5 A. That I've labelled it. Sorry, that --
 6 MR JUSTICE HILDYARD: It only signifies that you've labelled
 7 it. It does not --
 8 A. As a business expense.
 9 MR JUSTICE HILDYARD: -- characterise it as a store or
 10 a personal?
 11 A. That categorises it -- if I label it 0640, that
 12 categorises it as a business expense.
 13 MR JUSTICE HILDYARD: I see. So anything that's marked
 14 "640" is your stamp signifying that, in your view, it's
 15 a business expense?
 16 A. Yes.
 17 MR JUSTICE HILDYARD: Sorry, I hadn't completely understood.
 18 A. Sorry. As I say, this is not my stamp, so I don't know,
 19 my Lord.
 20 MR JUSTICE HILDYARD: I can't see where you are pointing,
 21 but the "Uckfield 640" is not yours, someone else has
 22 characterised that invoice?
 23 A. Correct.
 24 MR JUSTICE HILDYARD: Yes.
 25 MR POTTS: This is not one that you have given in your

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1 witness statement, you say that the labelling "for the
 2 store" is a shorthand for that, is it?
 3 A. Yes, and the label for the store is the "0640".
 4 Q. This is the first time you have given this explanation?
 5 A. I have put down labelling, that's how I understood it,
 6 because labelling is the terminology that they use in
 7 head office in accounts, if it's labelled or not,
 8 personal, business, et cetera.
 9 Q. I put it to you that Specsavers didn't, hadn't
 10 previously treated this as a personal expense, it had
 11 been processed through, assuming from the Specsavers
 12 stamp, as a business expense?
 13 A. Not as far as I know. I mean, all I saw was that
 14 I received a P11D from -- after requesting, once we had
 15 left. It had the City Electrical Factors on there, so
 16 I handed that to my accountant. But I had already
 17 handed all the receipts to my accountant.
 18 Q. Could you turn up, please, E2/515?
 19 A. Am I still going to need ...?
 20 Q. I think you can put it away.
 21 A. Sorry, which?
 22 Q. Which do you have open? Put G away.
 23 A. H?
 24 Q. You can keep H, if there is room.
 25 A. C?

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1 Q. C can go.
 2 A. Keep B out?
 3 Q. Yes. Page 515. You know that this was an item which
 4 was subject to investigation?
 5 A. Sorry, I am not there yet.
 6 Q. Sorry.
 7 A. 515?
 8 Q. Yes. This is a letter, Hamilton Pratt were your
 9 solicitors, weren't they?
 10 A. Prior to Mr Ogun, yes.
 11 Q. This is a letter from Specsavers on 10 June 2011. This
 12 was in fact in relation to -- do you remember -- after
 13 resignation you agreed on the letter, referred to
 14 an agreement to sell your shares for £300,000?
 15 A. I signed the resignation. I did not agree with it.
 16 Q. I am not --
 17 A. I know. I just like to point that out.
 18 Q. I am just trying to get the context of this. This
 19 refers to a desire to receive either £300,000 or
 20 £315,000, with your clients -- you being responsible for
 21 tax liabilities put through in the wrong way; yes? Just
 22 trying to get the context of the document for you at
 23 (b).
 24 A. Yes, it doesn't actually say put through the wrong way,
 25 as you pointed out, does it?

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1 Q. "... claimed as business cost expenses, but were in fact
 2 related to goods and services purchased by either of you
 3 for personal use."
 4 I have used a shorthand.
 5 A. Okay.
 6 Q. Yes? Do you accept that? Okay --
 7 A. I don't accept it --
 8 Q. I am sorry, do you accept the summary of -- well, that's
 9 what the document says?
 10 A. That's what the document says.
 11 Q. Okay. You say:
 12 "I instruct(?) that Specsavers will suit(?)" under
 13 (b).
 14 And in fact over the page it refers to an increase
 15 in the price to £307,000 in the second paragraph. Do
 16 you see that? (Pause)
 17 Which is the idea that it's 307, but you will be
 18 responsible for tax liabilities; yes? (Pause)
 19 I am just trying to give you the context --
 20 A. Sorry, what was the question?
 21 Q. It's not really a question. I'm just trying to give you
 22 the context of the document, Mr Parham.
 23 A. Okay, sorry.
 24 Q. Because I don't know if you have seen this document for
 25 a while, so I just wanted you to understand the document

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1 as to when it came up. What this document did, it sent
 2 through some documentation to complete that transaction;
 3 okay? I appreciate you didn't sign those documents.
 4 Okay?
 5 But over the page at 517 there is a reference to the
 6 P11Ds as to a further amount of 3,974, which had been
 7 added to P11Ds. You see just above the first holepunch
 8 it says:
 9 "For your client's information, 3,974 has been
 10 included on each of your client's P11Ds relating to the
 11 following invoices/payments of which Uckfield is aware."
 12 Do you see?
 13 A. I do.
 14 Q. The fourth one down is multiple invoices from City
 15 Electrical Factors?
 16 A. Yeah.
 17 Q. You say:
 18 "It would appear that they relate to personal
 19 non-business expenditure, notwithstanding that
 20 either/both of your clients passed them through USL for
 21 payment as business invoices and expenses."
 22 A. Where are you reading that?
 23 Q. In the middle of the page, "The above invoices ..."
 24 A. (Pause) I've read that, yes.
 25 Q. Okay, so the point is that Specsavers were saying here

1 that they had processed these as business expenses?
 2 A. Mm.
 3 Q. But now, as a result of the agreement and their
 4 understanding of the position that this was personal
 5 expenditure in fact, they were now putting it on to your
 6 P11D as a personal expense; yes?
 7 So the point I'm making to you, Mr Parham, is that
 8 when these documents were received and processed by
 9 Specsavers, they were not, as you had previously said,
 10 treated by them as your personal expenses, they were
 11 treated by them as business expenses and paid by the
 12 company?
 13 A. Well, as I said, you know, we were told to label them,
 14 and my label is a stamp which is 0640. And my
 15 understanding is if I did not label these invoices, they
 16 would be treated as personal P11D items. I know that
 17 I got this list through from my P11D from Specsavers,
 18 and there was items on this, out of this list of five
 19 that we did not pay because we still believe that they
 20 were business items, not personal. As in Fluffy Side
 21 Up, that's an example. We didn't pay that one because
 22 that was business and I think up til the Wednesday just
 23 gone in the evening you -- your clients have accepted
 24 that. And that's how I looked at it.
 25 It was -- this was coming through with the listing

1 from the P11D that these were also a part of the P11D,
 2 you know, that we had to pay.
 3 Q. Prior to the exercise of the option by Specsavers in
 4 July, you didn't come back to them and say, "No, these
 5 items were business, they weren't personal", did you?
 6 A. I don't know.
 7 Q. I put it to you that you didn't?
 8 A. Well, I don't know.
 9 Q. Okay.
 10 Now, I would like, if we can, to move -- you can put
 11 E2 away -- on to petty cash, some of the petty cash
 12 transactions in the business.
 13 Now, petty cash is money taken out of the till to
 14 pay for business-related expenses, isn't it?
 15 A. Correct.
 16 Q. It's not to be taken out of the till to be paid for
 17 personal expenses?
 18 A. (Pause) I think that may be correct. I don't know if
 19 there are any personal reasons why you can take money
 20 out of the till, but it's business-related, definitely.
 21 I can't think of, you know, at the moment, off my
 22 head, if there is any personal-related items that you
 23 can do that for.
 24 Q. Okay. You accept it's for business, business expenses?
 25 A. Mainly for business.

1 Q. Mainly?
 2 A. I don't know. As I say -- I've just explained to you,
 3 haven't I? -- I don't know if you cannot definitely take
 4 it out of the till for personal.
 5 Q. Can you think of any?
 6 A. No, I've just say that I can't.
 7 Q. You can't think of any personal reason?
 8 A. No.
 9 Q. Right, okay.
 10 In order to account for it, you have to enter
 11 a petty cash transaction through the till, don't you?
 12 A. You do.
 13 Q. And you have to select a type of business expenditure
 14 code such as catering, cleaning, property?
 15 A. Yes, yes.
 16 Q. Yes?
 17 A. Yes.
 18 Q. Those are all business expense codes?
 19 A. Well, I don't know if they are the codes, but that's the
 20 business name for whatever we take out. As you say,
 21 catering, I don't know if there is a code. Code to me
 22 is usually a number, a figure.
 23 Q. Okay, maybe the word "catering" or something. You have
 24 to allocate it to a business category?
 25 A. You have to allocate it to a business category.

1 Q. Yes. And you have to keep the receipt and staple it to
2 the petty cash out receipt?
3 A. You do.
4 Q. Stores are obliged to keep the receipts in store for
5 a number of years?
6 A. Seven years.
7 Q. Seven years. But they are not kept by, separately,
8 Specsavers; they are kept in the store, aren't they?
9 A. They are kept in the store, or in our case we kept, you
10 know, previous years in our storage.
11 Q. Or at home?
12 A. At home in this case.
13 Q. Okay. So unless there was an investigation, they would
14 not see -- Specsavers wouldn't see -- Specsavers didn't
15 have the petty cash receipts, did they?
16 A. They wouldn't have had a look at the petty cash, but we
17 also have an audit. We are audited every year.
18 Q. Yes. During the loss prevention department audit, the
19 receipts were recovered, weren't they, in this case?
20 A. They weren't recovered. They were in the store.
21 Q. Okay, they were obtained?
22 A. Yeah, they were in the store.
23 Q. There were a number of items, which we will come to for
24 items such as nappies, children's meals, lunches,
25 evening meals, dry cleaning, alcohol; correct?

1 A. I can go into those and the reason why. What I don't
2 want to do is you not come back to that, and you are
3 saying I'm just going to --
4 Q. I am going take you to some of those in a moment, but
5 there --
6 A. Because there are explanations for those.
7 Q. I am sure there may be explanations. I'm just asking
8 for --
9 A. I just want to make sure that's the case, my Lord.
10 Q. Well, do you accept that those items were --
11 A. Well, the nappies definitely wasn't. If you look, there
12 were nappies on there, but if you look at the amount
13 that was claimed and the amount on the receipts, it
14 doesn't tally.
15 Q. I see. The others you agree with?
16 A. No, not all of them, no. But I am picking up that one
17 because that's quite an obvious -- that if you go and
18 count through, they are not the same.
19 Q. Do you have volume H?
20 A. Yes.
21 Q. H/34. That's petty cash out for £100 for cleaning.
22 A. Mm.
23 Q. The store didn't have a cleaner, did it?
24 A. We have already --
25 Q. Is the answer yes or no?

1 A. The -- this was for -- excuse me, this was for back
2 payment for Ms Lewis, because she hadn't been paid, for
3 Florian Side Up -- for Florian Home Services.
4 Q. So you took cash out of the till and paid her?
5 A. Yes.
6 Q. How would Specsavers know that this was your home
7 cleaner, then?
8 A. In this case, they wouldn't know, because there was no
9 receipt with it, because Specsavers had the receipt.
10 Q. I see.
11 A. This was a -- I paid out for Florian Home Services
12 because I had sent the receipt off to Specsavers. And
13 this happened on two occasions. I sent the receipt off
14 to Specsavers, and for some reason they didn't pay it.
15 Now, whether they didn't receive it or whether they
16 just lost, it or whatever, but it wasn't paid. This was
17 near the start of her -- say -- cleaning for us. This
18 was her start -- it was around about this time that she
19 started for us. And obviously if she is not going to be
20 paid, then we would lose her as a cleaner. So I took
21 this out the till.
22 Q. I see.
23 Move forward to page 61. This is a summary page.
24 A. Yeah.
25 Q. Just dealing with the summary page, this is a run of

1 receipts put through petty cash as catering?
2 A. Yes.
3 Q. And included evening meals?
4 A. No.
5 Q. No?
6 A. No, that was the label that loss prevention put through
7 to them.
8 Q. I see. Two purchases of beer?
9 A. That was for -- we did a late night opening, and it was
10 a charity day, which Ms Willmott, who is a witness in
11 these proceedings, will attest to, that we purchased
12 beer, we purchased some food, some wine, for the day.
13 This was a part of that. And also the McDonald's, which
14 included the two happy meals for the kids. As I say, it
15 was a late night opening, we bought some McDonald's for
16 the staff, because it was late, we were both working in
17 the store, our kids -- we went to pick the kids up,
18 brought them back into the store and I purchased food
19 for the -- all the staff and the kids that evening.
20 There were a couple of them that didn't want the
21 McDonald's. Because this was a full late night opening,
22 in the whole street, on the high street, there was like
23 a hog roast thing just up the road, and I purchased some
24 food from there for a couple of them as well.
25 But this was all to do with the charity day, which

1 is sponsored by Specsavers, it was the Guide Dogs Trust.
 2 Q. Just looking at page 64, the beer, top right?
 3 A. Yeah.
 4 Q. It's not a huge amount of beer, is it?
 5 A. Yeah, but that's not two bottles of beer, that's two
 6 ten-packs or 18-packs of beer, whatever they come into.
 7 They were boxes of beer.
 8 Q. I see. Legoland, 66?
 9 A. Legoland is -- when I put these through, as you can see,
 10 they started around about February or March in putting
 11 working lunches through the business in February or
 12 March of 2010. Because as I say, we were getting very
 13 busy. We used to have 20-minute lunch breaks, now we
 14 were not getting any. We offered it to all the staff.
 15 The staff preferred to have their 45-minute lunch
 16 break. Shakila and I thought it was in the best
 17 interests of the business to keep on the shop floor, and
 18 what I was doing was collating all these invoice --
 19 these little receipts, and once a month I would put them
 20 through the till.
 21 It looks as though there is obviously a couple of
 22 rogue, what do you call them, receipts that have gone
 23 through. Now, this is a compliance issue. It's not
 24 a dishonesty -- I didn't misrepresent it. I just
 25 quickly went through, totalled them all up and put it

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1 through the till.
 2 Q. So the Legoland one --
 3 A. So the Legoland was --
 4 Q. -- for whom? That was for your children?
 5 A. That was for my children at Legoland, it was not meant
 6 to go through the petty cash. It was a mistake. You
 7 know, everybody makes mistakes, and we seem to have been
 8 thrown out of our business for the odd mistake that we
 9 have made. Yet when accounts make mistakes, like paying
 10 Uckfield Specsavers Limited were paying Tamworth Busy
 11 Bee vouchers for a whole year, which came to a couple of
 12 thousand points, no one lost their job over that, no one
 13 was reprimanded over that. Only because, you know, this
 14 is, you know -- we are being sort of penalised for this.
 15 It was a mistake.
 16 There were a couple of little items in here that
 17 should not have gone through, my Lord, and you know,
 18 hand up to that. But they should have -- it was just
 19 a compliance issue. They should have gone through into
 20 eBis --
 21 Q. Then --
 22 A. -- as a personal expenditure.
 23 Q. -- on the McDonald's, 64, take the happy meals. It's
 24 two happy meals, isn't it?
 25 A. Yeah, I have two children.

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1 Q. So the happy meals were for your children?
 2 A. I've just explained that, my Lord. I have just
 3 explained that, haven't I? I am sure I did.
 4 MR JUSTICE HILDYARD: This was on the day of the charity
 5 event.
 6 A. This was on the charity day, yes.
 7 MR POTTS: Sorry, I didn't appreciated the "children"
 8 reference is your children.
 9 A. Yes. Because it was a late day, both of us wanted to
 10 sponsor this. It was Sue Willmott, as I say, who was in
 11 the proceedings of this, who started, wanted us to
 12 promote this, and which we did. We wanted to show face.
 13 We both stayed there, we picked -- I think I picked the
 14 kids up from school, brought them back, the kids went
 15 back in to do their homework in the office and, you
 16 know, because we stayed on until I think it was
 17 7 o'clock, I decided to purchase meals for the staff and
 18 for my children.
 19 It would have been a bit wrong for me to purchase
 20 them for the staff and not the children.
 21 Q. Could you turn back, please, to E1? In addition to
 22 this, you also were putting your own lunches through the
 23 till as well; is that right?
 24 A. As I say, we were doing working lunches. I was putting
 25 working lunches -- working lunches have never been

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1 disallowed by accounts or the HMRC, as far as I know.
 2 We had tax letters, tax news that came through. I think
 3 at one point there may have been, you know -- they were
 4 saying there was a discussion between Specsavers
 5 accounts and the HMRC, but again, it was never
 6 disallowed.
 7 As long as we offered it to the staff, we did. The
 8 staff never -- they would prefer to have their lunch
 9 break. We then decided, okay, look, we are entitled to
 10 these working lunches, that's how we will do it. As
 11 I say, it was a couple of pounds a day each. We are not
 12 going out on lunches, my Lord. This was a couple of
 13 pounds a week. Over the year, I think the lunches came
 14 to about probably £500 or £600 over the whole year, and
 15 that enables us to be in the business at all times.
 16 Q. E1, please, page 5.
 17 A. Yes. Page, sorry?
 18 Q. Page 05, sorry. "Subsistence", do you see that,
 19 paragraph 5? (Pause)
 20 This is in relation to what you can do in terms of
 21 meals. This is in relation to a reasonable amount:
 22 "Employees who are required to work away from their
 23 normal base, provided the employee is not more than
 24 5 miles -- you're an employee as well, aren't you?
 25 A. I am classified as an employee, yes, as well as

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1 shareholder.
 2 Q. If they had been working for five hours away from their
 3 base location, that's the policy that you were aware of,
 4 you say?
 5 A. No.
 6 Q. No?
 7 A. No. There was a tax news -- this is the 2003 policy
 8 that you are looking at. This is not the tax bulletin
 9 that I received in January 2005.
 10 MR STUART: I am sure my learned friend is about to go to
 11 page 88-21 since it's a document that he's only just
 12 disclosed.
 13 MR JUSTICE HILDYARD: 88 ...?
 14 MR STUART: 88-21.
 15 MR JUSTICE HILDYARD: This is?
 16 MR STUART: This is the Specsavers expenses policy for the
 17 period in question, recently disclosed. That's why it's
 18 been added as 88-21, and it doesn't have a Specsavers
 19 disclosure number in the bottom right-hand corner.
 20 MR POTTS: My Lord, firstly, it's not just disclosed. I can
 21 deal with that.
 22 This is the 2007 policy which I asked you about the
 23 other day, and you said you had not seen this document.
 24 A. Absolutely correct, but I am not saying it's from this.
 25 Q. I see. You are saying --

1 A. I am saying it's from a tax news bulletin, but that's
 2 basically what it said on the tax news bulletin.
 3 Q. Were you providing lunches for all the staff?
 4 A. I've just explained that to you, Mr Potts.
 5 Q. I am sorry, can you repeat your answer?
 6 A. I asked all the staff, they preferred to have
 7 a 45-minute lunch break. It was only myself and Shakila
 8 who decided it was in the best interests of the business
 9 to keep working and keep an eye on the shop floor
 10 through our, you know, 20-minute lunch break that we had
 11 prior to 2010.
 12 Q. But your position is that looking at these invoices,
 13 including the Legoland, the McDonald's happy meal, the
 14 £500 of lunches for yourselves, your position it would
 15 not have been open to anyone looking at this to consider
 16 that you were just funding personal items through the
 17 business?
 18 A. Absolutely, and the loss prevention audit report also
 19 says that. The loss prevention audit report says,
 20 my Lord, that there are few compliance issues with petty
 21 cash. It doesn't actually state that we had been taking
 22 out stuff for our own personal consumption.
 23 Q. Can I move on to the events in March 2011? What do you
 24 have open?
 25 A. I have E and H, I think that is. Do I need H out?

1 Q. Not for the moment, I think.
 2 MR JUSTICE HILDYARD: E1 can go back, can it?
 3 MR POTTS: My Lord, yes.
 4 A. H can go?
 5 Q. Yes.
 6 A. And E1 can go?
 7 Q. Yes.
 8 Now, on 4 March you received a call from
 9 Mr McAlindon, didn't you, to invite --
 10 A. 4 March?
 11 Q. 4 March, to invite you to attend the investigatory
 12 interview, meeting, in Gatwick at a hotel?
 13 A. That was, yeah, Friday the 4th, yes.
 14 Q. You and your wife were accompanied by Mr Hutchings, the
 15 JVP of the Wimbledon store --
 16 A. That's correct.
 17 Q. Your wife was interviewed first?
 18 A. Well, not first: only.
 19 Q. Okay. It was discussed --
 20 A. I was never interviewed.
 21 Q. No. An interview with you didn't take place, but it was
 22 proposed that she would be interviewed first and then
 23 you would be --
 24 A. She was proposed, but as I say, she was the only one
 25 interviewed.

1 Q. Because she fainted and other matters emerged; correct?
 2 A. And --
 3 Q. Which we will come on to?
 4 A. We will come on to.
 5 Q. But you accept that the proposal was that she would go
 6 first, start, and that then you would follow?
 7 A. That's correct.
 8 Q. Whilst your wife was interviewed you waited in the
 9 lobby, reception area?
 10 A. Yes.
 11 Q. After an hour, you were called to the interview room by
 12 Mr McAlindon, who told you that your wife had fainted;
 13 is that right?
 14 A. Well, he came out to me and as he came out to me he
 15 explained that my wife had fainted. I thought it was my
 16 turn to go in, but he said it was that my wife had
 17 fainted.
 18 Q. Did she come out at that point? She sat down near the
 19 reception and had a drink of water?
 20 A. No. No, no. That was later after she had fainted
 21 a second time in the hallway.
 22 I had gone to see her and she was extremely pale and
 23 not looking very well at all. We were stood out in
 24 the -- there is a little hallway just before, from the
 25 meeting room that was on, then there was a little

1 hallway and then there was the reception desk right next
 2 to that, the doorways into the hallway. And we were
 3 stood in the hallway and then she fainted again, and
 4 I could see her going and I said to Ray Hutchings, "Grab
 5 her now, grab her", and we just stopped her from falling
 6 flat on her face because she was just about to go again.
 7 That's when we both carried her to opposite the
 8 reception desk that, as I say, was just outside this
 9 door. There was a couch and we sat her down there and
 10 then the hotel staff came over and asked if she was
 11 okay, and wanted to fill out an accident report.
 12 Q. After she was sitting there, Mr McAlindon and Mr Barnes
 13 came back over to you and they asked how your wife was?
 14 A. That wasn't straight after that point. They went out
 15 for a cigarette.
 16 Q. Yes. After they came back from the cigarette?
 17 A. After they came back from the cigarette, they came back,
 18 they did ask if she was okay. She was still pale, still
 19 shaken, still, you know, quite pallid and clammy, and he
 20 did point out to me at that point that the evidence so
 21 far that had been given had been quite damning.
 22 Q. So just to wind back a bit, you'd been giving your
 23 wife's details to the reception clerks before that; is
 24 that right?
 25 A. While they were out having a cigarette I was giving my

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1 wife's details to the hotel reception staff to fill out
 2 the accident report book.
 3 Q. Could you turn up your witness statement, please, in
 4 volume B, paragraph 88?
 5 A. Of the first witness statement?
 6 Q. Yes. "By the time", do you see that paragraph?
 7 A. I know, I am just going to read it, please.
 8 Q. Sure.
 9 (Pause)
 10 A. Okay.
 11 Q. So you are saying that they, after asking after her
 12 wellbeing, they said that she had fainted due to the
 13 damning evidence she had given and that you were going
 14 to be dismissed?
 15 A. I say they. It was Mr McAlindon, but they were both
 16 together.
 17 Q. So you say it's Mr McAlindon?
 18 A. Yeah.
 19 Q. That's not the case, is it?
 20 A. It is the case.
 21 Q. Neither Mr McAlindon nor Mr Barnes said any such thing?
 22 A. They did.
 23 Q. In fact, it was Mr Hutchings and your wife who indicated
 24 that the evidence against you both looked damning?
 25 A. No.

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1 Q. Are you saying that's wrong?
 2 A. Yes.
 3 Q. Could you turn up, please, volume G. Tab 1, page 1 is
 4 your claim to the employment tribunal?
 5 A. It is.
 6 Q. In April 2011?
 7 A. Yes.
 8 Q. Could I ask you to turn to page 3?
 9 Now, at the bottom of the page there are some
 10 definitions and so on. Just where there is the last
 11 square, you talk about JP and SP being called to
 12 a meeting; yes?
 13 A. Sorry?
 14 Q. Towards the bottom of the page on page 3?
 15 A. Yeah, I am going to just read -- is that okay if I just
 16 read that?
 17 Q. Yes, of course.
 18 A. Okay. (Pause) Okay.
 19 Q. Okay? So at the bottom of the page on 3, you say you:
 20 "... went outside the room, SP fainted again, MM
 21 called us in ... Outside the room, I was at this point
 22 made aware from SP [that's Shakila, your wife] and RH
 23 [that's Mr Hutchings] that they felt the evidence
 24 verbally given against me by MM was damning and was
 25 going to be dismissed by MM."

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1 So what you are saying there is that you were made
 2 aware by your wife and Mr Hutchings that they felt the
 3 evidence which had been outlined was damning and that
 4 you were going to be dismissed. That's what you were
 5 saying there, weren't you?
 6 A. That is saying that here, but my understanding was that
 7 it was the loss prevention guys who had said that, and
 8 I go on to mention that they did say it once we had got
 9 in there.
 10 Q. You say that's at a later stage, that's back in the
 11 room?
 12 A. That's literally a minute after.
 13 Q. Well, I am dealing here at this stage with your evidence
 14 to his Lordship that while you were outside the room,
 15 Mr McAlindon said that to you.
 16 I am putting this document you wrote shortly after
 17 the events where you said that in fact it was your wife
 18 and Mr Hutchings who felt that the evidence against you
 19 was damning.
 20 A. Well --
 21 Q. You accept that that's what it says, don't you?
 22 A. I accept that's what it says here, yes, and this is my
 23 employment tribunal application, but I am confident that
 24 it was Mr McAlindon and Mr Barnes who came back from the
 25 cigarette and said it.

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1 Q. You are confident of that now, you don't appear to have
 2 been confident of it --
 3 A. Well, I was --
 4 Q. -- at the time very shortly after the event. In fact
 5 you said something very different: that it was your wife
 6 and Mr Hutchings?
 7 A. There was, as I say, previous, these were very
 8 distressing times, and since then I have had a lot of
 9 time to reflect on what happened and go through the
 10 accounts, because there are, looking at this, little
 11 bits that are not necessarily on here as well. So ...
 12 Q. This isn't a minor point, Mr Parham. This is a specific
 13 point which you are saying here: that it was your wife
 14 and Mr Hutchings saying to you that they felt the
 15 evidence against you was damning and that you were going
 16 to be dismissed.
 17 That's the truth, isn't it? That is what happened,
 18 and that's why you wrote it a few weeks after the event?
 19 A. But as I say, you know, that it was a very distressful
 20 time, I have had a lot more time to think about it, and
 21 I don't only just said this now, this has, you know,
 22 been said for a couple of years now, that my
 23 understanding changed when I got more perspective of
 24 what happened in the -- in these meetings.
 25 Q. I put it to you that what you wrote here very shortly

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1 after the time is precisely what occurred, and you are
 2 changing your evidence now because it suits you to say
 3 that to his Lordship.
 4 A. No, because, you know, I've also stated on here that he
 5 did actually say that as well.
 6 Q. I am asking you about this stage in the proceedings.
 7 A. But I've also said, you know, that he did say this.
 8 Q. Are you saying that your wife and Mr Hutchings did not
 9 indicate to you that they felt that the evidence against
 10 you was damning at that point?
 11 A. My wife wasn't really saying -- didn't say anything to
 12 me.
 13 Q. So are you saying that this is all wrong, is it?
 14 A. That point that SP and RH, that they felt the evidence
 15 was verbally given against me by MM was damning, that
 16 didn't happen, as I saw it then. On reflection of it,
 17 it was Mr McAlindon who, as I said, was doing all the
 18 talking, and it was when he came back from the cigarette
 19 that they had been out for.
 20 Q. This isn't a new point for you, is it?
 21 Can I take you to volume C, page 49? Because you
 22 were asked about this during the ET proceedings,
 23 weren't you?
 24 A. Possibly.
 25 Q. And this very same point was put to you in the ET

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1 proceedings, wasn't it?
 2 A. Possibly. I don't know.
 3 Q. Could you read paragraph 62, please, in Mr McAlindon's
 4 statement?
 5 (Pause)
 6 A. I've read it.
 7 Q. So this is a point you have been well aware of in these
 8 proceedings?
 9 A. Mm.
 10 Q. Isn't the position, firstly, that you did admit during
 11 cross-examination that it was Mr Hutchings and
 12 Mrs Parham who said that the evidence against you looked
 13 damning, and your wife did the same, and it wasn't
 14 Mr McAlindon?
 15 A. No, because that's what he is saying he heard.
 16 Q. Are you saying that's wrong?
 17 A. That's wrong.
 18 Q. Isn't the position that in fact what you put on your
 19 form shortly after the event is what transpired and
 20 Mr McAlindon's account is correct?
 21 A. No.
 22 Q. Isn't the position that in fact you have changed your
 23 evidence because you think it will assist you in this
 24 court?
 25 A. No, that's incorrect.

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1 MR POTTS: My Lord, was your Lordship anticipating breaking
 2 at 12.15? That may be a convenient moment.
 3 MR JUSTICE HILDYARD: Yes.
 4 Can I just ask, I hope you don't mind me asking now,
 5 but your wife had appeared to faint in the interview,
 6 and had come out. Where was she? What happened then?
 7 Can you just remind me?
 8 A. Yes, because obviously I wasn't there for the first
 9 fainting so -- but that's when Mr McAlindon came out.
 10 MR JUSTICE HILDYARD: Came in to get you, to say --
 11 A. I was in the -- there is a massive lobby in this hotel.
 12 Mr McAlindon came across to me.
 13 MR JUSTICE HILDYARD: Yes.
 14 A. Said that my wife had fainted. I went back. When
 15 I went back in, they were in the hallway in the -- which
 16 as I say --
 17 MR JUSTICE HILDYARD: "They" meaning?
 18 A. Sorry. Mr Hutchings, my wife and Mr Barnes.
 19 MR JUSTICE HILDYARD: Right.
 20 A. And then we joined them in that hallway.
 21 MR JUSTICE HILDYARD: Were they sitting down? Was she
 22 sitting down?
 23 A. No, they were stood up at this point in the hallway.
 24 Then I came over to her, and as I say, she looked very
 25 clammy, very pallid, not looking very well at all. And

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1 I can't remember the conversation I had, because
2 I wasn't -- I didn't speak to my wife, because she
3 didn't seem to be in any fit state. I spoke to
4 Mr Hutchings, but I cannot remember what the
5 conversation was about. Then I saw her go down, sort of
6 go down.
7 MR JUSTICE HILDYARD: Yes, and you've explained that and you
8 caught her before she fell on her face.
9 A. Yes.
10 MR JUSTICE HILDYARD: Yes.
11 A. Then we carried her through in on to the sofa, which was
12 opposite the reception desk. So say that was the
13 hallway (indicated), the reception desk was here, the
14 couch was here, and there was a set of double doors,
15 like glass doors, if I remember rightly, well, they were
16 doors go through to that area.
17 MR JUSTICE HILDYARD: Thank you.
18 Is that a good time for you all? What time would
19 you like to reconvene? We are slipping behind on the
20 latest, greatest timetable produced as long ago as
21 yesterday.
22 MR POTTS: Yes, my Lord.
23 Well, my Lord, shall we say --
24 MR JUSTICE HILDYARD: How do you see the day progressing, if
25 that isn't too strong a word?

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1 MR POTTS: My Lord, I hope to finish Mr Parham.
2 MR JUSTICE HILDYARD: We will then be a day out, will we?
3 MR POTTS: My Lord, I appreciate that.
4 MR JUSTICE HILDYARD: Right. But the best we can hope for
5 is to finish Mr Parham today.
6 Now, for that purpose, and to ensure that result,
7 however disappointing it is in terms of progress, when
8 would you like to reconvene?
9 MR POTTS: My Lord, whenever your Lordship ...
10 MR JUSTICE HILDYARD: If we reconvene at quarter past 1, is
11 that --
12 MR POTTS: My Lord, that's fine.
13 MR JUSTICE HILDYARD: Are you all right with that,
14 Mr Parham? It's quite an exhausting business being
15 cross-examined.
16 A. It is, but I am absolutely fine. Obviously we need to
17 get this done.
18 MR JUSTICE HILDYARD: It would be nice to get it done by the
19 weekend, and I must rise at 2.30.
20 A. It would be nice.
21 MR JUSTICE HILDYARD: Yes. All right.
22 Mr Potts, I do expect you to finish, and
23 re-examination to be finished.
24 MR STUART: I'll be no more than 15 minutes in total,
25 my Lord. So if Mr Potts could give me 2.15, I promise

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1 to be finished by 2.30.
2 MR JUSTICE HILDYARD: I'll hold you to your promise, then,
3 and Mr Potts, I expect you to finish by 2.15, please.
4 If you need time out to make your questions even
5 snappier, please do so.
6 THE WITNESS: I will try and do likewise.
7 MR JUSTICE HILDYARD: We will reconvene at 1.15.
8 (12.28 pm)
9 (The short adjournment)
10 (1.15 pm)
11 MR JUSTICE HILDYARD: I'm sorry to have kept you. I had
12 an issue on an interlocutory order which had to be dealt
13 with.
14 MR POTTS: Mr Parham, before the short adjournment I was
15 asking you about paragraph 88 of your witness statement.
16 A. Yes.
17 Q. I want to move on to what happened after that.
18 A. Yes.
19 Q. You returned to the room with Mr Hutchings and your
20 wife; is that right?
21 A. Yeah, there was all five of us in the room with
22 Mr McAlindon and Mr Barnes.
23 Q. At that point, had Mr McAlindon asked you both if you
24 were happy to continue with the meeting, or whether, in
25 light of Mrs Parham fainting, he wanted to adjourn until

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1 a later date; is that right?
2 A. No, that's not right.
3 Q. That's Mr McAlindon's evidence. He's wrong on that?
4 A. That may be Mr McAlindon's evidence, but that's not
5 correct.
6 When we got back into the room, Mr McAlindon -- I
7 was a bit, obviously, surprised anyway why I was going
8 back into the room, because as far as I understood, they
9 still hadn't finished the interview with my wife. But
10 I followed in, went in, sat down, and then it was at
11 this point that Mr McAlindon said, you know, to consider
12 an off-the-record conversation, without prejudice or
13 whatever, you know -- I think it was "off the record" he
14 used, as the evidence -- Again, this is why I still
15 believe he said it outside, because he reiterated the
16 point that the evidence so far was quite conclusive
17 against us.
18 We felt, okay, we have got no option, we will sit
19 down and listen anyway. But at this point obviously we
20 hadn't had any legal sort of chat, we couldn't, you
21 know, speak to someone who might know what was going on
22 about this thing. It's just the whole issue is the
23 process of this, that I felt that we were just being
24 treated as employees, not as shareholders, because --
25 I mean, I didn't, you know, realise at the time

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1 reference the board meetings, but subsequently my
2 solicitor has told me that if I had had a board meeting,
3 I could have -- I don't know why this does it this way,
4 but if I had a board meeting, then I can put
5 an injunction on to the --
6 MR POTTS: My Lord, I am slightly --
7 A. -- suspension --
8 MR POTTS: I think this may be -- if he wishes to waive
9 privilege --
10 A. I just feel as though I haven't mentioned anything about
11 the process, and I have been going through this over
12 lunchtime, and I have noticed here when it says about
13 the independent advice -- sorry, in paragraph 89.
14 MR JUSTICE HILDYARD: The warning is a friendly one.
15 A. Sorry. I won't --
16 MR JUSTICE HILDYARD: Which is that you mustn't tell me or
17 anybody else about the advice you receive unless you
18 want to or are prepared to waive privilege, which is --
19 A. Okay.
20 MR JUSTICE HILDYARD: That is to say, once you tell the
21 court part of what you were advised, you then may have
22 to tell the court all of that you have been advised, and
23 that may not be in your interests.
24 I think the warning from counsel is simply
25 a friendly one. Your own counsel will be on notice now

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1 to protect you, but that is the purpose of the warning.
2 Am I correct, Mr Potts?
3 MR POTTS: My Lord, yes.
4 A. I think it does say somewhere, my Lord, that my
5 solicitor has mentioned this to me, that, you know, the
6 advice now is that I could have asked for a board
7 meeting, or they could have given me a board meeting.
8 You know, because I --
9 MR JUSTICE HILDYARD: Well, I don't know about this, and
10 I'll let your counsel protect you, because he will know
11 the papers better than me.
12 A. Yeah, because we never had board meetings, my Lord,
13 I wouldn't have known to call one, but they could have
14 called me for a board meeting, which means then I could
15 have got legal advice on this situation. I think that's
16 how I -- I wasn't going to try and go into --
17 MR JUSTICE HILDYARD: No, my understanding of the context at
18 which all this occurred --
19 A. Yes. Sorry.
20 MR JUSTICE HILDYARD: -- was that this was a meeting which
21 was suggested as being a meeting to consider the
22 accounts, developed into a meeting which ultimately led
23 to the resignation of you and your wife.
24 A. Correct.
25 MR JUSTICE HILDYARD: And you asked for someone to attend,

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1 but that was declined, and --
2 MR POTTS: My Lord, no, I don't think that is the case.
3 MR JUSTICE HILDYARD: Well, that's what the evidence is.
4 A. We asked for third party, in the email, not -- it's not
5 in my statement here, it's part of the evidence, that we
6 asked for third party to attend and we were rejected by
7 that.
8 MR JUSTICE HILDYARD: I won't interrupt further. I'll let
9 you deal with it, but I was trying to shorten all this.
10 A. Apologies. I just thought the process and the
11 procedures hadn't been mentioned as much.
12 MR JUSTICE HILDYARD: Absolutely. I am not going to stop
13 you there.
14 MR POTTS: Going back to what happened --
15 A. Sorry.
16 Q. -- you were back in the room --
17 A. Yes.
18 Q. -- I put it to you Mr McAlindon said he asked you if
19 you wanted to adjourn the meeting until a later date as
20 a result of your wife fainting, and you indicated you
21 wished to continue.
22 It was at that point that Mr McAlindon informed you
23 that he was willing to discuss matters on a without
24 prejudice basis if you wished, and that you agreed to
25 that; is that right?

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1 A. No, that's completely correct -- incorrect, because --
2 I know that for a fact, because I did ask him for
3 24 hours later on during that meeting and he flatly
4 refused that, and his words were to the effect that
5 "I have to have this wrapped up by the end of the day as
6 I am going to Australia at the end of the week".
7 Q. I also put it to you that Mr McAlindon didn't say again,
8 or at all, that the evidence was damning -- looking at
9 paragraph 90 of your statement -- and that the
10 continuation of the interview would inevitably result in
11 dismissal, which could affect your wife's licence to
12 practice by informing the GOC?
13 A. He definitely did. He mentioned it a couple of times
14 during the meeting with us, and now I've seen the
15 evidence in the interview with my wife, he infers it as
16 an indirect inference in there as well about the GOC
17 member.
18 Q. At 94, again, you make this point that he said unless
19 you resign, Specsavers would report your wife to the
20 GOC, which could result in the revocation of her
21 licence?
22 A. That's correct.
23 Q. You said that, you say.
24 A. That's absolutely correct.
25 Q. I put it to you that there was no statement by him that

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1 the evidence was damning. Did you say that he did say
2 that?
3 A. Pardon?
4 Q. Is that right?
5 A. Sorry, I didn't know you'd finished. Sorry.
6 Q. I put it to you that Mr McAlindon did not say that the
7 evidence was damning or that the continuation of the
8 interview would inevitably result in your dismissal.
9 A. He did.
10 Q. What he did say, in fact, was that the matters under
11 investigation were potentially very serious, being
12 allegations of theft and fraud, and couldn't be ignored,
13 and that the formal investigation needed to continue,
14 but he was reluctant to do so given that your wife had
15 fainted?
16 A. That's wholly untrue. He never said that at all. He
17 didn't seem to be that interested. He did obviously say
18 something when he came back from a cigarette just to
19 say -- and I think it was just his way of trying to
20 progress his direction and getting us back in, getting
21 us to sign something and then getting us out.
22 Q. Mr McAlindon was there to investigate, wasn't he? He
23 didn't have a power of dismissal?
24 A. I don't think he had the power, but it was definitely
25 felt in that meeting that he was controlling that

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1 meeting, he was making the decisions in that meeting,
2 and I think Mr Hutchings says that as well. You know,
3 that's exactly how he felt about that: that he was
4 controlling and he had the power to do what he wanted in
5 that meeting.
6 Q. So you say Mr Hutchings is saying that in his statement?
7 A. I don't say he said it in his statements, he has said it
8 to me.
9 Q. I see.
10 Isn't the reality that there was no such threat
11 about inevitable dismissal by him during the meeting,
12 and you were putting words into Mr McAlindon's mouth
13 because you think it will advance your case?
14 A. Not at all.
15 Q. He also didn't make any threat in relation to the GOC,
16 did he, at that point?
17 A. He did, and it's -- and part of it, as I say, there is
18 an indirect threat on transcript.
19 Q. Let's break that down. You are right that the issue of
20 the GOC had come up during the course of the
21 investigatory interview; you have seen that on the
22 transcript?
23 A. I have, yes.
24 Q. That was in relation to an explanation of the standards
25 of behaviour to be expected, and Mr McAlindon was

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1 referring to what had been said in a GOC disciplinary
2 case?
3 A. That was an indirect threat towards her. Knowing that
4 my wife could lose her licence, that was an indirect
5 threat to her, panicking her for that, knowing -- and we
6 already knew that Mr McAlindon has been in -- what's the
7 word? He has been ... instrumental in other people
8 losing their GOC licence.
9 Q. I put it to you that in fact during this WP discussion
10 there was no threat of reporting anybody to the GOC
11 at all.
12 A. There was, and it was Mr McAlindon.
13 Q. I put it to you that this is you making a serious
14 allegation against Mr McAlindon, because you think it
15 will help your case?
16 A. Definitely not.
17 Q. Okay.
18 Paragraph 92 of your statement. You then say that
19 you were:
20 "... presented with an ultimatum that he would
21 continue with the investigation and dismiss us, which
22 would allow them to compulsorily purchase [your] shares
23 at par. Alternatively, [you] could be bought out for
24 £315,000 of costs," and so on.
25 "Instructed not to give us less than 300,000."

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1 Do you see that?
2 A. Yes.
3 Q. Now, there was a discussion about the price for the
4 shares, wasn't there, during the meeting?
5 A. Yes, there was.
6 Q. There wasn't a threat made to take your shares at par,
7 was there?
8 A. There was, yes, and this was reiterated on, I think, 24
9 or 21 April in subsequent letters.
10 Q. Could I ask you to turn up volume C, please?
11 A. I have C.
12 Q. Okay. Page 50, paragraph 69. Do you want to just read
13 that to yourself?
14 A. Yes. (Pause) Okay.
15 Q. So what Mr McAlindon in fact pointed out was that:
16 "The investigation needed to conclude before [he]
17 went away on a two-week trip in four days time to avoid
18 a long delay in reaching a conclusion"?
19 A. No, that's not correct.
20 Q. So you didn't say that?
21 A. No.
22 Q. In fact, it was you who then asked about your
23 shareholding and how much you might receive if you were
24 bought out, and he said he didn't know but would
25 telephone the business transfer service and get

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1 a valuation explaining there was a set formula?
2 A. No, no, that's definitely wrong, and he also says that
3 he did that over the lunch break.
4 Now, my point on there is: why would I go to lunch
5 and come back and agree to a figure which I didn't know
6 anything about?
7 Q. So you are saying --
8 A. He gave us the figure before we went to lunch.
9 Q. You are saying he is wrong on that?
10 A. Yes.
11 Q. Okay. You went for lunch and on your return you
12 indicated a decision to resign --
13 A. Sorry, looking at mine or --
14 Q. Paragraph 75 of his statement.
15 A. Of his statement?
16 Q. Yes. There was a discussion after lunch where you
17 agreed to resign, a figure of 300,000 was discussed,
18 with deductions?
19 A. Well, the figure's not quite correct. It was 315,000,
20 and the deductions would come -- the 15,000 of that
21 would be --
22 Q. For costs and so on.
23 A. -- for the costs, and so it would come down to 300,000.
24 But this, again, he rattled it all off of what was
25 points were worth and where, you know, the shares were

1 21

1 worth, the retained profit, et cetera. And he rattled
2 this off on a piece of paper that he had already written
3 down prior to the lunch.
4 Q. During the discussions after lunch -- we have dealt with
5 the timing point -- you and your wife indicated that you
6 had decided to resign and you were agreeable to selling
7 for 300,000; is that right?
8 A. We --
9 Q. That's paragraph 95 of your statement.
10 A. (Pause) We felt as though we were, as I say, backed
11 into a corner. We couldn't believe this was happening.
12 Mr McAlindon would not listen to any reason
13 whatsoever that, you know, my wife had given him, words
14 that we had between us. So we felt, okay, what we will
15 do is we will sign, get this out the way and we will go
16 and speak to SOG and put a complaint in, or discuss with
17 them about the whole treatment that we had had by the
18 loss prevention department.
19 So it says, you know, that -- you know, as I said
20 here, that Mr McAlindon said he would write it for us.
21 Q. Could I --
22 A. Which I think he says otherwise.
23 Q. The position is that you asked Mr McAlindon to write it
24 out for you, didn't you?
25 A. No, Mr McAlindon said he would write it for and on

1 22

1 behalf -- our behalf.
2 Q. That was after you asked him to do it?
3 A. No, what we said was that we couldn't do, you know -- we
4 couldn't write it, we didn't know what the words were we
5 were supposed to write down. We were in such a state of
6 shock, we were traumatised by having our whole
7 livelihood taken away from us.
8 Q. In fact, the position was he was initially very
9 reluctant to write the letter out, but your wife said
10 she didn't know what to write in the letter and so she
11 asked him to write it out for her?
12 A. Where does it say that?
13 Q. That's his evidence. Yes, that's what happened,
14 isn't it?
15 A. No, that's not true.
16 Q. Can I take you to E1, please, page 209? Do you want to
17 just read that to yourself? This is the letter,
18 isn't it?
19 A. This is the resignation letter that's written on,
20 obviously, hotel letter paper.
21 Q. Yes:
22 "We have decided to resign with immediate effect as
23 employees and directors of the company. We have agreed
24 in principle we will sell our shares at an agreed price
25 of 315,000 less deductions. We have asked Mel McAlindon

1 23

1 to write this letter for and on our behalf, but we are
2 clear that neither he nor anyone else has placed us
3 under any duress to resign. We have been given time to
4 consider our resignations."
5 It's signed by you, your wife, Mr Hutchings,
6 Mr McAlindon and Mr Barnes; correct?
7 A. It is correct, you know, but --
8 Q. The letter includes --
9 A. There is a lot in there that I disagreed with anyway
10 and --
11 Q. The letter includes a line stating that you'd asked
12 Mr McAlindon to write the letter?
13 A. There is a lot in here I disagreed with.
14 Q. So are you saying that's not true?
15 A. To my recollection, it's not true, as, you know, I asked
16 for the -- what part is it -- under duress, and in under
17 duress to be asked to be removed. You know, there was
18 thing -- parts on here that I had asked to be removed,
19 and I think that was the paragraph I'd asked to be
20 removed.
21 Q. What, the whole paragraph?
22 A. Just that paragraph there, yes, which obviously the
23 major point was the duress.
24 Q. In your witness statement you don't say it's the whole
25 paragraph, you say it was a line about the duress, but

1 24

1 not the first part, about him asking you to do the
2 letter, to write the letter. Which is it?
3 A. Well, I certainly didn't ask him to write it.
4 Q. Well, if you didn't, wouldn't you have asked him to take
5 that out as well?
6 A. I am sure that I asked him to take all of this paragraph
7 out. But as I say, the main point that I was not happy
8 with, because I thought that was quite innocuous, about
9 that we'd asked him to write it, was to be placed under
10 any duress to resign.
11 Q. That's different --
12 A. I knew that was quite -- because I did feel as though
13 I'd been under a lot of pressure and a lot of duress to
14 sign.
15 Q. Just the first point, you are now saying it was the
16 whole paragraph. That is different from the evidence
17 you have put in your witness statement?
18 A. What I am saying is that I didn't ask him to write that.
19 Q. And you also say in your evidence to his Lordship now
20 that you asked him to take that out as well. That's not
21 what you say in your witness statement, is it?
22 A. What I am saying is that I didn't ask him to write this.
23 Q. And this was signed by Mr Hutchings as well, wasn't it?
24 A. It is signed by Mr Hutchings. As I say, the reason why
25 we signed this was just to get out and have a speak, you

1 25

1 know, to SOG and be reinstated, because we didn't
2 accept it.
3 Q. That's not in your evidence either, is it, that you
4 didn't mean any of this, that you were just trying to
5 get out of the room, is it?
6 A. I can't recall. I am not saying it isn't, I am just
7 saying I can't recall.
8 Q. Can I ask you to go to volume G, please, page 70? This
9 is your witness statement to the tribunal.
10 A. Okay.
11 Q. Paragraph 34 at the bottom of the page deals with the
12 declaration about duress. In that witness statement, in
13 that paragraph, you don't mention challenging over the
14 terms of this wording and asking him to take it out,
15 do you?
16 A. No, I don't.
17 Q. If you were objecting to that paragraph, surely you
18 would have mentioned that in your witness statement?
19 A. No, as I say, this was I thought the most poignant part,
20 that there was no duress placed on us --
21 Q. Well --
22 A. -- in writing, because that was the most poignant fact
23 that I wanted to get across in both of my statements,
24 you know.
25 Q. Well, if you are trying to make the point that you were

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1 under duress, surely a very good example of that was
2 that in fact you had asked him to take it out and he had
3 refused to do so? You would have put it in the
4 statement if it had happened, wouldn't you?
5 A. No, because I didn't think it was really relevant who
6 had written it.
7 Q. No, I'm not asking you about who'd written it. I am
8 asking you about the point of telling him, asking him to
9 take it out of the statement.
10 A. Take what out of the statement?
11 Q. About the duress, which is what you say in your witness
12 statement. You say for these proceedings that you
13 challenged the line about being put under duress?
14 A. Yes.
15 Q. This witness statement doesn't say that you challenged
16 him about that?
17 A. Well, it says "challenged" on there, but it also says he
18 refused to have this removed. So my challenging is that
19 I want that removed. That's on 95, the last part of 95
20 in my witness statement.
21 Q. Yes, I appreciate that's what you say in your witness
22 statement now. I am asking you about what you said in
23 your witness statement to the tribunal.
24 You don't say anything about him refusing to remove
25 that? (Pause)

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1 A. No, it doesn't say that there.
2 Q. No, you don't mention it. If it had happened, you would
3 have mentioned this, wouldn't you, in that statement?
4 A. I've only just said that, you know -- I am only pointing
5 out that I didn't say I wanted it removed in this
6 witness statement, which was for the ET.
7 Q. But if you were trying to make the point about duress,
8 the obvious point to make in relation to that was that
9 he had refused to take something out of the letter that
10 you didn't want in?
11 A. Well, that's my statement, and that's what I am sticking
12 to: that he refused to take it out.
13 Q. Which statement? The more recent one?
14 A. My statement now.
15 Q. The reality is you didn't mention it in your ET
16 statement because it didn't happen.
17 A. It did happen.
18 Q. The reality is there were no threats or duress, you both
19 chose to resign, and this letter represents your
20 position at the time, and that's why you signed it.
21 A. That's untrue, and if there was no threats or pressure,
22 why did my wife faint twice?
23 Q. And the reality is that you chose to resign to avoid
24 an investigation into matters in respect of which
25 Mr Hutchings and your wife had said looked damning.

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1 A. No.
 2 Q. You also knew that the person running an investigatory
 3 meeting doesn't have the power of dismissal; correct?
 4 A. Sorry, what was the first part of that question?
 5 Q. You understood that Mr McAlindon, the person carrying
 6 out the meeting, couldn't dismiss you; correct?
 7 A. No, I didn't know that. He was -- he looked as though
 8 he was fully in control of this situation, and he looked
 9 as though he could continue with any direction that he
 10 wanted to. That was him looking at running -- you know,
 11 that's how I felt in that room at that time.
 12 Q. Are you saying that you thought he was going to dismiss
 13 you there and then at the meeting?
 14 A. It had crossed my mind, definitely, yes.
 15 Q. Crossed your mind, or is that what you thought he was
 16 going to do?
 17 A. Well, it crossed my mind that's what I thought he was
 18 going to do. It's still crossing my mind, isn't it?
 19 Q. The reality is that this was an investigatory meeting
 20 and if you had felt that this was inappropriate and you
 21 were not prepared to, you wanted to delay things by, you
 22 say, taking things up with Specsavers afterwards, there
 23 was no need for you to sign this document and you could
 24 have done that after the meeting?
 25 A. We were in -- as I say, I've just seen my wife faint,
 1 2 9

1 she had already fainted prior to that. This was a very
 2 stressful situation. We weren't been listened to, we
 3 needed to get out of that room as quickly as possible.
 4 Now, you know, we just needed to go and see if we
 5 could get some proper advice from somebody, and we
 6 thought Specsavers might have helped to that, but
 7 obviously they didn't. They were under the same --
 8 well, it had all come down from them, as I now
 9 understand.
 10 Q. Mr McAlindon had indicated to you that he was reluctant
 11 to carry on with the investigatory meeting that day
 12 given that your wife had fainted, and he offered you the
 13 option of an adjournment --
 14 A. Not at all.
 15 Q. -- albeit he did say that he didn't want it to be
 16 a long adjournment because he was going away?
 17 A. Not at all.
 18 Q. Now, can we move on to after the meeting? I think you
 19 can put G away. E2.
 20 A. I will point out also the company name on there was
 21 completely wrong as well. There is no company called
 22 Visionplus Limited.
 23 Q. Okay. That was an accident; it was a slip?
 24 A. I don't know. That's Mr McAlindon wrote it. You will
 25 have to ask him.
 1 3 0

1 Q. E2/429. Your wife wrote to Mr McAlindon on the day
 2 after the meeting, didn't she? I just want to ask you
 3 about the fact of the writing at the moment, rather than
 4 details on this document.
 5 A. Okay. Yes, there is an email here saying that she
 6 wrote.
 7 Q. She was asking for a second chance, and says something
 8 about being --
 9 A. Do I need to read this?
 10 Q. Firstly, did you know that she was writing the email,
 11 that she was going to write to him? Did you discuss it
 12 with her? (Pause)
 13 I am not asking you about the detail of it,
 14 Mr Parham. I am just asking you did you know that she
 15 was going to write?
 16 A. We wrote a lot of stuff together, we wrote stuff
 17 separately. I am just trying to get the context and see
 18 if I had anything to do with this. Yes. We both were
 19 involved with this.
 20 Q. You knew she was writing?
 21 A. Yes.
 22 Q. She suggested that a final written warning was more
 23 appropriate for her, given that she claimed not to have
 24 personal involvement in the issues. Do you see that?
 25 430, just above the second whole punch.
 1 3 1

1 "A final written warning is a fairer approach", and
 2 that's for her?
 3 A. Yes.
 4 Q. She was asking for a second chance. If you look further
 5 up the page, she says that she is someone who has been
 6 naive and trusting of John's responsibilities in the
 7 store; do you see that?
 8 A. Yeah.
 9 Q. So she was accepting that for her a final written
 10 warning was appropriate, but there was nothing about you
 11 being given a second chance and being reinstated, was
 12 there?
 13 A. There was no chance. When she wrote this, you know,
 14 what they had put through to us seemed quite damning,
 15 but on reflection, you know, when we looked at it, and
 16 I said, "No, this is not the case, this didn't happen,
 17 this is how I did all the invoices, the credit cards,
 18 the receipts in the petty cash".
 19 Q. So when she wrote that -- being willing to accept
 20 a final written warning -- that was because it seemed
 21 quite damning?
 22 A. It seemed quite damning. That was only -- only just
 23 seemed quite damning. But as I say, she didn't
 24 appear -- she didn't later on after this, she didn't
 25 realise -- realise is the wrong word. She didn't fully
 1 3 2

1 understand how this stuff had been put through the
 2 system.
 3 Q. I see. But at the time, her state of mind when she
 4 wrote, was that she felt that it all looked very
 5 damning?
 6 A. You will have to ask her about that. I cannot
 7 understand her state of mind.
 8 Q. I think you have just been giving some evidence about
 9 that. You said it felt quite damning?
 10 A. I said we wrote it together.
 11 Q. Sorry?
 12 A. I said we might have written it together, or I had
 13 input -- not necessarily input, but I was there and
 14 I would have actually probably written it for her on the
 15 computer. Not actually the word -- you know, the words,
 16 but I would have put it in on the computer.
 17 Q. Whilst there is a reference to her taking a final
 18 written warning, there is nothing about you being
 19 reinstated, is there, in this?
 20 A. No, there isn't, no.
 21 Q. You didn't write asking for a second chance?
 22 A. I went through the employment tribunal route.
 23 Q. But at this stage, the day afterwards, the reason you
 24 didn't ask for that is that you appreciated that the
 25 evidence was, looked, damning and there wasn't going to

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1 be any chance of you being reinstated?
 2 A. Sorry, are you saying that I thought that or --
 3 Q. Yes, that's why you didn't ask for reinstatement, you
 4 didn't ask for a second chance?
 5 A. I did ask for reinstatement within the ET proceedings.
 6 Q. This is the day afterwards, though?
 7 A. Yes, this is the day afterwards.
 8 Q. Yes, your wife asked for a second chance, and accepts
 9 that it would be appropriate to give her a final written
 10 warning?
 11 A. That's what she has written here, yes.
 12 Q. In consultation with you?
 13 A. I helped on this.
 14 Q. Then if you could turn on to 497, matters moved on, and
 15 on 2 May --
 16 A. Sorry, 49 ...
 17 Q. 497.
 18 A. Mm.
 19 Q. Here you were writing to accept a joint sale of your
 20 shares for 300,000?
 21 A. Yes.
 22 Q. On the basis of no further litigation?
 23 A. Mm.
 24 Q. You can pursue your path elsewhere; correct? (Pause)
 25 You weren't seeking reinstatement?

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1 A. By this time, we had -- as it says here, we were both
 2 emotionally and mentally exhausted, so we just wanted to
 3 move on with our lives.
 4 As I say, we had two young children, and Specsavers
 5 loss prevention were not going to listen to us in any
 6 way whatsoever. So we just wanted to move on with our
 7 lives.
 8 Q. The moving on with your lives is consistent with the
 9 previous email we have looked at. This is where your
 10 wife is still seeking to have a career with Specsavers,
 11 but you would not?
 12 A. No, we had come to the conclusion that there was
 13 an issue between me and Mr McAlindon, and he was quite
 14 adamant that I would not be put back into Specsavers.
 15 He was quite happy -- quite adamant that I would not be
 16 listened to.
 17 There was a big divide between us, and he was just
 18 not going to listen to me at all, and it was on his
 19 advice that goes up to whoever makes the decision,
 20 whether it be Derek Dyson or Mark Raines.
 21 Q. The reality is that you accepted that your conduct was
 22 such that there was no chance of you being --
 23 reinstated?
 24 A. No, that's not --
 25 Q. -- at Specsavers?

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1 A. No.
 2 Q. Now --
 3 A. That's why I applied for reinstatement at the ET. This
 4 was prior to this.
 5 Q. 498-7 is a letter of 12 May where you were sent,
 6 I think, the documentation to deal with the purchase at
 7 300,000?
 8 A. Mm.
 9 Q. Then ET proceedings were commenced by your wife on
 10 3 June?
 11 A. Yeah.
 12 Q. When did you first take legal advice after your
 13 suspension?
 14 A. I can't remember the date, but it was -- no, I can't
 15 remember the date that we first took legal advice.
 16 Q. Okay, not the precise date. Can you --
 17 A. No, I am sorry, I can't.
 18 Q. Any idea at all? Suspension was in March. In fact,
 19 earlier, sorry, 1 March. A few days later?
 20 A. Could have been a few days later, a week later or so.
 21 Q. A few days or a week later?
 22 A. I can't remember. I've just told you that I can't
 23 remember when we, you know --
 24 Q. Was it a long time, short time, when you first took any
 25 legal advice at all?

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1 A. No, I can't remember exactly when we went to get legal
2 advice. I remember the company, it was a local company,
3 Rix & Kay.
4 Q. Rix & Kay?
5 A. Yeah.
6 Q. You later took advice from another firm, Hamilton Pratt?
7 A. We did, yes.
8 Q. How long were Rix & Kay acting for you, roughly?
9 A. A very short time.
10 Q. What does that mean?
11 A. I don't know. A week, two. We would have been advised
12 by a friend that he was aware of this company who dealt
13 with, what do they call them, franchises. So this is
14 why the person who we dealt with in Hamilton Pratt was
15 a lawyer that dealt with franchises.
16 Q. And previously you had taken advice from Rix & Kay?
17 A. Yes.
18 Q. And what aspects of matters were you --
19 A. I can't --
20 Q. Sorry, what stage in the process were you taking advice
21 from them, after --
22 A. It was after the suspension.
23 Q. And before the resignation?
24 A. Yes.
25 Q. So before the meeting that you had on the 7th?

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1 A. No, you just said after the resignation.
2 Q. Sorry, I said after the suspension -- I am sorry.
3 I said after the suspension and before the resignation,
4 you said yes?
5 A. No, sorry. I thought you said after the resignation.
6 Q. So it was after the resignation?
7 A. After the resignation.
8 Q. But before negotiating the documents with
9 Hamilton Pratt?
10 A. Yes.
11 Q. You also refer to taking advice from an eminent family
12 barrister?
13 A. Yes.
14 Q. When was that?
15 A. That was around about May time.
16 Q. May?
17 A. May/June.
18 Q. Okay, and there were some further negotiations. The
19 price increased to 307,000; do you remember that?
20 A. I do.
21 Q. I think you can put away E2. E3/541. It's a letter on
22 4 July. You rejected the 307,000 offer and said that
23 your shares were worth 403,000.
24 A. Yes.
25 Q. In fact, 404,000, near --

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1 A. Yes, we had. It was mid-June, late June, someone had --
2 I don't know who it was, but someone had informed us how
3 you calculate, or how Specsavers calculated the share
4 value, and that's how I came about these figures on 542
5 and 543.
6 Q. Then E3/545, the option was exercised by Specsavers on
7 15 July. Do you see that letter?
8 A. Yeah.
9 Q. If you look at 546 on the next steps, at the final
10 paragraph, do you see that? Even there it says it was
11 noted that if you want to reconsider, you were asked to
12 confirm whether you were willing to accept the £307,000
13 which had previously been offered; correct? Do you see
14 that? (Pause) Suggesting that the £307,000 offer might
15 be available for consideration --
16 A. They do say that. You know, the reason why we were
17 always delaying on this was because we have always felt
18 that the shares were worth more. We always felt that we
19 had been blackmailed into this.
20 The figures that I put together on 4 July emphasised
21 that point, and that was a Specsavers calculation. So
22 I've always felt in that sense that we were still being
23 blackmailed, and the 300,000 was being blackmailed, and
24 they kept pointing out that if we didn't accept this it
25 would be taken away from us at par value.

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1 Q. But they were offering you £307,000, weren't they,
2 not par?
3 A. It was a take one or the other.
4 Q. Yes.
5 Now, can you have volume F, please, at page 3? By
6 this stage you had gone to a third firm of solicitors,
7 Akin Palmer?
8 A. Sorry, I'm in -- oh, right.
9 Q. 9-1, if it's easier. Does it come in twice?
10 A. I have three.
11 Q. Okay. Akin Palmer, a third firm of solicitors by this
12 stage?
13 A. It was, yes.
14 Q. This is a letter threatening proceedings under -- this
15 is a pre-action letter under section 994 of the
16 Companies Act; correct? It just says that --
17 A. Sorry, I am just trying to see that. I can't see it.
18 Q. Let me take you to it. Anyway, it's threatening
19 proceedings. Can I ask you to go to page 8?
20 A. Where does it say 994?
21 MR JUSTICE HILDYARD: What page are we on?
22 MR POTTS: Page 3, my Lord, in F.
23 MR JUSTICE HILDYARD: I can't see the reference.
24 MR POTTS: Let me see. I thought it was. (Pause)
25 MR JUSTICE HILDYARD: I see. There's another 3.

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1 MR POTTS: 03, is it, my Lord? I am sorry.
2 MR JUSTICE HILDYARD: Do you want 03 or 3?
3 MR POTTS: Number 3.
4 MR JUSTICE HILDYARD: Stephen Moore from Natalia Lewis?
5 MR POTTS: No, Akin Palmer, 5 August, to Mr Moore. In F.
6 Is your Lordship in F?
7 MR JUSTICE HILDYARD: Yes. 02, 03 --
8 MR STUART: No zero on the front, my Lord. So after zero --
9 MR JUSTICE HILDYARD: I have it now.
10 MR STUART: After 13 it starts again at 1.
11 MR JUSTICE HILDYARD: "We write further to our letter ..."
12 MR POTTS: Yes.
13 A. I am sorry, so where was the 994 or 944?
14 Q. Page 8. In fact, it was 459. I'm sorry, the section
15 has been re-enacted. Bottom of page 8. It's a letter
16 threatening proceedings; yes?
17 A. It's all legal --
18 Q. It's all legal. Okay.
19 But just going up the page, the bit I actually want
20 to take you to is that they are asking compensation for
21 the loss of the interest in the shares. In fact, there
22 are two letters, one for each of you and your wife, but
23 the total price is 500,000 now for the shares and it
24 says in fact it could be much higher. Do you see that?
25 The first bullet point.

1 4 1

1 A. Oh, down here, sorry.
2 Q. Yes, it's a bullet.
3 A. Under the quantum, yes.
4 Q. Do you see that?
5 A. Yes.
6 Q. The second bullet point is saying the compensation for
7 stuff -- matters on top, for loss of reputation and
8 confidence. And in fact, I think it's also matters of
9 monies claimed for the ET as well. There is no
10 explanation here as to why another £200,000 has been
11 put -- why the shares are worth £200,000 more than the
12 price originally discussed, is there?
13 A. There is no explanation here. I know that Mr Ogun is
14 a legal tax, or a tax lawyer as well, so he obviously
15 came up with the estimated figure of 250,000. You will
16 have to ask him how he came to 250,000 each.
17 Q. Even then at this stage, Specsavers didn't complete the
18 exercise of the option because it was entitled to do
19 that after 28 days. In fact, it was only on 28 November
20 that the shares were transferred, weren't they?
21 A. So I am saying this is why, you know, they were
22 blackmailing us all the way through, and what we -- all
23 that we wanted was to be reinstated. And that's, you
24 know, the reason why we made applications to the ET, and
25 the ET states that what we want is reinstatement.

1 4 2

1 That's all we wanted. We thought this was a big whole
2 mistake by Specsavers. We couldn't believe what was
3 happening to us.
4 Q. These letters we have just gone through don't talk about
5 being reinstated. They are just making increasing
6 demands for increasing sums of money, aren't they, not
7 for reinstatement?
8 A. As the progress went through, we, being who we were, and
9 most of the people who work on the shop floor and the
10 opticians, don't have a good understanding, as we
11 didn't, of the back office areas of Specsavers.
12 So we, as we were going along -- plus we couldn't
13 get any information from Specsavers. They refused to
14 give us any information. We sent off subjects access
15 requests, we paid and -- they were paid for, these
16 subjects access requests, they banked these cheques for
17 these subjects access requests, yet they refused to give
18 us this evidence.
19 So this was evidence that we were sort of gradually
20 coming through all the time. Then, you know, as I say,
21 there was a point where someone had given me some
22 figures of how to calculate Specsavers' way of what the
23 shares were worth. That's how it went up to 403,000.
24 Obviously, Mr Ogun's got 250,000 out here, and obviously
25 since this we have had a valuation and he's not far

1 4 3

1 wrong. I think it came in to 493 from an independent
2 company. So he was quite close on his mark, actually.
3 Q. The shares were in fact sold on for 300,000, weren't
4 they?
5 A. They were.
6 Q. Not 500,000?
7 A. But that's what they were offered to the other people
8 for. They have sold them for that. It does mean
9 they're worth that, does it? Just because I pay
10 something for a house or a car, it doesn't necessarily
11 mean that price is what it's worth. It's what anybody
12 is willing to pay for them.
13 Q. Okay. Can I take you to volume A, please, briefly?
14 A. Do I need any of these? I've got six our here at the
15 moment.
16 Q. Keep E2 open and the rest I think can go, and your
17 statement probably.
18 MR JUSTICE HILDYARD: Where did you want us to go?
19 MR POTTS: A, my Lord, tab 3, page 32, paragraph 14. This
20 is your pleading in this case.
21 A. Paragraph?
22 Q. Paragraph 14. The allegation which we have referred to
23 already is that Specsavers harassed the claimants and
24 sought unlawfully and artificially and unjustifiably to
25 concoct an allegation of fraud or dishonesty against you

1 4 4

1 with a view to seeking to acquire each of your
 2 shareholdings at par value.
 3 I want to ask you a couple of questions about that,
 4 the idea about acquiring your shares at par. I've shown
 5 you some material which shows repeated attempts, offers
 6 by Specsavers, a number of opportunities for you to sell
 7 your shares for £300,000, or indeed, £307,000. I put it
 8 to you that that doesn't suggest a desire to acquire
 9 your shares at par, does it?
 10 A. It does. There are also letters stating that the option
 11 is that they would take them for par value. It was also
 12 stated in the minutes of the meeting with Mr Clark on
 13 21 April that also mentioned the par value, and he has
 14 signed that, so that is an agreed point. So there has
 15 always been the par value.
 16 You just point me to a couple of bits of paper that
 17 may not say it. I didn't read through the whole thing,
 18 but there are --
 19 Q. There are repeated offers, and indeed, the letter of
 20 your resignation included a sale of your shares not at
 21 par, but at £300,000 or upwards?
 22 A. Not on the resignation letter itself, but it was
 23 mentioned in that meeting.
 24 Q. I put it to you that the offers at 300,000 plus and the
 25 sale at £300,000 of the shares hardly supports the idea

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1 that Specsavers was motivated to get your shares on the
 2 cheap; do you accept that?
 3 A. No, I don't.
 4 Q. Finally on this point, I put it to you that Specsavers
 5 didn't concoct allegations of fraud and dishonesty
 6 either, did they?
 7 A. Yes, they did.
 8 Q. Your wife and Mr Hutchings described the evidence at the
 9 meeting as damning themselves, didn't they?
 10 A. No, they didn't.
 11 Q. Where even your wife considered the evidence damning, as
 12 referred to, indeed, in that email on the following day
 13 by reference to the final written warning, are you
 14 really saying now that there were no grounds upon which
 15 Specsavers could have concluded that you were fraudulent
 16 or dishonest?
 17 A. Definitely not.
 18 Q. I put it to you that there was every reason for them to
 19 make that conclusion.
 20 A. No.
 21 Q. There are two final invoices which came to light in
 22 June 2011 after your resignation, but prior to the
 23 exercise of the option. Could you have, please, H/242?
 24 It's the final page in the bundle. This is from Kent
 25 Home Cinema Limited.

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1 A. That's correct.
 2 Q. An invoice for £973 plus VAT, for a new music system in
 3 store?
 4 A. That's correct.
 5 Q. According to your evidence, you bought the new system
 6 and brought it home from the store in January 2011 for
 7 your personal use?
 8 A. This -- I actually bought it in August 2010 for the
 9 store. That was what my evidence said. And the reason
 10 why I bought it, we had an issue with the old system,
 11 music was jumping around, it was damaging the CDs which
 12 were -- a lot of them the CDs belonged to the staff, so
 13 I decided to upgrade the system in there.
 14 I bought this system; it was in and running for six
 15 months. During that six months we had the audit, so
 16 loss prevention were fully aware that this was in the
 17 store, and working. There was an issue with it working
 18 between that and the phone. Sometimes it would work,
 19 sometimes it wouldn't. I contacted the phone company,
 20 it was Daisy Communications, who all Specsavers have to
 21 use. And the engineer there came back. I spoke -- went
 22 through the situation. He came back a couple of days
 23 later and basically said: there is a mismatch here,
 24 there is a miscommunication between that and the phone
 25 system. We can upgrade the phone system, but that was

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1 £5,000.
 2 I thought that's a complete waste of time, so
 3 I decided then to take this home, and then I put this
 4 into my P11D, my tax return for -- in April 2011, and
 5 I paid the tax on this.
 6 Q. Just to break that down, you are saying that the new
 7 system was in the store at the time of your suspension?
 8 A. No.
 9 Q. No?
 10 A. I said the loss prevention audit, which was
 11 November 2010.
 12 Q. They weren't physically in the store at that time,
 13 though, were they?
 14 A. Yes, they were. They came in on the 23rd for two days.
 15 Q. I see. But you took it home in January 2011?
 16 A. Yes.
 17 Q. And you say that you put it on your P11D?
 18 A. Well, I -- my P11D, I paid the personal tax on it.
 19 That's what I mean by putting it on my P11D.
 20 Q. Well, can I just show you E2/517. We have looked at
 21 this document before.
 22 A. 517?
 23 Q. Yes. E2. We looked at it in relation to City
 24 Electrical Factors. It's 10 June.
 25 A. Yes, and I see the number 1 as well.

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1 Q. It's number 1, exactly.
 2 A. Absolutely.
 3 Q. The position is that this invoice came to light, as I
 4 said, in June 2011 after your resignation but prior to
 5 the exercise of the option.
 6 A. Sorry, this invoice?
 7 Q. Yes, came to light in terms of the investigation. It's
 8 why it was not mentioned -- the invoice wasn't mentioned
 9 to you at the time. It wasn't an issue which was
 10 discussed at the time. It was raised afterwards, wasn't
 11 it? It wasn't raised --
 12 A. Well, everything was raised after the thing because
 13 I wasn't interviewed.
 14 Q. A number of points have been pointed out to you: Blu-Ray
 15 player, et cetera. This wasn't an issue that was raised
 16 with you prior to your suspension --
 17 A. There were a couple of things that were pointed out to
 18 me -- Blu-Ray player -- but there was a whole raft of
 19 stuff that was pointed out after 7 March.
 20 Q. Mr McAlindon's evidence, and indeed other evidence, is
 21 that this came to light later after your resignation?
 22 A. Well, I won't take that for read.
 23 Q. Okay. This letter was written in June saying that this
 24 has been discovered and was put on to your P11D?
 25 A. That's correct.

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1 Q. In fact, it was Specsavers who raised the point and
 2 said, "This is personal, it's going to go on to your
 3 P11D"; correct?
 4 A. Well, I was already putting it on to my own tax. I had
 5 a copy of this Kent Home Cinema.
 6 Q. You didn't tell Specsavers that at the time, though,
 7 did you?
 8 A. No, I didn't.
 9 Q. And you and your lawyers didn't -- so the position is
 10 that the store already had a music system when you
 11 bought this?
 12 A. It did. It wasn't working properly, yes.
 13 Q. And you didn't inform Specsavers in January 2011 that
 14 you were taking this home?
 15 A. I did not, no.
 16 Q. And that it should be treated as a personal asset at
 17 that point, did you?
 18 A. I didn't tell them at that point, no, that it should be
 19 treated as a personal asset.
 20 Q. Why not?
 21 A. Because I knew that they weren't my personal tax
 22 accountants at that time.
 23 Q. You appreciated that they had to account for it properly
 24 within the accounts as to whether it was a business
 25 expense or a personal one?

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1 A. Not fully, no. No. As I say, my tax knowledge is quite
 2 limited. You know, I know very little. I just know
 3 that as long as I reported it to my tax accountant,
 4 which was a local firm in Uckfield, that he would put it
 5 on to my return for end of 2011. Sorry, April 2011.
 6 Q. As far as Specsavers were concerned and were aware, you
 7 had put this through the books as a business expense?
 8 A. It was originally as a business expense, yes.
 9 Q. So I put it to you that there were grounds for
 10 Specsavers to conclude in the light of those matters
 11 that this had been purchased, this was a personal matter
 12 purchased for you and not for the store?
 13 A. No, because it wasn't, it was a business item. When
 14 I put it through the system, it was a business item.
 15 They treated it as a business item, which was correct.
 16 Q. But in fact it was in your home?
 17 A. But that was later. That's when -- I've already
 18 explained that to you.
 19 MR POTTS: There is one more invoice, my Lord, which is the
 20 Fluffy Side Up. I am conscious of my --
 21 MR JUSTICE HILDYARD: Treat me to the Fluffy Side Up.
 22 MR POTTS: My Lord, I'll be as quick as I can.
 23 Again, my Lord, this was another invoice which came
 24 to light after the investigation interview but before
 25 the purchase; correct?

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1 A. You are talking about -- we are talking about 517 page,
 2 again, are we, or are we talking about the actual
 3 invoice?
 4 Q. I am talking about the Fluffy Side Up, yes, that's the
 5 2,800.
 6 A. Yes.
 7 Q. You will find it at H/241 on the previous page there.
 8 A. That's correct.
 9 Q. I am not asking you questions about this in relation to
 10 the counterclaim. I am just asking in terms of the
 11 position as it appeared prior to the exercise of the
 12 option?
 13 A. What does that mean?
 14 Q. You have seen E2/517. Mr Moore wrote to you on 10 June.
 15 A. Yes.
 16 Q. And referred to the fact that he was including matters
 17 which appeared to be personal --
 18 A. Yes.
 19 Q. -- and put through as business, and that included this
 20 £2,800 invoice?
 21 A. Yes.
 22 Q. There was no subsequent correspondence from you or your
 23 lawyers prior to the exercise of the option saying, "No,
 24 no, that's wrong, this was actually a business expense";
 25 correct?

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1 A. I don't know.
 2 Q. In fact, you had been in touch with the store in
 3 October 2010 about another leak, and you had been asking
 4 about insurance for that, hadn't you? Do you remember
 5 that? Another leak somewhere else in the store?
 6 A. The question, if I remember rightly, is to see who was
 7 insured. Was I insured, did I need to pay for the leak,
 8 was it the neighbouring -- and sorry, when was that?
 9 Can you show me that letter?
 10 Q. E1/258. You are talking about the pre-screening area,
 11 if that helps you.
 12 A. Yes, which has nothing to do with this.
 13 Q. I am not saying it has. I am saying you had been in
 14 touch with the store about insurance and getting it
 15 sorted out; correct? Sorry, in touch with Specsavers.
 16 A. Getting what sorted out?
 17 Q. Getting the issues --
 18 A. Because there is two issues, we know that, don't we?
 19 There is an issue that happened in May 2010 and there's
 20 a flood issue that happened in September 2010. Both of
 21 these were completely different issues. One was a flood
 22 and one was leaking water from the neighbour.
 23 Now, this --
 24 Q. This is October 2010?
 25 A. Yeah, I had been in contact with Angel Young of property

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1 all the way through this, from May onwards, and my point
 2 on here is that -- there you go, Angel is mentioned in
 3 here -- we still at this point didn't know who was
 4 responsible or where the water was coming from, because
 5 it was a leak, it was very sporadic, even on the dry
 6 days we would get a leak. So we didn't know where it
 7 was coming from.
 8 We have adjoining properties to next door. This
 9 email is regarding that small area, which is a different
 10 invoice to what you are saying here.
 11 Q. Yes.
 12 A. But I was asking, because it was a possibility that it
 13 could be a neighbour and we were getting around to that
 14 point by October/November, then I needed to find out if
 15 there was insurance.
 16 Q. If you had a leak or, indeed, a flood there would be
 17 an issue of making an insurance claim either way,
 18 wouldn't there?
 19 A. Possibly. I don't know, I don't know what the insurance
 20 is that we had. That was all sorted out by head office.
 21 Q. You were making a query about insurance in relation to
 22 this item we have just looked at; correct?
 23 A. Which item?
 24 Q. The one in October.
 25 A. Yeah, but it's got nothing to do with -- I'm just going

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1 to make sure when you say this item, I'm not talking
 2 about the 2,800 and it's not talking about the -- this
 3 is the time of this letter, as I'm saying. This is to
 4 do with May.
 5 Q. I agree. You didn't make any query in relation to
 6 an insurance claim in relation to this 2,800 invoice,
 7 did you?
 8 A. No, no.
 9 Q. Usually significant building works would go through the
 10 business development department of Specsavers, wouldn't
 11 they?
 12 A. Possibly. Property was the --
 13 Q. Property, yes.
 14 A. -- company or people who we spoke to, who --
 15 Angel Young was the person I was dealing with in
 16 property.
 17 Q. The 2,800 invoice, that issue, you didn't go through
 18 property on that one either, did you?
 19 A. No, but I explained what it was for. You can see up
 20 here what it was actually for. I needed to get it done
 21 quite quickly. It had ruined the flooring at the back
 22 of the shop.
 23 Q. I put it to you that at the time, in terms of
 24 Specsavers' position, you had previously been in touch
 25 in relation to insurance on one matter, but you were not

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1 in touch with them on insurance on the 2,800; correct?
 2 A. This insurance is just to see who was covering this. If
 3 it was, you know, them, do I need to go ... I'll just
 4 read what it actually says on here.
 5 Q. Can I just say, you didn't make an insurance claim in
 6 relation to the 2,800.
 7 A. I didn't make an insurance claim on either of them.
 8 Q. No, but you made an enquiry in relation to the first
 9 one?
 10 A. I made an enquiry, yes.
 11 Q. And you did get in touch with the property department in
 12 relation to the smaller matter, but you didn't get in
 13 touch with them in relation to the 2,800 matter?
 14 A. No, I didn't.
 15 Q. Given all these points and the pattern of conduct
 16 revealed during the early investigation, I put it to you
 17 that in July, Specsavers had grounds to conclude that in
 18 those circumstances the invoice related to personal use
 19 and not the property.
 20 A. No. All they had to do, again, was just ring up and
 21 ask.
 22 Q. And indeed, in your subsequent evidence there had been
 23 a number of iterations of your evidence and there has
 24 been a number of changes in relation to the story and
 25 the dates in relation to these works; correct?

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1 A. Can you tell me which ones?
2 Q. Your fourth statement, for example, changes the dates in
3 relation to when this work was done.
4 A. There was -- you are talking about, yeah, when the work
5 was done, there was a lot going on that year and I did
6 have different timings initially in my head when it
7 happened through the -- 2010, but when we received the
8 invoices that brought that back to light. That's why
9 I had to change that.
10 MR POTTS: Fine. I have no further questions, my Lord.
11 I am grateful for the five minutes.
12 Re-examination by MR STUART
13 MR STUART: I'm going to deal with this as swiftly as
14 possible and in reverse order, Mr Parham.
15 You were asked when you had, just this afternoon,
16 legal advice first, and I just want to get clear with
17 you one thing. If you go to E2, at page 452-2, if you
18 go back a page you will see the date of it. On
19 4 April --
20 A. Yes.
21 Q. Yes? Which was the day before you issued your
22 employment tribunal claim on 5 April?
23 A. It is.
24 Q. Do you understand?
25 A. Yes.

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1 Q. You see on page 452-2 you are writing a letter to the
2 Specsavers board, and indeed over the page at 452-3 in
3 the penultimate paragraph you make a subject access
4 request, and you say "I will be lodging a claim with the
5 employment tribunal", et cetera. Do you see that?
6 A. I do, yes.
7 Q. My question is simply this: you said that you took
8 advice some time after the 7 March meeting with
9 Mr McAlindon but before the other firm of solicitors
10 come on board, the second firm of solicitors come on
11 board, in June?
12 A. Yeah.
13 Q. By reference to this period, 4 April, 5 April, the date
14 you issue your application in the ET, can you say when
15 you took legal advice for the first time?
16 A. Again I can't categorically say, but it would have been
17 between those two dates.
18 Q. Between which two dates?
19 A. 7 March and 4 April.
20 Q. Okay, so it was before this?
21 A. It was before this.
22 Q. Fine, thank you. You mentioned that at some point
23 Specsavers were your personal tax accountants?
24 A. They were our personal tax accountants, well, my wife's
25 from 2003 all the way until the end of 2009 -- sorry,

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1 end of April 2009, although correspondence came up until
2 about November of 2009, and mine was from 2006 up until
3 the end of April 2009, and then we had one year as our
4 personal tax accountants before we were thrown out.
5 Q. That's fine, I wanted you just to explain the period in
6 time.
7 Right, you were taken to H on the question of the
8 flights, H/170, 171, et cetera.
9 A. Sorry?
10 Q. 170. Do you remember?
11 A. Yes.
12 Q. Today you were asked by Mr Potts about this.
13 A. Yes.
14 Q. I just want to take you to 168. You said in your
15 evidence somewhere that when you inputted it, as you put
16 it --
17 A. Correct.
18 Q. What is this form here at 168? Can you explain that?
19 A. That is a print-off of the credit card entry into eBis.
20 Q. Okay.
21 A. I think that's obviously just a highlighted copy, that's
22 the only one on there, there would have been more on
23 there as we have seen in other disclosures, but --
24 Q. Okay, did you input any of that information?
25 A. I inputted the expense type and the description. The

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1 ID, the date and the amount would have been
2 prepopulated.
3 Q. Okay. When did you input that description? When would
4 you have inputted that description?
5 A. Soon after 03/04 or whenever it came through. That date
6 there, 03/04/2009 is the transaction date.
7 Q. Okay, fine.
8 You were asked about the Blu-Ray DVD player. Can
9 you just ask you: did you have a Blu-Ray DVD player or
10 facility to play Blu-Ray DVDs at your home other than
11 the one that was in the sealed box in the shed?
12 A. Yes, I have two.
13 Q. You have two?
14 A. I have two.
15 Q. And did you at the time?
16 A. Yes. I had had them since probably about 2006/2007,
17 when they first came out.
18 Q. Okay. Could you go to E3, page 705? This is when you
19 were being asked about the £555 rebate; do you remember?
20 A. I do. 705?
21 Q. 705. You explained or sought to explain to Mr Potts
22 that you reason you put it through, you did this
23 transaction in this way, was because -- you used the
24 words, something like "there was no process at the
25 time"?

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1 A. Correct.
 2 Q. There was no process at the time to do what?
 3 A. How to enter a rebate cheque into the eBis system from
 4 my credit card. Sorry, from the -- how to enter
 5 a cheque into the till and, you know, the procedure for
 6 that, entering the money into the till.
 7 Q. So if you received a cheque which was not payment by
 8 a customer for some lenses --
 9 A. Yes.
 10 Q. -- it was something other than turnover --
 11 A. Yeah.
 12 Q. -- what would you do with that cheque?
 13 A. I think this was the first one I had received.
 14 Q. Okay. You were asked earlier yesterday about this
 15 question of it being a trial -- I am back, going
 16 swiftly -- period on Sunday trading?
 17 A. Yes.
 18 Q. Can you go to page 365 in bundle E2? Sorry, that's
 19 a wrong reference. Sorry, forget that. Can you go to
 20 bundle B, the witness statement bundle, and your wife's
 21 statement -- which is in tab 1 -- at paragraph 69? Do
 22 you have it? It's page 13, paragraph 69.
 23 A. I am getting there, yes, sorry.
 24 Q. She says that back in February 2010 there was a visit
 25 with Mr Rajan:

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1 "One of the things we agreed to include in the plan
 2 was to give Sunday opening a trial run, March 2010."
 3 She refers to -- there it is, 696 in E3. I got the
 4 wrong page.
 5 A. Okay.
 6 Q. Seeing what she says there, does that remind you about
 7 this trial run? You said to Mr Potts that in the
 8 conversation in January 2011 --
 9 A. Yeah.
 10 Q. -- the 17 March one, which was just before the local
 11 meeting, et cetera, that you mentioned, there was
 12 mention of a trial period. I suppose my question is:
 13 did that happen twice?
 14 A. It happened twice, he definitely mentioned it in the
 15 January of 2011 as well.
 16 MR STUART: No more questions, my Lord. Sorry I am a minute
 17 over, I know your Lordship has to go.
 18 MR JUSTICE HILDYARD: You have finished?
 19 MR STUART: Yes.
 20 MR JUSTICE HILDYARD: Thank you very much indeed. I have no
 21 questions.
 22 THE WITNESS: Okay, my Lord.
 23 MR JUSTICE HILDYARD: It's been a long haul, but it's
 24 finished.
 25 THE WITNESS: Thank you very much.

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1 (The witness withdrew)
 2 Housekeeping
 3 MR STUART: My Lord, can I mention that apparently the court
 4 staff, whilst we were sitting here, have reported that
 5 a connection has been, a good connection, not a Skype
 6 one, a proper ISDN has been now established with Italy,
 7 and will be available on Monday. In those
 8 circumstances, I would like to say that we will arrange
 9 it for a time on Monday. Obviously if it would be most
 10 convenient to deal with her first, since now we have --
 11 rather than put her in the middle of Mrs Parham, then we
 12 will try now to do it for 10.30. Are we starting at
 13 10.30 on Monday, my Lord?
 14 MR JUSTICE HILDYARD: I will start when you, within reason,
 15 wish. If you want me to start earlier, I shall.
 16 MR POTTS: Just in relation to this point, I understand the
 17 court staff have sort of done some sort of link-up, but
 18 no-one has seen it. I don't think my learned friend has
 19 seen it.
 20 MR STUART: I haven't.
 21 MR POTTS: I am wondering whether it might be possible to
 22 get that checked today.
 23 MR JUSTICE HILDYARD: Yes.
 24 MR POTTS: Your Lordship may be heading off, but I think the
 25 court staff will be here a little longer, and get that

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1 checked so there are no problems on Monday morning.
 2 MR JUSTICE HILDYARD: That seems a good idea. Report if
 3 there are problems to my clerk, Richard Trout. When do
 4 you recommend to me we start on Monday?
 5 MR POTTS: 10 o'clock, my Lord? I don't know.
 6 MR JUSTICE HILDYARD: Is there a point in 10 o'clock? There
 7 is a rebuttable presumption we start at 10.30, but I am
 8 perfectly content to be rebutted if there is some reason
 9 for that.
 10 MR POTTS: My Lord, I think we are all keen, and concerned
 11 about timetabling, to make sure we get things finished.
 12 MR JUSTICE HILDYARD: Natural pessimism.
 13 MR POTTS: "Natural pessimism" I think is probably
 14 sufficient to encapsulate the whole issue.
 15 MR JUSTICE HILDYARD: 10 o'clock then on Monday, if that is
 16 all right with you?
 17 MR STUART: My Lord, any time is fine with me, I promise you
 18 I'll be here on time. If we are going to fix this for
 19 Monday morning and I have to get Mrs Lofting and it has
 20 to be all set up and everything else, could we say
 21 10 o'clock but the possibility of 10.30, for
 22 administrative reasons, for the video conferencing?
 23 MR JUSTICE HILDYARD: We will mark it for 10 o'clock.
 24 I envisage that it may be a quarter of an hour or so
 25 before the up-to-the-minute testing is perfected, and

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1 I will come down when it's indicated to me that
 2 I should, and I would like just five minutes before you
 3 start cross-examination to make quite sure that I feel
 4 that I have got a good picture sufficient for those
 5 purposes.
 6 MR STUART: Of course.
 7 MR JUSTICE HILDYARD: As usual, a pragmatic solution with
 8 a view to getting us on the starting blocks at 10, even
 9 if the race is not commenced until 10.15, 10.30.
 10 MR POTTS: My Lord, the other issue is the sovereignty
 11 issues that your Lordship raised; are those being dealt
 12 with? I think your Lordship asked for it to be
 13 confirmed that no-one was going to --
 14 MR STUART: The answer is yes.
 15 MR JUSTICE HILDYARD: Yes and no?
 16 MR STUART: The answer is yes, it's been confirmed. I will
 17 try to get something -- there is an email from
 18 an Italian lawyer.
 19 MR JUSTICE HILDYARD: There is no issue?
 20 MR STUART: There is absolutely no issue.
 21 MR JUSTICE HILDYARD: I think, recollecting, if there is (a)
 22 the protection of the individuals, (b) technically the
 23 court is then in Italy. Do you see what I mean? The
 24 English court is in Italy, and the question is whether
 25 the Italians minded. I shouldn't think they would have

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1 heard much about it, although it may be common gossip,
 2 I don't know. But it's simply for --
 3 MR STUART: My Lord, what I have in my hand is an email
 4 dated last night from an Italian law firm, properly
 5 formulated, saying:
 6 "Following our phone call ... we would like to
 7 confirm [in relation to the question] that there are no
 8 issues/matters arising from Italian Procedure Civil Code
 9 in relation to the possibility, granted by UK court to
 10 your client, in participating by video-conference
 11 staying located in Italy.
 12 "Indeed, this is a procedural aspect that, once
 13 approved by UK Court, is out of Italian jurisdiction;
 14 this is more than confirmed in the light of the fact
 15 that the swearing-in subject is pertaining to a civil
 16 case."
 17 In other words not a criminal matter.
 18 MR JUSTICE HILDYARD: Excellent. Have a very good weekend.
 19 Thank you.
 20 (2.40 pm)
 21 (The court adjourned until 10.00 am
 22 on Monday, 13 January 2014)

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