

# 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 20

January 15, 2014

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1 Wednesday, 15 January 2014  
2 (10.00 am)  
3 MR RAYMOND HUTCHINGS (continued)  
4 Cross-examination by MR POTTS (continued)  
5 MR POTTS: My Lord, I was going to continue with  
6 Mr Hutchings.  
7 Good morning, Mr Hutchings.  
8 A. Good morning.  
9 Q. Now, yesterday afternoon we finished discussing matters  
10 about what happened when you returned to the interview  
11 room. Do you remember that? That was just where we got  
12 to.  
13 A. Yes.  
14 Q. Mrs Parham alleges that when you went back to the room  
15 Mr McAlindon presented an ultimatum, namely that he  
16 would continue with the interrogation and dismiss them,  
17 and which he also said would entitle Specsavers to  
18 compulsorily buy the shares at par, or that they could  
19 allow Specsavers to buy them out for £315,000.  
20 Now, just three points to deal with. Firstly, it  
21 was said by them that the ultimatum was that they would  
22 continue with the interrogation and dismiss the  
23 claimants; secondly, that in those circumstances this  
24 would entitle Specsavers to compulsorily buy at par; and  
25 it was also said, hinted at that stage, that unless they

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1 resigned, Specsavers would report Mrs Parham to the GOC,  
2 which could revoke her licence and prevent her  
3 practising.  
4 Now, those are all serious threats which are said to  
5 be made by Mr McAlindon at that point, which you have  
6 seen from his statement he denies making; correct? Were  
7 you aware of that from his statement?  
8 A. No, I wasn't aware from his statement, but -- which page  
9 is it in the statement?  
10 Q. The first point is that he does deny them. None of  
11 these serious threats are mentioned in your witness  
12 statement, are they?  
13 A. No.  
14 Q. Is that because they weren't made?  
15 A. Shall we take them one at a time?  
16 Q. Yes.  
17 A. Okay, so the first one?  
18 Q. That they could continue with the interrogation and  
19 dismiss the claimants.  
20 A. There was an option to continue the investigation, or to  
21 have off the record discussion.  
22 Q. Okay, continuing the interrogation, but not said that  
23 this would mean that they would dismiss the claimants?  
24 A. I can't remember.  
25 Q. Are you saying that you can't remember one way or

2

1 another, or that it didn't happen?  
2 A. For clarity, when I say "no, it didn't happen", it  
3 didn't happen. If I say "yes", it did happen. If I say  
4 I can't remember, it could have happened, it may not  
5 have happened. I just can't remember.  
6 Q. That's fine, it's very helpful --  
7 A. Okay.  
8 Q. -- for that clarity. That's quite a serious threat to  
9 have been made. I put it to you that if it had been  
10 made, that they were going to dismiss them, you would  
11 have remembered it and you would have put it in your  
12 statement if it had happened?  
13 A. Er --  
14 Q. It's the sort of thing you remember?  
15 A. Quite possibly. After three years I can't say one way  
16 or the other.  
17 Q. Okay. The second thing which is said is that in the  
18 circumstances this would entitle Specsavers to  
19 compulsorily purchase the shares at par, on the basis  
20 that they would be dismissed and that the shares would  
21 be bought at par?  
22 A. Okay.  
23 Q. You don't mention that in your statement either?  
24 A. No. I can't remember that either.  
25 Q. Okay. It was also said that unless they resigned at

3

1 this stage that they would report her to the GOC which  
2 could revoke her licence. That's also not in your  
3 statement either?  
4 A. No. The GOC was mentioned. Now, in which context and  
5 whereabouts in the conversation, I can't remember  
6 where -- whether it was at that stage or an earlier  
7 stage, or even a later stage.  
8 Q. The GOC did come up --  
9 A. Yes.  
10 Q. -- during the interview stage of the meeting?  
11 A. Okay.  
12 Q. Do you --  
13 A. I remember the GOC coming up, yes, during that interview  
14 process.  
15 Q. Okay, but are you saying you are not sure if it came up  
16 again? You don't remember?  
17 A. I -- no.  
18 Q. Okay. Can I take you to E2, please, page 450?  
19 A. Sorry, page 450?  
20 Q. Yes. (Pause)  
21 A. Page 450, okay.  
22 Q. Yes. I'm not sure you have the right page.  
23 A. I have it now.  
24 Q. Excellent. Now, this is an email from you dated  
25 3 April 2011?

4

1 A. Yeah.  
 2 Q. You have seen this?  
 3 A. Yeah.  
 4 Q. You remember this?  
 5 A. I wrote it, I remember that, yes.  
 6 Q. If you look at the final paragraph it says:  
 7 "This email is an accurate account of what took  
 8 place at the meeting on 7 March 2011, as I can recall.  
 9 I didn't make any notes of the proceedings on the day."  
 10 A. Yeah.  
 11 Q. You are saying this is an accurate account of what took  
 12 place at the meeting?  
 13 A. Yes. I mean, this took -- I think this was a month  
 14 after the event, wasn't it?  
 15 Q. Yes, that's right.  
 16 A. So I would say that even with my bad memory I would  
 17 think that is accurate.  
 18 Q. None of the three points that I've mentioned to you,  
 19 these threats --  
 20 A. Yes.  
 21 Q. -- are mentioned --  
 22 A. No.  
 23 Q. -- in that?  
 24 A. No.  
 25 Q. So I put it to you that these were serious threats, so

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1 the sort of things that you would remember. The fact  
 2 that they don't appear there, the reason they don't  
 3 appear there is because they weren't made?  
 4 A. Or I didn't think it was relevant to put in.  
 5 Q. Well, they are quite serious matters, these are alleged  
 6 by the claimants to have been serious threats made  
 7 against them?  
 8 A. I think you are right, they are quite serious threats.  
 9 Q. Yes.  
 10 A. I --  
 11 Q. So --  
 12 A. I again stick to my original -- when you asked me the  
 13 questions first time, that I can't remember, and the  
 14 fact they are not in, that's my statement, doesn't mean  
 15 they happened or didn't happen, I just did not put them  
 16 in.  
 17 Q. Well, the point I'm putting to you, as you accept now,  
 18 that those are serious threats, the fact that you didn't  
 19 put them into a document a month afterwards --  
 20 A. Yes.  
 21 Q. -- I suggest means that you certainly didn't remember  
 22 them happening then, and the reason you didn't remember  
 23 those happening is because they didn't happen?  
 24 A. I can't come to a conclusion on any -- on that point  
 25 personally. I just -- they were not in my statement.

6

1 Q. Fine. But you accept if you had remembered them at that  
 2 time you would have put them in?  
 3 A. No, not necessarily.  
 4 Q. Because you are saying this is an accurate account of  
 5 what took place?  
 6 A. Of what I can remember, yes, but I didn't put in that  
 7 I had a cup of tea or what I had for lunch.  
 8 Q. No, the cup of tea and what you had for lunch may not be  
 9 relevant, but you have accepted that threats made --  
 10 allegedly made -- are relevant and important, and if  
 11 they had been made, it's right that you would have put  
 12 them in; isn't that right?  
 13 A. I can't remember those things happening. That doesn't  
 14 mean to say they did, doesn't mean to say they didn't.  
 15 Q. Okay, can I take you back to, in terms of -- you  
 16 appreciate that it's common ground that there was  
 17 a discussion about the price to be paid for the shares,  
 18 and it's common ground that the price was £315,000 less  
 19 reserves, but there is an issue about timing?  
 20 A. Mm.  
 21 Q. Can I just take you to see what the evidence is on that  
 22 from Mr McAlindon and Mr Dyson? Could you take up C,  
 23 please, and you have Mr McAlindon's statement, I think,  
 24 we looked at it yesterday?  
 25 A. Yeah.

7

1 Q. If you could just read, please, page 51 in the bundle?  
 2 A. Page 51, yes.  
 3 Q. Could you read paragraphs 71 to 74?  
 4 (Pause)  
 5 A. Okay.  
 6 Q. Could I ask you then to turn back to page 16, please?  
 7 It's Mr Dyson's statement and just to have a look at  
 8 paragraphs 61 and 62 on page 16.  
 9 A. 61 and 62?  
 10 Q. Yes, at the top of the page.  
 11 (Pause)  
 12 A. Okay.  
 13 Q. Now, having seen what both Mr McAlindon and Mr Dyson  
 14 say, and in light of your fair evidence that your  
 15 recollection of the meeting is hazy, would you accept  
 16 that you might have been mistaken about the precise  
 17 timing as to when this was discussed?  
 18 A. No.  
 19 Q. So the question of the timing -- I have raised with you  
 20 a number of matters which were discussed during the  
 21 meeting, and fairly you say you don't remember one way  
 22 or another?  
 23 A. Yes.  
 24 Q. And that includes some matters of serious allegations --  
 25 A. Yes.

8

1 Q. -- of matters, of threats. Now, what I suggest, if  
 2 that is the position, and plainly there was a discussion  
 3 about the price, and I suggest to you that your  
 4 recollection is wrong on the issue of timing as to that  
 5 discussion?  
 6 A. I can understand why you think that, but as it was in my  
 7 statement, you know, and I made those notes soon after  
 8 the interview took place, I think that -- I have to say  
 9 under oath what is in my statement, that that figure did  
 10 come up before lunch.  
 11 Q. Are you saying you have a good recollection now of it,  
 12 or it's just because you wrote it at that time that you  
 13 say it must have happened?  
 14 A. One always doubts oneself under such circumstances. So,  
 15 however, as it was written by me one month after the  
 16 event, I would say that that is an accurate account.  
 17 Q. So it's not your recollection today, it's because you  
 18 wrote it then?  
 19 A. My goodness, if you were to ask me today, I couldn't  
 20 remember.  
 21 Q. So it's because you wrote it then that you say it  
 22 happened. Now, I put it to you, we have gone through  
 23 a number of points that you have not mentioned in  
 24 relation to the account which don't appear in that note,  
 25 so I put it to you that even at that stage your

1 recollection in relation to this matter, which is only  
 2 an issue of timing, may have been mistaken?  
 3 A. I would say that the fact that I omitted to put some  
 4 things in my statement is just an omission, but the fact  
 5 that I put it in my statement is an accurate account.  
 6 Q. Okay. Can I move on finally to the resignation letters?  
 7 A. Yes.  
 8 Q. At paragraph 9 of your statement, you refer to that,  
 9 Mr McAlindon writing out resignation letters. Could  
 10 I ask you to open E1, please?  
 11 A. Yes.  
 12 Q. Page 209. It's not the clearest?  
 13 A. No, it isn't very clear, but anyway.  
 14 Q. Let me read it out, maybe to help:  
 15 "To the SOG board.  
 16 "We have decided to resign with immediate effect as  
 17 employees and directors of Uckfield Visionplus Limited.  
 18 We have agreed in principle that we will sell our shares  
 19 at an agreed price of £315,000, but that £15,000 and any  
 20 distributable profits will be set aside to offset and  
 21 contribute towards the investigation costs and ongoing  
 22 management costs of the business in the share transfer  
 23 period. We have asked Mel McAlindon to write this  
 24 letter for and on our behalf, but we are clear that  
 25 neither he nor anyone else have placed us under any

1 duress to resign. We have been given time to consider  
 2 our resignations."  
 3 It's signed by Mr and Mrs Parham, yourself,  
 4 Mr McAlindon and Mr Barnes?  
 5 A. Yes.  
 6 Q. So Mrs Parham accepted yesterday that she had asked  
 7 Mr McAlindon to write the letter on their behalf in the  
 8 final paragraph, but the claimants assert that the  
 9 section saying "We are clear that neither Mr McAlindon  
 10 nor anyone else has placed us under any duress to resign  
 11 and we have been given time to consider our  
 12 resignations" at the end; do you see that?  
 13 A. Yes.  
 14 Q. They allege that they asked Mr McAlindon for this to be  
 15 refused (sic), which he flatly refused to do.  
 16 Mr McAlindon says that they neither asked for it to be  
 17 removed and he also denies flatly refusing to do so.  
 18 Now, I put it to you you would not have signed this  
 19 document if you thought any statement in it was false,  
 20 would you?  
 21 A. I think you are probably right.  
 22 Q. So on that basis, that you wouldn't have signed it, the  
 23 fact is that they did not -- do you accept that they  
 24 didn't ask for the sentences to be removed and that he  
 25 refused to do so?

1 A. This is going to sound a cop-out, but I can't remember  
 2 whether that was said or not.  
 3 Q. Isn't the reality that if the claimants had objected to  
 4 the contents of the letter, you wouldn't have told them  
 5 to sign it anyway, and you would have mentioned their  
 6 objection in your witness statement. Again, that's  
 7 quite a serious point, isn't it? This is all about  
 8 duress, and in fact they are saying that in fact he was  
 9 putting them under duress to sign.  
 10 A. You know, I think it's very difficult for me to estimate  
 11 anybody else's stress. I was under quite a lot of  
 12 stress. How they felt is -- I can't comment on.  
 13 Q. No.  
 14 A. However, I did sign that statement.  
 15 Q. Okay, and you didn't mention, again, this isn't an issue  
 16 which you mentioned, the idea of them asking to take  
 17 this out and him refusing, it's not in that email we saw  
 18 either --  
 19 A. No.  
 20 Q. -- a month after the event. So I put it to you it was  
 21 not in there, quite a serious point, it was not in there  
 22 because it didn't happen?  
 23 A. I can't remember.  
 24 Q. Okay. Now, do you remember after the meeting had  
 25 concluded returning to the meeting room, after Mr and

1 Mrs Parham had left to speak to Mr McAlindon and  
2 Mr Barnes briefly?  
3 A. I think I did. I think I quite possibly did, because it  
4 isn't the first time that I have been a witness at  
5 an interview with Mel and Phil.  
6 Q. Yeah.  
7 A. I think it's the second time.  
8 Q. Do you remember indicating to Mr McAlindon that you  
9 thought that Mr and Mrs Parham had been treated fairly,  
10 when you went back to speak to him?  
11 A. I think I remember saying that when she fainted and  
12 passed out, that you know, we took an adjournment, we  
13 adjourned things quickly so that she could recover.  
14 Q. I see, it was just in relation to that, it wasn't the  
15 manner in which they had been treated at the meeting had  
16 been --  
17 A. I think I was more concerned about her health, to be  
18 honest, and I thought that that was handled very well.  
19 So I think me going back, to be conscious of going back  
20 to say thank you for that.  
21 Q. Did you also indicate to them that in light of the  
22 evidence against them you had told her that she needed  
23 to go gracefully?  
24 A. No, I can't remember that.  
25 Q. You don't remember it?

13

1 A. No.  
2 Q. Could I take you to E2, please?  
3 A. Yes, sure.  
4 Q. Page 440. By the second holepunch there, at the bottom,  
5 this is an email from Mr McAlindon on 30 March. Just  
6 the date, 30 March. It says there:  
7 "Ray, reg chairman," is that regional chairman?  
8 A. Sorry?  
9 Q. Page 440?  
10 A. I am at page 440, yeah.  
11 Q. If you go down to the second holepunch, this paragraph  
12 starts:  
13 "I am also concerned ..."  
14 A. Yes.  
15 Q. It's the second sentence:  
16 "Ray, reg chairman."  
17 Is that regional chairman? Whatever. It says:  
18 "Ray ... is aware of what she has done and told her  
19 she needs to go gracefully."  
20 Is that what you told Mr McAlindon when you went  
21 back to speak to him?  
22 A. I can't remember.  
23 MR POTTS: You can't remember one way or another. Okay,  
24 thank you very much.  
25 Re-examination by MR STUART

14

1 MR STUART: Mr Hutchings, I just want to ask you about two  
2 things, two parts of the evidence you gave, today  
3 actually. You were taken to page 450. Could you go to  
4 E2/450?  
5 A. Yes.  
6 Q. Which is the email note that you --  
7 A. Yeah.  
8 Q. -- provided, back on 3 April 2011.  
9 A. Yeah.  
10 Q. You gave evidence that not necessarily everything is in  
11 this note, do you remember, Mr Potts asked you?  
12 A. Yeah, I don't think I would have written every minute by  
13 minute account on there, no.  
14 Q. That's what I was going to ask you. Dealing, in  
15 relation to the first part of the meeting, that's the  
16 one that's on the CD tape, that you seem to cover, as  
17 I understand it, in the first half of this note, so the  
18 first two paragraphs?  
19 A. Okay.  
20 Q. The build-up to going to the meeting and the incident  
21 where Mrs Parham felt unwell and passed out?  
22 A. Yeah.  
23 Q. So that's the end of the first part of the meeting?  
24 A. Yeah.  
25 Q. Can you remember roughly when time of day that was?

15

1 A. It was early morning, started, I don't know, 10 maybe.  
2 Q. So the meeting started about 10?  
3 A. That sort of time.  
4 Q. And then she had been in there for roughly how long, to  
5 your recollection?  
6 A. A couple of hours I think.  
7 Q. Couple of hours, okay. You then go outside the meeting  
8 room, we have heard a description of it. Roughly how  
9 long do you think you were all outside the meeting room,  
10 so before the second meeting started?  
11 A. Oh, over lunch, an hour.  
12 Q. No, no, no, I haven't even yet got back into the  
13 beginning of the second meeting?  
14 A. I beg your pardon.  
15 Q. So she's fainted?  
16 A. Yes.  
17 Q. You have gone outside?  
18 A. Okay.  
19 Q. You are outside, she is recovering, Mr Parham has been  
20 called and is --  
21 A. Yeah.  
22 Q. -- dealing with the people at the desk, et cetera. So  
23 outside of the room, if I can put it that way, you are  
24 in the hallway, I think it was described as?  
25 A. Yeah.

16

1 Q. Roughly how long were you out there for?  
 2 A. Thirty minutes. Thirty minutes, maybe.  
 3 Q. Okay. Then the next stage is you all go back into the  
 4 room?  
 5 A. Yeah.  
 6 Q. Five of you now?  
 7 A. Yeah.  
 8 Q. Because Mr Parham is there as well, as well as the four  
 9 of you. Okay?  
 10 A. (Witness nods)  
 11 Q. Before you go to lunch, from that meeting, roughly how  
 12 long are you in the room for?  
 13 A. Again, I don't think it was that long. Maybe half  
 14 an hour.  
 15 Q. Okay.  
 16 A. It is such a long time ago, that it could be 10 minutes,  
 17 it could be an hour.  
 18 Q. Okay.  
 19 A. Trying to think back, I would think that it's probably,  
 20 maybe about 30 minutes.  
 21 Q. Fine. Then you adjourned for lunch?  
 22 A. Yeah.  
 23 Q. And everybody seems to be more or less agreed, all of  
 24 the evidence seems to be that they went to lunch for  
 25 about an hour or an hour and a bit?

17

1 A. Yeah.  
 2 Q. Is that your recollection?  
 3 A. It is indeed.  
 4 Q. When you come back for the last part of the meeting, so  
 5 this is now after lunch, the bit where they sign the  
 6 letter, et cetera, on everybody's account, roughly in  
 7 your recollection how long was that section?  
 8 A. I would probably think that was an hour-ish.  
 9 Q. Okay. Now, this page 450 is your summary of that whole  
 10 day, then, that you have just described?  
 11 A. Yes.  
 12 Q. You were asked specifically about the part of it which  
 13 is off the tape, so off the record or whatever?  
 14 A. Yeah.  
 15 Q. So this is in two parts, before lunch and after lunch,  
 16 and it was suggested to you that you hadn't written down  
 17 the threat about dismissal, nor the threat about par  
 18 value, nor the issue of the GOC. It was suggested to  
 19 you that because it's not written down here, it didn't  
 20 happen. As I understand your evidence at the moment,  
 21 it's "I can't remember" in relation to those three  
 22 matters?  
 23 A. (Witness nods)  
 24 Q. In your various categories, you say "I can't remember  
 25 those three"?

18

1 A. Mm.  
 2 Q. I just want to understand, your note of that section is  
 3 the third and fourth paragraphs of your note; is that  
 4 right? So starting:  
 5 "When Shakila felt better, we all returned to the  
 6 meeting room."  
 7 A. Yeah.  
 8 Q. "When Mel said he would continue his investigation or he  
 9 could suggest an alternative."  
 10 Do you see that?  
 11 A. Yeah.  
 12 Q. "John and Shakila agreed to listen to this option. Mel  
 13 told them that if they resigned, the investigation would  
 14 stop immediately and the Uckfield shares would be sold  
 15 giving them approximately £300,000 after the various  
 16 deductions."  
 17 Do you see that?  
 18 A. Yeah.  
 19 Q. "As Mel was going to Australia, he needed to conclude  
 20 his investigations. It was agreed that over lunch, John  
 21 and Shakila would make their [final] decision."  
 22 A. Mm.  
 23 Q. Sorry, "would make their decision", quite right. Now,  
 24 that is the part of the meeting that you describe as  
 25 lasting?

19

1 A. Half an hour-ish.  
 2 Q. Half an hour-ish.  
 3 It's suggested to you that an offer, the figure of  
 4 300,000 for them to consider, was only put to them after  
 5 they returned, so that they were not going off to lunch  
 6 to consider it. Do you have any recollection now --  
 7 now; we can see what you wrote on 3 April 2011 -- as to  
 8 whether they went off to lunch to consider Mel's offer?  
 9 A. Certainly I would say, you know, with some certainty  
 10 that without a figure it was very difficult for us to,  
 11 you know, for them and with me being, trying to be  
 12 unbiased as a witness, as a helper, to come to any sort  
 13 of conclusion. So I would say that, you know, that  
 14 figure, approximate figure we were aware of at lunch.  
 15 Q. So before lunch?  
 16 A. Yes.  
 17 Q. In your note at 450, you describe it. I just want to  
 18 get it clear: were you asked to put that in the note, or  
 19 is this note entirely your own work?  
 20 A. Asked to put what into the note, I am sorry?  
 21 Q. The bit about £300,000 being offered before lunch and  
 22 then after about an hour, the meeting was resumed,  
 23 et cetera?  
 24 A. No, I was never asked to put anything in a statement.  
 25 Q. Right, so this -- okay. How did you come about making

20

1 this account that you have been asked about?  
2 A. I think -- if my memory serves me correctly, I think  
3 that after the resignation, there were second thoughts  
4 about resigning, and a few weeks later, you know, I was  
5 just asked: could I just put my recollections down on  
6 an email, which I did, and those are my recollections.  
7 Q. Okay. Did either Mr or Mrs Parham or anybody else  
8 suggest to you what you should put in it?  
9 A. No.  
10 Q. In your note. I am sorry, I didn't --  
11 A. No.  
12 Q. My final question is this: as to your recollection, if  
13 you go to your witness statement that you have made now  
14 in 2013 about six months ago, page 97 in bundle B.  
15 A. Yeah.  
16 Q. Do you have it? Paragraph 8 you were asked about.  
17 A. Yeah.  
18 Q. This deals with this. Do you see that?  
19 A. Yeah.  
20 Q. And the £300,000, he was going to Australia:  
21 "Mr McAlindon had the figures for the sale of the  
22 shares already with him and it was my impression of the  
23 meeting that Mr McAlindon alone had come to this figure,  
24 it was agreed that over lunch Mr and Mrs Parham would  
25 make the decision. I am quite clear in my recollection

21

1 that this discussion about the £300,000 took place  
2 before we went for lunch."  
3 A. Yeah.  
4 Q. I just want to get it clear, having been asked about it  
5 by Mr Potts, do you now say your recollection is clear  
6 or not clear?  
7 A. It was very clear in April 2011.  
8 Q. Yes.  
9 A. And the statement that was dated 2013 was based on that  
10 email that I wrote in 2011. Yes. So I have no reason  
11 to believe that is not true, that that did not happen.  
12 Q. My question is: you were asked about your recollection  
13 today, as you sit here now?  
14 A. Yes.  
15 Q. And you plainly have some recollection of the meeting --  
16 A. Yes, indeed.  
17 Q. -- because you answered Mr Potts' questions about it,  
18 and you have said that you don't have a good  
19 recollection of some of the things that were said?  
20 A. Yeah.  
21 Q. As to this point, as you sit here today, what is your  
22 recollection as you sit here today?  
23 A. As I sit here today --  
24 Q. What is your recollection about the issue of whether the  
25 300,000 offer was brought up before they went off to

22

1 consider matters?  
2 A. As I sit here today, I believe that we discussed the  
3 figure over lunch.  
4 MR STUART: My Lord, I have no more questions. Do you have  
5 any questions for Mr Hutchings?  
6 Questioned by MR JUSTICE HILDYARD  
7 MR JUSTICE HILDYARD: Just a couple, Mr Hutchings, to help  
8 me understand the context a bit better.  
9 I am sure I have been told this, but is it right you  
10 were the regional chairman, were you, for the region --  
11 A. At one time but not at the time of this happening.  
12 MR JUSTICE HILDYARD: The only reason I had gleaned that  
13 was, if you go to E2/440 --  
14 A. I saw that it did say in brackets "regional chair".  
15 MR JUSTICE HILDYARD: Yes. Were you regional chair at that  
16 time?  
17 A. Was that in Mel's statement?  
18 MR POTTS: No, I think it was in that document,  
19 your Lordship is right.  
20 MR JUSTICE HILDYARD: I think it's only in that document.  
21 A. It may well have been, because I think that previous  
22 meetings with Mel perhaps had taken place when I was  
23 regional chair, and when I was a witness before, I was  
24 asked, because I was regional chair, to be a witness by  
25 the particular person being investigated. That was the

23

1 reason, and that may well have been why that came up as  
2 me being the regional chair. Am I making myself clear?  
3 Sorry.  
4 MR JUSTICE HILDYARD: I haven't fully understood. Were you  
5 regional chair at the time of the meeting with Mr and  
6 Mrs Parham?  
7 A. No.  
8 MR JUSTICE HILDYARD: But you had, some time earlier, been  
9 so?  
10 A. Yes.  
11 MR JUSTICE HILDYARD: Was it because you had been regional  
12 chairman that you were asked to be their witness?  
13 A. No. It wasn't because I was regional chair to be their  
14 witness, I think it was just to try -- I believe the  
15 witness needed to be someone that worked for the  
16 company, and I was chosen, if that's the right word, to  
17 be a witness.  
18 MR JUSTICE HILDYARD: Who chose you?  
19 A. Mr and Mrs Parham.  
20 MR JUSTICE HILDYARD: Right. Now, also at E2/440, if you  
21 have that open still, you will see just before the  
22 second holepunch that sentence which you were taken to  
23 before:  
24 "I am also concerned of the message it sends to the  
25 other bandits. Ray, regional chairman, is aware of what

24

1 she has done and told her she needed to go gracefully."  
 2 Does that reflect a conversation you had with  
 3 Mr Dyson or with anybody else at Specsavers other than  
 4 Mr and Mrs Parham?  
 5 A. Regarding this particular incident?  
 6 MR JUSTICE HILDYARD: Yes.  
 7 A. I hadn't -- haven't had any conversations with Mr Dyson  
 8 or Mr McAlindon about this incident.  
 9 MR JUSTICE HILDYARD: Right. So in suggesting that you had  
 10 and had expressed the view that -- and had relayed that  
 11 you had told her she needed to go gracefully, you can't  
 12 think what that is based on?  
 13 A. No. You know, at the time, I think I was more concerned  
 14 about her health than I was about her financial  
 15 situation, and I think it is quite stressful when  
 16 someone faints and faints twice during the (inaudible)  
 17 process, and that -- yeah, there was quite a lot of  
 18 stress and concern on that.  
 19 MR JUSTICE HILDYARD: Yes. I want to ask you about that  
 20 also. Can I take it that you have no recollection of  
 21 any discussion between yourself and Mr Dyson or  
 22 Mr McAlindon as to what Mrs Parham should do?  
 23 A. Certainly I wouldn't have any discussion with  
 24 Derek Dyson on this particular case. With Mel, apart  
 25 from going back and saying, you know, "I appreciate the

25

1 way you handled Shakila's episode of feeling unwell",  
 2 yeah, I can't remember having any particular discussions  
 3 on that particular point, no.  
 4 MR JUSTICE HILDYARD: You said during the course of your  
 5 cross-examination that you felt under stress, and you  
 6 have explained partly, I think -- maybe wholly -- that  
 7 that was because Mrs Parham had fainted and it's always  
 8 disconcerting and worrying that someone should have done  
 9 so. Were there any other reasons for your feeling  
 10 stressful?  
 11 A. I think that it's -- the phrase of being between a rock  
 12 and a hard place comes to mind, because it is quite  
 13 difficult, I think, as a partner in the business to be  
 14 here today, and I went along in good faith, obviously to  
 15 be a witness on that particular day, perhaps not quite  
 16 knowing the consequences, or what outcome was possible  
 17 on that day. So, yes, there is some stress related to  
 18 that particular point.  
 19 MR JUSTICE HILDYARD: The rock being less what you did or  
 20 said might be frowned on by Specsavers or by Mr and  
 21 Mrs Parham?  
 22 A. I think I'm trying to be impartial and I'm trying to be  
 23 as honest as I can, and unfortunately fate will take its  
 24 place from there on, but I am trying to be as honest as  
 25 I can and trying to be the best possible witness I can

26

1 possibly be in this case. But that's not for anybody,  
 2 that's not a best possible witness for Specsavers or for  
 3 Mr and Mrs Parham.  
 4 MR JUSTICE HILDYARD: Yes.  
 5 A. I think we all want to get to the truth.  
 6 MR JUSTICE HILDYARD: Well, thank you very much.  
 7 A. Okay, thank you.  
 8 MR JUSTICE HILDYARD: Are there any questions arising?  
 9 MR STUART: No, my Lord. Could Mr Hutchings be released,  
 10 my Lord?  
 11 MR JUSTICE HILDYARD: Yes. Thank you very much for your  
 12 attendance.  
 13 THE WITNESS: Thank you.  
 14 (The witness withdrew)  
 15 Discussion re timetabling  
 16 MR STUART: My Lord, I see the time, it seems to me we are  
 17 about to have Mrs Lofting, it might take a few minutes  
 18 to get things organised anyway. I wonder if it might be  
 19 an appropriate time to give an early break to the  
 20 transcribers, ie 10 minutes, to see whether Mrs Lofting  
 21 is there.  
 22 MR JUSTICE HILDYARD: I think they will probably welcome it  
 23 now and rue it later. But we can give them another  
 24 short break later if that is required.  
 25 MR STUART: Of course.

27

1 MR JUSTICE HILDYARD: Do you both recommend that in order to  
 2 set the thing up that we adjourn now?  
 3 MR POTTS: My Lord, yes, that may be sensible, I don't know  
 4 how long it will take.  
 5 MR JUSTICE HILDYARD: Do you know how long it will take?  
 6 MR STUART: She is at the venue, we might be able to start  
 7 her as soon as we can set it up.  
 8 MR JUSTICE HILDYARD: All right. Well, you come and get me.  
 9 I had a look at the timetable which you gave to me after  
 10 the short adjournment yesterday, and without in any  
 11 sense encouraging you to be longer, wondered whether it  
 12 was right that you would get through the principal  
 13 witnesses of Mr Dyson, Mr Rowe, Mr Raines, Ms Mancini,  
 14 Mr McAlindon in the time now left before Friday.  
 15 MR STUART: My Lord, I am going to try. I think we have  
 16 Mr McAlindon first, and if your Lordship looks in  
 17 bundle C, and I know this is only to go by, sort of  
 18 thing, but if you look in bundle C Mr McAlindon's  
 19 statement is by far the longest.  
 20 MR JUSTICE HILDYARD: Yes.  
 21 MR STUART: I say statement, he has two statements going  
 22 from pages 32 through --  
 23 MR JUSTICE HILDYARD: Yes, obviously I've read those.  
 24 MR STUART: I am just saying, if I can put it this way, if  
 25 I have got through Mr McAlindon by the end of today,

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1 that is almost half of the witness evidence in this  
2 case, in the defendants' side of this case. Can I put  
3 it this way: I think we will know by the end of today  
4 whether I am on target to get the rest of the evidence  
5 finished by tomorrow.  
6 MR JUSTICE HILDYARD: Right.  
7 MR STUART: I am hoping to, and I very much would like to  
8 try to achieve that. I've spent a lot of time focusing  
9 my cross-examination with a view to --  
10 MR JUSTICE HILDYARD: That's fine. I am just querying it,  
11 and if you are content with it, then that's fine.  
12 Although there would be a slim possibility of my eking  
13 out a couple of hours on Friday, that would not be easy,  
14 and it becomes more difficult the more delayed the  
15 attempt is made and also eats into your time naturally  
16 for preparing skeleton arguments.  
17 MR STUART: Exactly, my Lord.  
18 MR JUSTICE HILDYARD: Bearing in mind that the estimates of  
19 time in this case have invariably been undercooked  
20 rather than overcooked, I just remind you that the  
21 difficult becomes impossible with the passing of time.  
22 MR STUART: My Lord, I understand. As I said, if I have got  
23 through Mr McAlindon by the close of play this  
24 afternoon, if I have, then I think I may be on target,  
25 and one can see how I --

1 MR JUSTICE HILDYARD: Maybe on target is not entirely  
2 reassuring.  
3 MR STUART: My present estimate is that I hope to finish the  
4 witnesses by the close of play tomorrow afternoon.  
5 MR JUSTICE HILDYARD: All right, that's fine.  
6 MR STUART: What I am saying is if I have got to the end of  
7 Mr McAlindon by the end of today, then I am still on  
8 that target.  
9 MR JUSTICE HILDYARD: All right. I'll leave it to you.  
10 I have given you the warning. We will reconvene when  
11 you tell me. I will come as quickly as I can when given  
12 the call.  
13 MR STUART: Thank you, my Lord.  
14 (10.43 am)  
15 (A short break)  
16 (11.00 am)  
17 MRS PATRICIA LOFTING (called)  
18 (Evidence via videolink)  
19 MR STUART: My Lord, just to explain, we have tested to  
20 ensure that Mrs Lofting can hear us, that is anybody  
21 certainly speaking into my microphone, Mr Potts'  
22 microphone and your Lordship's microphone; she can see  
23 your Lordship sitting in your Lordship's chair; she has  
24 got in front of her the affirmation that she is going to  
25 give, and so she is going to read that out, rather than

1 it being given to her in chunks.  
2 MR JUSTICE HILDYARD: Right. Mrs Lofting, good morning or  
3 afternoon, depending on the time. Thank you very much  
4 for attending. I am sorry that your holiday should have  
5 been interrupted. Can you hear me properly?  
6 A. Yes, I can.  
7 MR JUSTICE HILDYARD: I'm not quite sure what you can see.  
8 You can probably see me at the moment.  
9 A. Yes.  
10 MR JUSTICE HILDYARD: Can you see anyone else?  
11 A. No.  
12 MR JUSTICE HILDYARD: I see, so when questions are being  
13 answered, the camera will swivel, yes. Do you know the  
14 personnel involved? There is Mr Stuart who is counsel  
15 for the claimants, and Mr Potts who is counsel for the  
16 defendants, and Mr Potts will be cross-examining you.  
17 A. Okay.  
18 MR JUSTICE HILDYARD: Is there anyone with you?  
19 A. Yes.  
20 MR JUSTICE HILDYARD: There is no way of my seeing them,  
21 other than your face; is that right?  
22 A. No. No. Nobody can see the screen here.  
23 MR JUSTICE HILDYARD: Right.  
24 MR STUART: My Lord, if you want to see the person, I think  
25 there is a sort of administrative person just assisting,

1 if you want to physically see who they are, they could  
2 walk in front of the camera.  
3 MR JUSTICE HILDYARD: No, that's all right, I am just trying  
4 to get the picture of it. Although this is a, to some  
5 extent, unusual process, please treat this as if you  
6 were in court here, with all the process and solemnity  
7 that that requires, even though you are in a more  
8 relaxed room. If you are uncertain, or the picture  
9 fades, or you cannot hear or see, please indicate as soon  
10 as you can to that effect. Otherwise, let us proceed as  
11 if you were here, and start by asking you to read out  
12 the affirmation.  
13 A. Okay.  
14 MR POTTS: My Lord, sorry, just one point, we asked  
15 Mrs Lofting if she could sit back a little bit. That's  
16 a bit better.  
17 MR JUSTICE HILDYARD: Yes, that is rather better, yes.  
18 MR POTTS: It was just that point, my Lord. My Lord, in  
19 terms of reading out the oath, I think the oath will be  
20 administered in the usual way, it's just that she has  
21 a copy there as well so it's clearer. I think that was  
22 the suggestion.  
23 MR JUSTICE HILDYARD: I am so sorry, I misunderstood.  
24 MR POTTS: I think that was what the associate was actually  
25 suggesting, it was just to make it easier for her, but

1 it will be administered in the normal way.  
 2 MR JUSTICE HILDYARD: Let us proceed in that way.  
 3 (Witness affirmed)  
 4 MR JUSTICE HILDYARD: Thank you very much, Mrs Lofting.  
 5 MR STUART: I think, my Lord, we did leave it that that was  
 6 how it was to be done because your associate thought it  
 7 would be more --  
 8 MR JUSTICE HILDYARD: That's fine.  
 9 Examination-in-chief by MR STUART  
 10 MR STUART: Mrs Lofting, would you take out bundle B?  
 11 A. Yes.  
 12 Q. The pagination hopefully is in the top right-hand  
 13 corner, and if you will go to page 108 --  
 14 A. Yes.  
 15 Q. -- I think you find there a witness statement, just two  
 16 pages, signed by you on page 109?  
 17 A. Yes.  
 18 Q. Do you confirm that that is your evidence and that it's  
 19 true?  
 20 A. Yes, I do.  
 21 MR STUART: If you just wait there, Mr Potts will have some  
 22 questions for you.  
 23 Cross-examination by MR POTTS  
 24 MR POTTS: Mrs Lofting, can you see me and hear me okay?  
 25 A. Yes, I can now.

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1 Q. In paragraph 3 of your witness statement you refer to  
 2 a telephone discussion with Mrs Parham on  
 3 25 January 2012 about a report that you were said to  
 4 have made to Mr Rajan some 16 months earlier, in  
 5 relation to improper conduct by Mr Parham; is that  
 6 right? You refer to that?  
 7 A. Correct.  
 8 Q. Do you have volume E1?  
 9 A. Yes.  
 10 Q. Could you turn, please, to page 250?  
 11 A. (Pause) Yes.  
 12 Q. If you look at the bottom of the page, there is an email  
 13 of 17 September 2010 from Mr Rajan. Do you have the  
 14 document?  
 15 A. Okay.  
 16 Q. Have you seen this email --  
 17 A. Yes, I did.  
 18 Q. -- in preparing your statement?  
 19 A. No.  
 20 Q. When did you see it for the first time?  
 21 A. Now. I have never seen this.  
 22 Q. Okay. Do you want to read it, the one at the bottom of  
 23 the page?  
 24 A. What, "Hi, Mike"?  
 25 Q. Yes, that's the one, just read it to yourself. Just

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1 yourself.  
 2 A. Yeah. (Pause) Yes.  
 3 Q. Okay.  
 4 A. I've read it.  
 5 Q. Thank you. Mr Rajan was a retail performance  
 6 consultant; is that right?  
 7 A. Correct.  
 8 Q. Was he responsible, in some way, for the Lewes store in  
 9 September 2010?  
 10 A. I believe so, yes.  
 11 Q. You say you believe so, do you remember? You remember  
 12 that, do you?  
 13 A. Yes, he used to visit my store --  
 14 Q. Okay.  
 15 A. -- for retail performances.  
 16 Q. Do you now recall whether he visited your store shortly  
 17 before 17 September 2010?  
 18 A. No.  
 19 Q. Just to be clear, are you saying that he didn't, or you  
 20 don't remember whether he did or not?  
 21 A. I don't remember whether he visited my store at that  
 22 time. Yes, he has visited my store for retail  
 23 performance issues, as they all do, but I could not tell  
 24 you on times or when.  
 25 Q. Okay. So you are saying he may have visited but you

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1 don't remember what you would have discussed with him,  
 2 in relation to a visit --  
 3 A. The only thing --  
 4 Q. In relation --  
 5 A. The only thing we would have discussed --  
 6 Q. I am sorry --  
 7 A. The only thing --  
 8 Q. Sorry, let me ask the question. In relation to a visit  
 9 in September 2010, I am asking you for your  
 10 recollection, not to reconstruct now, but I am asking  
 11 you for your recollection as to what was discussed  
 12 during a visit in September 2010, what you remember  
 13 today?  
 14 A. It would have been to do with Lewes performance figures  
 15 and issues.  
 16 Q. When you say "would" --  
 17 A. For the Lewes store.  
 18 Q. When you say "would", are you reconstructing based on  
 19 what you usually did, or do you have a specific  
 20 recollection of a meeting and of having the discussion  
 21 with him in September?  
 22 A. No, I don't have a specific recollection.  
 23 MR JUSTICE HILDYARD: Can I just clarify that? I had  
 24 understood you to say that you couldn't remember  
 25 a meeting with him in September; is that right?

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1 A. I couldn't say when the time was. Yes, this gentleman  
 2 visited my store, and we spoke about retail performance  
 3 procedures and issues, but as to when it was, I wouldn't  
 4 remember.  
 5 MR JUSTICE HILDYARD: Thank you.  
 6 A. They would visit on a regular basis, but I don't know if  
 7 it was actually at that time.  
 8 MR POTTS: You didn't have just one visit from him, you are  
 9 saying that he would visit on a regular basis?  
 10 A. Yes.  
 11 Q. So you had a number of meetings with him, and a number  
 12 of discussions with him?  
 13 A. Yes.  
 14 Q. I am asking you: do you have specific recollections  
 15 about the particular meetings and the particular  
 16 discussions at around that time?  
 17 A. No.  
 18 Q. Okay. Now, Mr Rajan, in his email, says that you were  
 19 away on holiday until Friday 24 September 2010. Do you  
 20 remember whether you were away on holiday over that  
 21 period?  
 22 A. Possibly. I do have a lot of holidays. (Pause) I think  
 23 I -- maybe my mother was visiting and I had time off,  
 24 but I can't remember exactly. I am sorry.  
 25 Q. Okay, so you don't have an accurate recollection, you

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1 don't remember now whether, clearly whether you did --  
 2 A. No.  
 3 Q. -- but you think you might; is that fair?  
 4 A. Yes. Yes.  
 5 Q. So that part of the email may be accurate, you think,  
 6 about the holiday?  
 7 A. Maybe. Yes.  
 8 Q. Could I suggest to you, if you can't remember, I am  
 9 asking you for your recollection, whether you were on  
 10 holiday at the time and, as you have said, you don't  
 11 have any recollection of a specific discussion with him,  
 12 is it possible that your recollection, what you actually  
 13 remember discussing with him, may also -- your  
 14 recollection of that may also have faded as well?  
 15 A. No.  
 16 Q. I think your evidence earlier was that you didn't have  
 17 a recollection of discussions with him?  
 18 A. I have never had discussions about the case in question.  
 19 That I am sure of.  
 20 Q. Okay. Could I ask you to turn up, please, G/126? Do  
 21 you have volume G?  
 22 A. Yes.  
 23 Q. If you could turn up page 126-10, so if you find 126 you  
 24 have to turn on a few pages.  
 25 A. Yes.

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1 Q. Do you see that document?  
 2 A. Yes.  
 3 Q. This is a document you signed, a letter you have signed?  
 4 A. Yes.  
 5 Q. It's the one which is referred to in your witness  
 6 statement?  
 7 A. Yes.  
 8 Q. Now, the visit was in September 2010. This letter was  
 9 written about 16 months after the visit. Correct?  
 10 A. Correct.  
 11 Q. Can I suggest to you that your recollection of what may  
 12 have been a throwaway remark by you 16 months earlier  
 13 may have faded with time?  
 14 A. No.  
 15 Q. But you accept that you don't have any clear  
 16 recollection of what you in fact discussed with him on  
 17 his visits at around that time?  
 18 A. It would only have been work related to the Lewes store.  
 19 Q. Were you aware that Mr Parham in fact later admitted  
 20 that in November 2010 he had in fact refunded  
 21 a transaction of £555 on to his personal credit card  
 22 using the chip and PIN machine in the store?  
 23 A. Was I aware that he admitted that?  
 24 Q. No, are you aware?  
 25 A. No.

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1 Q. Mrs Lofting, I put to you, given that the refund did  
 2 happen, your acceptance at least about the holiday and  
 3 the visits from him in your email and that you don't  
 4 have a good recollection of the visit, can I suggest to  
 5 you that your recollection about this part of the  
 6 discussion was also incorrect and this is something that  
 7 you may have mentioned to him?  
 8 A. No.  
 9 MR POTTS: My Lord, I have no further questions.  
 10 MR STUART: I have no re-examination, my Lord. Does  
 11 your Lordship have any questions of Mrs Lofting?  
 12 MR JUSTICE HILDYARD: Mrs Lofting, I do not have any further  
 13 questions. I am very grateful to you, and that is the  
 14 end of quite a short process. I hope you will be able  
 15 to return to your holiday now.  
 16 THE WITNESS: Okay, thank you.  
 17 MR JUSTICE HILDYARD: Thank you very much, goodbye.  
 18 (The witness withdrew)  
 19 MR STUART: So, my Lord, that's the end of the --  
 20 MR JUSTICE HILDYARD: That concludes your case?  
 21 MR STUART: -- claimants' witnesses, yes.  
 22 MR POTTS: My Lord, could I have a moment?  
 23 MR JUSTICE HILDYARD: Yes. Do you want me to rise for five  
 24 minutes while you get yourself organised? I don't know  
 25 what disruption it may or may not have caused.

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1 MR POTTS: I don't think so, my Lord, if I can just have  
2 a moment.  
3 MR JUSTICE HILDYARD: Yes, of course.  
4 (Pause)  
5 MR POTTS: My Lord, I call Mr McAlindon as the first  
6 witness.  
7 MR MEL MCALINDON (sworn)  
8 MR JUSTICE HILDYARD: Welcome back, Mr McAlindon, do sit  
9 down. Do you have some water?  
10 Examination-in-chief by MR POTTS  
11 MR POTTS: Mr McAlindon, do you have volume C in front of  
12 you?  
13 A. I do.  
14 Q. Could you turn, please, to tab 3?  
15 A. Yes.  
16 Q. At pages 32 to 57 is a document. Is that your first  
17 witness statement?  
18 A. It is.  
19 Q. I understand that you have one correction that you would  
20 like to make in relation to paragraph 29(c), I believe?  
21 A. Yes. Yes, the correction is that the paragraph should  
22 read:  
23 "In the period between 1 April 2006 to  
24 20 November 2006, Uckfield had paid a large volume of  
25 invoices issued by The Flower Shop Ltd totalling 1,331.

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1 However, I suspected that these costs related to flowers  
2 purchased by the claimants for themselves for their own  
3 personal reasons."  
4 Q. Just to be clear, was it the 20th or the 30th as well?  
5 Was that a correction or a slip?  
6 A. Sorry, the 30th.  
7 Q. I think you said, did you say, November 2006?  
8 A. Sorry, from 1 April 2006 to 30 November 2010.  
9 Q. Fine, thank you. Could you turn, please, to page 57?  
10 A. Yes.  
11 Q. Is that your signature?  
12 A. It is.  
13 Q. Subject to that one correction, are the facts stated in  
14 this witness statement true?  
15 A. They are.  
16 Q. Could you turn on to the next tab, please, at pages 59  
17 through to 61? Is that your second statement in this  
18 case?  
19 A. It is.  
20 Q. At page 61 is that your signature?  
21 A. It is.  
22 Q. Do you confirm that the facts stated in this statement  
23 are true?  
24 A. I do.  
25 MR POTTS: Thank you.

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1 Cross-examination by MR STUART  
2 MR STUART: As true as the evidence you gave the first time  
3 round, Mr McAlindon?  
4 A. Yes.  
5 MR STUART: Good. Take up the transcript bundle for Day 11,  
6 the last time we saw you. My Lord, I need to put into  
7 the bundles the less redacted form of the top 20 list  
8 from 2008. Do you remember we had the discussion  
9 yesterday?  
10 MR JUSTICE HILDYARD: Yes.  
11 MR STUART: We have reached --  
12 MR JUSTICE HILDYARD: An accommodation?  
13 MR STUART: -- an accommodation, which is that a version of  
14 the top 20 list, or whatever that document is, with the  
15 legally privileged matters still redacted -- and  
16 I haven't seen them, so I don't know what's beneath the  
17 black -- but the confidential matters, with the names  
18 redacted, the confidential matters unredacted, has now  
19 been provided. So we have what is in effect a less  
20 redacted version of the document.  
21 MR POTTS: There are further redactions, my Lord, as well,  
22 in relation to the other sections for confidentiality.  
23 They have not all been completely opened up.  
24 MR STUART: Yes, only as to the identity.  
25 MR JUSTICE HILDYARD: So all the privileged stuff remains

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1 redacted.  
2 MR STUART: As I understand it.  
3 MR JUSTICE HILDYARD: Some of the stuff which was redacted  
4 on confidentiality grounds has now been unredacted.  
5 MR STUART: Yes.  
6 MR JUSTICE HILDYARD: But there remains some redacted  
7 confidential but not privileged material.  
8 MR POTTS: Correct.  
9 MR STUART: Absolutely.  
10 MR JUSTICE HILDYARD: Yes. Where is that going to go?  
11 MR STUART: My Lord, I understand it's been -- because we  
12 are trying to just put it into somewhere -- put into  
13 white X, the X bundle. Your Lordship doesn't have it  
14 yet. I am about to pass you up a copy.  
15 MR JUSTICE HILDYARD: I have white X.  
16 MR STUART: So from page 515 now through to 558 of white X.  
17 MR JUSTICE HILDYARD: I think I ought to admit that my white  
18 X ends at 451. Is that a good thing?  
19 MR STUART: My Lord, if you would like also to have  
20 pages 452 to 514, so those are Mr Weller's medical  
21 records. Do you remember, long distant past, an issue  
22 arose as to can we get hold of his medical records.  
23 MR JUSTICE HILDYARD: Yes.  
24 MR STUART: We did.  
25 MR JUSTICE HILDYARD: And here they are. That's going in by

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1 agreement, is it?  
2 MR STUART: As I understand it, it's into white X, page 452  
3 to 514.  
4 MR JUSTICE HILDYARD: Okay. Well, I don't think my X file  
5 is --  
6 MR STUART: Is going to take it?  
7 MR JUSTICE HILDYARD: -- able to take that. So I think you  
8 will just have to have a white X2.  
9 MR STUART: Absolutely, my Lord.  
10 MR JUSTICE HILDYARD: So pass them up and I'll have them  
11 with me. Please arrange for that, because otherwise my  
12 ability to lose papers is legendary, and I am sure to  
13 lose them unless they are housed.  
14 MR STUART: (Handed). Hopefully the witness bundle white X  
15 has a page 515. It does, great. My Lord, obviously  
16 I will not deal with the medical records for now,  
17 I don't think it's relevant to the prevent case. If  
18 your Lordship and the witness goes to page 549.  
19 MR JUSTICE HILDYARD: I am sorry to make a meal of this, but  
20 so your solicitors or whoever is in charge of updating  
21 those knows, I have jammed them into the old X file,  
22 white X.  
23 MR STUART: Thank you, my Lord.  
24 MR JUSTICE HILDYARD: Otherwise I can see I'll lose them.  
25 They can be extracted.

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1 MR STUART: We will create an X 2.  
2 So just to be clear what we have here, page 515, the  
3 first page of this new version, that just puts it into  
4 context. Do you have 515, Mr McAlindon?  
5 A. I do.  
6 Q. So that's an email, so we can date it --  
7 A. Yeah.  
8 Q. -- 20 June 2008?  
9 A. Yeah.  
10 Q. Then from 516 through to 525 is the full redacted  
11 version with everything blacked out. So I am going  
12 to -- one can ignore that for the moment, okay, because  
13 it's all black, apart from one section.  
14 Then at 526, hopefully you have another email. Do  
15 you see that?  
16 A. Yeah.  
17 Q. Again, we are now up to August 2008. Do you see that?  
18 526.  
19 A. Yeah.  
20 Q. And the document that is the attachment to that is the  
21 document at 527, again at this stage all redacted apart  
22 from the one section. Do you see that?  
23 A. Yeah.  
24 Q. Then 537, an email of 19 August 2008; do you see that?  
25 A. Yes.

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1 Q. At 538, again, the fully redacted version of that  
2 document, the attachment to that email, so that's now  
3 the August 2008 list. Okay?  
4 A. Yes.  
5 Q. Then finally we get to an unredacted version, or less  
6 redacted version, at page 549. To be clear, we are now  
7 back to the first of the three documents that I've taken  
8 you to. So we are in the May version. So if you go to  
9 549 --  
10 A. Yeah.  
11 Q. -- and you turn it into landscape, this is May 2008?  
12 A. Yeah.  
13 Q. I want to ask you, then, the evidence you gave to  
14 his Lordship on the last occasion, Day 11 of the  
15 transcript --  
16 A. Yeah.  
17 Q. -- page 45, do you remember the transcript numbering is  
18 beneath?  
19 A. Yeah.  
20 Q. Do you have it?  
21 A. I do.  
22 Q. Do you see just at the top, just to put into context  
23 what we are talking about, at the top of 45, I said:  
24 "Question: We have heard during the course of the  
25 trial that that led ... into a meeting in March 2008 at

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1 which the issue of Mr Vos' payments arose?"  
2 A. Yes.  
3 Q. Do you remember?  
4 A. Yes.  
5 Q. 2008. I asked you if you were there at the beginning,  
6 you said:  
7 "Answer: Most of it.  
8 "Question: And you heard all of that. So all of  
9 that stuff in 2008, were you party or aware of that?"  
10 A. Yes.  
11 Q. This was about Mr Vos, in 2008. You said:  
12 "Answer: No, I wasn't in this communication  
13 either."  
14 A. Correct.  
15 Q. Do you see that? Then so two questions further on  
16 I said:  
17 "So when all of that" --  
18 First of all I said:  
19 "Question: ... I just wanted to get clear whether  
20 you were aware of it?  
21 "Answer: No.  
22 "Question: So when all of that was being raised  
23 back in 2008, you were head of loss prevention at that  
24 time, weren't you?  
25 "Answer: Yes."

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1 Do you see that?  
 2 A. Yes.  
 3 Q. Then if you skip a few lines:  
 4 "Question: Yes. But it wasn't an issue that was  
 5 raised on loss prevention's radar at that time, 2008."  
 6 That's what you were saying?  
 7 A. Yes.  
 8 Q. That's what I put to you, and you said "No"?  
 9 A. Correct.  
 10 Q. Then if you skip on a couple of questions, I then put to  
 11 you:  
 12 "Question: Okay, so just back, then, to 2011, to  
 13 get clear what you are saying" -- do you remember, this  
 14 was January 2011, Mr Dyson --  
 15 A. Sorry, which line are you referring to now?  
 16 Q. We are on to page 46, line 6.  
 17 A. Sorry, yes.  
 18 Q. "Okay, so just back, then, to 2011 ... that's the first  
 19 you have heard of it ... Mr Dyson is emailing you. Did  
 20 you speak to him?"  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. That was in January 2011, when Mr Dyson started the  
 24 involvement of loss prevention on your version; do you  
 25 remember? That's what I was asking you.

1 A. Yes, this is the email that I received that was  
 2 forwarded on to me, yes, that was the start.  
 3 Q. Okay. So I then asked, when you said that it was  
 4 "fairly transparent to me where Derek's concerns were  
 5 coming from", two questions on, I said:  
 6 "Question: Okay. You were not aware of the  
 7 previous correspondence?  
 8 "Answer: From all the other people to --  
 9 "Question: The ones I have just taken you to.  
 10 "Answer: No."  
 11 Do you see that?  
 12 A. I do.  
 13 Q. Then I said:  
 14 "Question: You forward on Mr Dyson's email, and you  
 15 say:  
 16 'I think we may have already looked at this'.  
 17 Do you remember, you had emailed on to your  
 18 colleague Mr Barnes?  
 19 A. Yes.  
 20 Q. You say "I think we have already looked at this"?  
 21 A. Yes.  
 22 Q. You answered "correct".  
 23 I said:  
 24 "Question: Now, given the answers you have just  
 25 given to my questions asking you whether you had any

1 previous knowledge of this matter --  
 2 "Answer: Yeah.  
 3 "Question: -- how is it that you are able to tell  
 4 Mr Barnes that you think that this has already been  
 5 looked into?  
 6 "Answer: At the time I was thinking of another  
 7 store on the south coast which again was another place  
 8 I've never been to ..."  
 9 Do you see that?  
 10 A. I do.  
 11 Q. I think you have clarified that a few answers further  
 12 on, where you refer to Bournemouth, Bodmin, there were  
 13 a number of stores. You recall that?  
 14 A. I do.  
 15 Q. So the extent of your evidence on this was that you were  
 16 not aware of the issue about Mr Vos and his salary,  
 17 et cetera, being raised in 2008?  
 18 A. Correct.  
 19 Q. Your department was not involved in investigating him  
 20 then?  
 21 A. Correct.  
 22 Q. And when it appeared from your email that you were aware  
 23 of it, you were actually referring to another store  
 24 altogether?  
 25 A. Correct.

1 Q. So now let's look at page X/550. Do you have it?  
 2 A. I do.  
 3 Q. This is May 2008. Do you remember?  
 4 A. Yeah. Well, no, I don't remember, but I see the  
 5 document you pointed me to.  
 6 Q. Yes, and you remember seeing it at the time?  
 7 A. No.  
 8 Q. Okay. I did take you to this. I'll just make sure that  
 9 we have the email in which it was sent to you at the  
 10 time. Page 515. Board notes, you are in the email  
 11 chain, aren't you?  
 12 A. No.  
 13 Q. Page 515?  
 14 A. Yes.  
 15 Q. Are you involved at all?  
 16 A. Well, it's clear that Emma Meagher has sent out an email  
 17 to all of the direct reports asking for their board  
 18 reports to be submitted. David Clark's email replies to  
 19 her and I am not included in his reply with his board  
 20 report. I am not on that circulation list, and it's not  
 21 a document that I've seen or have ever been copied in  
 22 on. I don't see his board reports.  
 23 Q. Okay. Anyway, we can see what is said to be your  
 24 involvement from page 550, can't we? Just to make it  
 25 clear, on the left-hand column we have the identity of

1 the store; in the second column we have the issues. Do  
 2 you see that?  
 3 A. I do.  
 4 Q. Amongst those issues, do you see the last one:  
 5 "Recent intelligence reports that she is billing  
 6 store for consultancy work. Question mark, not  
 7 authorised."  
 8 Do you see that?  
 9 A. I do.  
 10 Q. Under "Comments", we see what the comment is about --  
 11 A. Yeah.  
 12 Q. -- these issues. We can see the third of those  
 13 comments is:  
 14 "Mel reviewing latest intelligence, re: paying her  
 15 husband for consultancy work."  
 16 I think you told me on the last occasion you are the  
 17 only Mel in the organisation?  
 18 A. It's clear Dave Clark is referring to myself.  
 19 Q. Yes, so it is clear, isn't it, that your department was  
 20 aware in 2008 of the issue about Mr Vos, that is now  
 21 clear?  
 22 A. I think, my Lord, it's quite clear that Dave Clark's  
 23 perception was that I was going to be involved or was  
 24 involved. However, I wasn't involved at that stage, and  
 25 had I been involved at that stage, we would have seen

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1 exactly the same things that I did when I finally was  
 2 involved would have happened immediately at that point.  
 3 So there would have been other documents that  
 4 demonstrated that I was involved in that stage, and  
 5 I wasn't. I can only speculate as to why Dave Clark has  
 6 thought that was the case, but I don't know.  
 7 Q. Or, Mr McAlindon, you were involved, the issue was  
 8 investigated, you were aware of it in 2008, and the  
 9 evidence you gave to the court on the last occasion was  
 10 false?  
 11 A. No, that's not the case. Categorically not the case.  
 12 Q. All right. The answer about "oh, it was some other  
 13 place on the South Coast that I was", do you still stand  
 14 by that as well?  
 15 A. I do.  
 16 Q. Can you remember which one it was?  
 17 A. No.  
 18 Q. Okay. Let's then turn to your evidence in this case.  
 19 I am not going to repeat all the matters that I asked  
 20 you about on the last occasion, but you will recall that  
 21 we had a discussion on the last occasion about the  
 22 disciplinary and investigatory policy?  
 23 A. Yes.  
 24 Q. The process, et cetera?  
 25 A. Yes.

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1 Q. The need to avoid accusatory or leading questions; do  
 2 you remember all of that?  
 3 A. I remember.  
 4 Q. In relation to your interrogation of Mrs Parham; yes?  
 5 A. I wouldn't call it an interrogation, but yes, I remember  
 6 it.  
 7 Q. Do you think you complied with the disciplinary policy  
 8 to avoid accusatory or leading questions?  
 9 A. I believe so.  
 10 Q. Okay. Do you remember also in the policy the importance  
 11 of notes of meetings?  
 12 A. I believe the -- well, the record of interview was  
 13 electronically recorded, so it was transparent.  
 14 Q. I am thinking of other meetings, Mr McAlindon, important  
 15 meetings, part of the disciplinary process?  
 16 A. It's not a disciplinary process, this is  
 17 an investigative process, and no decision had been taken  
 18 as to whether there was a disciplinary case to answer  
 19 to. This was purely an investigative process.  
 20 Q. Okay, investigatory process towards a disciplinary,  
 21 though, wasn't it?  
 22 A. Depending on what the findings of the investigation  
 23 produced, it could have gone one way or the other.  
 24 Q. You suspended Mr and Mrs Parham on 1 March, didn't you?  
 25 That is part of the disciplinary process, isn't it?

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1 A. No, it's part of an investigative process.  
 2 Q. Whether it's within the investigatory process or the  
 3 disciplinary process, that was a suspension meeting,  
 4 wasn't it?  
 5 A. Correct.  
 6 Q. You didn't record that meeting, did you?  
 7 A. Correct.  
 8 Q. I don't see that you have disclosed your notes of the  
 9 meeting?  
 10 A. I made no notes. The suspension meeting was literally,  
 11 I had a letter of suspension, I met them to explain the  
 12 circumstances, that -- the findings from the audit,  
 13 I gave them brief indications by giving them a small  
 14 number of examples of the issues that we had concerned  
 15 about that we felt required further investigation, and  
 16 explained that there was a considerable amount more, but  
 17 that would be put to them at the appropriate time in  
 18 an appropriate way, ie under an interview situation, and  
 19 I then handed them the letter of suspension. So that  
 20 meeting was literally just to say "Look, the  
 21 investigation, it's now escalated to a full formal  
 22 investigation, and whilst that's conducted, you are  
 23 suspended from the business and here is the letter". So  
 24 it wasn't a long meeting, it wasn't a meeting that you  
 25 would document notes from. It was literally a case of

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1 explain to both individuals what was happening, why it  
 2 was happening, and what they needed to do as part of  
 3 their suspension in terms of not speaking to people and  
 4 so on and so forth, which was in the letter which  
 5 I handed them. So it was a short meeting.  
 6 Q. What do you say your role in this process is? Are you  
 7 just the investigating officer, or are you also feeding  
 8 into the decision, the disciplinary decision?  
 9 A. No, I'm the investigator, and my role is to gather the  
 10 evidence, present it to the individuals, give them  
 11 an opportunity to comment, and once all the statements  
 12 and interviews had taken place would be to apply my  
 13 interpretation of what I thought it looked like overall,  
 14 prepare an investigative report which would have  
 15 recommendations if I believed there was a disciplinary  
 16 case to answer to, and to submit that to the board.  
 17 Q. Which you didn't do in this case?  
 18 A. No.  
 19 Q. No. What you did do is you, as I understand SOG's case  
 20 here, advised Mr Dyson that in your view Mr and  
 21 Mrs Parham were extremely dishonest and fraudulent?  
 22 A. Sorry, can you point me to where and at what point?  
 23 Q. I am just asking, do you recall that that's what you  
 24 advised Mr Dyson?  
 25 A. In later stages, I think I've used those words. At the

1 earliest part, when the suspensions took place, I had  
 2 the original email that made the allegation in relation  
 3 to the NPower cheque, I've met with Mr Parham to present  
 4 that to him and asked for his explanation, which he  
 5 gave, and I explained after that that a remote audit  
 6 would have to take place and an audit in store would  
 7 have to take place to ensure that that was a one-off  
 8 incident, not a pattern of incidents. That process was  
 9 gone through. When I finally met with Mr and  
 10 Mrs Parham, that evidence had been gathered and we had  
 11 reached a point where we needed to speak to store  
 12 employees to understand some of the context of the  
 13 paperwork, and then it would have been presented to the  
 14 Parhams to ask for their explanation. That's the  
 15 process.  
 16 Q. But that's not --  
 17 A. And at that point I wouldn't have made a judgment along  
 18 the lines that's being suggested.  
 19 Q. You made it very, very swiftly afterwards, then?  
 20 A. At what point? Sorry, can you --  
 21 Q. By 7 March.  
 22 A. Can you point to where it is in my statement?  
 23 Q. You don't mention it in your statement. By 7 March, you  
 24 had concluded that they were guilty?  
 25 A. That's incorrect.

1 Q. Okay. By 8 March?  
 2 A. I don't know. Point me to the chronology in my  
 3 statement. But I don't agree --  
 4 Q. You don't deal with it --  
 5 A. -- that I made those conclusions early in the process.  
 6 I formed those opinions as the process continued --  
 7 Q. But you hadn't --  
 8 A. -- and it may well have been, my Lord, that although  
 9 I may well have had opinions based on the responses that  
 10 I got, that those opinions would have started to change  
 11 once I had presented the evidence to the individuals and  
 12 got a different context to the information that I was  
 13 looking at.  
 14 Q. Dealing with Mr Parham, you never actually interviewed  
 15 him under the investigation process; is that right?  
 16 A. Correct.  
 17 Q. All you ever did was have your meeting with him back in  
 18 November 2010 in the hotel; do you remember?  
 19 A. I do.  
 20 Q. Which you say is not part of any investigatory process  
 21 at all?  
 22 A. No, I didn't say that. I said that that's the start of  
 23 the process to understand what happened with the NPower  
 24 cheque.  
 25 Q. Right.

1 A. And that escalated because of concerns as to whether --  
 2 to try and understand whether or not it was a single  
 3 one-off incident, and a question of judgment on one  
 4 particular situation, or whether there was a more  
 5 consistent pattern.  
 6 Q. Okay, so what you are saying is you get, on your version  
 7 of events, the tip-off from Mr Rajan, 17 September 2010  
 8 email?  
 9 A. If that's the date of the email, yes.  
 10 Q. You then consider that an issue has been raised which  
 11 needs investigating --  
 12 A. Correct.  
 13 Q. -- with Mr Parham?  
 14 A. Correct.  
 15 Q. And your investigation of that issue consists of meeting  
 16 Mr Parham on 1 November?  
 17 A. Correct.  
 18 Q. Where are your notes of that important meeting?  
 19 A. I didn't make any notes. I had a brief discussion about  
 20 the cheque, and the cheque only.  
 21 Q. But if this was to be the start of everything, why would  
 22 you not make a note of a meeting like that?  
 23 A. I don't know.  
 24 Q. No.  
 25 A. I went to meet with a joint venture partner to ask about



1 one specific issue, and at that stage I didn't feel that  
 2 it was a formal investigation. Having received a verbal  
 3 response from it, I went away, reflected on it, and felt  
 4 that his explanation was implausible and because of  
 5 that, I felt that I had a reasonable concern that there  
 6 could be broader patterns of malpractice, and I felt  
 7 that it was appropriate at that stage to start  
 8 an investigation. So the initial conversation was  
 9 a conversation I had with a joint venture partner about  
 10 one specific issue and one specific transaction, and it  
 11 was from that point that the investigation process  
 12 started. So I wasn't going in to interview him as such,  
 13 I was just going to ask for an explanation on one issue,  
 14 and subsequent to that, I would have recorded  
 15 discussions with him in an appropriate way, which would  
 16 have been in an interview environment, electronically  
 17 recorded.  
 18 Q. That's not right, though, is it, Mr McAlindon? You  
 19 didn't just discuss one issue at that meeting, you  
 20 discussed the banking issues that had arisen from  
 21 a reconciliation, checks that had been taking place for  
 22 the period June 2010 onwards?  
 23 A. Yes, correct.  
 24 Q. So it wasn't just about his £555, it was about issues --  
 25 and perhaps to assist you here, why don't you take out

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1 bundle E2, we can perhaps start the chronology, first  
 2 page, 260. Do you see that?  
 3 A. I do.  
 4 Q. It appears someone's been doing a check on all of the  
 5 banking matters going back to June 2010?  
 6 A. Correct.  
 7 Q. If you go to page 294, I think the next chunk of  
 8 documents is just the attachments to that email, we see  
 9 Mr Gutteridge's exposition of the problem with the £555  
 10 cheque?  
 11 A. Yeah.  
 12 Q. Do you see that?  
 13 A. I do.  
 14 Q. Then the next document in the sequence, I think, is 312,  
 15 Mr Parham writes to you after the meeting?  
 16 A. Yeah.  
 17 Q. So there don't appear to be any notes made by you of  
 18 what you put to Mr Parham about that cheque, what his  
 19 responses were, any explanations that he gave about it?  
 20 A. Correct.  
 21 Q. Or any of the other matters raised during that meeting?  
 22 A. Correct.  
 23 Q. Apart from that meeting with him, relating to the  
 24 cheque, did you have any other interviews with him,  
 25 Mr Parham?

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1 A. No.  
 2 Q. So we know that, at the end, by March 2011 you -- that  
 3 is 7 March, when you are having the investigatory  
 4 meetings with Mr and Mrs Parham; okay?  
 5 A. Yes.  
 6 Q. 7 March?  
 7 A. Yeah.  
 8 Q. We know that by then you had, I think, three or four  
 9 files of documents; is that right? I know that  
 10 Mrs Parham gave evidence yesterday.  
 11 A. I can't remember the number of files, but there would  
 12 have been a couple, I would have thought, at least  
 13 a couple, if not three. I don't -- I have no  
 14 recollection.  
 15 Q. Okay. Can I take you to H? H is the document that you  
 16 refer to in your witness statement. Trial bundle H, and  
 17 I think this is extracts from some sort of report.  
 18 A. Yes.  
 19 Q. If we go to page 01 of H, there I think we have the  
 20 index to the four files?  
 21 A. Correct.  
 22 Q. As I understand it, you drew up this report?  
 23 A. No, this was an index that was prepared by one of my  
 24 team. It's an incomplete index. If they feel that  
 25 something is going towards an investigation, they would

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1 put an index on it, and they would put the documents in  
 2 where they believed they would eventually go. So they  
 3 were being efficient.  
 4 Q. Sorry, they?  
 5 A. They were being efficient.  
 6 Q. Creating this index?  
 7 A. Pre-preparing an index to a set of files as we start to  
 8 look into the issues.  
 9 Q. Okay, this is the version that we have seen, this  
 10 version of an index?  
 11 A. Yeah.  
 12 Q. It's obviously after 23 November 2010, because section 2  
 13 of the index is "audit report dated 23 November 2010".  
 14 Do you see that? Sorry, we are still on page 01. The  
 15 index seems to index four files, and they are subdivided  
 16 into sections. Do you see?  
 17 A. Yeah.  
 18 Q. And section 2 of file 1 is said to be the audit report  
 19 dated 23 November 2010?  
 20 A. Yes.  
 21 Q. So it's obviously after that date that this index was  
 22 created?  
 23 A. I think that's a reasonable conclusion.  
 24 Q. Then section 3 is an employee till code listing,  
 25 section 4 is described as "initial investigation till

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1 paperwork for credit card refund"; do you see that?  
 2 A. I see that.  
 3 Q. Section 5, heat and light mandate. Section 6, records  
 4 of interview.  
 5 6.1:  
 6 "Mel McAlindon, director of loss prevention, initial  
 7 investigation, contemporaneous record of interview,  
 8 John Parham."  
 9 6.2:  
 10 "Mel McAlindon, director of loss prevention,  
 11 contemporaneous record of interview [so not initial  
 12 investigation now, just interview] John Parham."  
 13 Where are these documents, Mr McAlindon? I would  
 14 like to see them.  
 15 A. The documents don't exist, my Lord. This -- the audit  
 16 report was done before in the previous year, at the end  
 17 of the previous year to the interviews. The reason for  
 18 the audit being done was because, having got the initial  
 19 concern about the NPower cheque, at some point we had  
 20 become aware that there were banking variances.  
 21 Obviously if you have a concern with an individual who  
 22 is responsible and would be involved in the banking  
 23 process, the concern would be: are the two linked and  
 24 could that person be responsible for taking banking?  
 25 I think subsequent to that our concerns with banking

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1 were dropped and I think that's why it wasn't mentioned  
 2 or discussed. However, I sent one of my team to the  
 3 store to start looking through other financial  
 4 paperwork. And the financial paperwork was in the store  
 5 at that time which I asked them to audit. It was the  
 6 store petty cash because the receipts were held in  
 7 store. And I also asked them to go in and look at the  
 8 banking paperwork and the audit trail for the banking  
 9 paperwork to see whether or not there was a problem with  
 10 the banking that should cause us concern.  
 11 So that was the reason for the audit. I think that  
 12 the reason that the individual who did the audit  
 13 prepared this document was because, after they had  
 14 audited the petty cash transactions, they realised that  
 15 there were issues with them, because their  
 16 interpretation of them, that it was general shopping,  
 17 which they included into the audit report and commented  
 18 accordingly, they would have felt that those were  
 19 significant and wrong and would result in formal  
 20 interviews, so they prepared a structure to a file that  
 21 would then grow as the file grew. So some things may  
 22 have been added in, some things may have been taken out.  
 23 And I think the fact that they have written  
 24 "contemporaneous record of interview with Mr Parham",  
 25 and it subsequently proves to be, that never took place

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1 because we would have recorded electronically, sort of  
 2 reflects that this is just a draft of a document that  
 3 would have built as the investigation progressed.  
 4 Q. Who do you now say created this?  
 5 A. I don't know, one of -- a member of my team.  
 6 Q. You don't know?  
 7 A. I don't know which specific member of my team created  
 8 it.  
 9 Q. Well, how do you know that you had that conversation  
 10 that you have just described?  
 11 A. I didn't say I had a conversation, I said I know how we  
 12 operate, I sent somebody into the store --  
 13 Q. Who?  
 14 A. I didn't specify because I have no recollection of who  
 15 went in and did it, but a member of my team was sent to  
 16 the store to go and do that work, and you know, these  
 17 are our documents.  
 18 Q. How did they know that there was an "initial  
 19 investigation contemporaneous record of interview,  
 20 John Parham", how would they know that?  
 21 A. Well, they didn't, that's a template.  
 22 Q. Well, it's not a template that appears in any other  
 23 version of a report that you have provided, "initial  
 24 investigation contemporaneous record"?  
 25 A. Yeah, they never happened, they assumed it would happen.

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1 Q. No, it had happened, according to you. The initial  
 2 investigation, according to your witness statement, was  
 3 by you with Mr Parham on 1 November.  
 4 A. I understand the point. There were no notes made. This  
 5 does not refer to notes allegedly made at the time that  
 6 I went to speak to Mr Parham about the £555 cheque.  
 7 There were no notes made. We didn't interview Mr Parham  
 8 at all, and we didn't put any questions to Mr Parham  
 9 other than that one meeting. We would have subsequently  
 10 interviewed him and it would have been an electronic  
 11 interview, had circumstances not ended the process. So  
 12 we would have interviewed him, but there were no notes  
 13 made of any other meetings.  
 14 Q. Then there is going to be the contemporaneous record of  
 15 the interview, of the actual interview?  
 16 A. And they would have assumed that I would have  
 17 interviewed him, and they are incorrectly assuming that  
 18 because, if I made contemporaneous -- I wouldn't do  
 19 contemporaneous notes with a partner, I would use  
 20 an electronic one, for all the reasons that we use  
 21 electronic interview.  
 22 Q. Well, no, you offer, don't you -- your practice is to  
 23 offer the partner: we can either have them  
 24 electronically recorded or we can have notes done, and  
 25 you can sign them at the end; do you remember?

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1 A. Correct, and if somebody declined the opportunity to  
 2 have an electronic interview, I would express very  
 3 strong reservations of that and say that it's not the  
 4 best way, because the best way is to ensure that, to  
 5 record it electronically, because there is absolute  
 6 transparency in that process. So if somebody declined  
 7 that I would point out that it is illogical to do so,  
 8 and it's much better for all parties to do it  
 9 electronically.  
 10 Q. Where is "Mrs Parham initial investigation interview",  
 11 "contemporaneous record of interview", "interview",  
 12 anything about her?  
 13 A. This is a template. They are assuming that interviews  
 14 would take place and those interviews didn't take place,  
 15 and particularly in the format that has been described.  
 16 It's literally somebody pre-preparing an index to  
 17 a building investigation file. The fact that at that  
 18 time all we knew about was Mr Parham, we hadn't yet  
 19 developed a concern or a link necessarily to Mrs Parham,  
 20 so she wasn't added into the index. It is simply  
 21 a draft index.  
 22 Q. If you flick on to page 1 of bundle H, so we have got  
 23 through 01 and 02, page 1 there is a page which says  
 24 "section 2, audit report" dated 23 November 2010.  
 25 "The following audit report was produced following

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1 a general financial audit of the store after the initial  
 2 investigation conducted by Mel McAlindon."  
 3 Do you see that?  
 4 A. I see that.  
 5 Q. So as far as your team were concerned, you had had the  
 6 initial investigation?  
 7 A. They interpreted the initial meeting with Mr Parham to  
 8 ask questions about the cheque as an initial  
 9 investigation.  
 10 Q. How did they know about the initial meeting with  
 11 Mr Parham? Where is the email where you tell them about  
 12 what happened at the meeting with Mr Parham?  
 13 A. We would have conversations routinely with each other,  
 14 we would speak to each other over the phone. There  
 15 isn't any emails because we never sent any, and I can  
 16 only speculate as to what they knew or didn't know when  
 17 they wrote this report.  
 18 Q. Anyway, you didn't write this?  
 19 A. I don't know who the author to this is. It is one of my  
 20 team, because I recognise the format, so I recognise  
 21 that it is one of my team, but specifically which one,  
 22 whether it be Phil Barnes or Les Gutteridge or Ben Walls  
 23 created it, I don't know.  
 24 Q. It's referring to this audit report of 23 November which  
 25 is, I think we find it at page 4, we find the contents.

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1 Page 3 we have the cover sheet, loss prevention audit,  
 2 page 4 we have the contents page, do you see that?  
 3 A. Yeah.  
 4 Q. So you had done an audit of transactions of the Uckfield  
 5 store; is that right?  
 6 A. A member of my team went into the store to conduct  
 7 a financial audit of the records that were held in  
 8 store, which I believe predominantly related to the  
 9 banking paper trail and the petty cash paper trail.  
 10 Q. Right. This is their report, then, is it?  
 11 A. Correct.  
 12 Q. Okay. Of course it's signed by you, isn't it?  
 13 A. Correct.  
 14 Q. Did you have any knowledge of what was in, what was  
 15 going on here, personal knowledge?  
 16 A. No. A number of years ago, my Lord, we had difficulties  
 17 with individuals' different writing skills and people  
 18 visiting stores needing to give good reports back to  
 19 partners, so we created an automated writing tool  
 20 because a lot of the stuff is repetitive. For example,  
 21 if a store doesn't have a safe, you would tell them it  
 22 is a good idea for the following reasons, and people  
 23 were getting bogged down in reports. So we created  
 24 an automated report that they would answer preselected  
 25 questions and there would be preselected responses to

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1 those. That report is then -- they can write it very  
 2 quickly, they can produce a good output for the  
 3 partners. So it's a generic report writing tool.  
 4 Q. Are we to take page 10, then, which is part 2 of the  
 5 report signed by you, page 10, I am reading from the  
 6 last three lines of the first paragraph:  
 7 "The objective is to slowly tackle each area bit by  
 8 bit to gradually reduce your risks and thereby create  
 9 a safer environment for yourself but also for your  
 10 employees. The process should be viewed as a commercial  
 11 opportunity."  
 12 It's all very positive?  
 13 A. Correct, it's an audit report.  
 14 Q. Over on page 11, I presume this is tailored to this  
 15 business after the review as part of this audit; do you  
 16 see what it says there?  
 17 A. The report selection, each question has a -- has another  
 18 selection button where you could prioritise it low,  
 19 medium high. When you have made that selection and you  
 20 produce the final output report, it automatically just  
 21 goes into a summary sheet. So this is a summary sheet  
 22 that's automatically generated that's just there to help  
 23 partners focus towards areas of high, medium and low  
 24 risk, to prioritise the areas for them.  
 25 Q. We can see that page 11, amongst the areas of low risk

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1 are refunds, do you see that on the right-hand side?  
 2 A. Yeah.  
 3 Q. And various other things. The areas identified as high  
 4 risks are keys, ie the keys to the store, NHS debtors,  
 5 petty cash procedures, the safes, TDR control report,  
 6 and the movement of cash?  
 7 A. Correct.  
 8 Q. Those are then, pages 13, 14, 15 of the report onwards,  
 9 sets out paragraphs for each of those. This is the way  
 10 this report, on your standard template, is generated;  
 11 yes?  
 12 A. There are automatic outputs from an answer of yes or no  
 13 against a specific question.  
 14 Q. Then that finishes on page 21. Then there are some  
 15 photographs on page 22. Do you see that?  
 16 A. I do.  
 17 Q. These were photographs taken as part of the audit in  
 18 November 2010?  
 19 A. Correct.  
 20 Q. Including page 28, seems to be some photos from the  
 21 store's storage cupboard?  
 22 A. Correct.  
 23 Q. Photos of a television in the store?  
 24 A. It appears that.  
 25 Q. On page 29, photos of a DVD player?

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1 A. Correct.  
 2 Q. In the store?  
 3 A. Correct.  
 4 Q. Is that the end of that part of it? So then we get to  
 5 page 33, we are now into specific petty cash items?  
 6 A. Correct.  
 7 Q. These have all been identified by the time you have  
 8 your -- as part of this audit, in October/November 2010?  
 9 A. Yeah.  
 10 Q. Before you have your meeting with Mr Parham, the only  
 11 meeting you had with him in relation to these matters,  
 12 on 1 November?  
 13 A. Sorry, can you --  
 14 Q. These petty cash items that have been identified --  
 15 A. Can you point me back? I can't remember the chronology.  
 16 Can you point me back to the first meeting I had with --  
 17 Q. 1 November, as I understand, 2010. (Pause)  
 18 I had better ask you, I haven't got it clear  
 19 perhaps. Who is investigating these petty cash items?  
 20 Is it you?  
 21 A. It would be -- it's somebody from my team who had gone  
 22 to the store to look at finances and the business.  
 23 Q. So I'll take page 33, because it's the first one, okay?  
 24 Someone is expressing concerns about a transaction?  
 25 A. Correct.

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1 Q. Do you see it? It says:  
 2 "There is no purchase receipt attached to this petty  
 3 cash transaction, and it's for cleaning."  
 4 Do you see that?  
 5 A. Correct.  
 6 Q. As you know, I think this is the one where Mr Parham  
 7 eventually explained that this was the cleaning for  
 8 an invoice which hadn't got paid?  
 9 A. Sorry, what was it referring to?  
 10 Q. A cleaning invoice was paid for £100, okay?  
 11 A. Sorry --  
 12 Q. It was paid out of cash --  
 13 A. What page are you referring to?  
 14 Q. Page 33, the first one in the extract you have referred  
 15 to in your witness statement. Okay? Someone has done  
 16 a sort of cover sheet saying "Petty cash. Transaction  
 17 dated ... performed by John Parham. Amount of £100.  
 18 Concerns with transaction"?  
 19 A. Yeah, you are confusing me by using the word "cleaning  
 20 invoice", because the concern with this is there is  
 21 nothing attached to it.  
 22 Q. I just put that to you. The concern is there is no  
 23 purchase receipt attached to this petty cash  
 24 transaction?  
 25 A. Yes, correct.

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1 Q. I was reminding you that Mr Parham's explanation for  
 2 this, that he gave on oath, was that at a time in early  
 3 2010 one of the invoices for the cleaning company didn't  
 4 get paid; do you remember?  
 5 A. I do.  
 6 Q. Maybe you weren't --  
 7 A. No, I do.  
 8 Q. You were here. And that he therefore paid it out of  
 9 cash, the invoice having been sent off to Specsavers of  
 10 course, because that was the complaint, that Specsavers  
 11 hadn't paid the cleaning invoice.  
 12 A. Right.  
 13 Q. So the invoice had gone up to Specsavers head office, or  
 14 accounts payable or whatever, they hadn't paid it, and  
 15 so the cleaner had had to be paid out of cash. That was  
 16 his explanation for it.  
 17 A. Right.  
 18 Q. Who has raised concerns with this -- I am looking at  
 19 page 33 -- transaction?  
 20 A. The member of my team that went into the store to --  
 21 Q. Who is that?  
 22 A. I can't specifically recollect who went to do the audit.  
 23 Q. Did they ask John Parham for an explanation about the  
 24 payment of this £100?  
 25 A. I don't know.

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1 Q. The next one, page 35, Karen, the retail manager, has  
2 put through a petty cash item of £50. Do you see?  
3 A. I see.  
4 Q. She has written on it "staff night out drinks", page 36?  
5 A. Yes.  
6 Q. Do you see that? Someone is raising concerns with that.  
7 A. Yes.  
8 Q. Do you know whether any of those concerns were raised  
9 either with Karen Bracknell or with Mr Parham or  
10 Mrs Parham?  
11 A. At which stage? At any stage?  
12 Q. Yes.  
13 A. I think in the interview with Mrs Parham we talked  
14 generically about petty cash receipts, but that would  
15 have been the only time that I put anything to anybody  
16 about these receipts and asked for an explanation.  
17 Q. Did you put to her the receipt? Because she says you  
18 didn't put to her any of the documents?  
19 A. The interview was incomplete.  
20 Q. Okay, so you didn't show her that Karen Bracknell had  
21 written "staff night out drinks" on the petty cash paid  
22 out slip?  
23 A. The interview was incomplete.  
24 Q. Okay. So all of these petty cash cover sheets with the  
25 attached items, these were matters that were

1 investigated by your team; is that right?  
2 A. Investigated --  
3 Q. Or a member of your team?  
4 A. Investigated or gathered. They had concerns when they  
5 read this which I understand their concerns.  
6 Q. Okay. And do you say they came across these concerns  
7 before or after 1 November 2010, being the only occasion  
8 you have ever interviewed Mr Parham?  
9 A. These were done during the audit, and I don't remember  
10 the chronology of when the audit was done and the date  
11 that I spoke to Mr Parham. Mr Parham, the date I am  
12 very clear on, because we were in a hotel and we met in  
13 the hotel.  
14 Q. You are not very clear on it. In your pleading you said  
15 it was 30 November.  
16 A. Yeah, okay, I would need to --  
17 Q. Made a mistake?  
18 A. I need to go back and read my statement. If you point  
19 me to my statement, I'll get the chronology correct.  
20 Q. C/36, paragraph 17, you actually note the error about  
21 the meeting taking --  
22 A. Sorry?  
23 Q. Page C/36, you note the error about the date of the  
24 meeting, and of course you don't have any note of that  
25 meeting, do you, so we don't have any record from you of

1 the meeting?  
2 A. No.  
3 Q. Perhaps that's why you didn't know the date of the  
4 meeting?  
5 A. Just let me read my statement. (Pause) I can see  
6 clearly where I refer to the date that I received the  
7 initial instruction, which was the email from Mike Rowe,  
8 that there was a problem to look into. I can also see  
9 very clearly that my meeting with Mr Parham was on  
10 1 November. I can't see in my statement any reference  
11 to the date of an audit. Where do I refer to a date of  
12 an audit?  
13 Q. You don't. That's what I am asking you for. I am  
14 asking you: when did this happen? Did this happen  
15 before 1 November 2010, or did this happen after  
16 1 November 2010?  
17 A. I don't know.  
18 Q. You don't know.  
19 A. The audit report here is dated 23 November 2010.  
20 Q. It is.  
21 A. Which is after the meeting with Mr Parham.  
22 Q. It is.  
23 MR POTTS: My Lord, the point was put that he doesn't say  
24 anything about the date in his statement. That is  
25 incorrect.

1 MR STUART: I am sure it will be taken up in re-examination,  
2 my Lord. I've asked him a straightforward, open  
3 question, and the answer he has given is "I don't know".  
4 MR POTTS: The question was it was said that the date is not  
5 mentioned in your witness statement, I think.  
6 MR STUART: No, I've asked whether he knows when the audit  
7 was done, was it before or after 1 November.  
8 MR POTTS: No, the question was "where do I refer to the  
9 date of an audit?" and the question which you put was  
10 "you don't". The point I am saying is the question is  
11 not fair because he does.  
12 MR JUSTICE HILDYARD: Well, if it is stated, it's not fair  
13 to have said "you don't", is it?  
14 MR STUART: No. Well, I am asking about the date --  
15 MR JUSTICE HILDYARD: Does he state it?  
16 MR STUART: I mean, what is this audit? I don't in any way  
17 accept as to --  
18 MR JUSTICE HILDYARD: Well, I accept that --  
19 MR STUART: -- quite what audit we are talking about here.  
20 I've asked him whether these documents that I have been  
21 taking him to, ie these petty cash items which are  
22 part -- which each have concerns with them, and which he  
23 says now in his evidence are concerns raised by some  
24 unidentified member of his team --  
25 MR JUSTICE HILDYARD: I understand that, but what happened

1 was that Mr McAlindon asked "I can't see in my statement  
2 any reference to the date of an audit. Where do I refer  
3 to a date of an audit?" And you say "You don't. That's  
4 what I am asking you for".  
5 Mr Potts' point is that he has stated when the date  
6 of the audit was. I can't remember where that is but --  
7 MR STUART: No, well, Mr Potts can remind him.  
8 MR POTTS: Well, my Lord, the point was the question was  
9 inaccurate.  
10 MR STUART: What's the date of the audit?  
11 MR POTTS: Paragraph 28.  
12 A. Yeah. I think, my Lord, it is quite clear. I had the  
13 initial email for the NPower cheque which started us to  
14 look into it. I met with Mr Parham on 1 November. This  
15 audit report is dated 23 November 2010. So -- and  
16 during that meeting with Mr Parham, I expressed concern  
17 about the believability of his explanation in relation  
18 to the NPower cheque. I was concerned about banking  
19 variances, and I explained to him that we needed to do,  
20 look into the banking variances and look at the other  
21 finances of the business. The agreement during that  
22 meeting was that we would go and do an audit in store,  
23 and this audit was completed and is dated in the audit  
24 report on page 1, 23 November. So that happened after  
25 my meeting with Mr Parham at the hotel on 1 November.

1 MR STUART: So you are saying that all of these items only  
2 came to your knowledge after your only interview with  
3 Mr Parham?  
4 A. Correct.  
5 Q. So you have never had an interview with Mr Parham at  
6 which any of this has been put to him or he has been  
7 given any opportunity to answer it?  
8 A. Correct.  
9 Q. Any of it?  
10 A. Correct.  
11 Q. Okay. The only interview we do have a record of is with  
12 Mrs Parham; is that right?  
13 A. Correct.  
14 Q. I think the one we have been using is in E2, page 428-1.  
15 There are various versions of this transcript, but  
16 I think the one we have been using, and therefore that's  
17 likely to be highlighted for all of us, is at 428-1  
18 through to 428-12. Do you see that?  
19 A. Yeah.  
20 Q. I just want to understand what you are saying about  
21 dishonesty here. Page 428-4, just above the second  
22 holepunch, there is a question from you:  
23 "Hang on, so I just go back a little bit."  
24 Do you see that bit?  
25 A. Yeah.

1 Q. "The test you go through, whether it be company law or  
2 civil law or criminal law, there are lots of different  
3 benchmarks of whether it's technically right or is it?  
4 A lot of it comes down to what is the rest of the common  
5 man."  
6 A. I think that should read "test".  
7 Q. Test, "test of the common man".  
8 "What my question to you is say someone said that  
9 you have to read a policy."  
10 Do you see that bit?  
11 A. Yes.  
12 Q. About taking cash out of a till; do you see that?  
13 A. Yes.  
14 Q. Then you take up your quote of the test of the common  
15 man in the next, your next chunk, do you see you say:  
16 "Yeah, to NPower, to Specsavers, for an overpayment  
17 made by the company. So my question really is if you  
18 apply the test of the common man to that, I explain that  
19 to a man in the street, what do you think a man would  
20 say. Now, I think because of the way that he has done  
21 it, I think it's most reasonably to conclude that most  
22 common people would say you are having a laugh, that's  
23 deceitful and it's dishonest."  
24 Do you see that?  
25 A. Mm.

1 Q. The next chunk down you talk about manipulating it by  
2 refunding it. Do you see "manipulating"? Do you see  
3 that?  
4 A. Sorry, I am just reading the rest of the first  
5 paragraph. (Pause)  
6 Q. Do you see it? Let me ask you the question. The  
7 question is: you are suggesting that it's dishonest to  
8 report a transaction in a way which is not accurate with  
9 a view to obtaining some sort of objective --  
10 A. Sorry, could you repeat that, please?  
11 Q. Yes. You are suggesting that it is dishonest to report  
12 a transaction or to describe a transaction in a manner  
13 which is not accurate with a view to trying to gain some  
14 advantage from that; is that right?  
15 A. I think that what I am trying to get across here is that  
16 I am sat listening to a joint venture partner who is  
17 running the day-to-day running of the business, who is  
18 an experienced director of a company. For  
19 an experienced director of a company to say "I didn't  
20 realise the procedure and I just did anything", is from  
21 my experience highly implausible. My role here is, in  
22 many respects, as a facilitator, and I think that people  
23 reading that would wonder why I didn't ask more  
24 questions.  
25 So what I was trying to do was give Mrs Parham

1 a context where, you know, a straightforward individual,  
 2 let alone people who are responsible and accountable for  
 3 managing day to day and shareholders, you know, a normal  
 4 person, if you explain to a normal person that you get  
 5 paid a salary and you get paid distributions that are  
 6 agreed by financial planning, is it plausible to say  
 7 that somebody would take a cheque in the way that was  
 8 gone. It's just not plausible. A normal person would  
 9 look at it and say that doesn't make sense. And I was  
 10 trying to put that across to Mrs Parham so that she  
 11 could think about what she was saying in terms of its  
 12 plausibility and how other people would consider her  
 13 responses and the plausibility of it. And if I sat  
 14 there and I don't believe it to be plausible, I need to  
 15 try and give her some context as to why and what she  
 16 needs to do about it, you know, she needs to explain it  
 17 further if it's a reasonable explanation, because the  
 18 reasonableness isn't coming across. So that's what  
 19 I was trying to get across to her.  
 20 Q. So that's in relation to Mr Parham and the way he has  
 21 reported to Specsavers and dealt with this £555 rebate?  
 22 A. Correct.  
 23 Q. Then you also go on to deal with the question of honesty  
 24 and appropriate behaviour and integrity, I think, at  
 25 page 428-11. This is the bit that Mr Parham highlighted

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1 in her evidence, where she felt that you were raising  
 2 the GOC matter. Do you see at 428-11, the first main  
 3 chunk down starts with:  
 4 "I should have done somewhere, just give me one  
 5 second."  
 6 Do you see that bit?  
 7 A. Yeah, I'll read it. (Pause).  
 8 Q. Specifically, whilst you are reading it, I'll pick out  
 9 the words I want you to consider:  
 10 "... appropriate behaviour of someone,  
 11 a professional person, conduct height of honesty and  
 12 integrity."  
 13 Do you see that?  
 14 A. Correct.  
 15 Q. "Behaving in an honest and with good integrity ..."  
 16 Do you see that?  
 17 A. Yeah.  
 18 Q. You raise the issue of possibly being evasive or  
 19 deliberately withholding information; do you see that?  
 20 You take that as an example of what might be considered  
 21 not entirely honest and high integrity.  
 22 So one should behave honestly, with good integrity,  
 23 height of honesty, et cetera, et cetera.  
 24 Now, do you consider yourself bound by these, in  
 25 relation to your professional work, standards of

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1 honesty?  
 2 A. I would say so.  
 3 Q. Okay. So you don't mislabel things?  
 4 A. Not intentionally.  
 5 Q. With a view to achieving a result that you want to  
 6 achieve?  
 7 A. Not intentionally.  
 8 Q. You don't intentionally exaggerate things with a view to  
 9 achieving a result that you want to achieve?  
 10 A. No.  
 11 Q. You don't withhold information or evidence as part of  
 12 your investigatory, your disciplinary processes?  
 13 A. Erm --  
 14 Q. With a view to achieving a result --  
 15 A. No, this is not an investigatory or disciplinary  
 16 process, this is an investigative process. As I said  
 17 the last time I was in the witness box, the  
 18 investigative process in any store, if you have  
 19 a concern, if you are a store director in a store and  
 20 you have a concern about an employee, you would gather  
 21 the facts and you would literally call the employee into  
 22 the room and you would present the facts to them, and  
 23 you would have a notetaker and you would decide: is  
 24 there a case to answer to? And if there was, you would  
 25 then instigate a disciplinary process. In effect with

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1 partners we are actually going much further than is done  
 2 in a normal employment environment. This is only  
 3 an investigation. Decisions haven't been taken there  
 4 are disciplinary cases to answer to, let alone commence  
 5 the disciplinary process, and we have already furnished  
 6 those partners for -- to give them a fair understanding  
 7 of what's being investigated, we have already given them  
 8 more information than is normal for normal employees in  
 9 a normal working environment.  
 10 Q. Okay. Now, after that interview, you emailed Mr Dyson,  
 11 page 434, on 9 March. Perhaps I should just get some  
 12 groundwork done first. Mr Dyson wasn't part of this  
 13 investigatory process, was he?  
 14 A. No.  
 15 Q. You hadn't sent him --  
 16 A. He was aware that an investigative process was ongoing.  
 17 Q. Yes.  
 18 A. Intermittently I updated him as to where we were with  
 19 our investigation process but no, he wasn't involved as  
 20 such.  
 21 Q. You didn't send him the files or the evidence?  
 22 A. Not at that stage.  
 23 Q. No. Did you at any stage send him the files, the  
 24 evidence?  
 25 A. I didn't send him the files. When the investigation had

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1 concluded because they had resigned, shortly after that,  
 2 I -- as is normal practice -- sent the files by special  
 3 delivery to Guernsey --  
 4 Q. When did you do that?  
 5 A. Within a day or two after the resignations.  
 6 Q. So that would be the resignation -- you are counting the  
 7 resignation as on that day, 7 March?  
 8 A. If that was the day in the hotel with -- on the day of  
 9 interviewing Mrs Parham, it would have been shortly  
 10 after that that I sent the files to Guernsey.  
 11 Q. Within a day or two?  
 12 A. I don't know how many days, but shortly after that  
 13 I would have sent the files to Guernsey.  
 14 Q. For Mr Dyson to read or just to have in the --  
 15 A. No I send them to Alison Anderson -- now called  
 16 Alison Girollet -- in the legal department and she  
 17 archives them somewhere. That's been the normal process  
 18 for 14 years.  
 19 Q. On 9 March you write this email at 434, do you see it  
 20 starts "Derek"?  
 21 A. Yes.  
 22 Q. You list 13 matters, do you see them?  
 23 A. I do.  
 24 Q. Over the page, at 435, you say:  
 25 "I am sure there is more but Les has the files."

1 That's Les Gutteridge in your team, yes? I think we  
 2 can safely say, can't we, that the files are still with  
 3 your loss prevention department at this stage and  
 4 haven't got anywhere near Mr Dyson?  
 5 A. Yeah, I think what would have happened is Phil Barnes  
 6 would have taken the files from the interview back to  
 7 his home. Les Gutteridge lives around the corner from  
 8 him, and Les would have posted them to Guernsey, but  
 9 I can't recollect.  
 10 Q. Anyway, this is your summary of matters to your boss,  
 11 Mr Dyson; that's right, isn't it?  
 12 A. Yes.  
 13 Q. Number one, the cleaners; yes? She was being paid  
 14 through -- this is the cleaner -- the store as if she  
 15 were a store cleaner; do you see that bit? Do you see  
 16 item number one, the cleaners?  
 17 A. Yes.  
 18 Q. You don't mention there to Mr Dyson the explanation  
 19 about -- any explanation being given about cleaning?  
 20 A. No.  
 21 Q. Number two:  
 22 "All of their nursery childcare is put through as  
 23 a business related expense. This is thousands. Not  
 24 small money."  
 25 Now, I don't think this is an allegation which is

1 pursued as in any way, shape or form dishonest or  
 2 improper?  
 3 A. No.  
 4 Q. It was all done openly, through the systems, wasn't it?  
 5 A. Correct. That wasn't pursued because I subsequently  
 6 learnt, well, the interview was prematurely cut short  
 7 and they didn't pursue with further interviews, so we  
 8 would have asked questions in relation to a lot of the  
 9 stuff that's in here, my view may have changed as that  
 10 progressed, the reason for childcare not being pursued  
 11 is that I think that there is an agreement where  
 12 childcare can be considered as part of a benefit in  
 13 kind. So that was a benefit in kind.  
 14 Q. Exactly, that's actually part of Specsavers' own  
 15 policies, isn't it?  
 16 A. Correct. At the time I wrote this I didn't realise  
 17 that.  
 18 Q. What, you didn't know the policy that you are alleging  
 19 a breach of?  
 20 A. Correct.  
 21 Q. And you are the head of the loss prevention department?  
 22 A. Yes, that's right.  
 23 Q. Is this what you might describe as an innocent mistake?  
 24 A. It's not a mistake, it was a question of having seen  
 25 this, which was the first time I had seen this in the

1 store accounts I subsequently learnt that there was  
 2 written agreements from the tax offices in relation to  
 3 childcare.  
 4 Q. Okay, so you were unaware of the policies?  
 5 A. It's not a mistake, it was just a gap in knowledge at  
 6 that time. I've subsequently learnt it through this  
 7 investigation.  
 8 Q. You were unaware of the policy?  
 9 A. Correct.  
 10 Q. And so when you were seeking to suggest that there was  
 11 some sort of impropriety in charging thousands for  
 12 childcare, you did that under the genuine and honest  
 13 mistaken lack of knowledge of the policy?  
 14 A. Correct, and I think when the investigative process  
 15 continued there may well have been changes in my opinion  
 16 on a lot of the issues. Some of them may have been  
 17 discounted, others I may have -- but the investigation  
 18 never concluded.  
 19 Q. No. I mean, Mr Parham --  
 20 A. So that was a sense of I had received the email from  
 21 Shakila Parham requesting reinstatement, and I had  
 22 forwarded that to Derek, because I didn't feel it was  
 23 appropriate for me to make that decision, with a list of  
 24 what I got as a general sense -- again because the  
 25 investigation file hadn't been concluded, we hadn't done



1 an absolute accurate finalised investigative report, and  
 2 that was a sense of what I felt when I wrote this email.  
 3 I didn't have the files in front of me, I had a general  
 4 perspective of how I saw all the issues, and that was  
 5 an email that I wrote without any other documents, to  
 6 give Derek Dyson a flavour of the issues that were being  
 7 investigated against the request to be reinstated, and  
 8 had Derek Dyson read that and found that there were  
 9 things that he felt were inflammatory or he wanted to  
 10 see specifics, you know, that would have been followed  
 11 up. But I was simply emailing Derek to give him a view  
 12 on how I perceived the case at that point in time in  
 13 light of her request.  
 14 Q. So you were unaware of the policy and that would be  
 15 an innocent mistake on your part. The next one you seem  
 16 to be unaware of the policy as well, don't you?  
 17 Number three:  
 18 "Meals and drinks which are personal expenses are  
 19 put through petty cash. He buys Shakila her and his  
 20 lunch from the till."  
 21 Do you see that? Presumably you were unaware of --  
 22 could you be shown E1/88-21? Do you see that?  
 23 A. I see that.  
 24 Q. I think you presumably were not aware of that?  
 25 A. No, I was aware of that. Sorry, I'll just go back to

1 this.  
 2 Q. Putting lunches through from petty cash is not  
 3 necessarily in any way wrong, is it, if it is under the  
 4 working lunches section of the Specsavers expenses and  
 5 benefits policy?  
 6 A. I think again when I wrote this, I didn't have all the  
 7 files in front of me. That's the first issue. I accept  
 8 that, out of all the petty cash receipts that were put  
 9 through, which I think is in bundle H, there were, for  
 10 example -- or I believe there may be, I would have to go  
 11 back and have a look. If I saw a receipt for a sandwich  
 12 and a drink times two, and the explanation in the  
 13 interview was, "Well, we did have some working lunches",  
 14 that receipt is okay, then, I would accept that as  
 15 an explanation. However, there was a lot more on those  
 16 receipts that make it transparent this is nothing to do  
 17 with working lunches where their general shopping items,  
 18 you know, there is some where it has steak and chicken,  
 19 there are some where it has salad cream and Branston  
 20 pickle, these are not working lunches.  
 21 So when I am writing this in my mind I have a sense  
 22 of all the receipts that we had as a bundle, that  
 23 I didn't have in front of me when I wrote this email,  
 24 and I accept that all meals and drinks which was  
 25 personal expenses are put through petty cash, you know,

1 within all of that there was meals and drinks and other  
 2 things that were just not -- that were personal expenses  
 3 that were put through petty cash. So I don't think my  
 4 statement is fundamentally wrong or disproportionate or  
 5 it certainly doesn't distort my perception of the  
 6 overall picture of those receipts. I think it fairly  
 7 represents it.  
 8 Q. Mr McAlindon, do I have to remind you that when you put  
 9 this allegation to Mrs Parham, you started taking her to  
 10 the SOG's subsistence policy all about whether people  
 11 were more than X number of miles from their shop at the  
 12 time when subsistence matters are raised. You were  
 13 going off on the complete wrong tangent, weren't you?  
 14 A. I may well have been.  
 15 Q. You were unaware of the working lunches?  
 16 A. No, I would have accepted working lunches.  
 17 Q. What you have actually said to Mr Dyson is --  
 18 A. Sorry.  
 19 Q. -- "he buys Shakila her and his lunch every day from the  
 20 till", that's the complaint?  
 21 A. Sorry, let me be very specific. I would have accepted  
 22 working lunches if they had been paid and reclaimed  
 23 through the eBis system, which is that there are two  
 24 parts to the eBis system, there are cash expense claims  
 25 and there are credit card expense claims. The correct

1 way to put any form of subsistence, whether it be  
 2 working lunches or otherwise, is through the eBis  
 3 system. To put them through petty cash is not correct.  
 4 So I would have accepted, you know, working lunch  
 5 when it been claimed correctly and in a transparent way.  
 6 But putting it through petty cash is just not  
 7 transparent.  
 8 Q. The next one you raise is the skiing trip. This is the  
 9 Specsavers skiing trip; yes? The one where Mrs Hart  
 10 goes on it and Mr Hutchings goes on it.  
 11 A. Correct.  
 12 Q. This is a trip that only Mr Parham went on, wasn't it,  
 13 as you well knew?  
 14 A. Correct. Sorry, I didn't know who went on the skiing  
 15 trip.  
 16 Q. Yes, you did.  
 17 A. Sorry. "They went on skiing trips, the flights were  
 18 claimed ..."  
 19 Q. That's wrong, though, isn't it, you knew that they  
 20 didn't go on a skiing trip, he went on the Specsavers  
 21 skiing trip, and you knew that, didn't you? Certainly  
 22 by the time you wrote this email you did?  
 23 A. There was expenses relating to a skiing trip, flights,  
 24 and I am giving my sense of it to Derek and how it  
 25 happened.

1 Q. Your sense of it is wholly wrong. You say "They went on  
2 a skiing trip". That's not right, is it? He went on  
3 a skiing trip, there was --  
4 A. I wouldn't dispute that, that's correct. Again,  
5 my Lord, I don't think I'm wholly being misleading.  
6 I think the other thing with the skiing trip is that it  
7 may well be reasonable to consider it as a business  
8 related expense, but it would be a P11D item. I think  
9 the issue with the skiing trip was the way that it had  
10 initially been claimed as a PSA expense, which is --  
11 a PSA expense would be where the company would pay for  
12 a benefit that an employee was being given. So if  
13 I gave the retail manager a skiing trip, then you would  
14 put that through as a PSA expense, or a dispensing  
15 manager, or whatever. He isn't -- his way of declaring  
16 that would be on P11D. The fact that he's put it  
17 through as a PSA means that he is not pay paying a tax  
18 on it, the company is paying the tax on his behalf.  
19 It's not right, but it's not a hill of beans, that  
20 particular one, and it may well have been that again had  
21 we gone through all the investigative process, some  
22 issues would have been included, some issues would have  
23 been excluded, depending on how bad is it, that one  
24 might not be as bad as others.  
25 MR JUSTICE HILDYARD: You thought it was potentially

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1 fraudulent?  
2 A. Yes, but it may have changed as we went through the  
3 investigative process, but it may have stayed in, but we  
4 didn't finalise it. You know, at the time that I am  
5 writing this, again, I am giving a sense to Derek of  
6 what it generally looks like, what the general conduct  
7 looks like, and again I don't think that I am  
8 fundamentally misrepresenting anything that I've seen  
9 and how I feel about it.  
10 MR STUART: But you were aware about the skiing trip,  
11 weren't you? Since we are here, 428-8.  
12 A. I was aware because it's in this, it's in this document,  
13 I am referring to it.  
14 Q. You had just two days beforehand had your rather  
15 memorable meeting with Mr Hutchings and Mrs Parham, and  
16 you had raised the issue of the skiing trip, and she had  
17 sought to involve Mr Hutchings in confirming the  
18 explanation for this, which was that it was a Specsavers  
19 skiing trip and that the other -- all of the JVPs who go  
20 on that trip put it through --  
21 A. There is no evidence to support that everybody else put  
22 it through.  
23 Q. Have you investigated that?  
24 A. There was no evidence -- and, no, I didn't investigate  
25 it -- to support how other partners put their skiing

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1 trips through, and whether or not they simply paid for  
2 it personally, because they viewed it as "a skiing trip  
3 I am going on with my colleagues but I am paying for it  
4 myself" or whether or not they put it through as a P11D  
5 item, which would have been accepted. The company, you  
6 know, is flexible in that respect, providing the tax was  
7 paid on that benefit in kind. But no, was every  
8 individual who went on that skiing trip explored to see  
9 how they put it through? No, that would have been  
10 utterly impractical to do so.  
11 MR JUSTICE HILDYARD: Was anyone?  
12 A. No. And, you know, the investigation was cut short  
13 because of the way that events led. So we may well have  
14 explored other issues further and we would have put it  
15 to Mr Parham, had he been interviewed.  
16 MR STUART: You had your explanation at 428, in the presence  
17 of Mr Hutchings, who is asked to confirm it --  
18 A. Sorry, where are you --  
19 Q. 428-8, just below the second holepunch:  
20 "Susannah Hart knows about it, by the way" --  
21 A. I am still working my way backwards.  
22 Q. Sorry, 428-8. Do you see two blocks below the second  
23 holepunch:  
24 "Susannah Hart knows about it, by the way, because  
25 it happens every year. Fellow directors go. They are

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1 all struggling, all of them, what code it comes under.  
2 Everyone that John rang, the seven people that went on  
3 this trip were struggling. Was it a PSA, was it a P11D?  
4 And I heard him say to the others: what do we put it  
5 under?"  
6 A. Sorry, I am trying to catch you up. I have read the  
7 paragraph starting "Okay, another couple of items".  
8 Q. No, below -- go down two chunks --  
9 MR JUSTICE HILDYARD: I think he wants to set it in context,  
10 so let him.  
11 MR STUART: Oh, I am sorry.  
12 (Pause)  
13 A. Sorry, yeah, I've read that.  
14 Q. Okay, so this is an item where Mr Parham had put the  
15 item on to the eBis system, hadn't he?  
16 A. Correct.  
17 Q. And he had described it as a skiing trip, hadn't he?  
18 A. I believe so.  
19 Q. And it was a skiing trip that fellow directors, or JVPs  
20 of Specsavers companies went on?  
21 A. I believe so.  
22 Q. Wasn't it?  
23 A. Well, I accept that, I don't know.  
24 Q. Okay. It was -- in describing it as a ski trip, he then  
25 went on to seek to claim it as a PSA under the eBis

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1 system?  
 2 A. Correct.  
 3 Q. What is dishonest about sending in a request to the eBis  
 4 system saying "This is a ski trip"?  
 5 A. Sorry, what was dishonest about it?  
 6 Q. Yes.  
 7 A. I think I've already explained that, but ... a PSA  
 8 expense is a benefit in kind being given to an employee,  
 9 the company would want to pay the tax for, so they don't  
 10 end up being penalised for the prize that they have been  
 11 given. A partner having a personal expense puts it on  
 12 their P11D. It's not a PSA expense, it's a P11D  
 13 expense. So the fact that in consideration and  
 14 reflection of all the other transactions this is one  
 15 transaction that I am querying, and because of the other  
 16 transactions I am questioning in my own mind as to  
 17 whether or not it was done deliberately so he didn't  
 18 have to pay any tax on it and the company would, ie pay  
 19 it at a lesser rate or, you know, was he simply ignorant  
 20 of the rules?  
 21 So I'm asking the question to try and understand  
 22 what his perspective of that transaction, what her  
 23 perspective of it was and the plausibility of the  
 24 explanation, you know. Why would you put it through as  
 25 a PSA? You know, you are the one who is benefitting

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1 from it, everything you benefit from goes on your  
 2 personal P11D.  
 3 MR JUSTICE HILDYARD: Didn't he then try and do it by  
 4 a P11D?  
 5 A. He tried to do it as a PSA and it was rejected as a PSA  
 6 because of who he was, and it didn't specify it was for  
 7 a retail manager called Dennis. Had it had that on it  
 8 they may not have rejected it, I don't know, but because  
 9 it was him it was rejected and he was told no, this was  
 10 a P11D expense. But my issue with that was that in  
 11 doing so, was he trying to evade paying tax himself on  
 12 it and make the business pay for it, and I am simply  
 13 asking the question.  
 14 MR STUART: But there wouldn't be any tax saving, would  
 15 there, net, overall?  
 16 A. I don't know what the difference in the calculations  
 17 between PSA and P11D are, I just know that the company  
 18 pays staff's stuff through PSA and the company pays  
 19 theirs through the P11D. I don't know what the  
 20 difference in percentages are.  
 21 Q. The next one you --  
 22 MR JUSTICE HILDYARD: I just want to make clear in my own  
 23 mind what it is. I had read, but possibly wrongly, that  
 24 the bit which starts "okay, right, another couple of  
 25 items", that the sequence was that Mr Parham had put it

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1 through as a PSA expense, been told that that was the  
 2 wrong way, and then resubmitted it as a P11D item. Then  
 3 you say:  
 4 "I struggle to see how you can claim that as  
 5 an expense in any context", which I had read as being  
 6 whether under PSA or P11D, "against the tests of the  
 7 common man claiming expenses. How could you possibly  
 8 justify a skiing trip? I struggle to think of a way.  
 9 Can you think of a way?"  
 10 A. Yes.  
 11 MR JUSTICE HILDYARD: I had read that as signifying that you  
 12 thought that whatever the method of claim, it was the  
 13 fact of a skiing trip which the common man would find  
 14 an unacceptable --  
 15 A. Correct.  
 16 MR JUSTICE HILDYARD: -- item as a business expense?  
 17 A. At the time of the interview, and I looked at the  
 18 receipt, I thought it was wrong, he couldn't possibly do  
 19 it. After I had heard her explanations that other  
 20 directors went on the skiing trip and that other people  
 21 within SOG were aware of the skiing trip I found it  
 22 a plausible explanation, so I thought -- you know, when  
 23 I then wrote my email, wherever it was, the issue was --  
 24 my issue then became it was not as bad as I thought it  
 25 was, but I still found it questionable as to whether or

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1 not, you know, how he put it through the business.  
 2 MR JUSTICE HILDYARD: I see, thank you very much.  
 3 A. So my opinion dropped on it from where it originally  
 4 started.  
 5 MR JUSTICE HILDYARD: It was not as bad as you originally  
 6 thought?  
 7 A. No, I don't think it was.  
 8 MR JUSTICE HILDYARD: It was a question of manner in which  
 9 the expense claim had been made rather than the expense  
 10 claim itself?  
 11 A. Yes, and I think the reason for including it in my email  
 12 to Derek was that I still had doubts over it, I hadn't  
 13 had the opportunity to put it to Mr Parham and see if  
 14 there was consistency in it. You know ... yeah.  
 15 MR STUART: I am sorry, Mr McAlindon, even you would accept,  
 16 once it was put through as a P11D, it's not being put  
 17 through as a business expense, is it? P11D is the  
 18 opposite of a business expense.  
 19 A. Correct.  
 20 Q. P11D is "it's my personal benefit, I pay all the tax on  
 21 that"?  
 22 A. Correct. I think there were, throughout the  
 23 conversation, different levels. My initial starting  
 24 point was that I didn't think a skiing trip is  
 25 reasonable in any condition. Having got the

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1 explanation, I don't dispute that if other directors are  
 2 going, then maybe people would accept that that was  
 3 a reasonable expense. However, in any case my concern  
 4 was that by putting it through as a PSA rather than as  
 5 P11D, my concern was is that another example along with  
 6 other examples where consideration hasn't been given to  
 7 putting it through the system in a way that you pay the  
 8 appropriate tax?  
 9 Q. Just to be clear as to whether the PSA was potentially  
 10 capable of covering this, would you go to E1, page 202,  
 11 another of Specsavers' policies which you appear to be  
 12 unaware of.  
 13 A. Sorry, which page?  
 14 Q. Page 202 in E1. You see, Mr McAlindon, you may not have  
 15 been aware of this, but do you see about halfway down,  
 16 just above the second holepunch, there is a 6.3 "PAYE  
 17 settlement agreement, PSA". This is an explanation as  
 18 to what the Specsavers Group PSA is; do you see it?  
 19 A. I do.  
 20 Q. It doesn't quite accord with what you have just said.  
 21 What this is, the group PSA, is that this allows certain  
 22 expenses to be excluded from the P11D, so these are  
 23 expenses which ordinarily are not considered business  
 24 expenses, and they would be personal benefits to go on  
 25 the employee's personal P11D so that they would pay the

1 tax on it. But Specsavers has a PSA agreement with the  
 2 Revenue which covers certain items, do you see?  
 3 A. I do.  
 4 Q. Which can then be sought to be categorised as PSA even  
 5 though they are not, or rather even though they are  
 6 benefits to the employee concerned, and they include  
 7 gift vouchers, do you see?  
 8 A. I do.  
 9 Q. Gifts to staff, flowers; do you see that?  
 10 A. I do.  
 11 Q. So gifts to staff, flowers, et cetera, are not P11D  
 12 matters of benefit for the member of staff concerned,  
 13 they fall within the general exclusion that is allowed  
 14 to be put through as a business expense. Do you see  
 15 that?  
 16 A. My understanding is that that excludes directors. My  
 17 understanding is that is for employees, and a director  
 18 would put it through their P11D.  
 19 Q. No, it doesn't say that, does it?  
 20 A. I know it doesn't say that, but my understanding --  
 21 Q. Oh, I see.  
 22 A. -- of the policy, and at the end of the day if my  
 23 interpretation of it is wrong, which I don't believe to  
 24 be the case at all, but if my understanding is wrong,  
 25 had we finished the investigation, still felt it

1 appropriate to include the skiing trip in the  
 2 investigation report and as part of the disciplinary  
 3 process, the disciplinary process it would have had the  
 4 opportunity to challenge it, and before it even got to  
 5 a disciplinary process people would have challenged my  
 6 interpretations of the rules, and if I had put it into  
 7 the file and people thought: hang on a minute, that's  
 8 not right, they would have excluded it.  
 9 So, you know, as you go through all the process, the  
 10 rights and wrongs of my interpretations against my  
 11 understanding of the rules would have been challenged,  
 12 questioned, and you know, it would have been taken out  
 13 if necessary. If it wasn't, it would have stayed in.  
 14 My understanding is very, very clear in terms of  
 15 I believe PSA relates to general employees, P11D relates  
 16 to directors. And therefore this, absolutely right, if  
 17 I give the skiing trip to a manager, it would be a PSA  
 18 expense and the company would pay the tax. But if  
 19 a director takes that skiing trip it is a personal P11D  
 20 item, and that's what I believe to be the case.  
 21 MR POTTS: My Lord, sorry, I think the question again, I am  
 22 afraid I'm not sure it was a fair question. The answer  
 23 was:  
 24 "My understanding is it excludes directors, my  
 25 understanding is for the employees."

1 The question was:  
 2 "No, it doesn't say that, does it?"  
 3 My friend read out a section of it, he omitted the  
 4 first sentence of that paragraph.  
 5 MR STUART: Where does it say "This excludes directors"?  
 6 A. Well, it says "in order to reduce the number of P11Ds",  
 7 P11Ds are partners.  
 8 MR STUART: It doesn't say anything about excluding  
 9 directors.  
 10 MR POTTS: My Lord, it says:  
 11 "... and to avoid staff paying tax on gestures of  
 12 goodwill through the directors, the services agree a PSA  
 13 for the group."  
 14 MR STUART: And my clients are staff, as has been repeatedly  
 15 put, and they have P11Ds as staff, not as directors.  
 16 P11D is an employee form, as anybody who knows the tax  
 17 system would know.  
 18 So it is simply not right, is it, Mr McAlindon, that  
 19 there is any express exclusion here of the PSA applying  
 20 to things that happen, where the person who receives the  
 21 benefit happens to be both a director and an employee?  
 22 A. I think that if somebody had offered that as  
 23 an explanation for claiming it in the way, as a PSA,  
 24 I think that would have been a highly plausible  
 25 explanation because I read this very clearly that a PSA

1 relates to employees not directors. To me, that is very  
 2 clear, and I think from a general practice point of  
 3 view, you know, that's how the whole estate understands  
 4 those rules. I think it's very clear. If somebody had  
 5 said "I am an employee as well", you would say that's  
 6 just convenient, I don't think that would be  
 7 an unreasonable conclusion to come to. So I don't agree  
 8 at all.

9 Q. Are you saying that in all your time of investigating  
 10 all the stores in all this country that wherever the  
 11 benefit concerned benefitted a member of staff who was  
 12 also a director of the company, that that is a dishonest  
 13 breach of the company's policy?

14 A. I can't recollect a situation where a director has put  
 15 through benefits in kind for themselves as a PSA expense.  
 16 I've not seen that, to my recollection, in all the time  
 17 we have been recording. So the fact that I've seen it  
 18 in this case and have an issue with it is because I have  
 19 no -- it's a highly -- it's an extraordinarily unusual  
 20 way of claiming it. I've not seen it before.

21 MR JUSTICE HILDYARD: So golf clubs --

22 A. Its abnormal.

23 MR JUSTICE HILDYARD: Golf clubs, health clubs, they are  
 24 only for staff, not directors, by this method?

25 A. If you give a member of staff a set of golf clubs as  
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1 a gift because they have done a great job it is a PSA  
 2 expense.

3 MR JUSTICE HILDYARD: But not a director?

4 A. For a director it's a P11D, everybody knows that.

5 MR STUART: So subscriptions for a health club?

6 A. What about them, is it a question?

7 Q. You see it's on the list there, subscriptions for  
 8 a health club.

9 A. Sorry, what's your question?

10 Q. If the subscriptions purchased were, let's say there  
 11 were four of them, two of them were for employees who  
 12 were not directors and two who were directors, and that  
 13 item was put into the accounts department of Specsavers,  
 14 making it absolutely clear who it was who were the  
 15 members who were getting these health club memberships,  
 16 it would -- two of them would be put through as PSA and  
 17 two of them would be put through as P11Ds, that's your  
 18 evidence?

19 A. No, it's not my evidence --

20 Q. No.

21 A. If somebody had paid for four memberships on a company  
 22 credit card, as is suggested, not an unreasonable thing  
 23 to do, however it comes through on eBis as one  
 24 transaction. So if it's £500 or £600, whatever it is,  
 25 it would have to be proportionately allocated. Now,

1 that's a very challenging thing to do on eBis. So you  
 2 would have to put a note in, either do it as a PSA or  
 3 a P11D but put a note in and explain to the accounts  
 4 team that actually this is two directors and that half  
 5 needs to go on my P11D, and the other half is a PSA, and  
 6 on our PSA. And that way the expense would have been  
 7 approved and, although it's technically difficult to  
 8 split -- you can't split a transaction within eBis, the  
 9 accounts team would have made sure that it was properly  
 10 allocated from one and the other. So it's not, you  
 11 know ...

12 Q. All right, so it's a matter for the accounts team to  
 13 sort it out?

14 A. Correct. Correct.

15 Q. Finally, I just want to deal with the next one because  
 16 it's a short one, they went on a holiday to Spain, they  
 17 went on a holiday to Spain? You absolutely knew that  
 18 Mrs Parham had not gone to Spain, you knew that, you had  
 19 investigated it?

20 A. No, I knew there was a receipt with flights that were  
 21 a holiday to Spain.

22 Q. For one adult and two children. If you've seen the --

23 A. Can you point me to the receipt?

24 Q. Yes. It's in H, I presume you are looking at the one in  
 25 H, and I think we find it at page 171. The receipt, you  
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1 are talking about a receipt, yes? This is what you were  
 2 investigating, the receipt, page 171, the fares appear  
 3 to be one adult, £59.98 plus taxes, £32.37, a total of  
 4 £92.35 for the one adult. Then two children, one  
 5 doesn't seem to get a discount with Aer Lingus for being  
 6 a child, so that the two children cost double the adult,  
 7 and their taxes cost double that. The grand total was  
 8 £341, that seems to be what you are referring to in  
 9 number five. You must have had that receipt --

10 A. Correct.

11 Q. -- available to you?

12 A. Yes, correct.

13 Q. So you would have been well aware that it was one adult  
 14 and two children, not "they went on a holiday to Spain",  
 15 that's right, isn't it?

16 A. Well, it hadn't been clarified in the interview that  
 17 only one person went with two children, and my  
 18 interpretation, you know, has clearly been affected by  
 19 seeing "John Parham and Shakila Parham" at the top.  
 20 I --

21 Q. That's not true, Mr McAlindon. Go back to page 428-9,  
 22 you have just said in evidence it wasn't clarified in  
 23 the meeting with Mrs Parham that she didn't go. 428-9,  
 24 you start, do you see it at the top? Your first  
 25 question:

1 "Okay, we will move on from that one then. Flight  
2 to Spain £341 to do with you looking for another  
3 business in a certain park."  
4 A. I accept that.  
5 Q. "What year was that? April 09?  
6 "Yes, John's parents live out in Spain, I didn't go  
7 on that trip, he is always harping on about it. Let's  
8 do a Specsavers abroad for the children et cetera.  
9 "So what has that to do with Uckfield?  
10 "I thought they were connected all Specsavers  
11 et cetera."  
12 Do you see that?  
13 A. I accept your point.  
14 Q. You were well aware that he had gone to Spain, she  
15 hadn't gone.  
16 A. Correct.  
17 Q. She had given you an explanation about it?  
18 A. Correct.  
19 Q. You didn't mention that, did you?  
20 A. Where?  
21 Q. In page 434 when you report this up to your boss.  
22 (Pause). Did you?  
23 A. I think my reference to "they" is referring to John and  
24 Shakila Parham, I think my sense when I wrote this is in  
25 my mind I still had in my mind on the receipt that I saw

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1 both individuals' names, and it's a mistake but, again,  
2 that email was -- I was writing to give Derek  
3 an understanding of the expenses that had been put  
4 through the business and whether one went with children  
5 or whether two went with children I would still view  
6 that as a holiday in Spain, and I don't think I'm  
7 actually hugely misrepresenting something or being  
8 deliberate or divisive in any respect. The word "they"  
9 is incorrect, but it's influenced by the name  
10 Shakila Parham on a flight list, and it is what it is.  
11 MR STUART: My Lord, I see the time. If that would be  
12 a convenient moment?  
13 MR JUSTICE HILDYARD: Yes. We will reconvene at five past  
14 2.  
15 Discussion re disclosure  
16 MR POTTS: My Lord, I am sorry, can I just raise one point?  
17 We dealt with the disclosure issue. There are two  
18 disclosure issues and I thought I should mention the  
19 other one because it has ended up being quite  
20 significant.  
21 My clients have taken delivery this morning of 23  
22 large archive boxes of documents from the claimants.  
23 The explanation given in relation to these is that the  
24 claimants considered that these were our documents so  
25 they had no duty to examine them as part of their

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1 disclosure exercise, and they were therefore unable to  
2 confirm the contents of them. They have been collected,  
3 it's said the explanation was that in 2011 a member of  
4 the loss prevention team had been told of their  
5 existence. The first point is that's been checked and  
6 that is not accepted at all. The second point is that  
7 that is a serious breach of the most basic obligations  
8 of standard disclosure in relation to documents in your  
9 physical possession, and these have not been and,  
10 secondly, it raises a very serious concern in relation  
11 to the explanation as to what disclosure should be given  
12 to the clients by their solicitor as to what they are  
13 obliged to do by way of disclosure.

14 Now, I'll address it in more detail in closing  
15 submissions, but it is a very significant amount of  
16 documentation and it does cause us very real concerns in  
17 relation to the steps taken in relation to disclosure.  
18 These are documents in physical possession.  
19 MR JUSTICE HILDYARD: Subject to anything Mr Stuart has to  
20 say, I can quite see your two points, but are you  
21 concerned that there are any documents which might be  
22 material to the case which were not available to you?  
23 I quite understand that you have to disclose documents  
24 within your possession, custody or power whether or not  
25 you think that the others have copies of the same old

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1 documents. But in terms of the trial process, the  
2 question is whether within those 23 files are some  
3 important documents which were not available to you.  
4 MR STUART: My Lord, to help my learned friend out here and  
5 to clarify, when it is put in correspondence by my side  
6 that these were your documents, it is not being  
7 suggested that these were copies of documents which you  
8 have. What these are, my Lord, are the archived records  
9 of the store going back to -- from the start, which  
10 your Lordship will recall that Mr Parham gave evidence  
11 that there wasn't enough room in the store to hold --  
12 MR JUSTICE HILDYARD: Yes. Which we held at the storage  
13 facility.  
14 MR STUART: So they stored the store's -- all their records,  
15 they contain all the delivery notes and all the medical  
16 records of all the customers, going back to the year  
17 dot. They are the store's records, they are the  
18 company's records.  
19 MR JUSTICE HILDYARD: Yes.  
20 MR STUART: They are not SOG's records in the sense of SOG  
21 Guernsey, they are the records of the store, it's all  
22 the medical records and that's why it's --  
23 MR JUSTICE HILDYARD: If anything within that 23 strong  
24 array was relevant to the case, it would be disclosable.  
25 MR STUART: It would be disclosable. By whom is the issue.

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1 Mr and Mrs Parham say that when they were evicted from  
 2 the -- when they were ejected from the company, they  
 3 said "Well, we still have all these boxes of archive  
 4 material, please take them back".  
 5 MR JUSTICE HILDYARD: "Here they are, these are your  
 6 documents" --  
 7 MR STUART: Yes.  
 8 MR JUSTICE HILDYARD: -- "see whether you want to riffle  
 9 through them and see if there is any relevant" --  
 10 MR STUART: No, no, no, no, this was long before litigation,  
 11 this was: you are now in control of the store, these are  
 12 the store's documents --  
 13 MR JUSTICE HILDYARD: I am sorry.  
 14 MR STUART: This is "You are now in control of the store,  
 15 these are the store's documents"--  
 16 MR JUSTICE HILDYARD: They were sort of bailees, as it were,  
 17 and they gave them back.  
 18 MR STUART: They are just bailees of the --  
 19 MR JUSTICE HILDYARD: I don't think I can sort of draw any  
 20 conclusions or reach any view. It may be that this is  
 21 a significant matter, maybe it isn't, but I don't think  
 22 I should reach any assumptions in that regard, 23 files  
 23 is a lot of files.  
 24 MR POTTS: No, my Lord, it is not 23 files, it is 23 large  
 25 archive boxes of files.

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1 MR JUSTICE HILDYARD: I am sorry, you are quite right in  
 2 picking me up. It's a lot of documents.  
 3 MR STUART: Many of them will be for years which presumably  
 4 go way beyond --  
 5 MR JUSTICE HILDYARD: Is this something which could affect  
 6 the fair trial process, or is this something that's  
 7 going to be fed into closings as being indications of  
 8 some default?  
 9 MR POTTS: My Lord, just to be clear about this, the  
 10 explanation which was given in correspondence, the  
 11 answer is obviously I don't know what are in 23 boxes of  
 12 files which we asked for on Friday and --  
 13 MR JUSTICE HILDYARD: They have just arrived, have they?  
 14 MR POTTS: My Lord, the letter which came back in response  
 15 on Monday, and this is the point, my Lord, I am sorry to  
 16 be -- this is not a tit-for-tat point, this is a serious  
 17 issue in relation to compliance with a party's  
 18 disclosure obligations. The solicitor's letter was that  
 19 they said they regarded the boxes as my clients'  
 20 property and therefore had no duty to examine the  
 21 contents as part of the disclosure exercise and they are  
 22 unable to confirm the specific content and they don't  
 23 have time to conduct an examination on our behalf, and  
 24 it was suggested we could have them on Friday.  
 25 MR JUSTICE HILDYARD: When was that, that you were told

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1 that?  
 2 MR POTTS: On Monday.  
 3 MR JUSTICE HILDYARD: Last Monday?  
 4 MR POTTS: On this Monday, and in light of the evidence on  
 5 Friday, we wrote on Friday, this was the response on  
 6 Monday, we have been in correspondence since, I spoke to  
 7 my friend last night about this, so we hope instead of  
 8 the Friday we now have them now. But the point is,  
 9 my Lord, the letter indicates that the most obvious --  
 10 any solicitor knows that control means physical  
 11 possession.  
 12 MR JUSTICE HILDYARD: I know, but had you been told some  
 13 time ago, not Monday but months ago, that the claimants  
 14 regarded this set of boxes as your set of boxes which  
 15 they were in effect prepared to hand over to you at any  
 16 time? Were you told that or not?  
 17 MR POTTS: My Lord, the explanation is that they informed  
 18 a member of the loss prevention team in 2011 on their  
 19 retirement -- when they left.  
 20 MR JUSTICE HILDYARD: That they had these and they could do  
 21 with them as they wished.  
 22 MR POTTS: Yes.  
 23 MR JUSTICE HILDYARD: I had better have a look at that  
 24 letter, because that is going to be material, because  
 25 it's possible, without in any sense prejudging the

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1 question of whether there should have been a line in the  
 2 list of documents saying that these were there within  
 3 their actual custody presently --  
 4 MR STUART: My Lord, I am told it wasn't in a letter.  
 5 MR JUSTICE HILDYARD: -- one would have expected your  
 6 solicitors possibly to say, "Well, if they are ours, we  
 7 had better have them".  
 8 MR POTTS: There is no letter.  
 9 MR JUSTICE HILDYARD: Okay. That's what for present  
 10 purposes I am quite interested in without any sense  
 11 signifying disinterest in the rest.  
 12 MR POTTS: My Lord, I can also say we have asked the  
 13 individual concerned and she confirms that she was not  
 14 told that.  
 15 MR JUSTICE HILDYARD: Okay, well, we had better have a look  
 16 at the letter.  
 17 MR POTTS: Could I give your Lordship the letter, the  
 18 response letter, so your Lordship can see it?  
 19 MR JUSTICE HILDYARD: Yes, if there is anything I can  
 20 usefully do over the increasingly short adjournment.  
 21 MR POTTS: I am sorry, my Lord, but I didn't want to  
 22 interrupt cross-examination, my Lord.  
 23 MR JUSTICE HILDYARD: That's all right, it's important, of  
 24 course it is.  
 25 MR POTTS: It is important, my Lord, and my concern is as to

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1 the process of disclosure and the explanation given to  
 2 the claimant's by their solicitor as to their  
 3 obligations on the disclosure (Handed). I do apologise  
 4 for shortening the short adjournment.  
 5 MR JUSTICE HILDYARD: Don't worry, I am going to grab it  
 6 back anyway.  
 7 MR POTTS: I thought your Lordship might, but I did not want  
 8 to interrupt cross-examination. My Lord, the  
 9 relevant -- it's paragraph 3.1 on the second page.  
 10 (Pause)  
 11 As I say, my concern is both in relation to what's  
 12 been done by them but also the involvement of the  
 13 solicitor in terms of explaining disclosure obligations  
 14 to the client.  
 15 MR JUSTICE HILDYARD: I think the question may be as to  
 16 whether Ms Zoe Smith or anyone else knew that these were  
 17 materials which were said by Mr and Mrs Parham and their  
 18 solicitors not to be Mr and Mrs Parham's documents but  
 19 to be your clients' documents, in which case that might  
 20 have affected the manner in which they were disclosed  
 21 for the obvious reason that if you say that you have got  
 22 documents which aren't yours but belong to someone else,  
 23 although you must disclose the fact of that, it might be  
 24 thought to be an invasion of privacy to go through the  
 25 documents which you say are not yours. That's the  
 1 2 1

1 point, isn't it?  
 2 MR POTTS: I am not sure it is, my Lord. The obligation of  
 3 disclosure, control, the first head is physical --  
 4 MR JUSTICE HILDYARD: Is to identify that you --  
 5 MR POTTS: No, my Lord, the obligation to control is  
 6 physical possession. You disclose documents in your  
 7 physical possession, whether they are yours or anybody  
 8 else's.  
 9 MR JUSTICE HILDYARD: I don't deny that, but the thing is  
 10 the way in which you disclose may alter, according to  
 11 whether they are your documents which you are freely  
 12 able to look at, or someone else's documents. Either  
 13 way, you must disclose the fact of your possession or  
 14 control of those documents or your custody of them, but  
 15 whether you should itemise those documents in those  
 16 circumstances is a very different matter. I don't  
 17 believe there is any authority to the contrary, but if  
 18 there is, you must show it to me. I don't think  
 19 disclosure is intended to override obligations inherent  
 20 that you mustn't really riffle through other people's  
 21 documents.  
 22 MR POTTS: No, my Lord, the point that was no reference in  
 23 disclosure statements to these documents at all, they  
 24 weren't disclosed.  
 25 MR JUSTICE HILDYARD: That was wrong, or seems to have been  
 1 2 2

1 wrong, subject to any submission Mr Stuart wishes to  
 2 make. He may say, well, even though they weren't  
 3 disclosed in the list, you jolly well knew about them.  
 4 MR STUART: If it's going to be said they were not  
 5 disclosed, they were not disclosed by the defendants  
 6 either, and on any basis the records of the store, the  
 7 store has to keep those records somewhere, it's legally  
 8 required to, and --  
 9 MR JUSTICE HILDYARD: I understand. We are really having  
 10 a sort of debate --  
 11 MR STUART: I know, my Lord.  
 12 MR JUSTICE HILDYARD: -- the punchline of which is unclear  
 13 and the legal ramifications which are even less clear.  
 14 If this is a point which is to be pressed to some end,  
 15 I wish to know what that end is, and I wish to know what  
 16 the legal framework in which I would have to decide  
 17 whether that legal end is appropriate is made clear.  
 18 I am very grateful to you for raising it and for  
 19 deferring it until a convenient moment, but I don't  
 20 think we can take it further at this stage.  
 21 MR POTTS: My Lord, I did -- it was an issue from yesterday  
 22 and I thought the 35 large archive boxes of documents --  
 23 MR JUSTICE HILDYARD: You are quite right to have raised it,  
 24 but I want to by way of foreshadowing, but if there is  
 25 a point to be made I think the point must be identified.  
 1 2 3

1 MR POTTS: My Lord, it is by way of foreshadowing.  
 2 MR JUSTICE HILDYARD: Right, quarter past 2.  
 3 (1.18 pm)  
 4 (The short adjournment)  
 5 (2.15 pm)  
 6 Cross-examination by MR STUART (continued)  
 7 MR STUART: Mr McAlindon, if we can just carry on with  
 8 page 434. We have got through the first five items.  
 9 The sixth item, this is E2/434, is spending £1,500 each  
 10 to pay for items such as furniture. Do you see that?  
 11 A. I do.  
 12 Q. That relates, doesn't it, to a P11D claim made by Mr and  
 13 Mrs Parham at the time? They used their company credit  
 14 card and they used it to pay for goods for themselves,  
 15 some furniture in a store, and they inputted that  
 16 information and the fact that they were only seeking to  
 17 claim it as a benefit to themselves upon which they  
 18 would pay the full tax under the P11D system at the  
 19 time?  
 20 A. Correct.  
 21 Q. If you go to X2, at the beginning, so we are now in  
 22 section 10 of -- I'll come back in a moment to what this  
 23 is, but whatever this is. 252 is the list of all  
 24 Mr Parham's credit card expenses.  
 25 A. Sorry, hang on a second, I've got the wrong file here.  
 1 2 4



1 Q. Sorry, X2 in black. Sorry, yes. Do you see 250 says  
 2 "Section 10, John Parham, eBis credit card expenses,  
 3 January 2009 to October 2010."  
 4 Yes?  
 5 A. Correct.  
 6 Q. Then 252 is obviously some sort of computer generated  
 7 list of all of those?  
 8 A. Correct.  
 9 Q. Some of them put through as P11Ds, some are put through  
 10 as expenses of the business; yes?  
 11 A. Correct.  
 12 Q. So under the "Expense Type" column we can see what they  
 13 have been put through as; yes?  
 14 A. Correct.  
 15 Q. The ones you are referring to here in your item 6 are  
 16 the £1,500 payment, so for example page 256 is the form  
 17 that Mr Parham filled in online at the time?  
 18 A. Correct.  
 19 Q. Stating expressly that this sum was a P11D item of his  
 20 own personal benefit money?  
 21 A. Correct.  
 22 Q. Nothing dishonest in that?  
 23 A. I think that my reason for including it in the email to  
 24 Mr Dyson is that, on Mr Parham's P11D, there were two  
 25 £1,500 expenses, expenditures to Hoopers, so a total of

1 25

1 3,000 in total, and on Mrs Parham's during the same  
 2 period, 1,500 is the limit that you can spend on  
 3 a credit card in one month. On Mrs Parham's over  
 4 a three-month period there were also three £1,500  
 5 payments to Hoopers, followed by one final one, I think  
 6 it was 833. I think that my reasoning for including it  
 7 is that the total of that is 7,500 -- 8,300, and I felt  
 8 that although a great deal of latitude is given to the  
 9 use of credit cards, in that it is generally accepted  
 10 that you can have -- you can put personal expenditure  
 11 through it provided you properly declare it as a P11D,  
 12 I didn't feel that sort of 8,000 plus was necessarily  
 13 within the spirit of the flexibility arrangement that  
 14 the partners were offered. I am not saying it was  
 15 wrong, I'm not saying it wasn't properly declared, but  
 16 I felt that it was reflective of the fact that they were  
 17 using the system to the maximum instead of applying for  
 18 a distribution through financial planning for, you know,  
 19 12,000, less tax which would have meant they had enough  
 20 to spend whatever they wanted at Hoopers.  
 21 So I looked at it from -- my perspective on it was  
 22 that, yes, it's within the rules but it didn't feel  
 23 right. So that's why I referred to it in my email to  
 24 Derek, because I was trying to give him a sense of the  
 25 overall picture of, you know, are they playing fairly

1 26

1 within the rules of engagement, and I did not feel that  
 2 that reflected that.  
 3 Q. But Specsavers' accounts department plainly didn't share  
 4 your concerns, they didn't raise any queries with  
 5 Mr Parham when he put in his P11Ds for those months?  
 6 A. I've already said, technically, no, it's not wrong, but  
 7 when I wrote the email to Derek Dyson I was trying to  
 8 give him a sense of the overall picture of things that  
 9 I felt uncomfortable with things that I felt were wrong,  
 10 and that was one of the things that I commented on. Had  
 11 we gone through the full investigative process and run  
 12 an investigative report, that probably wouldn't be  
 13 included. But it was to give him a sense of the overall  
 14 pattern of behaviour within the accounts. Would it have  
 15 been at the end of the investigative process a specific  
 16 allegation? No, I don't think it would, because it is  
 17 within the rules of engagement. It just doesn't strike  
 18 me as being within the ... it's an excessive way to  
 19 behave. That's how I felt about it.  
 20 Q. Why -- if there was anything wrong, ie morally wrong,  
 21 you are saying technically they could do it, but they  
 22 shouldn't be doing it, if they shouldn't be doing it but  
 23 they were doing it openly and telling Specsavers what  
 24 they were doing, and getting Specsavers to pay the  
 25 credit card bill for that month, and put it on their

1 27

1 P11Ds, why did nobody at Specsavers share your concern  
 2 and write to them or phone them or email them and say  
 3 "Do you know, you really shouldn't be doing this"?  
 4 A. I think I've answered the question, it's because -- I am  
 5 not saying that it was wrong, I am not saying that it  
 6 wasn't properly declared from a tax perspective, but to  
 7 spread that volume of expense in one store I felt at the  
 8 time it would have been more appropriate that it had  
 9 gone through as a request for a distribution, rather  
 10 than, you know, going in every month and paying one  
 11 transaction on the company credit card. It was just how  
 12 I felt about it at the time, and I am not saying that it  
 13 would have been included in a final investigative report  
 14 or as a disciplinary allegation. I felt it was  
 15 reflective of their -- when I considered the overall  
 16 picture, that whatever opportunity they had to take  
 17 money from the business, they took it. So it was one  
 18 comment amongst a raft of comments that gave me a sense  
 19 of: this is why I feel that their conduct isn't  
 20 appropriate.  
 21 Q. Okay. The next one, we are back to the £555 rebate  
 22 item. Just to be clear on this --  
 23 A. Sorry, where are you referring?  
 24 Q. I'm on to number 7 now.  
 25 A. Do I need X2?

1 28

1 MR JUSTICE HILDYARD: E2/434.  
 2 A. Do I need X2? I am getting a bit waterlogged here.  
 3 MR STUART: No, put that to one side for the moment.  
 4 Now, you will remember that, we are on to the rebate  
 5 item, okay?  
 6 A. Correct.  
 7 Q. We know from, if you go back to 428-4, that this is the  
 8 one matter that you had interviewed Mr Parham about and  
 9 he had given you his explanation as to why he had done  
 10 what he had done?  
 11 A. Yeah, I had a conversation with him, I didn't interview  
 12 him as such, but it was a conversation.  
 13 Q. Okay, and he had explained what he had done. I am  
 14 looking at 428-4, where you set out to Mrs Parham during  
 15 her interview what it is that Mr Parham had explained to  
 16 you. Do you see that?  
 17 A. I am just reading it. (Pause). Okay.  
 18 Q. Do you remember I took you, when I started this  
 19 cross-examination, to the two chunks just above and just  
 20 below the second holepunch, where you deal with, you  
 21 know, what's honest? Do you remember? You have already  
 22 read these bits.  
 23 A. Yeah.  
 24 Q. In the second of those chunks, you say that, the one  
 25 starting "yeah to NPower to Specsavers"; do you see that

1 29

1 one?  
 2 A. Yeah.  
 3 Q. In the third line you say:  
 4 "Now I think because of the way that he has done it,  
 5 I think it's most reasonably to conclude that most  
 6 common people would say: you are having a laugh, that's  
 7 deceitful and it's dishonest and I can't quite  
 8 understand how either you or John or you know, an  
 9 acceptable response to anything other than yes, okay, it  
 10 was dishonest."  
 11 So you are making the point to her that she and her  
 12 husband are not accepting that what they have done is  
 13 wrong, aren't you?  
 14 A. Sorry, just let me read this. (Pause). Sorry, can you  
 15 repeat the question?  
 16 Q. My question is that it is clear from what you are saying  
 17 to her here, that you are saying to her that Mr Parham  
 18 and Mrs Parham are trying to suggest that what he did in  
 19 relation to this cheque was not wrong?  
 20 A. Correct.  
 21 Q. Was not dishonest?  
 22 A. Correct.  
 23 Q. You are explaining to her why you simply don't accept  
 24 their denials of dishonesty?  
 25 A. I think that what I was trying to put across to her was

1 30

1 that these people are not inexperienced or people -- and  
 2 they are very senior people who have been running  
 3 a business for a number of years, and I think that most  
 4 people would expect, when presented with an unusual  
 5 situation, because a cheque rebate is an unusual  
 6 situation, that they would have recognised that -- and  
 7 it's implausible, I felt it was implausible to suggest  
 8 otherwise, and I think people subsequently reading that  
 9 explanation would have found it implausible, because  
 10 somebody in that position should have recognised that  
 11 although they may not have known the right way, they  
 12 knew it wasn't the right way, should have picked up --  
 13 you know, one would expect somebody in that position  
 14 with that scale of experience to recognise that although  
 15 they may not understand how to deal with it, they would  
 16 have to pick up the phone and find out the correct way  
 17 of dealing with it.  
 18 So all I am doing there is pointing out to her that  
 19 that doesn't sound like a plausible explanation for  
 20 people who have been managing a business for a number of  
 21 years and are directors of that company.  
 22 Q. But my question to you, Mr McAlindon, remember the  
 23 question, all I am trying to establish from you -- and  
 24 I think you have probably established it by what you  
 25 have just said -- is that he was denying that he had

1 31

1 done something dishonest?  
 2 A. Correct.  
 3 Q. You were asserting that you felt that it was dishonest?  
 4 A. Correct.  
 5 Q. But he, in his only explanation to you, which was that  
 6 1 November meeting, because that's the only time you  
 7 have ever discussed it with him --  
 8 A. Yes.  
 9 Q. -- he was denying that what he had done was dishonest?  
 10 A. That's correct.  
 11 Q. That is correct. Given that that is correct -- you were  
 12 a policeman, weren't you?  
 13 A. Many years ago.  
 14 Q. So you know the -- I know you are not an expert in  
 15 criminal law, but you do at least know the component  
 16 parts of theft?  
 17 A. Yes.  
 18 Q. One needs to act with a dishonest motive, doesn't one?  
 19 A. I don't actually --  
 20 Q. To be guilty of theft?  
 21 A. I don't think I actually call it theft anywhere, I call  
 22 it dishonest, and in the context of a director and  
 23 employee of that business, their conduct was dishonest.  
 24 Q. Right, okay, because that's the problem, isn't it? If  
 25 you go to X1, once you had concluded this investigation

1 32

1 you generated something called an investigation summary.  
 2 A. Where are you referring?  
 3 Q. X1.  
 4 A. I have the file.  
 5 Q. You have the file, good.  
 6 A. Where in the file are you referring?  
 7 Q. Do you remember, we have already seen pages 1 and 2,  
 8 it's the index of the four files we referred to  
 9 previously. Do you remember?  
 10 A. Yeah.  
 11 Q. The first item, section 1 of file 1, is called  
 12 "summary"?  
 13 A. Correct.  
 14 Q. And we find that, if you go to page 3, we see section 1,  
 15 "Summary"?  
 16 A. Correct.  
 17 Q. Then we have the document at page 4, "Investigation  
 18 Summary, Contents", so this is an index of the  
 19 investigation summary that was prepared; do you  
 20 remember?  
 21 A. It's a draft, the investigation was never finalised, and  
 22 the fact that the investigation summary index has got  
 23 text and text rather than, you know, the report hasn't  
 24 been finalised because the index isn't finalised. We  
 25 didn't finish the investigation, this is an incomplete

1 3 3

1 investigation.  
 2 Q. It might be an incomplete investigation, but it's also  
 3 very misleading, isn't it, because look at page 5.  
 4 A. But it was never --  
 5 Q. This is all that you have summarised --  
 6 A. This was never published. It can't be misleading if  
 7 it's never been published. This was a draft set of  
 8 documents that were prepared as the start of  
 9 investigative process. The investigative process never  
 10 finished, and these documents were never published. Had  
 11 these documents got to the end of the investigative  
 12 trail, they would have been significantly updated  
 13 because there would have been a lot more investigations  
 14 that had gone on, there would have been more witness  
 15 statements, there would have been much greater degree of  
 16 clarity on the points that we were concerned about and  
 17 we were questioning. So it would have changed. It  
 18 would be a changing document, and this is a draft at  
 19 a very early stage. It's not an investigation summary  
 20 that has been published anywhere.  
 21 Q. Okay, let's see what it says, though. It starts off  
 22 "Credit Card Refund:  
 23 "During October 2010, an email was received by  
 24 Mel McAlindon informing the loss prevention department  
 25 that the director of Uckfield was refunding on to his

1 3 4

1 own credit card."  
 2 Now, that's not right, is it?  
 3 A. Well, as I said, it's a draft and it isn't complete.  
 4 It's a draft document.  
 5 Q. Okay. An example was given of a £555 refund. A check  
 6 was performed using the Streamline refunds database and  
 7 a refund of £555 was found."  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. "The store had changed suppliers and this was a rebate  
 11 cheque. Mel McAlindon and Phil Barnes interviewed  
 12 John Parham [in inverted commas] the director of  
 13 Uckfield Specsavers on these allegations and he admitted  
 14 refunding this money on to his own credit card. In  
 15 light of this confession of theft, a further remote  
 16 investigation was carried out."  
 17 That's not true or fair, is it?  
 18 A. No, I agree, it was a draft document, I hadn't written  
 19 it, this was written as a preliminary and a start to the  
 20 overall investigation file.  
 21 Q. Who do you say wrote this, then?  
 22 A. I don't know. Had we continued through the  
 23 investigative process, all of the language would have  
 24 been checked, corrected, things would have been added,  
 25 things would have been removed. You know, that is

1 3 5

1 somebody making a start at an investigation, and that  
 2 was their opinion at the time. By the end of it, by the  
 3 time the investigation report had been published, you  
 4 know, it wouldn't -- it might not have been concluded as  
 5 being theft, or it might have been. But this is the  
 6 starting point, it is just a draft document and it was  
 7 never finished, you know. It's one page long. It  
 8 doesn't begin to cover all of the issues that were  
 9 subsequently discussed. It's a draft.  
 10 Q. Down at line 35, we see the reference to this £1,500.  
 11 "On 8 October 2010, both directors spent £1,500 each  
 12 in a department store called Hoopers. On checking the  
 13 internet, this is a department store and the closest  
 14 store is in Tunbridge Wells. This same purchase was  
 15 done for 1,500 each on 10 August. When checking the  
 16 expense claims made by both directors, it is clear that  
 17 they have breached the expense policy as this clearly  
 18 states private expenditure must not be made using the  
 19 company credit card."  
 20 That's not right, is it? I mean, all JVPs use their  
 21 company credit cards for private expense and put it on  
 22 their P11Ds, occasionally?  
 23 A. The statement in itself, my Lord, is correct, in that  
 24 company credit cards should not be used for personal  
 25 expenses. General practice is that there is a much

1 3 6

1 greater degree of tolerance, and I think again this is  
2 a draft document; had it gone to the stage where the  
3 investigation had been completed, that language wouldn't  
4 necessarily have been used. You know, it's incomplete,  
5 and it's a start to an investigative report. It's not  
6 a final document.  
7 Q. Would you go to E3, page 60 -- well, let's start at  
8 page 599. Do you see that?  
9 A. 599?  
10 Q. 599. Do you see the fourth paragraph down -- third  
11 paragraph first of all:  
12 "On 7 March Mrs Parham resigned from her  
13 employment."  
14 This is sent by Specsavers to the fitness to  
15 practice team of the GOC. Do you see that?  
16 A. I see that.  
17 Q. March 2011, third paragraph:  
18 "... Mrs Parham resigned ..."  
19 Do you see that?  
20 A. Yes.  
21 Q. Second paragraph, I should have taken you to:  
22 "Mrs Parham was suspended on 1 March, pending  
23 an investigation into her conduct. The first  
24 investigation ..."  
25 A. Correct.

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1 Q. Do you see that? The first investigation, so that must  
2 have been after 1 March 2011 you were talking about;  
3 yes? This first investigation.  
4 A. Correct.  
5 Q. "The first investigation revealed fraudulent and  
6 dishonest claiming from the company by Mrs Parham."  
7 A. Sorry, just let me read it again. (Pause). Correct,  
8 yes. Read it.  
9 Q. Then further down a second investigation, do you see  
10 that? A further investigation. Seems to be post  
11 16 May 2012, the HMRC. Do you see that? There is some  
12 sort of second investigation into Mrs Parham?  
13 A. Yes.  
14 Q. Again, fraudulent and dishonest claiming from company  
15 personal expenditure, total £23,377; do you see that?  
16 A. Yes.  
17 Q. If we go to page 601, we see that enclosed with this  
18 letter was something called the report relating to the  
19 second investigation and its appendices. What is that  
20 report?  
21 A. Sorry, where --  
22 Q. Right at the end, before "yours sincerely", it says:  
23 "Accordingly please find enclose, 1, a GOC  
24 investigation form."  
25 A. I don't know, because this is after my involvement

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1 ceased, after the resignations our investigation  
2 stopped, I sent all of the files that I had to  
3 Alison Girolet who I know has signed this document, and  
4 that was effectively the end of my involvement.  
5 I understood that people in the accounts team did  
6 a second investigation to look through more expenses,  
7 invoices, et cetera, and found other issues that were of  
8 concern. But what was sent with this, I don't know,  
9 because I wasn't involved in it.  
10 Q. So you are head of the loss prevention department and  
11 you don't know what the first investigation report is,  
12 nor the second investigation --  
13 A. It's the incomplete files where there wasn't  
14 an investigation report written.  
15 Q. Okay.  
16 A. And those files were sent through to legal.  
17 Q. But that includes bundle -- that is bundles X1 and X2?  
18 A. Correct.  
19 Q. That includes the summary at number 1, so that's been  
20 published to the GOC of all people.  
21 A. Well, I don't know that that's the case. I don't know  
22 what documents were sent by the legal department. The  
23 legal department at the end of the investigation, again  
24 this is normal practice, we have always done it, the  
25 files are just closed, sent through to the legal

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1 department and they are archived. Somebody in legal  
2 has, or somebody in Guernsey has done a second  
3 investigation into -- another look into the accounts and  
4 found more items and somebody in Guernsey has compiled  
5 this to the GOC. What was compiled in that report  
6 I don't know because I wasn't there and I wasn't  
7 involved in it. This is from the legal department.  
8 Q. If your one-page summary, the first page of the files 1  
9 to 4, if that got sent to the GOC as part of  
10 an allegation of fraud by Mrs Parham, if it did, the  
11 evidence you gave about 20 minutes ago that this never  
12 got published to anybody at all would be wrong, wouldn't  
13 it.  
14 A. It would be wrong, but I would have no --  
15 Q. Okay?  
16 A. It would be wrong, my Lord, but I would have no  
17 knowledge of it. I didn't publish that document, and  
18 I think I was clear in that I didn't publish it. If --  
19 if -- and I don't know, but if that two page incomplete  
20 report was in the file and sent, then that would be  
21 correct. But I have no knowledge of it, nor did  
22 I publish it. I simply sent the files through to  
23 Guernsey to be archived because as far as I was  
24 concerned, the case had been closed.  
25 MR JUSTICE HILDYARD: How would one know that those papers

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1 were draft and not complete?  
 2 A. Because the -- it's literally two pages long and it  
 3 doesn't begin to reflect the overall findings and even  
 4 the preliminary -- the amount of stuff that we discussed  
 5 with Mrs Parham in the record of interview, that summary  
 6 I don't believe covers the points that we covered even  
 7 in the interview. So it's incomplete. It didn't  
 8 include all the things that were in the files, the petty  
 9 cash receipts and all the various invoices and expenses.  
 10 It doesn't refer to that. If that was a complete  
 11 report, each item would have been explained in detail,  
 12 it would have been, you know, 10, 20 pages long, it  
 13 wouldn't have been two pages. Two pages couldn't  
 14 possibly begin to explain the overall investigation  
 15 report, it's impossible.  
 16 MR STUART: Within this index of documents here, do you see  
 17 page 1 of X1, whilst this is just the summary --  
 18 A. Hang on. (Pause) Yeah.  
 19 Q. So whilst this is just the summary page, actually what  
 20 is in this, this whole thing, these four files, does  
 21 contain, doesn't it, for example section 8? Do you see  
 22 section 8?  
 23 A. Yeah.  
 24 Q. It's got details of other things. Do you see that?  
 25 A. My Lord, I've explained. This document, this index, is

1 4 1

1 something that in the start of an investigation process,  
 2 when you have gone through and you have trawled all the  
 3 different bits of paper, they would start to put it in  
 4 some degree of structure, and that structure would grow  
 5 and change as the investigation progressed, because some  
 6 things you would look at, and that needs to be included  
 7 still, some things would be excluded. Some interviews  
 8 might happen, some interviews might not. Statements  
 9 would be added into that.  
 10 So that is somebody preparing a Word document from  
 11 a template that they put -- they are putting in what  
 12 they think is going to need to be in there to give some  
 13 degree of structure. Within that, you know, there were  
 14 no records of interview at that stage when that was  
 15 written. That is just somebody preparing for  
 16 an investigation and creating an index to create some  
 17 degree of structure to what we were doing. It doesn't  
 18 reflect what finally ended up being returned to  
 19 Guernsey.  
 20 Q. Okay. Let's move on, then, back to page 434, so we can  
 21 get through all of these items.  
 22 A. Sorry, which file?  
 23 Q. Sorry, put away everything but E2, if you like. E2/434,  
 24 we are now on to the eighth item.  
 25 A. Sorry, hang on a second. (Pause)

1 4 2

1 Q. Mr McAlindon, page 434, we are on to item 8:  
 2 "Lots of personal expenses were put through by JP  
 3 that he misrepresented as business expenses, including  
 4 a Blu-Ray player, an iPod, a toasted sandwich maker,  
 5 an oven, to name but a few."  
 6 A. That's correct.  
 7 Q. Okay, let's start with the Blu-Ray player. That was  
 8 a business expense, wasn't it?  
 9 A. I disagree with that.  
 10 Q. Why?  
 11 A. Because if the company was -- it's a Blu-Ray player, we  
 12 don't have high definition televisions in the store, the  
 13 Blu-Ray player wasn't in the store, we don't publish  
 14 anything on Blu-Rays. If the company was ever going to  
 15 change its policy and start publishing information on  
 16 Blu-Rays, they would have gone to Hong Kong and bought  
 17 750 Blu-Ray players, and 750 HD televisions in order for  
 18 people to use those Blu-Rays. So the very fact that  
 19 it's a Blu-Ray in itself is implausible that it was for  
 20 general use. The statements also from the employees  
 21 suggested that all of the training was done on the  
 22 laptop and nothing was ever suggested that there was  
 23 a Blu-Ray player, and I don't think, you know, to say  
 24 that in my -- again, this email is giving Derek Dyson  
 25 a sense of what I felt to be wrong, and there were so

1 4 3

1 many reasons behind that Blu-Ray player that made it  
 2 completely implausible that it could possibly have been  
 3 anything other than a personal expense.  
 4 Q. You don't set out here that this is your view of  
 5 matters, do you?  
 6 A. No, I am telling you, the explanation explored the  
 7 following.  
 8 Q. One of the staff did say that they did do the training  
 9 on a DVD, didn't he?  
 10 A. Correct.  
 11 Q. You don't mention that either. So your --  
 12 A. Because I am not referring to --  
 13 Q. -- previous evidence that all the staff said they didn't  
 14 use a DVD, that's not right, is it?  
 15 A. I am not referring to a DVD player. There was a DVD  
 16 player in the store, I believe, which has been discussed  
 17 and it's another employee's. I am talking specifically  
 18 about this Blu-Ray player.  
 19 Q. But you had a photograph of a DVD player, didn't you?  
 20 A. We also had a Blu-Ray player.  
 21 Q. But you knew that they did use DVDs for training,  
 22 occasionally; you knew that, didn't you?  
 23 A. Sorry, which point is the Blu-Ray player? Yes, the  
 24 Blu-Ray player is in point 8. The Blu-Ray player is  
 25 clearly a misrepresent -- clearly in my opinion

1 4 4

1 a misrepresented personal expense. A Blu-Ray player  
 2 would never -- I've never seen a Blu-Ray player in store  
 3 ever, and none of my colleagues have, as a business  
 4 expense. Whether there was another 10 DVD players or  
 5 computers that could play CD ROMs, you know, I am  
 6 talking very specifically about one transaction which is  
 7 a Blu-Ray player, and I don't think I am being  
 8 unreasonable in saying to Mr Dyson that this is one of  
 9 the issues that was discussed, was investigated, and  
 10 I felt it inappropriate and felt was a misrepresented  
 11 expense. I don't think that's an unreasonable thing to  
 12 say.  
 13 Q. Investigated with whom?  
 14 A. It was put to Shakila Parham and it would have been put  
 15 to John Parham had we -- had they chosen not to resign  
 16 and we had actually continued with the interview with  
 17 Shakila Parham and then gone on to an interview with  
 18 John Parham. It would have been fully explored. But in  
 19 any case, it is a very difficult item in any case to try  
 20 and justify as being a business related expense,  
 21 because -- and it's implausible to suggest that we would  
 22 use that type of equipment. We just don't use that sort  
 23 of equipment as a business.  
 24 Q. That's now your stated view, that it's implausible, but  
 25 you accept --

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1 A. No, that's what I thought and is still what I think,  
 2 when I wrote this email to Derek Dyson to give him  
 3 a sense of what I felt were the key issues.  
 4 Q. Key issue: toasted sandwich maker. You know that that  
 5 toasted sandwich maker was in the store and was  
 6 available for use and indeed it was, I think, junked  
 7 after your loss prevention department took over the  
 8 store?  
 9 A. I don't know that to be the case.  
 10 Q. You know that there was a toasted sandwich maker in the  
 11 store?  
 12 A. No, I don't know that to be the case.  
 13 Q. Well, did you try and find out? Because if you had, you  
 14 would have found it.  
 15 A. No, I don't know that to be the case. It may be that,  
 16 again, I've written this email without reference to  
 17 every single receipt, I believe that there was a -- that  
 18 that was an item that was in the store -- sorry, that  
 19 had been purchased that wasn't in the store. Because it  
 20 wasn't in the store, I'm concluding that it's a personal  
 21 expense. It may be that I have made a mistake and that  
 22 particular item is legitimate, but when I wrote the  
 23 email to Mr Dyson I was giving him an overall sense of  
 24 what the general issues were in relating to expenses.  
 25 It might not be a perfect email, but Mr Dyson would have

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1 had the opportunity to come back and ask me more  
 2 questions over it. I was giving him a sense, and if my  
 3 memory serves me rightly, it was very much -- it was not  
 4 in relation to the rights and wrongs, it was in relation  
 5 to her request to be reinstated. So I was giving him  
 6 a sense of: look, this is what it's all about, and it's  
 7 in relation to should you consider not accepting her  
 8 resignation.  
 9 Q. That's a long and interesting answer, Mr McAlindon. Try  
 10 to stick to the question. The next question is the  
 11 oven. That's a microwave oven, isn't it?  
 12 A. I can't recollect.  
 13 Q. Okay. I suggest to you it is a microwave oven, and it's  
 14 the microwave oven that was in the store used by the  
 15 staff on occasion?  
 16 A. I couldn't recollect.  
 17 Q. Okay. Nothing wrong with calling that a business  
 18 expense, if it is microwave oven that was in the store  
 19 used by the staff?  
 20 A. If that was the case, correct.  
 21 Q. Similarly nothing wrong with the toasted sandwich maker  
 22 being a business expense if it was in the store being  
 23 used by the staff?  
 24 A. If that was the case.  
 25 Q. And the Blu-Ray player, I know you don't accept it, but

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1 if it was purchased for the store, if it was, because  
 2 the Parhams had Blu-Ray players of their own at home and  
 3 didn't need another £196 DVD player, if it was purchased  
 4 for the store, nothing wrong with calling that  
 5 a business expense?  
 6 A. Not at all, if it was in use in the business, then -- if  
 7 it's in use in the business, it's a business item.  
 8 Q. Okay. Number 10, this is the trainee. I think this is,  
 9 if you go back to page 415, there is a witness statement  
 10 by Anna Tickner. Do you recollect?  
 11 A. Yes.  
 12 Q. She gives an explanation. Is that what you are  
 13 referring to at number 10 on page 434?  
 14 A. It is what I was referring to.  
 15 Q. I am looking at the fifth paragraph down:  
 16 "I stayed in Cambridge ..."  
 17 Do you see that paragraph?  
 18 A. I do.  
 19 Q. "... in April 2010."  
 20 Do you see that?  
 21 "I paid for my train ticket myself and didn't claim  
 22 it back which meant I only had to pay John a few pounds  
 23 in cash. I can't remember the exact amount but it was  
 24 very small."  
 25 A. Correct.

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1 Q. Okay. Is this incident about Anna Tickner, is this  
 2 a matter which is pursued or not? Did this just not go  
 3 any further?  
 4 A. Well, none of it went any further. However, the  
 5 reason -- my reasoning for including it is that if you  
 6 purchase a business related expense on your company  
 7 credit card, whether it be a train ticket or a hotel, if  
 8 somebody is then giving you the money for it, then if  
 9 you are processing that through the eBis system, my  
 10 concern with that is you are getting the cash as well.  
 11 So the company has actually paid for the hotel and the  
 12 train ticket, and Mr Parham has been given the cash for  
 13 it. So that was why I included it in this summary,  
 14 because that would mean he is getting cash for something  
 15 that is being paid for by the company, and that was my  
 16 reasoning for including it in there.  
 17 Q. I don't know all the details of this one, this isn't  
 18 something you put in detail to Mrs Parham, is it? Do  
 19 you recall?  
 20 A. I don't know whether -- I don't believe I put that to  
 21 her. Had we reconvened and continued with the  
 22 investigation, that would have been one of the things  
 23 that we would have put to her.  
 24 Q. Okay. Thank you for that, so that's number 10 dealt  
 25 with. I have missed 9, it was my mistake, we had better

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1 go back to it. This is one of the larger amounts that  
 2 you are telling Mr Dyson about:  
 3 "Meals were put down as entertaining staff."  
 4 Do you see that?  
 5 A. Correct.  
 6 Q. "Employees have not attended any meals."  
 7 A. Yes.  
 8 Q. So that's how you put it to Mr Dyson: meals for staff,  
 9 employees have not attended any meals, it's obvious  
 10 fraud?  
 11 A. That's your conclusion on that, but --  
 12 Q. Isn't that a reasonable conclusion of a reasonable  
 13 reader like Mr Dyson, no doubt you would say?  
 14 A. Yes, the --  
 15 Q. Yes, okay.  
 16 A. There were in the -- in the witness statements we spoke  
 17 to the employees and asked them about a number of  
 18 receipts for a number of pub lunches, whatever, and  
 19 asked them: do you have any recollection of this? "No,  
 20 I haven't". There were I think two or maybe even three  
 21 meals that are discussed in the witness statements where  
 22 they said "We did have a staff night out at an Indian,  
 23 and we had another night out in somewhere else."  
 24 Those --  
 25 Q. There was mention of a Chinese?

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1 A. When I wrote this, I was writing it because the meals --  
 2 when I had -- in consideration of all the receipts that  
 3 were for -- that were relating to staff nights out,  
 4 those receipts, the Star of Bengal, I think it was,  
 5 I would have discounted that as being fine. When I am  
 6 writing this I am referring to all the rest that I can't  
 7 account for with the employees because they are not  
 8 saying they went to meals in these different places.  
 9 So when I have written this, "employees have not  
 10 attended any meals" the word "any" is incorrect, but  
 11 they had not attended the meals for a number of receipts  
 12 that we were left over.  
 13 Again, I don't think that I am misrepresenting that  
 14 to Mr Dyson --  
 15 Q. Let's just break that down, shall we?  
 16 A. I am giving him a sense of, you know, what I thought  
 17 about the meals as a whole.  
 18 MR JUSTICE HILDYARD: Mr Stuart, within reason, I think the  
 19 witness may become exasperated if you interrupt him when  
 20 he is giving the answer.  
 21 MR STUART: Of course, my Lord. I was getting exasperated  
 22 that I wasn't getting an answer to my question.  
 23 MR JUSTICE HILDYARD: I accept the time pressures and  
 24 I accept that sometimes you think that the answer is  
 25 unduly long, but nevertheless exercise care --

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1 MR STUART: Of course, my Lord.  
 2 MR JUSTICE HILDYARD: -- because otherwise it is frustrating  
 3 for a witness who does have things to say if he is  
 4 interrupted in saying them.  
 5 MR STUART: Of course, my Lord.  
 6 What you say here is £1,820 of meals. You have  
 7 a very specific amount there. Where do you get that  
 8 figure from?  
 9 A. I can't recollect at this stage. You know, it would  
 10 have been from somebody, either myself or one of the  
 11 team, adding up the receipts.  
 12 Q. Which receipts?  
 13 A. The receipts that we were left over with from either  
 14 expenses -- well, I would have thought predominantly the  
 15 expenses, either credit card or cash related expenses,  
 16 but I don't recollect specifically sitting down and  
 17 adding a calculator or -- I got the figure from  
 18 somewhere, I just don't know where.  
 19 Q. I don't know where either, because the documents you  
 20 have provided don't come to anywhere near that. You say  
 21 eight examples, £1,820, is the way you put it. So that  
 22 would mean an average of £230 per receipt for these  
 23 eight examples of meals?  
 24 A. Mm. I am not saying that that could be inaccurate.  
 25 I am writing to Derek to give him a sense of the overall

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1 picture. I don't know where I got my figures from, but  
 2 I've obviously added something up from somewhere, I just  
 3 don't know where.  
 4 Q. Okay. The witnesses who gave evidence to you and which  
 5 you purport to be relying upon, are they not -- just  
 6 flick back in bundle E2, page 410.  
 7 A. My Lord, these are not a list of allegations that was  
 8 the end of the investigation, because the investigation  
 9 didn't end. If I had listed all of these in  
 10 an investigation report and submitted them, as, you  
 11 know, evidence for the board to consider, then that  
 12 would have been 100 per cent accurate. You know,  
 13 everything would have been itemised in the final report.  
 14 We never got to that stage. I am simply writing to  
 15 Mr Dyson in respect of her request to be reinstated and  
 16 I gave him from my head -- it may not be accurate, it  
 17 may be slightly right, slightly wrong, I don't know, but  
 18 I wrote that, that is a sense of what I thought it  
 19 looked like. So it may be inaccurate, and I accept that  
 20 it may have inaccuracies in it, but as an overall  
 21 picture it was a general view of what was in those  
 22 files.  
 23 Q. Mr McAlindon, it's not just inaccurate, it's completely  
 24 wrong, isn't it? £1,820 on eight examples, as I say  
 25 that would be somewhere between £250 per item for meals,

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1 and the employees --  
 2 A. I accept your point.  
 3 Q. -- actually gave evidence to your investigators,  
 4 looking at page 410, Mr Callum Sutherland, he was just  
 5 an assistant, he had only been there for one year and  
 6 four months, so he had only just started Christmas, or  
 7 beginning of 2010?  
 8 A. I actually don't dispute your point, Mr Stuart.  
 9 Q. Okay.  
 10 A. I accept your point. But there were examples of -- the  
 11 numbers may be wrong, the quantity may be wrong, but  
 12 they were there, and I was giving Mr Dyson a sense of it  
 13 for him to consider in context of: do we accept her  
 14 resignation or not? Do I accept the point that that is  
 15 clearly wrong? Yes, I do.  
 16 MR JUSTICE HILDYARD: Can I clarify that? You accept that  
 17 it may very well be that some employees attended some  
 18 meals, and in fact it may be that some employees  
 19 attended all the meals?  
 20 A. Correct.  
 21 MR JUSTICE HILDYARD: Right, and the total of 1,820 is not  
 22 a figure that you are able to justify?  
 23 A. No.  
 24 MR JUSTICE HILDYARD: And you have no idea now how it was  
 25 devised?

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1 A. No.  
 2 MR JUSTICE HILDYARD: You have no idea now how it was  
 3 calculated?  
 4 MR STUART: Was there any reason why you chose these  
 5 employees to interview rather than the others?  
 6 Sue Willmott, for example, who had been there the  
 7 longest by the sounds of it. Any reason why you didn't  
 8 interview her?  
 9 A. I believe she was a part-time employee who worked one  
 10 day a week. I wasn't involved in the interviewing of  
 11 employees. It was my team who were in the store. She  
 12 may not have been available, I don't know.  
 13 Q. Karen, the manager?  
 14 A. I don't know.  
 15 Q. She was a senior employee, she was even signing off some  
 16 of these petty cash slips?  
 17 A. It may well have been, the investigation concluded, that  
 18 we would have got them all interviewed. It stopped  
 19 before we finished.  
 20 Q. Just to correct you, Mr McAlindon, Ms Willmott was  
 21 a full-time employee?  
 22 A. Okay, I accept that.  
 23 Q. Absolutely no reason not to interview her?  
 24 A. I don't know why. She may not have been there, I just  
 25 don't know.

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1 Q. Perhaps you did interview them but what they said didn't  
 2 coincide with the picture you were trying to portray?  
 3 A. I don't think -- well, that's not the case.  
 4 Q. How do you know? You don't know who was interviewed.  
 5 A. Because had we spoken to somebody, there would have been  
 6 some form of record of conversation.  
 7 Q. Not always, with your department.  
 8 A. I accept your point, but I don't think there was any  
 9 particular selection process of who to take a statement  
 10 from or interview or not.  
 11 Q. Okay, but you say there were no interviews with Karen,  
 12 the manager, or Sue Willmott, the long-standing  
 13 employee, but there were these interviews that you have  
 14 got here at page 4 of 10, Mr Callum Sutherland, who had  
 15 been there a year and four months, the assistant; yes?  
 16 A. Yes.  
 17 Q. Mr Graeme McGuinness, who says at page 408:  
 18 "I have only been employed here since the second  
 19 week in November."  
 20 A. I don't dispute anything that's been said, my Lord --  
 21 Q. He had only been there four months.  
 22 A. But the bottom line is that the investigation was never  
 23 finished, and, you know, it's a very valid question, had  
 24 you finished the investigation, but it hadn't been  
 25 concluded, and it is probable that we would have gone

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1 back and interviewed staff that hadn't already been  
2 interviewed, and it's also very probable that we would  
3 have gone back and asked questions, further questions of  
4 those that had already been spoken to. Why they weren't  
5 spoken to in the four/five-day period that they were  
6 looking into the store I don't know because I wasn't  
7 there. But there is no specific reason why any one  
8 person wasn't spoken to.  
9 Q. Of course Mr Whittaker, he was spoken to?  
10 A. Yes, he was spoken to three times.  
11 Q. And he certainly confirmed that he had been taken out,  
12 he and Karen --  
13 A. Correct.  
14 Q. The senior members of staff had been taken out to  
15 dinner --  
16 A. Correct.  
17 Q. -- on a number of occasions?  
18 A. Correct.  
19 Q. Right, back to 434. So we have down 9, 10, 11,  
20 flowers, we have heard a lot about the flowers.  
21 Mr McAlindon, it's only one line of text, but it's not  
22 right, is it:  
23 "Flowers were delivered weekly to the store for SP  
24 [that's Shakila Parham] to take home."  
25 A. Correct.

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1 Q. Now, we do have, fortunately, a comprehensive summary of  
2 all the flowers, it's in bundle H at page 137. Do you  
3 remember, this is your document?  
4 A. Yeah.  
5 Q. We see that in 2006 there were three invoices. In 2007  
6 there were nine. In 2008 there were eight. In 2009  
7 there were five. In 2010 there were seven. Do you see  
8 that?  
9 A. Correct.  
10 Q. We have all the invoices. So that's good. If you go  
11 over the page, we can see them for the period in  
12 question. Do you see?  
13 A. I see.  
14 Q. I don't know what year you were pretending to refer to  
15 when you said that flowers were delivered weekly for  
16 Shakila Parham to take home. Give us a hint, which year  
17 were you talking about?  
18 A. I agree that the word "weekly" is inappropriate.  
19 I don't know why I used the word "weekly", and with  
20 hindsight, yes, it's incorrect.  
21 Q. It wasn't even monthly?  
22 A. No, I agree.  
23 Q. And they weren't all for her to take home, were they?  
24 Some of them are actually labelled by The Flower Shop as  
25 to who they were going to?

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1 A. Correct.  
2 Q. So it's a wholly inaccurate portrayal, isn't it?  
3 A. Correct.  
4 Q. It's done in an attempt to persuade Mr Dyson that  
5 Mrs Parham is dishonest, isn't it?  
6 A. As part of all of the things, yes.  
7 Q. Yes. So it's a wholly misleading statement, done with  
8 the intention of making Mr Dyson think that Mrs Parham  
9 is dishonest. That, by your test of dishonesty, the  
10 common man test, is dishonesty on your part,  
11 Mr McAlindon, isn't it?  
12 A. No, I totally disagree. When I wrote the email to  
13 Mr Dyson, that was what was in my head. You know,  
14 recollection is never perfect, and the word "weekly" is  
15 incorrect and inappropriate, but you know, in terms of  
16 the overall sense of the email that I sent to him, do  
17 I think it's, you know, that one line or even  
18 a combination of lines and some degrees of inaccuracy do  
19 I think that as an overall, have I given him  
20 a misleading picture? I don't think it is terribly  
21 misleading, I think it's fairly accurate. It's not  
22 100 per cent accurate, and, you know, again, if we had  
23 gone through an investigative process and the evidence  
24 that we presented had inaccuracies in it, it would have  
25 been tested and challenged. I was giving Mr Dyson

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1 a view at that point in time as to what was my  
2 recollection of their overall conduct. But that one  
3 particular line I accept.  
4 Q. You also now accept, I presume, because I took you to it  
5 this morning, that gifts of flowers to members of staff  
6 are properly charged to the company?  
7 A. Correct.  
8 Q. Perhaps you were not aware of that at the time you wrote  
9 this email?  
10 A. Correct.  
11 Q. Okay. Number 12, the return of the DVD player.  
12 "After JP and SP were suspended, JP called the lab  
13 manager to their home and told him to lie to the  
14 auditors or tell them nothing."  
15 Do you see that?  
16 A. Yeah.  
17 Q. I don't know whether you are referring to the record of  
18 conversation or the witness statement that you drafted  
19 for Mr Whittaker, so I had better take you to both. The  
20 record of conversation I think is at 401, starts at 401.  
21 The only paragraph could be on page 404, because that's  
22 where Mr Whittaker is dealing with the events, the  
23 conversation. Do you remember?  
24 A. Yeah.  
25 Q. Because up to this point he has just been asked about

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1 some trading and figures and training and everything  
2 else. So 404, at line 15 he says:  
3 "He sent me a text ..."  
4 That's "he", Mr Parham --  
5 A. Sorry, at line where?  
6 Q. Line 115. You asked:  
7 "When did he make contact with you?"  
8 He said:  
9 "He sent me a text on Sunday telling me to text him  
10 if anyone from head office turned on [that must be  
11 turned up] on Monday. When you arrived yesterday,  
12 I sent John a text letting him know you were here. I am  
13 sorry, but I did not know who you were. Anna came and  
14 told" --  
15 That would be Anna the witness, yes?  
16 A. I believe so.  
17 Q. So this is not Mr Parham, or through Mr Parham.  
18 "Anna came and told me that someone was in the  
19 store. John texted me back telling that both Shakila  
20 and him had been suspended. During yesterday evening,  
21 John came round to my house and was telling me about  
22 what had happened during the meeting and that it was  
23 very stressful and Shakila was very stressed out.  
24 I wondered if they had been arguing and said to him is  
25 there anything I could do to help, as he is my friend as  
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1 well as my boss. It was left at that. And then later  
2 yesterday evening, John sent me a text asking me to pop  
3 by their house on my way to work this morning."  
4 We seem to have reached the point that you are  
5 referring to at page 434, item 12, Mr McAlindon, because  
6 you say "JP called the lab manager to their home".  
7 "When I got there this morning, John handed me a bin  
8 liner with a box inside and asked me to put it into the  
9 stock room. I did not look inside the bag until I got  
10 to the store and when I did, I put the Blu-Ray player  
11 box in the stock room and the bin liner is still in  
12 there as well."  
13 So I don't think he reports to you there that  
14 John Parham told him to lie to the auditors?  
15 A. Not in that statement, no.  
16 Q. Just so I understand and the court understands, who are  
17 the auditors?  
18 A. The people that went into the store the following day.  
19 Q. Okay, is that Zoe?  
20 A. It would have been, yeah.  
21 Q. We are calling her an auditor for these purposes?  
22 A. Yeah.  
23 Q. She is not acting as an auditor, is she, at this point?  
24 A. No --  
25 Q. Okay --

1 A. That's the store's description of her.  
2 Q. Yes. So then the witness statement is at 412. This is  
3 Mr Whittaker's witness statement. You were a policeman,  
4 you recognise this form of statement, don't you?  
5 A. Correct.  
6 Q. CJA. CJ Act, Criminal Justice Act?  
7 A. I do.  
8 Q. MC Act, Magistrates Court Act; is that right? Do you  
9 remember? In the good old days. From 1981 rules.  
10 Where did you get this form of statement?  
11 A. That form was -- both Les Gutteridge and Ben Walls do  
12 store investigations into employees. As part of that,  
13 they often use covert footage for people stealing from  
14 the tills. Many, many years ago, we wrote statements  
15 for the police and some Forces were happy, were  
16 insistent that it was done on their forms, others were  
17 happy with a generic form. After some debate with  
18 certain Forces that didn't accept it, we were told that  
19 providing it had that on it, most Police Forces would  
20 accept it. So that was a form from, I don't know, ten  
21 or more years ago that they have used to take  
22 statements -- not take statements from employees, they  
23 have used to put their evidence of, relating to staff  
24 dishonesty issues, because the staff dishonesty issues  
25 typically go straight to -- we call the police, that's  
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1 the company policy.  
2 Q. So --  
3 A. So when Ben Walls or Les Gutteridge take statements, in  
4 reality when they went into the store, the normal  
5 protocol is to take a record of conversation. It isn't  
6 to record it in this format. I think they have recorded  
7 it in this format because there are the forms they  
8 generally use to document evidence. So it's simply  
9 a case of they decided to use that form, but it isn't  
10 the one that either I would normally use or a number of  
11 the other team would normally use.  
12 Q. So we can deduce from that that it was either Ben Walls  
13 or Mr Gutteridge who drafted this?  
14 A. I would guess so. I don't know, but I would have  
15 thought so.  
16 Q. Did you have any involvement at all?  
17 A. No.  
18 Q. Let's go to the bottom of page 412. The paragraph  
19 starts:  
20 "This morning, 2 March, on my way to work I called  
21 into John Parham's home."  
22 Do you see that?  
23 A. Yeah.  
24 Q. "Both John and Shakila were both stood at the door and  
25 he gave me a black bin liner containing a box. He asked

1 if I could -- if I could put it in the stock room."  
 2 Do you see that?  
 3 A. Yeah.  
 4 Q. I'll let you read the whole of that paragraph.  
 5 (Pause)  
 6 Perhaps we should have gone to the one above it,  
 7 because that's where he's asked to come to the home.  
 8 Page 412, the penultimate paragraph:  
 9 "Later on in the evening, I received another text  
 10 message from John Parham asking" --  
 11 A. Sorry, where?  
 12 Q. 412, the penultimate paragraph, it's a short paragraph  
 13 starting:  
 14 "Later on in the evening ..."  
 15 Do you have it? Just below the second from last  
 16 paragraph.  
 17 A. Yeah.  
 18 Q. "Later on in the evening, I received another text  
 19 message from John Parham asking me could I stop by his  
 20 house on the way to work in the morning and take  
 21 something in for him."  
 22 Yes?  
 23 A. Yes.  
 24 Q. So that's the request to go to his house, that's the  
 25 description of what happened at the house. Over the

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1 page, 413:  
 2 "I tried not to get into any discussion with him and  
 3 just nodded my head and took the bag and the Blu-Ray  
 4 player. When I got to work I did as John Parham had  
 5 asked, placed it in the stock room. I also went into  
 6 the office and locked the personnel filing cabinet."  
 7 Okay?  
 8 A. Yeah.  
 9 Q. Then he describes the conversation that he had "this  
 10 morning" with Les and Zoe Smith --  
 11 A. Yeah.  
 12 Q. -- which is obviously the one we have seen.  
 13 Just going back to page 434, item 12, JP, that's  
 14 John Parham:  
 15 "... called the lab manager to their home ..."  
 16 That is to the Parham's home, yes? "Their" means  
 17 the Parhams'?  
 18 A. Yes.  
 19 Q. "... and told him to lie to the auditors or tell them  
 20 nothing and to return the Blu-Ray player to the store in  
 21 an attempt to pervert the course of justice!"  
 22 A. Yes.  
 23 Q. Did Mr -- well, perhaps I had better be clear now,  
 24 I hadn't understood this. You didn't speak to  
 25 Mr Whittaker at all, this was all done without your

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1 involvement at all?  
 2 A. Yes.  
 3 Q. So you don't actually know what he said apart from  
 4 what's in the statements?  
 5 A. Correct.  
 6 Q. So where you say that "JP called the lab manager to  
 7 their home and told him to lie" --  
 8 A. Yes.  
 9 Q. -- which gives the impression of a discussion at the  
 10 home --  
 11 A. Yes. Well, it could do.  
 12 Q. "Noel, will you lie for me or tell them nothing and  
 13 return the Blu-Ray player to the store for me?", which  
 14 does give the impression that the return of the Blu-Ray  
 15 player is dishonest?  
 16 A. Yeah.  
 17 Q. That's not what happened, was it?  
 18 A. There is somewhere in the evidence, and I don't know  
 19 where the direct quote is, but again I am giving  
 20 Mr Dyson a sense of what I thought, and somewhere in it  
 21 there is a comment from somebody that says something  
 22 like "act surprised if they tell you, if they -- when  
 23 they say you have been suspended". And my comment on  
 24 "told him to lie", you know, was influenced by that,  
 25 because that is deceptive.

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1 Q. Okay, so it had nothing to do with the Blu-Ray player or  
 2 the discussion at the home where Mrs Parham was -- or  
 3 anything like that?  
 4 A. I think it was the whole package relating to --  
 5 Q. No, but the instruction to lie, the only one you are  
 6 saying you are referring to, is one about "act  
 7 surprised"?  
 8 A. And all the behaviour surrounding the Blu-Ray player.  
 9 Q. Are you still then saying that Mr Parham told  
 10 Mr Whittaker to lie about the Blu-Ray player?  
 11 A. No, that's my interpretation on --  
 12 Q. Ah.  
 13 A. -- the various parts of evidence in relation to the  
 14 Blu-Ray player, how it reappeared, the comments about  
 15 being surprised, you know, I felt that that reflected  
 16 conduct that was intended to deceive those who were  
 17 conducting the investigation. So that's where my --  
 18 again, when I am writing an email in response to "Derek,  
 19 can you consider this letter to retract her  
 20 resignation", I felt they had lied, and that's why I put  
 21 those words in there. It might not be as accurate as it  
 22 could have been, but I think it gives an accurate sense  
 23 of how I felt about that whole set of conduct from  
 24 a number of people in relation to it.  
 25 Q. Then the next bit you say here is that:

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1 "In the interview SP [that's Shakila] said the  
 2 statement from the employee" --  
 3 A. Sorry, where are you referring?  
 4 Q. The next line after "pervert the course of justice!"  
 5 A. Sorry, which point are we on?  
 6 Q. 434, point 12, do you see the next bit you say is:  
 7 "In interview SP said the statement from the  
 8 employee that she was there ..."  
 9 Do you see that?  
 10 A. Yeah.  
 11 Q. "... was not true."  
 12 Okay? So you are telling Mr Dyson that Mrs Parham  
 13 said in interview that the statement by Mr Whittaker  
 14 that she was there was not true. But she didn't say  
 15 that, did she, in interview? She never got that far.  
 16 MR POTTS: My Lord, I am not sure that's quite what it says  
 17 it's not just that she was there, it's there and knew  
 18 what was going on.  
 19 MR STUART: I am taking it bit by bit, don't worry.  
 20 Mr McAlindon, in the interview, Mrs Parham never  
 21 got -- was never asked "were you there?" She never  
 22 denied being there?  
 23 A. I don't know, I would have to refer back to that  
 24 reference in the interview record.  
 25 Q. She fainted after you read out Mr Whittaker's statement

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1 to her, do you remember?  
 2 A. Yes.  
 3 Q. 428-12. You read the entire statement out. (Pause).  
 4 Do you see? What happened was, at the end, having --  
 5 I think the quotation from the statement ends in the  
 6 last line of that chunk, after the word "visits and  
 7 questions", because the statement is page 413, and ends  
 8 with the words "visit and questions, full stop", 413.  
 9 (Pause)  
 10 Do you see?  
 11 A. I think my -- let's have a look. (Pause) I think in  
 12 respect of the statement that SP said that the statement  
 13 from the employee that she said she was there, again,  
 14 I have probably got in my mind the fact that from the  
 15 story that came out from Mr Whittaker, he described in  
 16 great detail the fact that she was there, and when I've  
 17 written this, I may well have confused the two.  
 18 I accept that it's -- that Mrs Parham didn't say that in  
 19 the interview, but I think when I wrote this in my mind,  
 20 you know, I had a picture in my mind of Mr Whittaker  
 21 standing at the door, the two people, which was  
 22 described in some detail. But I accept that that's not  
 23 in her statement.  
 24 Q. Okay. Last item of the 13 is the retail manager. This  
 25 doesn't seem to be being pursued either, is that right,

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1 the babysitting incident?  
 2 A. That wasn't pursued.  
 3 Q. I won't bother to ask you about that.  
 4 MR JUSTICE HILDYARD: I am so sorry, could you repeat that  
 5 answer?  
 6 A. No, I don't think that was pursued in any way, I only  
 7 included it because I didn't feel it was an appropriate  
 8 way to deal with an employee.  
 9 MR STUART: I am going to stop just after I have finished my  
 10 last question on this email. 435, so over the page,  
 11 having set out the 13 matters, you tell Mr Dyson your  
 12 view. Do you see that? You say:  
 13 "Throughout this process, SP is deflecting  
 14 everything towards JP, stating she had no idea. He is  
 15 clearly on the hook, as he performs the finances whilst  
 16 she tests, but there is sufficient evidence to show she  
 17 must have known about all of this."  
 18 Well, that's not fair, is it?  
 19 A. No, I think that's my view, and I hold that view today.  
 20 Q. What, all of it?  
 21 A. I think that's a reasonable view to come to. That is my  
 22 view.  
 23 Q. Okay. You say that she was covering up, and you call  
 24 her "considered, very deliberately deceitful", these are  
 25 your words, I am just quoting them back to you; yes?

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1 A. Yes.  
 2 Q. Your suggestion is that you don't complete any further  
 3 process; that's right, isn't it?  
 4 A. Correct.  
 5 Q. And your advice to Mr Dyson is that she's dishonest?  
 6 A. Correct.  
 7 MR STUART: My Lord, would that be a convenient moment to  
 8 give the break?  
 9 MR JUSTICE HILDYARD: Yes. How are we getting on?  
 10 MR STUART: Are we going to 4.30 today, my Lord?  
 11 MR JUSTICE HILDYARD: If you would like.  
 12 MR STUART: If we could. I will try to finish Mr McAlindon  
 13 by 4.30.  
 14 MR JUSTICE HILDYARD: I don't know whether there is any  
 15 re-examination, but anyway, we are reasonably well on  
 16 track.  
 17 MR POTTS: My Lord, yes. You are saying you will finish  
 18 your cross this evening?  
 19 MR STUART: I think so. If we stop now and we come back at  
 20 just before 20 to and I have 50 more minutes I think  
 21 I am going to get pretty close to finishing, and I will  
 22 very much try to finish by 4.30.  
 23 MR JUSTICE HILDYARD: All right. You are right, he is  
 24 an important witness, so I am glad that we are broadly  
 25 on track. We will come back here just before 20 to,

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1 then.  
2 (3.28 pm)  
3 (A short break)  
4 (3.38 pm)  
5 MR STUART: Mr McAlindon, I just need to correct a question  
6 I put to you earlier about the -- whether it's correct  
7 or clarify -- report that was sent to the GOC. We do  
8 actually have the report in bundle E3. Could you be  
9 passed E3? Page 596-1. Do you see that?  
10 A. I do.  
11 Q. It's a report called "Report regarding tax  
12 irregularities".  
13 A. Yes.  
14 Q. Do you see that?  
15 A. I do.  
16 Q. That, as I understand it, is the second investigation  
17 report. Do you know what that --  
18 A. I have no knowledge of this document.  
19 Q. Okay, fine. That report refers to your investigation on  
20 page 596-4, at item of the report 3.1.1. Do you see?  
21 A. (Pause) Yes.  
22 Q. Then it says:  
23 "A copy of this investigation can be seen at  
24 appendix 1."  
25 A. I can see that.

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1 Q. Then it goes on:  
2 "Mrs Parham was interviewed. Copies of the notes of  
3 interview can be seen at appendices 2 and 3."  
4 Then it goes on and on and on, there are a number of  
5 appendices anyway --  
6 A. Yes.  
7 Q. -- to this report.  
8 A. Yes.  
9 Q. So my question to you should have been, when I asked you  
10 about the document at X1 -- can you be passed X1? --  
11 page 4, do you remember I asked you whether, if that  
12 investigation summary, page 4 and page 5 of your bundle  
13 there, if those were sent --  
14 A. Yes.  
15 Q. -- to the GOC --  
16 A. Yes.  
17 Q. -- as appendix 1 --  
18 A. Yes.  
19 Q. -- to this tax report, which was sent to the GOC --  
20 A. Yes.  
21 Q. -- then that would have been publication to the GOC --  
22 A. Yes.  
23 Q. -- of matters which you have now confirmed to  
24 his Lordship are just draft, wrong, and should never  
25 have been published to anybody?

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1 A. Yeah, I would agree with that.  
2 Q. So if it turns out that that is, that page 5 is the page  
3 that was sent, or pages 4 and 5 were sent as appendix 1  
4 to the GOC, as appendix 1 to the report, then that's ...  
5 but you have no knowledge of what was actually sent?  
6 A. None whatsoever.  
7 Q. So the court will have to see what was appendix 1 to the  
8 tax report. All right.  
9 Let's go back to bundle E2. After sending page 434  
10 to Mr McAlindon(sic), which was the summary we have just  
11 been through, page 438, later that day -- actually,  
12 sorry, four minutes later. Four minutes later that day  
13 you wrote to Mr Dyson:  
14 "Further to my last email I've spoken to Mike Rowe."  
15 Do you remember?  
16 A. Yes.  
17 Q. "He has one optom interested in that area and a store of  
18 that type and is very positive that the person would be  
19 interested. If that failed, he described it as a medium  
20 store in terms of difficulty in moving it on."  
21 So you appear to be talking to Mr Dyson about  
22 a replacement for either Mr and/or Mrs Parham as  
23 shareholders of, JV partners at the Uckfield store?  
24 A. Yes.  
25 Q. "However, he also felt that SP was another deceitful,

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1 manipulative and lazy individual."  
2 Are you saying that's what Mr Rowe told you in  
3 a conversation that day?  
4 A. I am saying it in that email, and I don't recollect the  
5 conversation with Mr Rowe at all, but I am clearly  
6 reiterating -- I am clearly passing on what he said to  
7 me. So -- but I don't recollect the conversation.  
8 Q. Okay. My query, if you don't recollect it at all  
9 I probably can't ask you, but you have written it:  
10 "He also felt that SP was another deceitful,  
11 manipulative and lazy individual."  
12 Another. Who else were you talking about at the  
13 time?  
14 A. To be honest I can't even recollect the conversation  
15 with Mike Rowe.  
16 Q. No, but this is to Mr Dyson, you see.  
17 A. I know, but it doesn't say it in here and I have no  
18 recollection of the conversation with Mr Rowe, it's  
19 difficult for me to comment on.  
20 Q. Okay, you don't know who you think you were referring  
21 to, to Mr Dyson?  
22 A. I can't even recollect the conversation with Mr Rowe.  
23 Q. All right, okay.  
24 9 March, so that's two days after the meeting at the  
25 hotel, 7 March, fateful meeting?

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1 A. Yeah.  
2 Q. Are you suggesting that it was only after that meeting  
3 of 7 March that you were aware that Specsavers was  
4 looking to put in alternative JVPs into this store?  
5 A. Sorry, say the question again?  
6 Q. Are you saying that you only became aware that  
7 Specsavers were looking to put an alternative JV partner  
8 or partners --  
9 A. Yeah.  
10 Q. -- shareholders into the Uckfield store, are you saying  
11 you only became aware of that after the first  
12 investigatory meeting with Mrs Parham, one and only  
13 investigatory meeting with Mrs Parham?  
14 A. To be honest, I have no recollection of it at all. No,  
15 I just have no recollection of it.  
16 Q. What, you have no recollection of the fact that  
17 Specsavers was out there basically looking to sell the  
18 shares?  
19 A. Well, I think what this is saying is that Mike Rowe has  
20 a potential partner who is interested in that  
21 geographical area, I don't think it says that anybody is  
22 touting the shares of Uckfield, even at that stage.  
23 It's simply reflecting that there is a potential  
24 candidate interested in that geographical area.  
25 Q. Right, but they were touting them, weren't they, they

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1 were touting the shares?  
2 A. This email doesn't suggest that at all.  
3 Q. No, I know, I am asking you about your knowledge,  
4 Mr McAlindon. You were intimately involved in this  
5 whole process regarding the Uckfield store in the first  
6 week of March 2011, and I am asking you to confirm  
7 whether or not Specsavers was touting the shares before  
8 the meeting of 7 March?  
9 A. I have no knowledge of that whatsoever.  
10 Q. Indeed, they were touting the shares even before you  
11 suspended the partners on 1 March?  
12 A. I don't know that.  
13 Q. The question of the price of those shares was being  
14 talked about behind the scenes at Specsavers, even  
15 before the meeting of 7 March?  
16 A. I have no knowledge of that.  
17 Q. Because if the price was being discussed and was  
18 an issue before your meeting of 7 March, if it was, then  
19 you wouldn't need to phone Mr Dyson or anybody, or  
20 Mike Ryan, or anybody else to get hold of that price,  
21 would you, because you would know it already?  
22 A. I had no knowledge of the valuation or certainly no  
23 knowledge that anybody was talking about selling shares.  
24 Q. Okay. Does that surprise you, then?  
25 A. It does.

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1 Q. Just whilst we are at this part of the bundle, 438-1,  
2 the next page, the next day, 10 March, do you see that?  
3 It's from -- the top email is from Mr Raines to  
4 Mr Dyson. Do you see that?  
5 A. Yes.  
6 Q. "Hi, for your information, all actions in motion."  
7 Beneath that it's from Mr Rowe to Mr Raines. Do you  
8 see that?  
9 A. Yes.  
10 Q. Mr Rowe is saying to Mr Raines:  
11 "Hi Mark, all issues in hand. I have two optoms  
12 interested in Uckfield ..."  
13 Do you see that?  
14 A. Yes.  
15 Q. "... and just tonight I have a retailer interested."  
16 So it looks like both sets of shares by this point  
17 are being hawked around; yes? Both Mr and Mrs Parham?  
18 A. Yes.  
19 Q. Were you aware of that at that stage, then, 9 March?  
20 10 March?  
21 A. No.  
22 Q. Okay. Then over the page, 438-2, I presume you say you  
23 weren't aware of this. Do you see above the black bit  
24 it says:  
25 "Mike, please progress the retailer search and

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1 conversations asap, this will be a straight share sale  
2 from John to the new partner. You can now go public on  
3 the retailer shares."  
4 Do you see that?  
5 A. I see that.  
6 Q. "Await a decision on the optom shares however."  
7 Do you see that?  
8 A. I see that.  
9 Q. So that seems to have been the position at 9 March.  
10 Were you involved? You spoke, I think, to Mr Dyson at  
11 around this time, did you?  
12 A. I don't know.  
13 Q. Did you also speak to Mr Raines?  
14 A. No.  
15 Q. Or Mr Rowe?  
16 A. Well, there is an email from Mr Rowe, so at some point  
17 I -- or there is an email from myself to Mr Dyson  
18 commenting that I had had a discussion with Mike Rowe,  
19 and I think that would have been to inform him of what  
20 had happened on the day, because he was the RDC for that  
21 area.  
22 Q. Yes.  
23 A. Outside of that, I wasn't involved in any communications  
24 with any of the RST in that respect. All my  
25 communications were to Derek Dyson.

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1 Q. You see, that's odd, isn't it? Because if you just step  
2 back in the bundle to page 392-1, at 6.55 in the morning  
3 on 1 March -- so this is before you are going to suspend  
4 them; do you remember?  
5 A. Yes.  
6 Q. 1 March was the meeting, the unminuted, unnoted meeting  
7 by you at least where you suspend them; do you remember?  
8 1 March?  
9 A. Yeah.  
10 Q. This is to you, the top email is forwarding on an email  
11 from Mike Rowe to Mark Raines. Mark Raines forwards it  
12 on to Derek Dyson and you, of all people.  
13 A. Mm.  
14 Q. I don't know what he is doing that for, but anyway,  
15 1 March, at 5 to 7, "For your information, regards  
16 Mark".  
17 Now, you must have been somewhat surprised to  
18 receive that email given that it says:  
19 "Hi Mark, I have progressed Uckfield as requested.  
20 The optom I told you about is def interested, he knows  
21 the price range."  
22 Oh dear, Mr McAlindon, it does look like on 1 March  
23 you were aware that they were hawking round the shares,  
24 that the price had been sorted out for the shares, and  
25 that the issue of the price wasn't going to be

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1 a problem?  
2 A. It's referring to a price range for that store.  
3 Q. Yes.  
4 A. A price range.  
5 Q. Of course.  
6 A. Not the price.  
7 Q. No, it could be 300, 315, 320.  
8 A. Could be 280 or 390.  
9 Q. Exactly.  
10 A. You know.  
11 Q. Absolutely. But you had a good idea what the price  
12 range was, but you were looking to sell to this  
13 alternative optom?  
14 A. I had no idea what the price range was.  
15 Q. Okay. Why are they sending this to you?  
16 A. I don't know.  
17 Q. What was your email in response to this, because we  
18 haven't seen it?  
19 A. I didn't send an email in response to it.  
20 Q. Did you phone Derek?  
21 A. I would have no reason to phone Derek.  
22 Q. Did you phone Mark Raines?  
23 A. I would have no reason to phone Mark Raines. The email  
24 is "for your information" headed at the top, and to be  
25 honest I would have just deleted it, it's of no

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1 relevance to me.  
2 Q. Mr McAlindon, are you telling the court that you would  
3 have just deleted this email addressed to you and  
4 Mr Dyson "ref Uckfield", you were that day going to  
5 Uckfield, by pure chance you were going to suspend the  
6 shareholders, and that suspension you say "absolutely no  
7 question at that point of them being kicked out, we had  
8 made no decisions, we hadn't even started the  
9 investigation process"; you are saying that you would  
10 have just deleted an email which said "I have progressed  
11 Uckfield as requested, the optom I told you about is def  
12 interested, he knows the price range, the only  
13 complication is that I've also got him interested  
14 in ..."  
15 In what?  
16 A. Can you refer me to the date of the interview or tell me  
17 the date of the interview?  
18 Q. 7 March.  
19 A. Yeah.  
20 Q. You suspended them on 1 March, this day.  
21 A. Yeah.  
22 Q. This is 5 to 7 in the morning, so this is a few hours  
23 before you are going to see them?  
24 A. Yeah.  
25 Q. Interested in what?

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1 A. The reality is I wouldn't have been in a position to  
2 read that email before I met them. I would have been  
3 travelling down from Hull to Crawley for a meeting in  
4 the morning, and I would have been leaving at 4 or 5 in  
5 the morning. So I wouldn't have read it, I would have  
6 been driving.  
7 MR JUSTICE HILDYARD: You don't have a BlackBerry or  
8 anything?  
9 A. No.  
10 MR STUART: Or an iPhone?  
11 A. I have an iPhone. Didn't at the time though.  
12 Q. Anyway, they obviously thought you would know what it  
13 was about, because there is no explanation given when  
14 they send this to you, they just put "FYI"?  
15 A. Correct, I can't comment for what they thought or why  
16 they copied me in for it, you know.  
17 Q. I will suggest, then, that they copied you in because  
18 you were in the conspiracy, you knew what the plan was,  
19 you knew that Mike Rowe had been requested -- I am using  
20 his words -- to find replacement optometrists to replace  
21 Mrs Parham, because she is the optometrist partner here;  
22 do you remember?  
23 A. Yes, I remember.  
24 Q. The optometrist he had found, he had discussed the price  
25 range, that optometrist was also being got interested in

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1 another store which, in around March 2011, might have  
 2 been needing a replacement?  
 3 A. I think, my Lord, that in these situations, prior to the  
 4 suspension, I think it had already become clear that  
 5 there were some fairly serious issues to consider, and  
 6 it could potentially have ended up in a partner exit  
 7 situation. Alongside what we were doing as  
 8 an investigation -- again the RST would have to comment  
 9 on it -- but I believe that they would be looking for  
 10 considering disaster recovery and looking for potential  
 11 partners should that situation come to fruition, it is  
 12 not an unusual thing to do, it's just disaster planning.  
 13 It doesn't mean that there was a huge conspiracy to get  
 14 them out. We would have gone through our normal  
 15 process, and I was unaware that share sales were being  
 16 spoken about. Yes, I got forwarded this email, but  
 17 I wouldn't really have paid any attention to it, and  
 18 I was certainly unaware of the valuation of the company.  
 19 There wasn't a conspiracy.  
 20 Q. I am just going to ask you, then, "the complication is  
 21 that I have also got him interested in" and that would  
 22 be another store, wouldn't it, that's blacked out, and  
 23 an exclamation mark?  
 24 A. No, I can only guess.  
 25 Q. No, no, you can't only guess --  
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1 A. It's not my email, I can guess.  
 2 Q. You read the email with the blanking not there?  
 3 A. I have no recollection of the email, I appreciate that  
 4 I received it in my email box. Did I read it or pay any  
 5 attention to it? Unlikely.  
 6 Q. Okay, what was the only other store in the area which at  
 7 that time, March 2011, you were trying -- you,  
 8 Specsavers -- to find a potential replacement JV partner  
 9 for, because you were planning, you were just planning  
 10 to start an investigation process which would result in  
 11 their leaving? What's the only other store in the area  
 12 that you were doing that to at that time?  
 13 A. Sorry, I don't agree with the way that you are  
 14 describing how we were planning to make somebody leave.  
 15 I think that's inappropriate. If there was another  
 16 store where there was a partner vacancy, I have no  
 17 knowledge of it.  
 18 Q. What if there was not yet a vacancy but you were in the  
 19 course of starting an investigation process, drafting  
 20 a suspension letter to the partners in the store in  
 21 February 2011? It was Bognor, wasn't it? Do you  
 22 remember, you gave an explanation at the last trial that  
 23 there was a delay in you starting the investigation at  
 24 Bognor because at the time you were rather busy doing  
 25 something else?  
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1 A. I don't know whether this is ... which store it is or  
 2 which person it is, I had no idea, I actually don't know  
 3 how far it is between Uckfield and Bognor and is that  
 4 viable. I just don't know.  
 5 Q. Okay, they are both stores in the same region, aren't  
 6 they?  
 7 A. But the geographical regions are significant, they are  
 8 large, and somebody who would be interested in Uckfield  
 9 wouldn't necessarily be interested in Bognor. I don't  
 10 know. I've no idea who the other store is.  
 11 Q. Anyway, can you think of any other store in the area  
 12 that you were dealing with at the time, that Mr Rowe and  
 13 Mr Raines might have put an exclamation mark next to?  
 14 A. No, I can't.  
 15 Q. We will be hearing from them in due course, so no doubt  
 16 they can answer the question. You don't recall anyway?  
 17 A. No, I don't recall.  
 18 Q. Whilst we are here, let's go back a little further in  
 19 the chronology. 382-1. Dyson and Raines --  
 20 A. Sorry, 382?  
 21 Q. 382-1. 8 February.  
 22 A. Sorry, I have 382, rejected credit card, 382-01, 02,  
 23 yes, got it.  
 24 Q. That's it. 8 February, Mr Dyson and Mr Raines are  
 25 discussing things, and the only item that's not blacked  
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1 out under "Agenda Points" is "Uckfield loss prevention".  
 2 That's you, isn't it?  
 3 A. Yes.  
 4 Q. So they were going to put you in, is that right?  
 5 A. No, that was a discussion between them.  
 6 Q. Yes, I know. They were going to discuss putting you  
 7 into Uckfield, putting your department in?  
 8 A. I don't know.  
 9 Q. Didn't you have some conversations with them at the  
 10 time?  
 11 A. I don't know what they are doing here.  
 12 Q. Well, that's what I wanted to ask you about.  
 13 A. I don't know.  
 14 Q. No. What were they doing, discussing this at the  
 15 beginning of February?  
 16 A. I've no idea.  
 17 Q. No.  
 18 A. I was not involved in the conversation.  
 19 Q. We don't see any emails from you to them at this time,  
 20 either of them, about this?  
 21 A. Right.  
 22 Q. About Uckfield. I am a little confused as to quite how  
 23 you started getting involved in Uckfield.  
 24 A. Er --  
 25 Q. Actually back in September --  
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1 A. I think it's quite clear how I got involved in Uckfield.  
2 I received an email with the allegation about the NPower  
3 cheque, and that's where it started, and the rest of  
4 its ...  
5 Q. We now know from Mrs Lofting, that that email about that  
6 NPower cheque, there were some things wrong with it,  
7 aren't there?  
8 A. That's not for me to judge, you know, I received the  
9 email, I acted on the email, the issue that was  
10 specified in that email, which was the NPower cheque, we  
11 found the cheque and that incident had happened.  
12 Q. You could have found that cheque as part of the checks  
13 that you were making in relation to the Uckfield store,  
14 because they were on the watch list, weren't they?  
15 A. I don't know.  
16 Q. What, you don't know whether they were on the watch  
17 list, even?  
18 A. I don't get pub -- I am not on the circulation list for  
19 that list.  
20 Q. Okay. I showed you the document which said that they  
21 thought you were dealing with the Uckfield store from  
22 May 2008 onwards, and you said he was confused about  
23 that, he was wrong?  
24 A. In my head I think I know the document you are referring  
25 to, but --

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1 Q. Sorry, you are quite right, about the Bognor store.  
2 A. Sorry, I don't know what document you are referring to.  
3 Q. Okay. When do you say, in relation to the Uckfield  
4 store, that you started getting interested in them?  
5 A. I didn't get interested in them, I got forwarded  
6 an email that had an allegation that had been passed  
7 through to somebody in the RST and the RST forwarded it  
8 on to me and said "I think this is something you should  
9 be looking into". That was the starting point that  
10 I got involved with Uckfield.  
11 Q. If you had known what we now know, namely that  
12 Mrs Lofting says she never had such a conversation, if  
13 you had known that --  
14 A. Yes.  
15 Q. -- you are the investigator here, and if you had known  
16 that Mr Rajan was under serious pressure about Sunday  
17 trading --  
18 A. Yes.  
19 Q. -- would you have investigated all of this to see  
20 whether this might be some sort of attempt to just throw  
21 some mud at these people?  
22 A. I think if somebody had been behaving inappropriately in  
23 the company and I had thought that was a possibility,  
24 I would have not only looked at the allegation, ie the  
25 NPower cheque, I would have passed that comment on to

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1 Mr Dyson.  
2 Q. You were aware, weren't you, in 2010 of the ramping up  
3 of the issue about Sunday trading?  
4 A. No.  
5 Q. You were aware that --  
6 A. I am not involved in anything to do with Sunday trading.  
7 That's a retail issue, it's not a loss prevention issue.  
8 Q. What about E1, page 238? Were you aware that within the  
9 whole Specsavers management side of Specsavers at this  
10 time, that this Sunday trading issue was a very high  
11 importance issue, a priority for the company?  
12 A. I've read in a number of publications, such as  
13 John Perkins' letters to partners about the benefits and  
14 the results that would be achieved through Sunday  
15 trading, so I was aware that Sunday trading and Sizzling  
16 Sundays were being published and all the rest of it from  
17 publications that I read. But I am not on this  
18 circulation list, and I was unaware of the general  
19 retail discussion that happened underneath that. All  
20 I was aware of was the general existence of that as  
21 a business opportunity that was being discussed and, you  
22 know, through general publications that were sent out to  
23 partners that I also read.  
24 Q. Who was your boss in the --  
25 A. Derek Dyson.

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1 Q. Mr Dyson. Were you not aware from discussions with him  
2 that this was a priority?  
3 A. I've never had a discussion with Derek Dyson about  
4 Sunday trading.  
5 Q. Okay.  
6 A. It's of no relevance to me. It is relevant only to the  
7 RST.  
8 Q. Okay, you can put away E1. Sorry, there is one document  
9 I forgot to take you to in E2, 381-1. This is  
10 a manuscript note which I think we are going to find it  
11 Mr Raines' note.  
12 A. You have just taken me to --  
13 Q. Sorry, 381-1. I hope it's a manuscript note, yes, you  
14 have it. At the bottom do you see it says "Uckfield"?  
15 A. Yeah.  
16 Q. "10k out of the business -- stole. Bad leaver clause,  
17 plan B."  
18 Do you remember, I think this is Mr Raines' notes,  
19 okay? Did you discuss with Mr Raines -- and this would  
20 have been in early February 2011 -- Uckfield, 10,000 out  
21 of the business, stole, bad leaver clause or plan B?  
22 A. I don't recollect having a conversation with  
23 Mark Raines, and I don't recognise this document, I've  
24 never seen it before.  
25 Q. No, this is just his note of a discussion he has had

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1 with somebody.  
 2 A. Yeah.  
 3 Q. So I'm asking you whether it's you that he's talking to?  
 4 A. No, not that I'm aware of.  
 5 Q. No. Did you or your team pass on the information that  
 6 by this point, February 2011, that the Uckfield  
 7 directors had stolen £10,000?  
 8 A. Sorry, say that again?  
 9 Q. Had you or your team, by early February 2011 -- I think  
 10 from where it's being put it's suggested that it's some  
 11 time between 3 February and 7 February 2011 -- notified  
 12 Mr Raines that in relation to the Uckfield store the JV  
 13 partners had stolen £10,000?  
 14 A. I -- no, I don't think I did.  
 15 Q. No.  
 16 A. The person that I would speak to throughout this process  
 17 would be Derek Dyson, from the instigation from the  
 18 email onwards I would speak to him, not anybody else,  
 19 for confidentiality reasons.  
 20 Q. Yes. All right. Sorry, can we just go back? Now we  
 21 are in E2, moving near to the end of your involvement  
 22 chronologically, page 439 in E2. You send another  
 23 summary. This is 30 March now. You send another  
 24 summary to Mr Dyson. Do you see it?  
 25 A. I do.

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1 Q. What had happened between 9 March and 30 March insofar  
 2 as gathering of further evidence by you?  
 3 A. Sorry, from 9 March being --  
 4 Q. Do you remember, 7 March you have the investigatory  
 5 interview with Mrs Parham?  
 6 A. Yeah.  
 7 Q. 9 March I took you to page 434 where you sent  
 8 Mr Dyson --  
 9 A. Yeah.  
 10 Q. -- a long list of things, and your recommendation?  
 11 A. Yeah.  
 12 Q. You told the court that you thought, within that day or  
 13 two, you would have packed up all the files and sent  
 14 them off --  
 15 A. Correct.  
 16 Q. Or Les Gutteridge would or Phil Barnes would, but  
 17 anyway, your department would have sent all of that off.  
 18 I think you were going off to Australia at around that  
 19 time anyway, you had explained in the meeting?  
 20 A. Yes.  
 21 Q. I am just trying to see whether between 9 March when you  
 22 have sent him your previous email, and 30 March when you  
 23 are sending this email three weeks later --  
 24 A. Yeah.  
 25 Q. -- you are obviously in Australia for most of it, but

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1 did you do any other evidence gathering in relation to  
 2 the Uckfield store?  
 3 A. I have no recollection of doing that, and --  
 4 Q. No.  
 5 A. No.  
 6 Q. Okay. Anyway, this is now your explanation to Mr Dyson.  
 7 If you go to the third paragraph:  
 8 "After the statement was read out ..."  
 9 That's Mr Whittaker's statement, okay?  
 10 A. Yeah.  
 11 Q. "... it was observed that she appeared to have been  
 12 systematically lying to the investigators and was asked  
 13 to comment."  
 14 Okay?  
 15 A. Yeah.  
 16 Q. When you used those words "it was observed that she  
 17 appeared to have been systematically lying to the  
 18 investigators and was asked to comment", are you saying  
 19 you observed it, in other words you said it to her? Do  
 20 you use the word "observe" as meaning --  
 21 A. I suppose I should put "I observed" rather than "it  
 22 was".  
 23 Q. Did you express that observation to her for her to  
 24 comment on?  
 25 A. No.

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1 Q. So it was just in your own mind?  
 2 A. Yes.  
 3 Q. Okay. So you didn't tell her that she appeared to have  
 4 been systematically lying?  
 5 A. No.  
 6 Q. You just asked her to comment?  
 7 A. Yes.  
 8 Q. "She explained the statement was not true. She was  
 9 asked if he was lying and she replied it was just not  
 10 true. It was observed that he could not have known the  
 11 information in the statement unless they had been in  
 12 touch with him, and divulged that information, so it had  
 13 to be true and he could not have been lying."  
 14 A. Correct.  
 15 Q. "Shakila passed out".  
 16 Again, when you use "observed" in that sentence, do  
 17 you use it in the same meaning, ie just in your own mind  
 18 you thought that?  
 19 A. Sorry, if I can correct what I said. Having read the  
 20 whole context of the paragraph, clearly I am saying to  
 21 Mr Dyson that, when I say "it was observed" I put it to  
 22 her, which I don't believe I did in direct words, but  
 23 I was inferring to her that paragraph reflected the fact  
 24 that she was lying.  
 25 Q. Did it, though? We saw 428 --

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1 A. It did in my opinion.  
 2 Q. So you are saying that we should read this, as it  
 3 appears now, that you put that to her and that she then  
 4 passed out?  
 5 A. Yeah, and I believe that's incorrect --  
 6 Q. That is incorrect?  
 7 A. But yes, again, this email has been written after  
 8 I had -- when I had returned back to the UK, I arranged  
 9 to meet Mrs Parham at her request to discuss her  
 10 withdrawal of her resignation, and I met her in a hotel  
 11 somewhere near Oxford and we had a discussion about it.  
 12 Following that discussion, I drove home and reflected on  
 13 all of the discussions that I had, and by the time I got  
 14 home I felt very strongly and wrote this email to  
 15 Mr Dyson, Derek Dyson, expressing my thoughts on the  
 16 whole picture, which was some four/five hours after the  
 17 meeting.  
 18 Q. Right. You then move on to the next part of the  
 19 meeting. You say:  
 20 "After a without prejudice discussion both resigned  
 21 with immediate effect, agreeing to repay the  
 22 investigation and management costs."  
 23 Do you see that?  
 24 A. I do.  
 25 Q. "Withheld from shares. Shares worth 315,000. Shakila  
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1 has now written in asking to withdraw her resignation  
 2 and asked the group not to accept it."  
 3 Do you see that?  
 4 A. I do.  
 5 Q. You don't give an explanation there to Mr Dyson about  
 6 the circumstances in which she was offered 315,000 less  
 7 the 15,000?  
 8 A. I was already aware of that situation.  
 9 Q. Okay. This is now your summary of it:  
 10 "Their sins include ..."  
 11 Is this the way you and Mr Dyson correspond, you  
 12 know, "sins" and ...?  
 13 A. Normally I don't use colourful language, but after that  
 14 meeting I was -- felt quite frustrated and I've  
 15 reflected a lot on what had been said and felt that the  
 16 whole thing was inappropriate, utterly inappropriate.  
 17 So I suppose my frustrations came out in some colourful  
 18 language.  
 19 Q. Okay. Number one, you don't have numbering, but I have  
 20 numbered them:  
 21 "Putting all personal expenses for food and drink  
 22 and meals out through petty cash, 2000 to 3,000 in one  
 23 year."  
 24 I am afraid that's another of your rather gross  
 25 exaggerations, isn't it, Mr McAlindon?  
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1 A. I don't dispute what you are saying.  
 2 Q. The use of petty cash, even in your report, and it's  
 3 only for about nine months of the year, but it's in the  
 4 hundreds of pounds, petty cash, it's in the hundreds of  
 5 pounds, isn't it?  
 6 A. I don't dispute that.  
 7 Q. Why did you think it appropriate to exaggerate to that  
 8 extent, £2,000 to £3,000 on lunches?  
 9 A. I don't think it was a deliberate exaggeration, I wasn't  
 10 deliberately exaggerating anything. I had in my head  
 11 a picture and I was listing what I saw that picture to  
 12 be, and it's inaccurate, but at the end of the day if  
 13 Mr Dyson wanted to consider more accurately then he  
 14 could have told from this that there was emotion in  
 15 there, you know, the actual receipts were available to  
 16 him. So ...  
 17 Q. Okay. You say they were available to him --  
 18 A. I'm not deliberately exaggerating --  
 19 Q. He didn't have them to check this.  
 20 A. No, I am not deliberately exaggerating, I am replying in  
 21 a very frustrated tone because of all of the  
 22 inappropriateness of the discussion that took place that  
 23 morning.  
 24 Q. You knew he was going to rely upon your advice?  
 25 A. No, not at all. He would have relied on everything that  
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1 was available to him and if he had wanted to go and look  
 2 at them all, he could have gone and looked at anything  
 3 he wanted to.  
 4 Q. The second item that you list is the £1,500 use of the  
 5 credit cards, which I think you acknowledged earlier  
 6 today that that actually wasn't anything particularly  
 7 wrong with that?  
 8 A. No, correct.  
 9 Q. "Rebuilding their house and putting all expenses through  
 10 as business, thousands". That's a little bit of  
 11 an exaggeration as well, isn't it?  
 12 A. Not significantly. There was the best part of £2,000  
 13 worth of City Electrical factor invoice, and that was  
 14 all barring one or two, the vast proportion was  
 15 personal, and the amount from recollection was about  
 16 1800, so --  
 17 Q. It's not thousands.  
 18 A. Calling it thousands is a mild exaggeration, because  
 19 2,000 is thousands, and it's about £150 short of £2,000  
 20 so I don't think that's a terrible exaggeration.  
 21 Q. The whole price of rebuilding their house wasn't, it was  
 22 some electrical items, wasn't it?  
 23 A. I think by that time, a significant time had passed  
 24 between them resigning and Zoe Smith running the  
 25 business, and during that period a number of comments  
 200

1 were made to Zoe Smith about things that were -- that  
 2 the employees explained to us, and you know, this was  
 3 one of the things that was commented to her. And it  
 4 wasn't documented because the investigation had closed  
 5 and, you know, it was hearsay that had been passed on to  
 6 Zoe that Zoe just passed on to me verbally.  
 7 Q. What, you are suggesting that someone had alleged that  
 8 they had rebuilt their house and --  
 9 A. I am not saying that --  
 10 Q. -- put the costs of that through the company --  
 11 A. I'm not saying that.  
 12 Q. And you hadn't noticed it amongst your penny by penny  
 13 audit of every single receipt and item that had been put  
 14 through petty cash, credit cards and the eBis system.  
 15 A. I am not saying that the words "rebuild my house" were  
 16 used, but substantial work was done.  
 17 Q. No, some electrical goods were purchased through the  
 18 City Electrical Factors company account --  
 19 A. By this time additional conversations had taken place  
 20 relating to significant building work having been done,  
 21 so it's a combination of what was said based on the  
 22 investigation and other comments that had been made  
 23 subsequent, because over a month had passed.  
 24 Q. Flowers, we have already dealt with the flowers, haven't  
 25 we? Cleaner at home, we have already dealt with that.

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1 What's this one, Blu-Ray, iPod, TVs, computers, oven,  
 2 microwave, toasted sandwich maker, we have heard of  
 3 those.  
 4 "All presents to staff taken home. All personal!"  
 5 What are these TVs that they bought, you say,  
 6 personally and put down as business expenses of the  
 7 company? What are those?  
 8 A. I don't think it was a TV, I think there was a monitor,  
 9 there was a receipt in there for a monitor for about  
 10 £200. So my reference to TV is a monitor.  
 11 Q. There is no suggestion that it wasn't a business  
 12 expense. Even you haven't put that item to anybody.  
 13 A. There was no monitor in the business, therefore  
 14 I assumed that it was a personal expense and had gone to  
 15 the house, and I don't think that's unreasonable.  
 16 Q. All right. They did not put TVs -- buy a load of TVs --  
 17 A. I've explained. My word is "TV" but I meant monitor.  
 18 Q. Okay, you meant one monitor when you wrote the word  
 19 "TVs" and to the extent that Mr Dyson got the impression  
 20 that they had bought some TVs for home and put it  
 21 through as an expense of the business, that would have  
 22 been misleading, wouldn't it?  
 23 A. You could interpret that.  
 24 Q. "Skiing trip put down as business trip for employee,  
 25 director holiday."

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1 Actually the skiing trip was put down as for  
 2 Mr Parham, wasn't it?  
 3 A. As a PSA expense.  
 4 Q. Yes, for Mr Parham, it was Mr Parham's skiing trip?  
 5 A. I accept that.  
 6 Q. He never suggested that he had paid for a skiing trip  
 7 for one of his employees, when actually it was his own  
 8 holiday?  
 9 A. Yes, I accept that.  
 10 Q. Another trip to Spain we have dealt with, the retail  
 11 manager we have dealt with, the girl on the course we  
 12 have dealt with. Child minding costs. Attendance,  
 13 what's this one, "one of them is late or leaves early  
 14 daily to drop off or collect their children"?  
 15 A. That was something that had been explained by one of the  
 16 employees.  
 17 Q. Is that a sin? Is that a sin?  
 18 A. They are contracted to 40 hours in their joint venture  
 19 agreement and if one of them leaves early every day to  
 20 collect their children they could be in breach of their  
 21 contract.  
 22 Q. Do you think these two didn't work 40 hours a week in  
 23 this shop?  
 24 A. I was repeating what was told to me during that period.  
 25 Q. No member of staff ever suggested that --

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1 A. They did.  
 2 Q. -- these two didn't work 40 hours a week in the shop?  
 3 A. It was never explored or investigated.  
 4 Q. It was never alleged that they didn't work 40 hours  
 5 a week in the shop?  
 6 A. It was subsequently alleged post the resignations,  
 7 an employee passed that comment to Zoe Smith, who told  
 8 me over the phone.  
 9 Q. Who? Who said that?  
 10 A. I don't know. I don't know. But I am merely including  
 11 it in an email to Mr Dyson in relation to: should we  
 12 consider not accepting her resignation?  
 13 Q. You are suggesting that they, as it were, were doing  
 14 what was happening in your view in the Bognor case?  
 15 A. I am suggesting it's a possibility.  
 16 Q. That they were not working 40 hours, their contractual  
 17 hours?  
 18 A. I am suggesting it's a possibility in there.  
 19 Q. The total they have siphoned from the business is well  
 20 into five figures. What figure do you have in mind  
 21 there, 10k, 20?  
 22 A. I think it's over 10,000, I think the second report  
 23 quotes, that you brought me to, quoted over 20, so  
 24 I don't think that's a misleading statement.  
 25 Q. Then here, another allegation of fraud and tax evasion,

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1 not one that's been ever put or pursued to Mrs Parham:  
 2 "Shakila refers patients for laser surgery, gets the  
 3 money paid directly into her bank account. VAT fraud,  
 4 tax evasion."  
 5 My goodness, what's that all about?  
 6 A. Having taken over the day-to-day running of the  
 7 business, a number of cheques arrived in the store which  
 8 were from laser clinics, and the cheques were made  
 9 payable to Mrs Parham. The normal process for  
 10 a professional service, ie a referral, would be that the  
 11 cheque would be made payable to Specsavers, it would be  
 12 rung into the till, there is a SKU code for professional  
 13 services and by using the correct SKU code and entering  
 14 it into the till, the correct VAT apportionment would be  
 15 considered. It's a sale, and it should have gone in the  
 16 till. The fact that I concluded that, rightly or  
 17 wrongly, because it had her name on it she would bank  
 18 that personally because you couldn't bank that into  
 19 a Specsavers account.  
 20 Q. Do you have any evidence to support this?  
 21 A. No, because it came after the resignations and our  
 22 investigation had concluded, so it is background  
 23 information, but I didn't collate the evidence because  
 24 I didn't feel it was necessary. I have to say, had we  
 25 resumed the investigation, if the decision had been

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1 taken to allow Mrs Parham to reinstate her employment  
 2 and retract her resignation, and the investigation  
 3 process had continued, that is something that would have  
 4 been investigated.  
 5 Q. Then finally, you summarise your views, and I just want  
 6 to get it clear here. As you put it there, you say she  
 7 is a prodigiously good liar; do you see that?  
 8 A. I do.  
 9 Q. Then you go on to describe a pre-nup between her and her  
 10 husband relating to what would happen in the case of  
 11 a divorce?  
 12 A. Correct.  
 13 Q. What's that all about?  
 14 A. That's what Noel Whittaker explained to Zoe Smith.  
 15 Again, post the resignation, during the month period or  
 16 so between the resignation and me going to meet  
 17 Mrs Parham, which is what this email refers to, and  
 18 Noel Whittaker explained that to Zoe Smith. Zoe Smith  
 19 spoke to me about it and explained it to me, I am simply  
 20 including it in the email.  
 21 MR JUSTICE HILDYARD: Explain what to you?  
 22 A. Explained to me that Noel Whittaker had said that they  
 23 had got a pre-nuptial agreement and that Noel Whittaker  
 24 felt that if Mr Parham left that she would leave and  
 25 whatever. So I'm reiterating a conversation that came

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1 via Noel Whittaker to Zoe Smith to me.  
 2 MR STUART: In fact, they have no pre-nuptial agreement so  
 3 this is all a complete pack of lies by somebody,  
 4 Mr McAlindon. Is it you, Zoe or Mr Whittaker?  
 5 A. If it's a pack of lies, it would be Mr Whittaker,  
 6 because myself and Zoe are repeating what Mr Whittaker  
 7 explained to Zoe Smith.  
 8 Q. Do we have any evidence that he said that to anybody?  
 9 A. None whatsoever.  
 10 Q. None at all. None of this documented at all?  
 11 A. No, because the investigation had concluded. But had  
 12 she been reinstated, you know, we may have well gone and  
 13 asked them questions about it.  
 14 Q. Would you?  
 15 A. In fact, actually, no.  
 16 Q. You are going to ask about a pre-nuptial agreement  
 17 between herself and her husband?  
 18 A. In fairness, no, I wouldn't have asked any questions.  
 19 Q. No, I didn't think so.  
 20 Finally, then, two paragraphs further on:  
 21 "I am also concerned at the message it sends out to  
 22 the other bandits!"  
 23 Who is that? Is that Dr Poulsen, Mr Weller, Mr Vos,  
 24 are they the bandits?  
 25 A. No, there are a number of people in any company who

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1 behave inappropriately.  
 2 Q. Okay. Mr Dyson would know who you were talking about?  
 3 A. There would be no specific people, but there are in any  
 4 company a very small minority of people who behave  
 5 inappropriately.  
 6 Q. "Ray, the regional chairman, is aware of what she has  
 7 done and told her she needed to go gracefully."  
 8 Ray doesn't recall any such conversation --  
 9 A. I appreciate that.  
 10 Q. -- with you?  
 11 A. I appreciate that.  
 12 Q. Are you suggesting he said that to you or are you  
 13 suggesting this is another piece of hearsay?  
 14 A. No, I am absolutely suggesting he said that to me.  
 15 Q. When?  
 16 A. When, after the Parhams had gone, after the letter of  
 17 resignation had been written, Ray Hutchings came into,  
 18 back into the room, and spoke to us, and I asked him  
 19 what was said, and that was the comment that he made.  
 20 Q. You obviously don't like her, do you?  
 21 A. I do feel that she is a deceitful and manipulative  
 22 individual.  
 23 Q. What, because she has made statements which are grossly  
 24 inaccurate and with a view to achieving a result by  
 25 those statements by persuading people as to the truth of

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1 her statements?  
2 A. I think if you look at the whole package of all the  
3 things that have happened in the business, and the  
4 way -- and her conduct throughout dealing with it,  
5 despite the warnings that I gave to her that "your  
6 conduct is actually very, very important because of your  
7 position as an optometrist and a joint venture partner  
8 and a shareholder and director of the business", I feel  
9 that she behaved in a very -- unusually deceptive way,  
10 and that was the opinion I formed of her.  
11 MR STUART: My Lord, I see the time. I will be no more than  
12 15 minutes, but I quite see that we have had a long day.  
13 I will be 15 minutes with Mr McAlindon in the morning,  
14 and it might help me if I could gather my thoughts  
15 overnight and deal with his last 15 minutes.  
16 MR JUSTICE HILDYARD: Have you any guestimate as to how long  
17 you will be presently in re-examination?  
18 MR POTTS: I would like to have a look at the transcript,  
19 my Lord, not very long, I think. 15 minutes sounds  
20 about right to me as well.  
21 MR JUSTICE HILDYARD: So it would assist you both to adjourn  
22 now and reconvene in the morning?  
23 MR STUART: I think that would be good, my Lord.  
24 MR JUSTICE HILDYARD: What time do you think is necessary in  
25 order for us to reach our deadline?

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1 MR STUART: My Lord, I am being instructed to say 9.30.  
2 I am thinking myself 10 o'clock. But 9.30 if  
3 your Lordship would consider it, or 10 o'clock.  
4 MR JUSTICE HILDYARD: Mr Potts?  
5 MR POTTS: My Lord, I think it's really for Mr Stuart.  
6 MR JUSTICE HILDYARD: It is. You have a full day tomorrow.  
7 I will sit at 9.30 if invited to do so by you, you  
8 having to bear the considerable burden of  
9 cross-examining through the day.  
10 MR STUART: My Lord, 9.30, please, if your Lordship would,  
11 yes.  
12 MR JUSTICE HILDYARD: Right. We will sit at 9.30 tomorrow  
13 morning.  
14 (4.38 pm)

15 (The court adjourned until 9.30 am  
16 on Thursday, 16 January 2014)

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