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IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE  
FINANCIAL MARKETS TRIBUNAL (FMT)

Case: FMT 19006

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B E T W E E N:

Dr Mubashir Ahmed Sheikh

Applicant

- and -

The Dubai Financial Services Authority (DFSA)

Respondent

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- before -

His Honour Mr David Mackie CBE QC (President)

Mr Ali Al Hashimi

Mr Ali Al Aidarous

Day 3

Tuesday, 28 April 2020

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Dr Mubashir Ahmed Sheikh appeared in person

Mr Farhaz Khan (of 3 Verulam Buildings) appeared on behalf  
of the Respondent

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1 P R O C E E D I N G S

2 (11.00 am)

3 MR ALI AWAIS

4 MR PRESIDENT: Thank you for joining us, Mr Awais, and thank  
5 you for agreeing to give evidence. Before we start, I'm  
6 going to ask you to make an oath or an affirmation, so  
7 that we know that what you're going to tell us is true.  
8 Do you understand that?

9 WITNESS: Yes, I do.

10 MR PRESIDENT: Which would you prefer to do? Would you  
11 prefer to give an oath or an affirmation?

12 WITNESS: Oath is fine.

13 MR PRESIDENT: Would you please repeat after me. I swear by  
14 almighty God.

15 WITNESS: I swear by almighty God.

16 MR PRESIDENT: That the evidence I am about to give.

17 WITNESS: That the evidence that I'm about to give.

18 MR PRESIDENT: Is the truth.

19 WITNESS: Is the truth.

20 MR PRESIDENT: The whole truth.

21 WITNESS: The whole truth.

22 MR PRESIDENT: And nothing but the truth.

23 WITNESS: And nothing but the truth.

24 MR PRESIDENT: Thank you very much. If you just wait there,  
25 Dr Sheikh, this is your witness, would you just like to

1 11:01 introduce him.

2 Examination-in-chief by DR SHEIKH

3 DR SHEIKH: Yes, thank you, your Honours.

4 Ali, thank you for joining. Salam alaykom.

5 I'm going to ask the IT colleague, Ms Fatima, to  
6 bring one by one all the three of your statements and  
7 then I will walk through for a second. So this is the  
8 first time.

9 Fatima, can you kindly scroll down a little bit,  
10 please, slowly to the bottom of the page.

11 Mr Awais, could you kindly confirm for me that this  
12 statement that you have just seen is your statement?

13 A. Yes, I confirm.

14 Q. Mr Ali, could you kindly confirm that the signatures you  
15 see on the statement is indeed your signatures?

16 A. Yes, I confirm that.

17 Q. Mr Ali, could you kindly confirm that you have given  
18 this statement into the best of your recollection?

19 A. Yes, I confirm that.

20 Q. I'm going to request Fatima to kindly bring the second  
21 statement for Mr Awais.

22 The numbers for your information, is C096, C093 and  
23 C091.

24 Could you kindly scroll down the screen a little bit  
25 to the bottom of the page slowly, please.

1 11:03 Mr Awais, could you kindly confirm that the  
2 statement you have just glanced through, is it your  
3 statement?

4 A. Yes, I confirm.

5 Q. Mr Awais, could you kindly confirm that the signatures  
6 you see on the statement are indeed your signatures?

7 A. Yes, I confirm that.

8 Q. Mr Awais, could you kindly confirm that the statement  
9 that you have given is to the best of your recollection?

10 A. Yes, I confirm that.

11 Q. Thank you, Mr Awais.

12 Fatima, could you kindly bring Mr Awais' third  
13 statement, please. Could you kindly scroll down slowly  
14 to the end of the statement.

15 Mr Awais, could you kindly confirm that the  
16 statement that you just saw in front of you is your  
17 statement?

18 A. Yes, I confirm.

19 Q. Mr Awais, could you kindly confirm that the signatures  
20 you see on the statement are indeed your signatures?

21 A. Yes, I confirm.

22 Q. Mr Awais, could you kindly confirm that the statement  
23 that you have given is to the best of your recollection?

24 A. Yes, I confirm.

25 DR SHEIKH: I thank you very much, Mr Awais. I will now

1 11:04 tender your goodself as a witness to our opposing  
2 counsel for DFSA. The gentleman's name is Mr Khan.

3 Mr Khan, the witness is yours.

4 Cross-examination by MR KHAN

5 MR KHAN: Thank you very much, Dr Sheikh. And good morning.

6 Mr Awais, can I just confirm that you can hear me?

7 A. Yes, I can hear you loud and clear.

8 Q. Thank you very much.

9 Fatima, can you please bring up Mr Awais' first  
10 witness statement at C091.

11 Can you please turn to 907. It's the third page of  
12 the statement. Can you just scroll down to  
13 paragraph 11.

14 Mr Awais, you confirm there that you worked very  
15 closely with Dr Sheikh or Dr Mubashir, as you refer to  
16 him there, during your time at MAS. That's correct,  
17 isn't it?

18 A. Yes, that's correct.

19 Q. You go on to say, both in paragraph 11 and paragraph 13,  
20 that you thought very highly of Dr Sheikh?

21 A. Yes, I confirm that.

22 Q. You say that you respected his knowledge and experience  
23 and found him passionate and inspiring. That's at  
24 paragraph 11; correct?

25 A. Yes, that's correct.

1 11:06 Q. On a personal level, you say you found him selfless,  
2 kind-hearted and a loyal person?

3 A. Yes, that's true.

4 Q. Finally, in terms of the way he interacted with his  
5 employees, such as you, you say that he had a deep sense  
6 of respect and care for his colleagues. That's at  
7 paragraph 14 for your reference. That's correct, isn't  
8 it?

9 A. Yes, that's correct.

10 Q. We don't need to go there, but at paragraph 28, you say  
11 that he took exceptional care of his employees?

12 A. Yes.

13 Q. Did he take exceptional care of you?

14 A. Well, exceptional as if -- I mean, we had a working  
15 relationship and a very pleasant relationship and we  
16 respected each other. And there was, you know, a great  
17 deal of respect, you know, between two of us. So  
18 I would say it was a very good relationship between us.

19 Q. I'd like to now turn to your CV, which starts at page  
20 C091-913, Fatima.

21 Can I just ask what the date of this document is?  
22 Do you recall when you first produced this version of  
23 your CV?

24 A. Well, I think it was -- this version of CV probably  
25 2018, some time around.

1 11:08 Q. Okay, so relatively recent?

2 A. Yeah.

3 Q. We can see, it's a very detailed CV and very impressive,  
4 if I may say so. But if we turn to page 916, the period  
5 prior to you joining -- there is a reference to your  
6 time at Jones Day?

7 A. Okay.

8 Q. It shows there that you were a senior associate;  
9 correct?

10 A. Yes, that's right.

11 Q. We'll come back to your experience at Jones Day in  
12 a moment. But then in 2011, you were offered the role  
13 by Dr Sheikh of general counsel and chief operating  
14 officer of MAS; correct?

15 A. Yes, that's right.

16 Q. Would you accept that's a significant step up for you,  
17 professionally?

18 A. Yeah, I mean, it was -- you know, when I was at Jones  
19 Day, I was interacting regularly with MAS ClearSight, in  
20 particular with Dr Mubashir. And we had extensive  
21 discussions regarding, you know, the investment banking  
22 business and how he wants to expand the business and,  
23 you know, how everything was from his end, needed to be  
24 carried out. And, you know, he had a very passionate  
25 personality and something that was very appealing. And

1 11:10 I thought that perhaps this will be a good change for me  
2 career wise, a step up for me career wise also, to take  
3 a challenging role and to be able to, you know, expand  
4 the role and to contribute in some positive way.

5 Although, of course, with Jones Day, also one of the  
6 best firms in the world, and I was doing very well  
7 professionally, doing some very interesting work, but  
8 needed at some point something different. So that what  
9 drawn me towards, you know, joining MAS ClearSight at  
10 that time.

11 Q. Mr Awais, would you accept, going from a senior  
12 associate role, albeit at a significant US law firm, to  
13 being the general counsel and COO of a corporate client,  
14 was a step up for you?

15 A. Yeah, in a way, because it was something very  
16 interesting, the role was very challenging. And it  
17 was -- you know, the way the company was fine to take  
18 off or something, which I thought it will be a good step  
19 up role for me and something which will really add a lot  
20 of experience in my legal career and otherwise also.

21 Q. I put it to you that it was not just a step up, putting  
22 to one side your reasons for wanting to get different,  
23 better, wider experience -- we'll come to that. But not  
24 only was it a step up, it was a considerable step up?

25 A. Well, step up, I would say. I don't know, you know,

1 11:12 it's now -- you're talking about something very  
2 subjective here. What do you mean by "considerable" or  
3 not, but what I'm saying is it's a step up. Step up in  
4 many directions. Because it's not only monetary, but  
5 it's something which, you know, needed you to become  
6 a little bit more than just a lawyer.

7 You know, you apply your mind in a very 360-degree  
8 way and it's something which you wanted to polish, you  
9 know, different aspects of your professional career  
10 also, because, you know, with Jones Day, with Baker  
11 Botts I was with, and Milbank I was with, I was with  
12 World Bank.

13 So, no, I was doing very, you know, detail-oriented  
14 work and although this was very interesting, as you  
15 would appreciate, but sometimes it can be a little bit  
16 too mundane, too one-sided. But MAS ClearSight offered  
17 me not only legal work, but commercial aspect also,  
18 which was very appealing and the whole excitement of  
19 starting something, which started as a management buyout  
20 from Fortis. Fortis, at that time, was one of the top  
21 banks in the world and then MAS took over Fortis and  
22 then they were trying to expand it and they re-branded  
23 the whole thing. So it was --

24 Q. Mr Awais, I hesitate to interrupt you, because you must  
25 give your evidence, but I'm just asking you very simple

1 11:13 questions at this stage. I'd be very grateful for  
2 a straightforward answer.

3 What I asked you is, what I put to you, that it's  
4 a considerable step up. I understand your evidence  
5 is --

6 A. Yeah --

7 Q. -- that it's a step up --

8 A. Sorry to cut you short, but if you ask me a very  
9 subjective question and if your question is not  
10 straightforward, so don't expect any straightforward  
11 answer from me also. If you're asking something  
12 subjective --

13 Q. Do you agree --

14 A. I think I have already made myself very clear, if you  
15 want me to say --

16 MR PRESIDENT: Gentlemen, gentlemen, Mr Awais, please. This  
17 is not helpful. Let's just start again. And Mr Khan,  
18 ask a question. Mr Awais, listen to it and be given  
19 a chance to answer it.

20 So I think what happened, Mr Awais, was Mr Khan was  
21 asking whether you could respond to a question a bit  
22 more briefly. You -- he either didn't -- there was some  
23 misunderstanding between you and we then started to get  
24 two people talking over each other, which under this  
25 system isn't helpful.

1 11:14 So let's just start again. Mr Khan, if you ask the  
2 question and I'm sure Mr Awais will then answer it. He  
3 says the shorter your question, the shorter will be the  
4 answer.

5 MR KHAN: In your subjective opinion, your personal  
6 subjective opinion, did you regard the step up from  
7 Jones Day to MAS as a considerable step up?

8 A. It was a step up, because, you know, not only I was to  
9 work, function as a lawyer, with an investment banking  
10 business, but I also had to take care of, you know,  
11 certain operational, you know, related work as well.  
12 So, yes, I would say career wise, it was a step up and  
13 it was a professional development as well for myself.

14 Q. Thank you. Fatima, can we please go back to Mr Awais'  
15 first witness statement and go to page 906. If you can  
16 just scroll down to the bottom, so that Mr Awais can see  
17 paragraph 7.

18 Mr Awais, you very helpfully, both this paragraph 7  
19 and scrolling down to paragraph 8, describe what you  
20 have just referred to, which is the wide-ranging role  
21 you had at MAS.

22 A. Yes.

23 Q. That included the oversight of finance, compliance,  
24 legal, risk and HR; yes?

25 A. Yes, that's right.

1 11:17 Q. But also it seems you had considerable responsibility in  
2 terms of strategic leadership and oversight. I take  
3 that from paragraph 7; yes?

4 A. Yeah, you can say that.

5 Q. Also, I don't believe this is mentioned in your witness  
6 statement, but you were also a shareholder of MAS;  
7 correct?

8 A. Yes, eventually, yeah.

9 Q. Do you recall when you became a shareholder?

10 A. I think it was probably in 2012 or 2013, around that  
11 time.

12 Q. Would you describe yourself as part of the inner circle  
13 of senior management at MAS?

14 A. Yes, you can say that.

15 Q. Given Dr Sheikh gave you this opportunity, which I think  
16 we're agreed it was a step up at the very least,  
17 a wide-ranging role that you were very interested in, as  
18 you just describe, no doubt you are and remain very  
19 grateful to Dr Sheikh for that?

20 A. Grateful in what sense? You know, I respected him, you  
21 know, as a person and that he was running the business.  
22 It was not only I'm grateful to him, I think I fulfilled  
23 whatever requirements he had. I mean, he needed someone  
24 with my calibre, so I think it was a mutual gratefulness  
25 between us, that I joined and he accepted me as COO. So

1 11:18 it was, I think, mutual respect, professional respect  
2 for both of us, for each of us.

3 Q. Fatima, can you please go back to the CV. I'm going to  
4 look at a bit more detail at your experience and  
5 expertise. As I say, a very impressive CV, Mr Awais.

6 If we can start at page 917. We don't go all the  
7 way back for my purposes, but I note that you're at  
8 Milbank, as you mention The World Bank, and you started  
9 off in your family firm as an associate back in 1996.  
10 But we don't need to look at that.

11 More recently, though still some time ago, you  
12 started at Baker Botts in 2006. If I can just remind  
13 you what you say in your CV about your experience and  
14 expertise there:

15 "Representing borrowers and lenders in all aspects  
16 of international project development, project and  
17 structured finance and other cross-border  
18 transactions~..."

19 I won't take you through all of it, I'm sure you're  
20 very familiar, but for the tribunal's sake, one can see  
21 there some examples of your experience and expertise.

22 You would accept, would you not, with that context,  
23 that from an early stage, you had experience of  
24 financial transactions?

25 A. Yes, you can say that.

1 11:20 Q. Indeed, just taking you to one bullet, you had a lot of  
2 experience and expertise with Saudi entities and Saudi  
3 banks and experience, as one would expect of a corporate  
4 lawyer of your calibre, deep experience of drafting  
5 template documentation. There's just one example there,  
6 but I suspect you did that routinely?

7 A. Yes, absolutely. I mean, you know, transactions were  
8 all aspects.

9 Q. Then if we can move to page 916, going back to the  
10 reference to Jones Day. Again, I'll just remind you of  
11 what you say in the summary there:

12 "Practice centered on private equity, investment  
13 funds, projects and finance in energy ..."

14 Covering a range of industries and you advised:

15 "... sponsors, financiers, governments, industry  
16 regulators, and utility companies on the development and  
17 acquisition of power, water, oil and gas, infrastructure  
18 and commercial real estate projects."

19 Again, you give examples there. Can I take that's  
20 a continuation of your experience and expertise in  
21 corporate finance deals, if that's a useful way to  
22 describe and capture all of that experience?

23 A. Yeah. I mean, these are the highlights, you know, like  
24 specific transactions, you can say. I mean, there's  
25 many other transactions and many other work also, but

1 11:22 obviously these are, you know, in the limited space,  
2 these are the few of the highlighted transactions that  
3 I did.

4 Q. One of your clients, as you have just said, was MAS and  
5 Dr Sheikh; correct?

6 A. Yes.

7 Q. Can you give us one or two examples of the type of work  
8 you did for MAS?

9 A. I think they needed some kind of a general corporate  
10 advice regarding some employment issues and some  
11 structuring documentation, I remember, and general  
12 advice regarding some DIFC related corporate issues. So  
13 these were my initial interactions with MAS.

14 Q. Thank you. Apologies for jumping around, but going back  
15 to your CV and now bringing us forward to your time at  
16 MAS, just remind you what you say in your witness  
17 statement.

18 Fatima, keep it at C91-915. There's no need to go  
19 to the CV.

20 We see your experience there at MAS ClearSight.  
21 Just remind you again of what you say in the summary.  
22 You describe what MAS does there. You give examples of  
23 the work you did. I'd like to take you to one or two of  
24 those. The third bullet point down says you:

25 "Advised the company and clients in connection with

1 11:24 all aspects of transactions, including Corporate  
2 Investments, Funds, Private Equity, Mergers and  
3 Acquisitions, Projects and Corporate Finance."

4 So presumably, that's an accurate reflection of the  
5 work you did at MAS?

6 A. Yeah, that's one aspect of it, yes.

7 Q. Unsurprising, given you're the general counsel.

8 The next bullet down, again confirming that this is  
9 accurate, you:

10 "Spearheaded fund raising initiatives, strategic  
11 alliances/joint ventures, project consortiums and  
12 teaming, including taking leadership roles in setting up  
13 the company's overseas offices."

14 That's accurate, isn't it?

15 A. Yes.

16 Q. A final example, just to illustrate the level of  
17 involvement that you had in MAS' most important deals,  
18 you refer to your instrumental role in executing a JV  
19 involving the Abu Dhabi Royal Family; correct?

20 A. Yeah, you can say that.

21 Q. Finally, if we go to the next page, Fatima, if you just  
22 pause there.

23 The third bullet point down confirms that you:

24 "Oversaw Finance, Compliance, Legal, Risk and HR  
25 functions of the company to ensure synergy and

1 11:26 regulatory requirements, including relationship  
2 management with DFSA."

3 That's right, isn't it?

4 A. Yes, that's right.

5 Q. Just to summarise, from what we have seen, you're the  
6 general counsel and I think you've accepted you're part  
7 of the inner circle of senior management; yes?

8 A. Yep.

9 Q. You worked closely with Dr Sheikh, including on some of  
10 the most important deals that the firm was involved in;  
11 correct?

12 A. Yeah, that's right.

13 Q. Fatima, can we please take Mr Awais to bundle C,  
14 document 67, page 503. Just scroll down slowly and then  
15 if you go to the next page and just pause there.

16 Can we just scroll down a bit so we can see the  
17 recitals (A) to (F).

18 Mr Awais, this is the investment agreement  
19 purportedly agreed between Mr Akbar and MAS. Do you  
20 recognise this document?

21 A. I have not seen this document, but it appears to be  
22 based on the template that we use for investment  
23 agreements.

24 Q. Just before we look at the document, you say "the  
25 template", so there was a template investment agreement

1 11:29 where a third party was taking an equity stake in MAS.

2 Is that your evidence?

3 A. Yeah, we had prepared amongst many other documents as  
4 templates, a template investment agreement also, for the  
5 purposes of if any interested party is interested in  
6 investing in the company, for that purpose.

7 Q. Who drafted that document?

8 A. I drafted that document, but it was a template form.  
9 Obviously, it varied from deal to deal in certain  
10 provisions regarding the specific transaction. It may  
11 be amended accordingly, but a general template is what  
12 I drafted.

13 Q. But this particular agreement, the Akbar agreement, if  
14 we can call it that, you didn't see at the time and what  
15 I'm -- well, can you confirm you didn't see this at the  
16 time? This was dated 20 April 2015.

17 A. Yes, I confirm that. I didn't see it.

18 Q. Isn't that surprising, Mr Awais, given that you drafted  
19 the template, you're the general counsel and given your  
20 experience and expertise, you are perfectly placed to be  
21 involved in negotiating such a contract? Isn't it  
22 surprising that you weren't involved in this?

23 A. Yeah, I mean, in a way, it is -- it shouldn't have  
24 happened like that, but if it's based on the provisions  
25 of the template agreement itself and the provisions are

1 11:30 not changed, then obviously sometimes in the interest of  
2 time, the business side would, you know, approach the  
3 client independently, directly. And if there is not  
4 much to negotiate, as far as the legal terms or the  
5 provision of the template itself, then obviously they  
6 can enter into an agreement. Although this is not the  
7 way it should be, I should have been or even the legal  
8 should have been involved, but sometimes it happened.

9 Q. It's inconceivable, isn't it, that if such a deal  
10 existed at the time, you would not be closely involved  
11 in its execution?

12 A. No, it's not that. It has happened also in the past  
13 that the business have the agreements signed or in  
14 principle signed by the investor, then later on share it  
15 with me. Perhaps this was not the best way of doing it,  
16 but something should have been avoided, but it's nothing  
17 inconceivable about this also.

18 Q. Mr Awais, according to this agreement, Mr Akbar was  
19 taking a controlling share of MAS, that is at recital  
20 (C) -- Fatima, if we can scroll down.

21 At recital (F), there was going to be a requirement  
22 for a change of control. You understand what that  
23 means, don't you?

24 A. Yes, I do.

25 Q. Importantly, Dr Sheikh was going to step down as the

1 11:32 chairman and Mr Akbar would then have power to nominate  
2 a chairman of the board.

3 I'll put it to you again. Given the existential  
4 nature of the MAS financial crisis and given in that  
5 context that Mr Akbar was going to come in to take  
6 control of the business, it's inconceivable that as  
7 general counsel, you would not be involved in the  
8 execution of this agreement?

9 A. I think we have to step back a little bit, because  
10 Dr Sheikh already had the approval from the board that  
11 he can carry out transactions in order to raise funds  
12 for the company and to keep the company alive. So he  
13 had the permission from the board to come up with any  
14 structure in order to raise funds. So I think this was  
15 carried out in continuation of the board's approval.

16 Q. Are you aware that Dr Sheikh carrying out the execution  
17 of this agreement alone, he had the assistance, the  
18 close assistance of Mr Ul-Hayee? Were you aware of  
19 that?

20 A. At that time, you know, he had close assistance of many  
21 others also. There were business heads who were all the  
22 time discussing commercial aspects and the potential  
23 investors and all of these individuals.

24 So, yes, Dr Sheikh, I believe, that was in touch  
25 with Mr Ul-Hayee. Dr Sheikh was also at that time in

1 11:34 touch with other business heads also. So, because  
2 everybody at that time was scrambling for funds, to keep  
3 the company alive for the sake of, you know, to take the  
4 company to the next level or for the sake of the  
5 employees also.

6 Q. Mr Ul-Hayee wasn't just in touch with Dr Sheikh, he  
7 attended both meetings with Mr Akbar and Mr Yer. Were  
8 you aware of that?

9 A. At that time, like I said, there were meetings happening  
10 every day and multiple meetings and Dr Sheikh was in  
11 meetings with Mr Ul-Hayee and other individuals also,  
12 you know, the business heads and other consultants. So  
13 obviously, there were too many meetings going on.  
14 Perhaps Mr Ul-Hayee was in those meetings, I didn't  
15 really notice at that time, because there were too many  
16 meetings going on at that time.

17 Q. Mr Ul-Hayee worked for MAS aviation at that stage. Were  
18 you aware of that?

19 A. Yes.

20 Q. He was someone who had responsibility for operational  
21 matters, for example, cash operations. Were you aware  
22 of that?

23 A. I believe so.

24 Q. Please explain to me, if this deal went ahead, why  
25 Dr Sheikh was closely involving Mr Ul-Hayee and not his

1 11:35 general counsel, you?

2 A. I think at later stage, I think he would have involved  
3 me for the KYC and everything. And ideally, like I said  
4 earlier, I should have been involved right from the  
5 get-go, but, you know, at that time, everybody wanted to  
6 make a deal take place to keep the company alive. So  
7 obviously, things were done in a way, in the profession  
8 also, just so that, you know, all the employees and  
9 everybody can be looked after in the way they should be.

10 Q. When you were first interviewed by the DFSA, in 2016,  
11 you did not refer to where at that stage of the  
12 investment deal, involving Mr Akbar and Mr Yer, did you?

13 A. No, I was not aware of that.

14 Q. Fatima, can we please go back to the first witness  
15 statement at paragraph 17.

16 I apologise, Mr Awais, for jumping around.

17 A. No worries.

18 Q. It's just helpful to have these documents in front of us  
19 when we discuss certain matters. If we can go to  
20 page 908.

21 You explain in paragraph 17 what you have just said,  
22 that there was a lot of activity trying to find  
23 investors. Then the last sentence is what I'd like to  
24 ask you about. You say:

25 "I am aware that he [Dr Sheikh] had two meetings

1 11:37 with Mr Muhammad Akbar and Mr Muhammad Yer as briefed by  
2 him to me back then."

3 A. Okay.

4 Q. Given you weren't involved in the deal, negotiation of  
5 the deal, and given there were lots of meetings going on  
6 with lots of potential investors, and there may have  
7 been meetings involving Mr Ul-Hayee, which are the ones  
8 that we're talking about here, could you be mistaken  
9 about the fact that you were briefed at the time by  
10 Dr Sheikh about these two investors?

11 A. I think he used to brief me and the senior management  
12 with some potential investors at that time, from time to  
13 time. And, you know, these were all potentials at that  
14 time and he used to obviously keep us involved, what's  
15 going on in terms of investment fund. And in that  
16 respect, he used to brief us about particular -- if  
17 there is some positive development from this point of  
18 view, then obviously he would brief us about that.  
19 Otherwise, I don't think he would brief us because it's  
20 not worthwhile.

21 Q. What I'm putting to you is that your evidence that you  
22 were briefed at the time, that's in April/May 2015 about  
23 a deal involving Mr Akbar and Mr Yer -- sorry, about  
24 meetings involving Mr Akbar and Mr Yer, that could be  
25 a mis-recollection on your part. You don't give any

1 11:39 other details of this briefing. That's what I put to  
2 you.

3 A. Because he mentioned about others also, and obviously,  
4 Mr Akbar and Mr Muhammad Yer as well, so these were the  
5 potentials at that time, as you mentioned. There is a  
6 great deal of interest from their end and something  
7 positive is happening and then we are hoping that  
8 something will come up.

9 Q. He told you, to be quite clear, you recall of all the  
10 investors who are potentially going to become involved  
11 with the firm, you specifically recall being briefed by  
12 Dr Sheikh about meeting with Mr Akbar and Mr Yer? Is  
13 that your evidence?

14 A. Like others also he mentioned about them as well.

15 Q. I'm going to have to ask you about that. When did he  
16 brief you?

17 A. I think around that time towards the end days of MAS  
18 ClearSight, around that time.

19 Q. When is that? In June?

20 A. Before that, I would imagine. Probably --

21 Q. Can you be any more precise than around the time at the  
22 end of MAS ClearSight?

23 A. Probably March/April, something around that time.

24 Q. Can you just describe how the briefing took place?

25 A. I mean, he said, that you know, he is in touch with some

1 11:41 gentlemen and things are, you know, looking positive,  
2 they have shown interest and, you know, it's going in  
3 the right direction.

4 Q. Just to be clear, he briefed you about the meeting, but  
5 he didn't brief you, did he? It's not your evidence  
6 that he briefed you about actual agreements?

7 A. No.

8 Q. Isn't that strange, Mr Awais? He thinks it's  
9 sufficiently important or concrete a proposition to tell  
10 you about the meetings, but then he doesn't tell you  
11 once he's signed these two agreements?

12 A. I think that's a question that can be best answered by  
13 Dr Sheikh himself. Perhaps he may have a reason.

14 Q. Just to be clear, our submissions will be that this is  
15 you're misremembering what you say in the last  
16 paragraph, last sentence of paragraph 17.

17 A. About the meetings, yes, but about the agreement, of  
18 course, I already made it very clear.

19 Q. Finally, how is it that your recollection given in this  
20 witness statement, dated October 2018, is better than  
21 your recollection in 2016 in DFSA interview, when you  
22 are closer to the events?

23 A. I think it was -- can you repeat the question again?

24 Q. You don't mention Mr Akbar or Mr Yer, in 2016, in your  
25 interviews with the DFSA; correct?

1 11:43 A. Okay.

2 Q. But in 2018, October, you produce your first witness  
3 statement that we have just been looking at and you  
4 recall meetings with Mr Akbar and Mr Yer or being  
5 briefed about them. So my question is, how come your  
6 recollection has improved two years' later?

7 A. Yeah, because when I moved back to Pakistan, I happened  
8 to meet with Mr Akbar, and that's how I found out at  
9 this time, he was interested in investing in MAS  
10 ClearSight. And that's how I -- you know, his name  
11 stood out later on. It was just an unknown name amongst  
12 many of the investors back then in 2016.

13 Q. Let's look at that now, shall we? Can we go to  
14 page 910, paragraph 23.

15 If you just scroll down so we can see paragraph 24  
16 as well. Just to give some background, please confirm  
17 if you're aware of this or not, but Mr Akbar and Mr Yer  
18 were former clients of Mr Ul-Hayee. Are you aware of  
19 that?

20 A. I am not very aware of that, but I later on found out,  
21 yes. Because Mr Ul-Hayee was introducing, you know,  
22 clients to Dr Sheikh also, like I said, some other  
23 business doing the same thing. So obviously, you know,  
24 yes, of course.

25 Q. You say here in your evidence that you had a chance

1 11:45 meeting with Mr Akbar, who was a client of your firm;  
2 correct?

3 A. Yes, that's right.

4 Q. Isn't that just an unbelievable coincidence?

5 A. Why would you say that?

6 Q. Well, I'm asking you.

7 A. Well --

8 Q. The tribunal isn't interested in my opinion, it's  
9 interested in yours.

10 A. You're asking a rhetorical question here.

11 Q. It's not rhetorical. I'm asking you, isn't that an  
12 unbelievable coincidence?

13 A. Well, I think for you, in order to make the statement,  
14 perhaps you should come to Pakistan and see. I mean --  
15 or the firm now that I'm connected with is incidentally  
16 a family law firm, is one of the, you know, top firms in  
17 Pakistan. They are chasing into all sorts of businesses  
18 and all sorts of clients. The firm has been in business  
19 for about 13 years.

20 So it's the network of the firm is all over Pakistan  
21 and quite amazing. So it's not unbelievable or, you  
22 know, outrageous that if a successful businessman or  
23 a person with high net worth and, you know, value is  
24 a client of our firm. I mean, our firm has hundreds of  
25 people who are very high profile as clients, so Mr Akbar

1 11:47 perhaps is one.

2 Q. You say "perhaps", you say in your evidence is that he  
3 is a client?

4 A. Yeah, he is a client. Yes, of course.

5 Q. What's he like? Can you describe him to us, please?

6 A. He's just like any other Asian looking person. How can  
7 I describe him?

8 Q. Sorry, I don't mean his physical appearance --

9 A. Seems like a shrewd --

10 Q. As a client, as a professional client, can you describe  
11 him?

12 A. I mean, he's a very shrewd businessman. He has a  
13 portfolio in the real estate side and he runs several  
14 businesses, and I think he's done very well for himself  
15 over the years.

16 Q. So he's involved in real estate. What other business is  
17 he involved in?

18 A. Some trading, real estate, trading and --

19 Q. Trading what?

20 A. Trading, I guess, you know, commodities and things. But  
21 we advised -- I mean, as far as our firm is concerned,  
22 he is a client of our real estate practice, so they help  
23 him take care of his real estate portfolio, certain  
24 transactions.

25 Q. As your client, you must be aware of his wider profile,

1 11:48 not least because you have to carry out checks on  
2 clients when you take them on; is that right?

3 A. Well, we don't have any techniques as such to do an  
4 elaborate KYC or client check in Pakistan. So we don't  
5 really go, you know, with a lengthy exercise for client  
6 intake in terms of the KYC requirement as it's more  
7 prevalent over there in Dubai or in the US.

8 Q. I understand. So just to be clear, you dealt with --  
9 your firm dealt with Mr Akbar in terms of his real  
10 estate portfolio and you're aware that he did some  
11 trading, including commodities; correct?

12 A. Yeah.

13 Q. What else were you aware that he was doing by way of  
14 business activity?

15 A. I don't know much about him, because he was not directly  
16 per se my client, he was the firm's client and it was  
17 a different practice area. But this is as much as  
18 I know.

19 Q. I hope I have been clear about our case on this. We  
20 say, unfortunately, Mr Awais, that you have been  
21 encouraged by Dr Sheikh to embellish your evidence in  
22 paragraphs 23 and 24 to support his case.

23 A. Well, I think that's your belief, then I can't really  
24 help you, but I can just say on record that your belief  
25 is totally wrong and I think you're just -- it seems

1 11:50 that you are showing some kind of a prejudice and  
2 assumptions. I think, as a lawyer, assumptions are  
3 something which should be based on facts and evidence.

4 Q. Fatima, can we bring up -- this is the final document,  
5 Mr Awais.

6 Can we please bring up document C15, page 60.

7 If we can just scroll down, Fatima, to the email  
8 from Mr Kamath to Mr Awais.

9 Sorry, the script is small, but hopefully, Mr Awais  
10 and the tribunal can read that. If you just read that  
11 email to yourself and remind yourself what it says.

12 This is an email from Mr Kamath, the finance  
13 officer, to you.

14 A. Yes.

15 Q. He's referring to that he needs to complete the  
16 accounts. That's the financial report to be submitted  
17 to the DFSA that day. Are you aware of all of that,  
18 that DFSA required a financial report, which was backed  
19 up by bank statements; yes?

20 A. Yes.

21 Q. Do you recall he emailed you?

22 A. Yes.

23 Q. About those bank statements?

24 A. Yes.

25 Q. Just pausing there, we saw earlier, you were head of

1 11:53 finance notionally, so he reported to you, albeit he was  
2 an external finance officer, but he reported to you  
3 effectively, did he not?

4 A. Not really. He was reporting in that particular period  
5 to the CEO of the company.

6 Q. But you were in charge of finance, yes?

7 A. I was in a way, but I'm not really a numbers guy. So  
8 obviously, we had the financial people who were  
9 eventually more involved in this thing than I was.

10 Q. Who were the finance people inside the firm? Who were  
11 the finance people?

12 A. Hassan Salahuddin was one and Amit also was one, but  
13 I think Amit left earlier and he was not really directly  
14 finance, but he was helping the finance guys as well.

15 Q. Can we just scroll up the page now, Fatima, to Mr Awais'  
16 response.

17 This is your response. You say:

18 "Thank you for your email. Apologies to have missed  
19 your calls, I was traveling ..."

20 The next sentence, you say:

21 "We will make arrangements to send you the statement  
22 as soon as we can, Mubashir had to leave to attend a  
23 family emergency, hence the delay. I am also copying  
24 Mubashir to this email in order for him to update you on  
25 the financial matters of the company as soon as he is

1 11:54 able to."

2 My question is: this is a pretty routine request,  
3 happens every month where they want bank statements.  
4 Mr Kamath and his team want bank statements before they  
5 produce the financial report. He's asked you in the  
6 email we have just seen to help with that process. Why  
7 are you referring him to Dr Sheikh?

8 A. Well, I have also copied Hassan in that email and Hassan  
9 was the person who was running day-to-day finance  
10 related work and he was working closely with the CEO of  
11 the company also. And obviously, Dr Sheikh as well,  
12 because Dr Sheikh was trying to gather funding for the  
13 company and he also forego his -- used to, you know,  
14 forego his salary and benefits for the sake of running  
15 the company.

16 Q. What do you mean gather the funds for the company?

17 A. Investments, trying to, you know, run after the  
18 investors and gather investments or trying to bring  
19 someone on board for the purposes.

20 Q. Just to be clear, one of the reasons you're referring  
21 Mr Kamath to Dr Sheikh is because you understood that he  
22 was trying to gather investors for the company?

23 A. One of the reasons, yeah.

24 Q. Is that what you mean by "financial matters of the  
25 company"? You say Dr Sheikh is going to update him on

1 11:56 the financial matters of the company.

2 A. Because, at that time, Hassan and Dr Sheikh, they were  
3 more in touch with each other, and I think Mr Kamath  
4 also was directly in touch with Dr Sheikh on certain  
5 things. So perhaps, you know, this was the reason.

6 Q. I'm just wondering whether there's any significance to  
7 what you refer as "the financial matters of the  
8 company", given all Mr Kamath has asked for is some bank  
9 statements. It's administrative. You've come back to  
10 him and said, "Dr Sheikh, acting CEO of the company, is  
11 going to update you on the financial matters."

12 A. I mean, generally speaking, I think it's a very generic  
13 term and I think just to kind of update the auditors  
14 also that, you know, where do we stand in terms of  
15 putting together the funding of the company and  
16 financial health of the company.

17 Q. Just to be clear, Mr Kamath asked for a bank statement  
18 and you respond, having in mind the wider financial  
19 health of the company and whether there are investors  
20 and the auditors, you refer him to Dr Sheikh to update  
21 him on the financial matters of the company; correct?

22 A. Yeah, because he was the finance officer and then  
23 Dr Mubashir would just tell them that, you know, where  
24 do we stand, because he used to tell all of us about the  
25 financial health or financial method of the company all

1 11:58 the time about that, regarding what's going on, if there  
2 is any investors that are going to be on board, any  
3 potential in terms of any fundraising from any aspect.  
4 Dr Mubashir, at that point, was also discussing about  
5 liquidating his own, you know, private property,  
6 personal asset regarding that.

7 So all of these things, you know, he used to tell us  
8 all the time. And perhaps, you know, this is what  
9 I meant, at that time, but he will also update the  
10 finance, you know, finance person also regarding that.

11 Q. Final set of questions, Mr Awais, you'll be glad to  
12 hear, about Dr Sheikh's role.

13 I referred to him there as the acting SEO. In fact,  
14 I think it's common ground that by June, he was the SEO.  
15 But I'd like to go back in time, if I may, and explore  
16 with you, given you attended board meetings and were  
17 part of the inner circle.

18 It's right, isn't it, that as far as you were  
19 concerned, your understanding, Dr Sheikh was the SEO of  
20 the company from at the latest, the 26th board meeting.  
21 Correct, isn't it?

22 A. Well, he was the SEO -- I mean, the board appointed him,  
23 Anish resigned and then, you know, Dr Sheikh became an  
24 acting SEO. Obviously, you know, there's a notice  
25 period also for Anish, as I think it was a 30-day notice

1 11:59 period, one-month notice period. Essentially, after the  
2 notice period, after serving the notice period,  
3 Dr Sheikh became the acting CEO of the company.

4 Q. Fatima, can we please -- sorry, I did say, Mr Awais, we  
5 had been to the last document, but given your answer,  
6 I'm afraid there is one more.

7 Fatima, can we please go to Mr Awais' first  
8 transcript and that's document A20-374.

9 Before you scroll down, if you just go back up to  
10 the top of the page.

11 You recall this, Mr Awais, interview dated  
12 22 March 2016, interviewers set out there, including  
13 Mr Jensen, and you as the interviewee?

14 A. Yes.

15 Q. Can we please scroll down to page 398. If you just  
16 scroll down a bit so we can see the paragraph that  
17 starts with Mr Jensen saying, "Okay".

18 Just pausing there, so I appreciate it's a long time  
19 ago now, Mr Awais, but I'm going to ask you some  
20 questions about the answers you gave. To set the scene,  
21 you've just been shown, about to be asked questions  
22 about the December 2014 board meeting minutes. Do you  
23 see that?

24 A. Okay.

25 Q. Then to take you to page 401, if you go to the middle of

1 12:02 the page, there's a long answer from Mr Awais.

2 If you just read that to yourself, please.

3 A. Okay.

4 Q. Just at the bottom of the page, same page, can you  
5 confirm the last entry. You confirm what you have  
6 summarised in that long answer, which is that there were  
7 performance issues with Mr Bhatia; correct?

8 A. Yes, that's right.

9 Q. On the next page, at the bottom of page 402, you answer  
10 questions concerning when Dr Sheikh became SEO.

11 Mr Jensen poses a question and then if you read your  
12 answer there. And then, Fatima, once -- in a few  
13 moments, if you can scroll on to the next page.

14 A. Okay, next page.

15 Q. Thank you. If you scroll down, please, Fatima.

16 If we go to the middle of the page, you see that  
17 last paragraph of your long answer:

18 "So that was interim. So in the interim it was, you  
19 know, kind of decided that during this transition time  
20 Mubashir can reappoint, or Mubashir will be the CEO."

21 Do you see that?

22 A. Okay.

23 Q. This is all in the context of the December 2014 board  
24 minute meeting.

25 A. Right.

1 12:05 Q. Then scrolling down, clarification as to whether the  
2 decision was taken during that December board minute  
3 meeting and you say:

4 "I don't remember if it was decided in this board  
5 meeting, or in the next board meeting [in 2015], but it  
6 was decided I think in a way, yeah."

7 Mr Jensen says:

8 "At least in this board meeting, as we've just  
9 discussed, Anish stepped down?"

10 And you say:

11 "Yes, that's right. Yes."

12 A. Okay.

13 Q. It seems -- I apologise to take you, just remind you of  
14 your evidence, is that accurate, that evidence?

15 A. Well, as it's evidence from the board minutes, that  
16 Anish was -- resigned soon after the April 2015 board  
17 meeting. And then, obviously, you know, he resigned and  
18 there's a one-month notice period and after that,  
19 obviously, Dr Mubashir stepped in as an interim CEO of  
20 the company.

21 Q. Yes, that was your answer before we went to this  
22 document. I understand what you're saying. But I just  
23 want to remind you what you said in the interview.  
24 Correct me if I'm wrong, but your evidence appears to be  
25 that in the context of the December board meeting

1 12:07 minute, Mr Bhatia had stepped down?

2 A. No, he did not. Obviously --

3 Q. He stepped down --

4 A. No, he did not step down in the December board meeting.

5 Perhaps, because at that time, too many dates were

6 floating around and it was a while, you know, from that

7 incident, so perhaps that was the reason. But

8 obviously, it's very evident that you even read the

9 board minutes that it's very obvious that, you know,

10 when Anish or Mr Bhatia, when he stepped down as the CEO

11 and what happened after that.

12 Q. Are you saying that -- put the board minutes to one

13 side, because that's evidence. The tribunal will look

14 at that and interpret it. What I'm interested in is

15 your recollection of what occurred. We can go to the

16 board minutes if that will assist you in a moment.

17 I don't intend to, but we can go to it, if you'd like to

18 see it.

19 But what I'm asking you is whether or not you stand

20 by your evidence given in 2016 to questions put to you

21 by the DFSA, that Mr Bhatia stepped down

22 in December 2014? I think your answer is that you may

23 be getting muddled up between the board meetings,

24 because it was, at that stage, had been quite a long

25 time from those events. Is that your answer?

1 12:08 A. Yeah.

2 Q. We can assume, can we not, that your memory hasn't  
3 improved since then?

4 A. Well, not really. I mean, in a way, what you can say is  
5 that when I've gone through some documents and I've gone  
6 through the board meetings, then obviously I stood  
7 corrected in my own way. Because obviously, at that  
8 time, it was a while and I didn't really go through any  
9 background documentation.

10 But then later on, after going through the series of  
11 interviews and, you know, the document as well,  
12 obviously I found where I kind of, you know, made  
13 a mistake in one way. And it's not only that, you know,  
14 I am saying that, it's also supported by way of  
15 evidence, by way of board meeting minutes, that also  
16 confirms what I'm saying.

17 Q. A final reference I'd like to take you to is page --  
18 Fatima, can we please go to page 412.

19 Just to put it in context, you are being asked about  
20 the April board meeting now, April 2015.

21 Fatima, can you scroll down slowly. I'd like  
22 Mr Awais and the tribunal and Dr Sheikh to have a chance  
23 to read this page. There are three answers from  
24 Mr Awais.

25 Let me know, Mr Awais, when you have read to the

1 12:11 bottom.

2 A. Yeah.

3 Q. So you're saying there, it seems, that at the April  
4 board meeting, that even on paper, Anish is still the  
5 CEO, that's Mr Bhatia, but it's looking like Mubashir is  
6 running the show.

7 A. No, I mean, when Anish was the CEO, I mean if you go up,  
8 I said I think something different than what you have  
9 just said, if you scroll up a little bit.

10 So over here, you know, what I'm making a statement  
11 is that:

12 "Although Mubashir had this very overwhelming  
13 personality and presence also and it may appear that,  
14 you know, maybe Mubashir is running the show, but CEO  
15 office was quite independent also in its own ways."

16 So it appeared that, you know, Mubashir, you know,  
17 has a larger than life kind of personality, may appear  
18 to run the show, but, you know, CEO was appointed and  
19 CEO was -- when he was there, was responsible for the  
20 operation of the company.

21 Q. Finally, can we please go to page 438. It's a few pages  
22 on, Fatima.

23 Mr Awais, your evidence to the DFSA, was it not,  
24 that at the very latest, Dr Sheikh has taken over as  
25 acting CEO from that April board meeting?

1 12:13 A. Yeah, but he cannot take it over like that, because  
2 obviously, Anish has to serve the notice period. So  
3 perhaps when Anthony Jensen made a statement, I kind of  
4 mixed the dates, because it was a while back then, that  
5 he took over after the serving the notice period.  
6 Something like that. But, you know, in any way,  
7 technically, you can't even take over, because you have  
8 to serve the notice period, only then you can exit,  
9 unless the notice period is expressly waived in  
10 a written form, which there was none.

11 Q. But it's your evidence that Mr Bhatia was not  
12 performing. That's right, isn't it? We have seen that.  
13 That's your recollection.

14 A. Okay.

15 Q. You've also referred to Mr Mubashir -- Dr Sheikh, sorry,  
16 at some stage, taking over as interim SEO. That's  
17 correct, isn't it?

18 A. Yeah.

19 Q. Given the evidence you gave in 2016, that that was  
20 either in December that Mr Bhatia stepped down,  
21 alternatively at the latest, Dr Sheikh took over as SEO  
22 from 26 April, that's probably right, isn't it? That's  
23 probably the best evidence of what you recall from the  
24 time?

25 A. Yeah, after serving the notice period, because that's

1 12:15 also important. The notice period itself. Because  
2 unless, you know, as per our internal systems and  
3 controls back then, you know, the internal policy, as  
4 per the employment agreement itself, that a person has  
5 to serve the notice period, unless it's waived by way of  
6 writing.

7 As far as I can tell, the notice period was not  
8 waived, because there's nothing in writing available.  
9 So obviously, Mr Bhatia, after serving the notice  
10 period, you know, when Dr Sheikh performed the interim  
11 CEO of the company.

12 Q. One final question. You said earlier, and indeed in  
13 your witness statement, that Dr Sheikh, at the 26 April  
14 board meeting, was given unilateral authority to do  
15 whatever he wanted to save or to bring an end to the  
16 company. That's correct, isn't it?

17 A. I guess that's right.

18 Q. If that's not the job of a CEO, whether interim or  
19 otherwise, what is?

20 A. Well, you're again mixing two things here. Because  
21 Dr Sheikh was also the majority shareholder of the  
22 company. So, as his responsibility of the shareholder  
23 of the company, obviously it's in the best interest for  
24 his own sake and for the sake of the company itself,  
25 that Dr Sheikh will go out and, you know, try to bring

1 12:17 on board investors and investments, so that the company  
2 can stay alive.

3 So there are two different. One is operational  
4 role, that is the role of a CEO. And then there is  
5 a role of him as the shareholder of the company for  
6 which, you know, he's the majority shareholder. So  
7 that's why -- and he's been also authorised by the board  
8 to go out there and try to cut a deal with any potential  
9 investors and then as in furtherance of that, that was  
10 what he was doing.

11 MR KHAN: Thank you, Mr Awais.

12 Sir, tribunal, if I can just take one moment to take  
13 instructions.

14 MR PRESIDENT: Yes.

15 MR KHAN: Thank you, Mr Awais. I have no further questions.  
16 Thank you, tribunal.

17 Questions by THE TRIBUNAL

18 MR PRESIDENT: Thank you, Mr Awais.

19 Could I just ask a couple of clarifying questions.  
20 Both my colleagues and I have similar backgrounds in the  
21 commercial law to you. So we are familiar with some of  
22 the concepts you were discussing.

23 Could I ask you, first, about this. You mentioned  
24 that you had prepared template agreements as part of  
25 your duties when you became general counsel of the

1 12:18 company. Did I understand that correctly?

2 A. Yes, that's right.

3 MR PRESIDENT: Next, could you tell me this. Was there any  
4 change of control within the company during the time you  
5 were general counsel?

6 A. No.

7 MR PRESIDENT: Should there have been a change of control,  
8 the parties primarily involved in that change of control  
9 would have been presumably the shareholder, the existing  
10 shareholders and the potential new shareholder; is that  
11 right?

12 A. Yes, that's right.

13 MR PRESIDENT: Why, then, would you be preparing as part of  
14 your templates, when you took over the role of general  
15 counsel, a template for a transaction which would be  
16 a very unusual transaction and primarily would have  
17 involved parties other than the company itself?

18 A. No, that was not -- I mean, that was a very general, you  
19 know, template for investment purposes. An investment  
20 can be of as little as, let's say, \$100,000 or  
21 \$500,000 and as big as whatever amount that may be. So  
22 that was a very generic template, depending on, you  
23 know, whoever is interested as investor, you know, small  
24 investors and a big investor or a controlling investor.

25 Obviously, when we are talking about control,

1 12:20 controlling stake in the company, then there are other  
2 formalities which in due course have to be fulfilled as  
3 per the regulatory requirements.

4 MR PRESIDENT: For what sort of transactions would you be  
5 using -- when you were doing your day-to-day work within  
6 the company, for what sort of transactions would you be  
7 using that template?

8 A. For just investment purposes, to bring on board an  
9 investor who is interested in buying the shares and  
10 becoming an investor of the company. In the past, you  
11 know, we have had investors who have signed off, you  
12 know, these investment documents and brought themselves  
13 on board the company as a shareholder of the company.  
14 So these are the, you know, templates for investment  
15 agreements. They are designed for that purpose.

16 MR PRESIDENT: Did you use the template that we are  
17 discussing very often during your time as general  
18 counsel? Were there lots of investments in the company  
19 by people wanting to invest in the company?

20 A. It appears to be that. I haven't really read that  
21 document, but that appears to be, you know, out of that  
22 template.

23 MR PRESIDENT: Did you use that template for investments  
24 during your time as general counsel?

25 A. That template document?

1 12:21 MR PRESIDENT: Yes.

2 A. I believe so, yeah.

3 MR PRESIDENT: Were there investments in the company by  
4 shareholders?

5 A. There were investments in the company by shareholders.

6 MR PRESIDENT: During your time as general counsel?

7 A. Yes.

8 MR PRESIDENT: And you used that template for those  
9 transactions?

10 A. Substantially or, you know, obviously there were some  
11 changes here and there, but, yeah, substantially in that  
12 form.

13 MR PRESIDENT: We have seen the document which you discussed  
14 with Mr Khan in your evidence. How would Dr Sheikh have  
15 access to your templates?

16 A. It was on the share drive as legal documents, templates,  
17 shared drive on the system.

18 MR PRESIDENT: So if you're a senior executive, you would be  
19 able to access the templates; is that right?

20 A. Yeah, that's general, you know, these templates are  
21 meant for that purpose.

22 MR PRESIDENT: Thank you very much. That's all I had to  
23 ask. Next, do my colleagues have any questions?

24 MR AL AIDAROUS: Yeah, I have few, if you don't mind,  
25 Mr Chairman.

1 12:22 Mr Awais, this is Ali Al Aidarous.

2 I understand you have been a general counsel of the  
3 company and you used to advise Dr Mubashir on his  
4 potential in finalising deal with your potential  
5 investor in the company. My understanding is correct?

6 A. Yeah, that's right.

7 MR AL AIDAROUS: So in your effort to assisting Dr Mubashir  
8 and when you normally negotiate the contract with the  
9 potential investor, it is my understanding that normally  
10 when you started the negotiation, parties exchange what  
11 is known a form called NDA, non-disclosure agreement.  
12 Are you familiar with this kind of practice?

13 A. Ideally, it should be like that, but obviously it's  
14 really up to the parties if they want to, you know,  
15 enter into NDA or not. It's not necessary in my  
16 opinion.

17 MR AL AIDAROUS: I didn't ask whether it is mandatory,  
18 I just ask whether it is the practice at your company,  
19 when you are exploring with a potential investor in your  
20 company, did this investor or the company asking to  
21 exchange the NDA form and sign before enter into  
22 negotiations? That's my question.

23 A. Yeah, they can. It's up to the parties if they want to  
24 enter into NDA. We enter into NDA all the time, yeah.

25 MR AL AIDAROUS: In your experience, during your term of

1 12:24 service, have you come across a client ask Dr Mubashir  
2 or the company to sign NDA form before entering into  
3 negotiation for investment in the company?

4 A. I have seen all sorts of clients. Some they like to  
5 enter into an NDA, some they don't really care much. So  
6 I have seen all kinds of potential investors and  
7 investors to enter into, yeah.

8 MR AL AIDAROUS: In short, your answer is yes. In some  
9 cases, you have witnessed some cases the investor  
10 requested NDA form before entering into discussion with  
11 the company?

12 A. Yeah, it depends on the investors themselves. If they  
13 like to enter into an NDA, yes, of course, we have no  
14 problem with that.

15 MR AL AIDAROUS: Mr Awais, I didn't ask you about what the  
16 investor. My question is very precise. During your  
17 time, have you come across any agreement, any  
18 negotiation with any potential investor who requested  
19 the company to sign NDA?

20 A. Yes.

21 MR AL AIDAROUS: Good. What this mean the NDA? For me,  
22 would you please explain us, because you have very  
23 extensive experience in compliance, also as advising the  
24 board of the company and the CEO, what this mean NDA?

25 A. Non-disclosure agreement.

1 12:25 MR AL AIDAROUS: What is the main feature of this agreement?

2 A. Feature? I don't really understand the question.

3 MR AL AIDAROUS: What does it consist of? What is the  
4 obligation of the party in NDA? Prime obligation of the  
5 parties?

6 A. To keep the confidential information confidential.

7 MR AL AIDAROUS: Perfect.

8 A. And then obviously, you know, there are different NDAs,  
9 you know, you're not supposed to circumvent each other  
10 also.

11 MR AL AIDAROUS: I'm not talking about the confidentiality.  
12 I understand the main purpose of non-disclosure  
13 agreement is to maintain the confidentiality of this  
14 negotiation until the agreement is signed. Am I right?

15 A. Yes.

16 MR AL AIDAROUS: In this case, what is the scope of the  
17 confidentiality?

18 A. To keep the documents of the company, if they share  
19 documents, to keep those documents confidential.

20 MR AL AIDAROUS: Confidential in terms of you cannot  
21 disclose the information to third party?

22 A. Yeah, I mean, that's the whole purpose of the document.

23 MR AL AIDAROUS: Does this cover also the management of the  
24 company, the board of the company and it's also cover  
25 the general counsel of the company as well?

1 12:27 A. Yeah, it's about the employees of the company. The  
2 company itself. So obviously, whoever is --

3 MR AL AIDAROUS: I'm not talking of the CEO obligation on  
4 the employee of the company. I'm talking about that,  
5 if, for example, potential investor requested you to  
6 sign NDA and the company is sign NDA, would just mean  
7 that the company, your company, are not supposed to  
8 disclose information about the discussion or negotiation  
9 for this party, with this particular investor, with  
10 a third party.

11 Would this mean that the management also cannot  
12 speak to the general counsel or to the board or to the  
13 internal auditor or the external auditors?

14 A. No, I mean, that is excluded, because the management or  
15 the senior counsel of the company employees can have  
16 that information for the purposes of understanding the  
17 transaction and for the purposes of the transaction  
18 itself.

19 MR AL AIDAROUS: Thanks. All I want to hear that. Thank  
20 you very much. Appreciate it.

21 I have nothing further, sir.

22 MR PRESIDENT: Dr Sheikh, do you want to ask any more  
23 questions of Mr Awais?

24 DR SHEIKH: Thank you, your Honour. No, Mr Awais, thank you  
25 for your witness. Much appreciated. No further

1 12:28 questions to your goodself.

2 MR PRESIDENT: Thank you, Mr Awais, very much for sparing  
3 the time.

4 WITNESS: Thank you.

5 (Witness withdrew)

6 DR SHEIKH: Your Honour, may I make a small comment?

7 MR PRESIDENT: Yes.

8 DR SHEIKH: The interview went a little longer than  
9 expected, so if you give me five minutes so I can make  
10 the call.

11 MR PRESIDENT: Yes, I was going anyway to have a break for  
12 you to organise the next witness. So it is now half  
13 past 10 here. I suggest we have almost 10 minutes that  
14 we come back in 10 minutes' time.

15 DR SHEIKH: Yes, your Honour. May I make one more brief  
16 remark, with your permission?

17 MR PRESIDENT: Yes.

18 DR SHEIKH: Your Honour, I had taken the liberty to  
19 circulate a brief email late last night referring to  
20 that this gentleman Mr Qasim, who is, from an English  
21 perspective, has a very low calibre. And so  
22 I requested, based on Mr Qasim's request, that if  
23 Mr Khan, the opposing counsel, would kindly take into  
24 consideration that he is a driver with no education and  
25 he learned little bit of English on the street, if I can

1 12:30 use that word, with no certainty, because I don't know  
2 that, but most of my interaction has been in Urdu, which  
3 is our native language.

4 But nonetheless, I was a little bit taken aback when  
5 I was giving him feedback to do the affirmation or the  
6 oath and then it strike me that he may struggle.

7 So to put things in perspective, may I request the  
8 opposing counsel, Mr Khan, to kindly keep that in his  
9 mind. And if I can request to speak slowly and with  
10 simple words would be most helpful, sir.

11 MR PRESIDENT: I'm sure Mr Khan has that in mind. In fact,  
12 as it's now half past 9, why don't we take a break of  
13 15 minutes now? Could I also say that there will be  
14 a break again around, 11 o'clock, because in this  
15 country, we have a national minute of silence in memory  
16 of the health workers who have died during the virus.  
17 And I'm sure the position you would want us to honour  
18 that silence and to think of those in your countries as  
19 well.

20 So we'll be breaking again for about 10 minutes at  
21 about 5 to 11. So we'll break for 15 minutes now and  
22 then about 5 to 11, we'll break for another 10. Thank  
23 you.

24 (12.31 pm)

25 (Short break)

1 12:38 (12.45 pm)

2 MR QASIM SHAHZAD

3 MR PRESIDENT: Good morning, Mr Qasim. Thank you for  
4 coming. I'm going to ask you to promise to tell the  
5 truth in your evidence. Do you understand me?

6 WITNESS: Sorry, say again. I did not hear you before.

7 MR PRESIDENT: I said two things. The first thing was  
8 welcome and thank you for coming. The second thing was  
9 you're coming to give evidence --

10 WITNESS: You're welcome.

11 MR PRESIDENT: You understand you're coming to give  
12 evidence?

13 WITNESS: Yes, I understand.

14 MR PRESIDENT: Do you understand that you have to tell the  
15 truth?

16 WITNESS: Yes, I have to tell the truth.

17 MR PRESIDENT: I'm going to ask you to repeat after me.  
18 I swear by almighty God.

19 WITNESS: I swear by almighty God.

20 MR PRESIDENT: That the evidence I shall give.

21 WITNESS: That the evidence I shall give.

22 MR PRESIDENT: Shall be the truth.

23 WITNESS: Shall be the truth.

24 MR PRESIDENT: The whole truth.

25 WITNESS: The whole truth.

1 12:47 MR PRESIDENT: And nothing but the truth.

2 WITNESS: And nothing but the truth.

3 MR PRESIDENT: Thank you very much. There will be some  
4 questions for you.

5 Examination-in-chief by DR SHEIKH

6 DR SHEIKH: Qasim, I'm going to now ask the colleague,  
7 Ms Fatima, to bring your statement on the computer. You  
8 will see. Then I will ask her to slowly scroll it down  
9 and bring it to your signatures and then I will ask you  
10 a couple of questions.

11 Fatima, can you please slowly scroll it down. You  
12 can scroll it down to the signature page.

13 Qasim, the statement that you have just seen, can  
14 you please confirm that this is your statement?

15 A. Yes, this is my statement.

16 Q. Qasim, can you please confirm the signatures on the  
17 statement are indeed your signatures?

18 A. Yes, I confirm this is my signature.

19 Q. Qasim, can you please confirm that this statement that  
20 you have given is to your best of recollection?

21 A. Yes.

22 Q. Qasim, I will now ask the opposing counsel, Mr Khan, to  
23 take over. Mr Khan will ask a few questions. If you  
24 find it difficult to understand the question, please do  
25 not hesitate to inform us. Thank you.

1 12:49 Mr Khan, it's your witness.

2 Cross-examination by MR KHAN

3 MR KHAN: Thank you, Dr Sheikh.

4 Hello, Mr Shahzad.

5 A. Hello, sir. How are you doing?

6 Q. Very well. Thank you for coming today.

7 Fatima, can you please bring up again the witness  
8 statement from Mr Shahzad.

9 Mr Shahzad, if you can look at your witness  
10 statement.

11 A. Yes, I can.

12 Q. It says in paragraph number 1, Dr Mubashir hired you in  
13 2011; is that correct?

14 A. Yes, that's correct.

15 Q. When did you finish working for Dr Sheikh?

16 A. In 2015, in June.

17 Q. That's when Dr Sheikh left Dubai; yes?

18 A. Yes, this is the last time I am in the company.

19 Q. Can I ask you what your job is currently?

20 A. Currently?

21 Q. Yes.

22 A. In my home?

23 Q. What your job is?

24 A. My job in office, I am the company driver and sometimes  
25 I help for the -- make some photocopies, when they need

1 12:51 the documents and printing the documents, and I help  
2 also the need for the make tea, coffee. And after the  
3 meeting, I clear the meeting rooms, around this.

4 Q. I understand that's the job you did for Dr Sheikh;  
5 correct?

6 A. Yes.

7 Q. Can I ask you what your job is now?

8 A. Now I am at home. I'm not doing any job.

9 Q. Do you work?

10 A. No.

11 Q. You're unemployed?

12 A. Yes.

13 Q. Are you still in Dubai or are you in Pakistan?

14 A. No, I am in Pakistan.

15 Q. Have you stayed in contact with Dr Sheikh --

16 A. Dr Mubashir?

17 Q. Yes.

18 A. Sorry, say again, what you said?

19 Q. I'm sorry. After 2015, you lost your job with  
20 Dr Sheikh. Since then, have you stayed in contact with  
21 Dr Sheikh?

22 A. No.

23 Q. So you've only had contact in relation to producing this  
24 witness statement?

25 A. Yes.

1 12:52 Q. Turning back to your witness statement, paragraph 2, the  
2 paragraph under that letter A, it seems your main job  
3 was driver?

4 A. Yes.

5 Q. So you spent a lot of time with Dr Sheikh, taking him  
6 from the office to home and back again?

7 A. Yes. Lot of time with Dr Sheikh.

8 Q. You saw him every day?

9 A. Yes, every day I saw him. If there's no going for  
10 travelling, so if he came in the office, this is my job,  
11 to bring them in office and drop them home, if they have  
12 some meetings outside. So I always going with him, to  
13 take them for meeting and when he finish, some of the  
14 time I bring back office or at home.

15 Q. At paragraph C of your statement, so under number 2,  
16 paragraph C, it says that sometimes he asked you to  
17 drive people, important clients, from the airport or the  
18 hotel to meet him; yes?

19 A. Yes, I will.

20 Q. How many times did you do that?

21 A. Depends of the client, if some important client is  
22 coming, so I just go, Dr Sheikh is saying, "This is  
23 important client, please, you have to go and pick them  
24 up and drop them to the office and drop them to the  
25 hotel." I don't remember how many times, but mostly is

1 12:55 so many times I did this job also.

2 Q. Looking at paragraph 5 of your witness statement,  
3 Fatima, can we scroll down so Mr Shahzad can see  
4 paragraph 5.

5 It's clear that Dr Sheikh trusted you very greatly;  
6 yes?

7 A. Yes, sure, he trust me.

8 Q. One reason why he trusted you is because he needed you  
9 to keep confidential conversations; yes?

10 A. Yes, because I never shared this conversation with  
11 anyone, so whatever they speak and they talking about in  
12 Urdu all the time, so I understood, because it's our  
13 language. So I never discuss with anyone this  
14 conversation. That's why he trust me.

15 Q. Because you were driving, he assumed that you were  
16 concentrating on driving the car?

17 A. Yes, sir. Sir, I'm driving the car and this is our  
18 language, so my ear also is open, so I must be  
19 something -- if somebody is talking, so you can hear  
20 also. So I hear whatever they speak. But mostly I do  
21 my job, I'm driving, and also I listen if they talk  
22 something, because it's nothing in that -- no one in the  
23 car, only Dr Mubashir and me, and he's talking on the  
24 phone with the employees and the clients as well. And  
25 mostly, they spoke in Urdu, in our language. That's why

1 12:57 I know that few things.

2 Q. You worked for Dr Sheikh. You drove him every day or  
3 nearly every day for four years; yes?

4 A. Yes.

5 Q. You must have heard, being present in the car, hundreds  
6 or maybe thousands of conversations?

7 A. Yes, it's true.

8 Q. So you can't possibly remember every conversation?

9 A. I think a few conversation is they are talking about  
10 serious, because normally, they are talking about the  
11 business and client, so I know this thing, the few  
12 things they are talking about in serious, I also -- and  
13 find everything is okay, so they speak in our language.  
14 So few conversation I remember very well. Especially in  
15 the 2015, in April or May. It's very hard time is going  
16 the company, so this few times is very -- I remember  
17 this very well, few thing.

18 Q. So there are a few conversations you remember very well,  
19 but the other conversations you don't remember?

20 A. Yes, I also few remember, but this is mostly I remember  
21 for this thing, they are talking about, the other  
22 conversation also I heard, but few I remember, because  
23 it's all the time they are talking in Urdu, in our  
24 language, by listening. Because mostly, last time of  
25 the company, so before the company shutdown, so

1 12:58 I remember this conversation very well.

2 Q. Even if you can remember a conversation taking place,  
3 it's impossible, isn't it, for you to remember the  
4 detail of the conversation; do you agree with that?

5 A. Details, yes, I would.

6 Q. I'm putting to you that it's -- I'm saying it would be  
7 very difficult for you to remember all the detail of the  
8 conversation, the information in the conversation?

9 A. Sorry, say again, please?

10 Q. I'm putting to you that it's very difficult for you to  
11 remember all the information in a conversation, even if  
12 you recall the conversation taking place?

13 A. Yes, a few things I remember very well and few  
14 definitely, such a long time ago, and few things I don't  
15 remember.

16 Q. Looking at paragraph 6 of your witness statement, if you  
17 just remind yourself what you say there.

18 A. I can read this?

19 Q. Yes, if you just remind yourself what you said in your  
20 statement and then I'll ask you a question.

21 Have you read that?

22 A. Yes.

23 Q. So you say that Dr Sheikh was a very kind-hearted man;  
24 yes?

25 A. Yes, it's true.

1 13:01 Q. And presumably, he was kind-hearted towards you?

2 A. Sorry, I can't hear you properly. Your voice is stuck  
3 little bit. Could you say again, please.

4 Q. Was he kind-hearted to you?

5 A. Why he's kind-hearted to me? Because all the time if  
6 I need something, he speak very politely and without the  
7 company, he should help me, he is -- I never heard him  
8 speak with anyone in very hard, he speak very politely  
9 and very nicely, Dr Mubashir. That's why he's very  
10 kind-hearted person to me. Pleasure to work for him.

11 Q. So he was polite and kind when he spoke to you.

12 I understand that.

13 A. Yes.

14 Q. But what I'm asking is did he do anything kind-hearted  
15 for you?

16 A. For me, if I need something in my company, some advance  
17 salary and something, he can help anyone. Not for me,  
18 the other employees also, for people, he's very  
19 kind-hearted. Any employees also, they should need  
20 something so they can share with him, so I never hear  
21 him say, "Sorry, I cannot". Whatever I see, he always  
22 is available for everybody.

23 Q. What did he do for you? Can you give us some examples?

24 A. For example, if I need some money or I need some day  
25 off, I have to go for vacation early or some extra days,

1 13:02 so he will be agree, say it's okay. I will tell him the  
2 reason, so he never say, "Why are you going? And no,  
3 this is no -- you have to stay in office. This is  
4 important and blah blah blah", so whatever I say  
5 something, so he will be cooperative, very cooperative  
6 and nice person. This is the few things --

7 Q. Can you give an example of when he gave you money?

8 A. Money, I took the salary in advance sometimes, so he  
9 should give me if I need some money. So he can also  
10 give the money in advance, my salary.

11 Q. Just scrolling down, Fatima, to paragraphs 17 and 18.

12 So you're explaining, if you just read 17 and 18,  
13 just remind yourself, Mr Shahzad, what you say in your  
14 statement there.

15 Have you read, that Mr Shahzad?

16 A. Yeah.

17 Q. Thank you.

18 A. Yes, I read that.

19 Q. You are saying that when you found out that the company  
20 was bankrupt, you felt very sad?

21 A. Yes, it's true.

22 Q. Did you feel sorry for Dr Sheikh?

23 A. Yes, I feel sorry for Dr Sheikh.

24 Q. It's right, isn't it, that if you could, you would do  
25 something to help him?

1 13:05 A. Sorry, say again?

2 Q. If you were able to, you would offer him help?

3 A. I would offer him to help, to Dr Sheikh?

4 Q. Would you have? At the end of 2015, when the company  
5 came to an end, I'm putting to you that you felt sorry  
6 for Dr Sheikh and you would have helped him if --

7 A. Yes. Actually, sorry, I don't understand. Could you  
8 just -- somebody can explain this in Urdu and I can give  
9 you the answer in English? Is that possible? I don't  
10 understand your question.

11 Q. Let me try one more time, Mr Shahzad. I'm sorry if it's  
12 my use of language. I'm sure it is.

13 A. It is my -- I don't understand English properly. This  
14 is my side, not for you.

15 Q. That's absolutely fine and together we'll get through  
16 this.

17 A. Thank you so much.

18 Q. You were sad that the business was bankrupt; yes?

19 A. Yes, everybody is very sad on this day, because jobless,  
20 so very sad for us.

21 Q. Also, were you sad for Dr Sheikh?

22 A. I am sad for Dr Sheikh?

23 Q. Yes. You felt sorry for him?

24 A. Yes, I'm sorry for him, because he's a very kind and  
25 heart person, try very hard to arrange the money for the

1 13:07 last month, because I heard some conversation, he is  
2 trying very hard to save the company. So I'm sorry for  
3 him, because everybody jobless and he's such a heart  
4 person, 100 per cent, nice person, so I'm sorry for him  
5 also. I feel very sad for him also.

6 Q. You want to help him, at this stage, if you can. You  
7 want to help him?

8 A. At this stage, how I can help? I'm helpless also. How  
9 I can help at this stage?

10 Q. In any way you can. If you could, you would help him.

11 A. Yes, if I can, I can help him.

12 Q. I'd like to talk about the conversation between  
13 Mr Salahuddin and Dr Sheikh, in your car, in the car,  
14 that you refer to at paragraph 11 of your witness  
15 statement.

16 If you just read that section again, if you need to,  
17 to remind yourself what you say in your statement,  
18 please.

19 A. Yes, sir.

20 Q. So you say that on more than one occasion, you drove  
21 Hassan, if I can call him that, and Dr Sheikh outside of  
22 the DIFC?

23 A. Yes.

24 Q. You say you remember this because --

25 A. Yes, I remember.

1 13:10 Q. -- Dr Sheikh did not go for lunch outside of the DIFC  
2 with junior employees; correct?

3 A. Yes, it's correct. Normally, they going with senior  
4 colleagues and his clients on DIFC. Because sometimes  
5 I go to the DIFC, like place, sometimes I forget  
6 something, so one of our colleagues give something to  
7 Dr Mubashir, they need, "So you please give it to them".  
8 Normally, he will in DIFC restaurant going. I never  
9 taking outside for junior staff for lunch and admin  
10 staff.

11 Q. Then you say:

12 "While driving Hassan and Dr Mubashir to lunch  
13 I overheard their conversation where Dr Mubashir was  
14 telling Hassan about his efforts to raise money for the  
15 company and he would give brief him of what kind of  
16 investment proposals, he need for Hassan to prepare."

17 You say that, don't you?

18 A. Yes.

19 Q. Then you say:

20 "On the way back from lunch I heard that Dr Mubashir  
21 told him about one investor who is asking a lot of money  
22 in advance and wanting to take control of the company."

23 Yes?

24 A. Yes.

25 Q. To be clear, you say this conversation took place in the

1 13:12 car, not at lunch?

2 A. Yes, what I heard this talking about when I take him  
3 down in early May, Dr Mubashir and Mr Salahuddin, they  
4 are talking about when I take them for Mini Chinese  
5 restaurant in Bur Dubai, I remember this is Dr Mubashir  
6 favourite restaurant, he's going by himself alone and he  
7 is going with Mr Salahuddin on that place.

8 So they are talking about whether -- Hassan  
9 Salahuddin, they have -- they are worrying the money for  
10 the company, so they are trying to arrange the money for  
11 the company.

12 On the way back, I remember very well they are  
13 saying there is one investor who is taking a charge for  
14 the company. He's asking for the advance money, lot of  
15 advance money also as well. I remember this  
16 conversation on the way back, talking about in the car,  
17 in Urdu.

18 Q. If I can just stop you there, you say that one of the  
19 investors was taking control of the company. Is that  
20 what you recall being said?

21 A. Yes, and on the way back, I heard this conversation.  
22 One of the investors, they are asking for a lot of money  
23 in advance and he want to take a control of the company.

24 Q. I'll come back to that. I want to now go to  
25 paragraph 12. You say:

1 13:13 "Same day back in the office Dr Mubashir was in  
2 a meeting with Anish Sir and Hassan, when I got a call  
3 from Fatima, Dr Mubashir's assistant that he needs me  
4 for something and I was instructed to go to his office."

5 Just pausing there, is "Anish Sir", Mr Anish Bhatia?

6 A. Mr Anish Bhatia? Sorry?

7 Q. In paragraph 12, you refer to "Anish Sir".

8 A. Yes.

9 Q. Do you mean Anish Bhatia?

10 A. Yes, Anish Bhatia, yes.

11 Q. Carrying on, you say:

12 "His office door was open [Dr Sheikh] and he was  
13 having so it appears a very serious discussion."

14 A. Yes.

15 Q. He saw you and he put his hand up, and he said, "Wait"?

16 A. Yes.

17 Q. But then from outside, you overheard the conversation;  
18 yes?

19 A. Yes, I heard the conversation, just talking about in  
20 Urdu and in Hindi as well. Anish Bhatia and Hassan  
21 Salahuddin and Dr Sheikh in his office.

22 Q. You specifically recall, you say:

23 "... Dr Mubashir was giving instructions to Hassan  
24 to give him the company chequebook. Hassan replied that  
25 Sir, I will bring for you the chequebook but if you

1 13:15 withdraw the company's capital than I cannot be  
2 responsible and I will not access bank account online.  
3 Dr Mubashir said to Hassan, and I heard for the first  
4 time him being angry telling Hassan, Amit has left the  
5 company and all his task are your responsibility. So do  
6 your job and make sure that you support the auditors  
7 with all what they need."

8 This conversation --

9 A. Yes.

10 Q. -- took place on the same day as one of the lunches at  
11 the Chinese; yes?

12 A. Yes, Chinese in Bur Dubai.

13 Q. Mr Shahzad, I'm going to put to you what the DFSA's case  
14 is, so you have an opportunity to respond. Do you  
15 understand?

16 A. Yes.

17 Q. Our case is that it's impossible for you to have  
18 remembered a specific lunch, the conversation in the car  
19 and a very detailed exchange, conversation, in  
20 Dr Sheikh's office, because it happened so long ago.

21 A. Yes, it's such a long time ago, but this is very hard  
22 time, the company is -- everybody is tense and this is  
23 before the company shutdown. So this is the last time,  
24 I remember very well this conversation.

25 Also I remember so many times they are talking about

1 13:17 is as well -- so I remember that also as well, so this  
2 is I didn't forget, because this is our last time, so  
3 everybody is jobless. This conversation, I remember  
4 this very well.

5 Q. But the detail, the information you remember about  
6 a conversation in the car and then the conversation in  
7 the office is very, very detailed, lots of information.  
8 Our case is, the DFSA, we say that you can't remember  
9 all of that information.

10 A. Whatever I heard, I tell you the truth in my statement.  
11 It's nothing else.

12 Q. Can I take you to paragraph 8 of your statement, if we  
13 just scroll up on the previous page, Fatima.

14 Can you please read to yourself paragraph 8 and  
15 paragraph 9.

16 A. Yes, I read it.

17 Q. Thank you.

18 A. You're welcome.

19 Q. It's the DFSA's case, so you understand, so you can  
20 respond, if you'd like to --

21 A. Yes.

22 Q. -- that the reason you remember, when you say you  
23 remember the conversation in the car, when you say that  
24 you drove Hassan and Dr Sheikh to lunch and the reason  
25 you say you remember the detail of the conversation in

1 13:20 the office, is because Dr Sheikh asked you to put down  
2 in a witness statement, not because it's true.

3 A. Sorry, what you're saying, say again, please? Plane is  
4 going outside. I cannot hear you properly.

5 Q. Of course. I'll ask again. I'll put it in a different  
6 way, Mr Shahzad.

7 At paragraph 9, you say Dr Sheikh:

8 "... specifically asked me if I recall few specific  
9 incidences ..."

10 A. Yes.

11 Q. Then he said to you --

12 A. Said to me for what?

13 Q. He said to you that there was a lunch with Hassan,  
14 a conversation in the office the same day?

15 A. He tell me when he approach me, he tell me, "Qasim, you  
16 remember those things when I go with Hassan and me for  
17 Mini Chinese, Bur Dubai?" I say, "Yes, sir,  
18 I remember." "Qasim, if you remember few things what we  
19 are talking about?" I say, "Yes, sir, I remember,  
20 I heard this." So he asked me to this conversation, so  
21 I remember those.

22 Q. Our case is that that's not true. He asked you to not  
23 only remember the conversation, but he told you what to  
24 say in your witness statement and you did that because  
25 you were loyal to him?

1 13:22 A. No, I don't do this. I remember whatever, so I saying,  
2 because this is the last time of the company and who can  
3 forget this thing? I remember this very well and this  
4 conversation is not for English. English, I have some  
5 problem in the English, but this conversation is going  
6 in Urdu, so I understood very well. They are talking  
7 about in Urdu and most of the time in the reply, then  
8 speaking in Urdu and Hindi. The Indian staff and  
9 Pakistani staff, they speak in Urdu and Hindi.

10 Q. You finally said that you have some difficulty with  
11 English, although I think your English is very good, if  
12 I may say so, Mr Shahzad.

13 A. Yes.

14 Q. Did you write your witness statement?

15 A. Yes, I can write this witness statement, because this I  
16 didn't write, one of my friend, he help me. I tell them  
17 to Urdu, he just support me to write this statement. So  
18 I read this two times. I confirm and then I sign and to  
19 send to Dr Sheikh.

20 Q. Did Dr Sheikh write this witness statement for you?

21 A. No, one of my friend, he write this statement.

22 MR KHAN: Thank you, Mr Shahzad. I have no further  
23 questions. Thank you, sir.

24 A. You're welcome.

25 MR PRESIDENT: Thank for your help. I have a couple of

1 13:24 questions to ask you and then my colleagues may want to  
2 ask you questions and Dr Sheikh may.

3 Questions by the TRIBUNAL

4 MR PRESIDENT: Can I, first of all, thank you very much for  
5 giving evidence in English. I know it is not your first  
6 language and it's very difficult.

7 A. Yes, sir, most welcome.

8 MR PRESIDENT: When you came to prepare your statement, you  
9 said that a friend of yours helped you to put it  
10 together.

11 A. Yes.

12 MR PRESIDENT: How did you know -- did you not talk to  
13 Dr Sheikh about what should go into your statement?

14 A. Sorry, sir. Say again?

15 MR PRESIDENT: Did you talk to Dr Sheikh about what should  
16 go into your statement?

17 A. No.

18 MR PRESIDENT: So all these details were details that you  
19 decided were the ones you wanted to put forward?

20 A. Yes.

21 MR PRESIDENT: So do I understand that you and your friend  
22 wrote this witness statement without any discussions  
23 with Dr Sheikh?

24 A. Without any discussion with Dr Sheikh. Because I tell  
25 him, to my friend, in my language, in Urdu, he just help

1 13:25 me, he just read for English and he tell me the meaning  
2 in Urdu also. I read four, five times before I sign to  
3 send to Dr Sheikh.

4 MR PRESIDENT: So you didn't have any discussion with  
5 Dr Sheikh about what you should put into your witness  
6 statement?

7 A. No.

8 MR PRESIDENT: Can I ask you this. You mention in your  
9 statement withdrawal of the capital of the company.  
10 What do you understand by that?

11 A. Sorry, I don't understand what you say, sir. Say again,  
12 please?

13 MR PRESIDENT: If you look at paragraph 12 of your  
14 statement, and if you look at the third paragraph, it  
15 says:

16 "I overheard that conversation where Dr Mubashir was  
17 giving instructions to Hassan to give him the company  
18 chequebook. Hassan replied that Sir, I will bring for  
19 you the chequebook but if you withdraw the company's  
20 capital than I cannot be responsible and ..."

21 What do you understand "withdraw the company's  
22 capital" to mean?

23 A. They are talking about in Urdu with Hassan and Anish  
24 Bhatia. So this conversation is going in Urdu in his  
25 office. What I listen this and this, I turn to my

1 13:27 friend to prepare. He write this in English.

2 MR PRESIDENT: But what do you understand "withdrawing the  
3 company's capital" to mean? What does it mean?

4 A. It means he need to take a lot of money for the company  
5 and Hassan is saying, "If Dr Sheikh should take the  
6 money, so I'm not responsible for this."

7 MR PRESIDENT: Thank you very much. I have no more  
8 questions. I don't know if my colleagues do.

9 A. Welcome.

10 MR AL AIDAROUS: I have one quick question, if you permit  
11 me, Mr Chairman.

12 Mr Shahzad, if I'm not mistaken, you said that when  
13 you're coming back from the Mini Chinese restaurant,  
14 you're driving both Dr Mubashir and Hassan Salahuddin,  
15 you heard that Dr Mubashir was saying that the recent  
16 investor, potential investor, but he's requesting a lot  
17 of money as an interest, do you mean that Dr Mubashir  
18 was referring to Mr Akbar?

19 A. Mr Akbar?

20 MR AL AIDAROUS: Do you know who is this investor who  
21 Dr Mubashir was talking about?

22 A. No, I don't know his name. They are saying only for  
23 this one investor, they ask for a lot of money. This  
24 discussion in Urdu. So, because one of my friend help,  
25 so I just read in English, so that's why, because

1 13:29 Dr Sheikh say you have to give the answer to only in  
2 English --

3 MR AL AIDAROUS: No, I'm not talking about how you prepared.  
4 Mr Chairman asked you this question. My question is  
5 different. My question is when you heard in the car  
6 that Dr Mubashir was saying to Hassan that there is an  
7 investor, potential investor, he want to invest in the  
8 company, but he need a lot of money in return, so did he  
9 mention the name of this investor?

10 A. No.

11 MR AL AIDAROUS: What was Mr Hassan's reply? Do you  
12 remember?

13 A. Dr Mubashir say one of the investor asking for a lot of  
14 money and they are taking control of this company. This  
15 I remember very well and then they start to -- Hassan  
16 don't say anything.

17 MR AL AIDAROUS: Hassan didn't ask him, "Who's this  
18 investor?"

19 A. No, I never heard they say anything, and his name,  
20 I never heard his name.

21 MR AL AIDAROUS: Now do you know who is this investor we are  
22 talking about or Dr Mubashir talking about at this  
23 stage? Do you know who this is?

24 A. No, I don't know.

25 MR AL AIDAROUS: Thank you, sir. Thank you very much.

1 13:30 A. You're welcome.

2 MR AL AIDAROUS: I have no further questions, sir.

3 MR AL HASHIMI: I don't have any questions.

4 MR PRESIDENT: Dr Sheikh, first of all, can we take down the  
5 statement from the screen, please.

6 Dr Sheikh, did you want to ask any more questions?

7 DR SHEIKH: No, your Honours. Thank you, Qasim.

8 MR PRESIDENT: Thank you very much for your help. Thank  
9 you.

10 WITNESS: You're most welcome.

11 (Witness withdrew)

12 MR PRESIDENT: Dr Sheikh, who is next?

13 DR SHEIKH: Your Honour, next gentleman is Mr Khalil. May I  
14 request two minutes, so I can text him, so he can come  
15 on the phone?

16 MR PRESIDENT: Yes, just take a few minutes. Don't feel  
17 pressed, but I think we'll wait here while you see if  
18 you can find him.

19 (1.33 pm)

20 (Short break)

21 (1.40 pm)

22 MR KHALIL AHMED

23 MR PRESIDENT: Mr Khalil, welcome. Thank you for agreeing  
24 to give evidence.

25 Do you understand that your evidence has to be the

1 13:41 truth? Can you hear me?

2 WITNESS: Yes, yes, I'm hearing.

3 MR PRESIDENT: Okay. We want you either to take an oath or  
4 to affirm. Are you happy to do that?

5 WITNESS: Affirm, please.

6 MR PRESIDENT: You'd like to affirm?

7 WITNESS: Yes.

8 MR PRESIDENT: Repeat after me. I do solemnly and sincerely  
9 affirm.

10 WITNESS: I do solemnly and sincerely.

11 MR PRESIDENT: Affirm.

12 WITNESS: Affirm.

13 MR PRESIDENT: That the evidence I shall give.

14 WITNESS: The statement as I give.

15 MR PRESIDENT: Will be the truth.

16 WITNESS: Will be the truth.

17 MR PRESIDENT: The whole truth.

18 WITNESS: The whole truth.

19 MR PRESIDENT: And nothing but the truth.

20 WITNESS: And nothing but the truth.

21 MR PRESIDENT: Thank you. Dr Sheikh.

22 Examination-in-chief by DR SHEIKH

23 DR SHEIKH: Mr Khalil, thank you for joining us today. I'm  
24 going to request a young lady, Fatima, who's going to  
25 bring your statement on the screen. I will request her

1 13:42 to slowly scroll down to your signature page and then  
2 I will have a couple of questions for you, Mr Khalil.

3 Fatima, could you kindly do the needful.

4 Mr Khalil, you saw the statement that Fatima  
5 scrolled down for you. Can you confirm that this is  
6 your statement?

7 A. Yes, this is my statement.

8 Q. Can you confirm that the signatures you see in front of  
9 your name, is this your signatures?

10 A. Yes, this is my signature.

11 Q. Can you confirm that your statement is to the best of  
12 your recollection?

13 A. Yes.

14 DR SHEIKH: Thank you, Mr Khalil. Now I will pass -- I will  
15 ask the opposing counsel lawyer Mr Khan to ask you  
16 questions from your goodself. Thank you, sir.

17 Cross-examination by MR KHAN

18 MR KHAN: Good afternoon, Mr Ahmed. Thank you for joining  
19 us.

20 A. Yes, good afternoon.

21 Q. You say in your witness statement, paragraph 1.

22 A. Yes, please, repeat?

23 Q. You say in your witness statement, paragraph 1, you are  
24 self-employed?

25 A. Yes.

1 13:44 Q. What do you do?

2 A. What I'm doing?

3 Q. Yes. What your business is.

4 A. Yeah. In these days, I'm exporting fruit and vegetable  
5 from Pakistan to Europe and other countries. And my old  
6 business is aviation. I own my airline, name is Aero  
7 Asia Airline, but that airline is grounded few years  
8 back. But these days, I'm doing export, fruit and  
9 vegetable.

10 Q. In 2015, in the aviation business.

11 A. Yes.

12 Q. Is it correct that you had no experience or interest in  
13 financial services?

14 A. No, I don't have any experience for financial service.

15 Q. In 2015, you had no interest in financial services?

16 A. Financial services?

17 Q. Yes.

18 A. 2015, I am not understanding the -- in financial  
19 services, I don't have any experience. Yes, you are  
20 right.

21 Q. Thank you. Your witness statement is dated 4 April  
22 2020; yes?

23 A. Which date?

24 Q. The witness statement is dated 4 April 2020?

25 A. Yes, 4 April 2020, you are right. Sorry, I'm not

1 13:46 hearing properly, but I'm trying to understand what are  
2 you saying.

3 Q. Yes, well, let me change my audio and maybe that will  
4 make some difference.

5 Can you hear me now?

6 A. Yes.

7 Q. Is that better?

8 A. Yes, please.

9 Q. Can you hear me now? Is that better?

10 A. Yes.

11 Q. The events that you discuss in your witness statement  
12 took place in 2015; correct?

13 A. Yes.

14 Q. That was a long time ago, wasn't it?

15 A. Yes.

16 Q. No doubt you're doing your best to recall events; yes?

17 A. Please repeat.

18 Q. You are doing your best to remember what happened in  
19 2015?

20 A. Yes, which I remember, I mentioned and I will try to say  
21 you.

22 Q. But I'm going to put it to you that it's difficult for  
23 you to recall everything accurately.

24 A. Yes, you are right. Which I remember, I mention.

25 Q. I'd like to ask you about your relationship with

1 13:48 Dr Sheikh. You explain in paragraph 2 how you came to  
2 meet Dr Sheikh; yes?

3 A. Yes, you're right.

4 Q. In paragraph 3, you say that you got along very well;  
5 yes?

6 A. Yes.

7 Q. In paragraph 4, you say you entered, engaged in a couple  
8 of businesses with Dr Sheikh; yes?

9 A. 100 per cent right.

10 Q. Did you do business with Dr Sheikh?

11 A. We -- basically, we did not do any business. We tried  
12 to do something, but I don't know why, whether things  
13 did not go through.

14 Q. To be clear, the business ideas that you mention in  
15 paragraph 4, you tried, but failed to agree any business  
16 with Dr Sheikh; yes?

17 A. Yes, yes.

18 Q. Thank you. I just wanted to clarify that.

19 At paragraph 5, you say, despite not doing any  
20 business, you had built mutual respect and had common  
21 business interests?

22 A. 100 per cent right.

23 Q. What do you mean by "common business interests"? You  
24 were interested in the same --

25 A. Common business interest is, which are already I have

1 13:49 mentioned in paragraph 4, these few businesses I want to  
2 do with Dr Sheikh. Me and my business is airline, you  
3 know, Aero Asia Airline, we are operating from -- all  
4 over the Gulf, since 30 year. But some reason, the  
5 airline grounded. So basically, my interest to do,  
6 revive my airline, so that's why I, you know, contact to  
7 Dr Sheikh. So these two businesses I want to do with  
8 Dr Sheikh.

9 Q. You wanted to do business with Dr Sheikh, but were  
10 unable to do so; yes?

11 A. Yes.

12 Q. But you obviously liked him very much and at  
13 paragraph 9, you say you found him to be honourable and  
14 decent; yes?

15 A. 100 per cent right, no doubt about it.

16 Q. And you trusted him very much?

17 A. Yes, yes, you are right.

18 Q. Can we now talk about the agreement with MAS ClearSight  
19 at paragraph 6.

20 A. Yes.

21 Q. You say that Dr Sheikh approached you in March 2015?

22 A. Yeah.

23 Q. And he explained that the company needed a short-term  
24 loan; yes?

25 A. Yes.

1 13:51 Q. And he explained to you that the company was in some  
2 financial difficulty; yes?

3 A. Some financial -- in which paragraph? 9?

4 Q. Paragraph 6. He refers to a liquidity crunch.

5 A. Yes, some liquidity problem is there.

6 Q. Did he tell you about the wider financial problems of  
7 the company?

8 A. Repeat, please?

9 Q. Did he tell you about the other financial problems in  
10 the company?

11 A. Not in detail, but say he's doing something to do --  
12 basically my English is not very accurate, so I will  
13 explain --

14 Q. No, that's fine. Of course, take your time to explain.

15 A. Thank you very much. So not in detail, but something he  
16 said, he told me, which I understood, because basically  
17 I know Dr Sheikh is very honest, so I believed his word.

18 Q. I think you're accepting that you were aware that there  
19 was some financial difficulty at MAS ClearSight?

20 A. Yes, yes, correct.

21 Q. And that's why at paragraph 8, you asked him if the  
22 company was able to pay you back?

23 A. Yes.

24 Q. Correct?

25 A. Yes.

1 13:53 Q. He said to you, "Don't worry, I'm selling my property in  
2 Pakistan."

3 A. Property in Pakistan. Yes, you're right.

4 Q. And you took comfort from that; yes?

5 A. Yes.

6 Q. Do you remember what the property security for --

7 A. No, basically, I don't need any security, but just the  
8 word of Dr Sheikh is enough for me. So I believe I told  
9 you already, I believe the words of Dr Sheikh.

10 MR KHAN: Sir, this may be the final question before our  
11 short break.

12 MR PRESIDENT: Yes.

13 MR KHAN: When you agreed the loan, in paragraph 10, you  
14 didn't pay it to MAS ClearSight, did you? You didn't  
15 give the money to MAS?

16 A. But I gave the money for MAS.

17 Q. I understand that, but physically, you gave Pakistani  
18 rupees to somebody in Pakistan; correct?

19 A. Yes.

20 Q. Do you remember who you paid the money over to?

21 A. I think Mr Ziauddin, one of -- I know that accountant of  
22 Dr Sheikh.

23 Q. Who is that gentleman, please, Mr Ziauddin? Is it  
24 Mr Ziauddin?

25 A. Mr Ziauddin.

1 13:55 Q. Mr Ziauddin? Who is he, please?

2 A. As I mention already, Mr Ziauddin.

3 Q. I'm asking you who he is?

4 A. I think he's accountant of Dr Sheikh's company in  
5 Pakistan.

6 Q. You gave the money to Mr Ziauddin, who you understood to  
7 be Dr Sheikh's accountant or his company accountant in  
8 Pakistan; yes?

9 A. Yes. Not in company account, I gave money in cash to  
10 Mr Ziauddin.

11 MR PRESIDENT: Sorry to interrupt. We are going to break  
12 for 10 minutes and we will resume -- it's now 10.55 in  
13 England and we will resume in 10 minutes time at 5 past  
14 10 or 5 past 1. Thank you.

15 WITNESS: I'm free?

16 DR SHEIKH: Mr Khalil, we are taking 10 minutes break, but  
17 you're not free. After 10 minutes, please come back  
18 again on the call.

19 WITNESS: Okay.

20 (1.56 pm)

21 (Short break)

22 (2.05 pm)

23 MR KHAN: Mr Ahmed, welcome back. We were just talking  
24 about your relationship with Dr Sheikh and then the  
25 agreement that you say was to lend money to MAS

1 14:06 ClearSight?

2 A. Yes.

3 Q. Perhaps rather unusually, for a commercial transaction,  
4 you paid cash in Pakistani rupees to a representative of  
5 Dr Sheikh; yes?

6 A. Yes.

7 Q. Now, given, at that time, your commercial background in  
8 airlines; yes?

9 A. Yes. At that time, we are not so concerned of money.  
10 But we need the liquidity for more flights, for more  
11 aircraft from leasing company.

12 Q. I presume your business had a bank account; yes?

13 A. Yes, you are right.

14 Q. With a commercial bank?

15 A. Yes, my company account definitely in a commercial bank.

16 Q. Do you recall which bank it was?

17 A. What?

18 Q. Which bank was it?

19 A. Different bank, you're talking about my company account?

20 Q. Yes.

21 A. Yes, in UBL.

22 Q. UBL?

23 A. Yes, in MCB, in these two banks.

24 Q. What about your personal bank account?

25 A. My personal bank account also in UBL and Standard

1 14:07 Chartered.

2 Q. They're both commercial banks who can transfer money  
3 across borders; correct?

4 A. But I arrange money for Dr Sheikh from resources, so  
5 I gave to him.

6 Q. Sorry, my question is, it's a prior question, logically.  
7 Can you just confirm that you were able to transact  
8 internationally through your banks? You could send  
9 money abroad and you could receive money from abroad;  
10 yes?

11 A. Yes, my agreement basically with Dr Sheikh is I will  
12 give the money in Pakistan and he will give to me in  
13 Dubai. But this is my agreement.

14 Q. I'm not asking about the agreement yet. I'm asking you  
15 probably a question that the answer to which is obvious.  
16 I must ask you, could you transfer money abroad through  
17 your UBL or your Standard Chartered Bank account? "Yes"  
18 or "no"?

19 A. That time, maybe I don't know exactly, what was issues  
20 at the time, but I think some statement issues to  
21 transfer the money to internationally. So that's why  
22 I agreement with Dr Sheikh, I will give to Pakistan,  
23 I will take in Dubai.

24 Q. I'm going to submit to the tribunal that you would have  
25 been well capable of transferring money to MAS

1 14:09 ClearSight's bank account in 2015. You were able to do  
2 that if you wanted to do so.

3 A. I told you, I told you, that time, some restriction from  
4 state bank in Pakistan for transferring the money to  
5 internationally. So I don't want -- basically,  
6 Dr Sheikh need money immediately, so I don't have much  
7 time to contact state bank, Kandah(?) bank and fulfil  
8 their, you know, all the regulation. So that's why  
9 I took this way.

10 Q. You're saying that there was a legal or commercial  
11 restriction on transferring money from Pakistan to --

12 A. I think so, I'm not 100 per cent sure, but I think so  
13 that time some restriction is there, was there.

14 Q. Why are you saying that now, Mr Ahmed, given that your  
15 witness statement, at paragraph 11, does not refer to  
16 any restrictions on transferring money to Dubai? Why  
17 are you saying that now?

18 A. Yes, I'm saying that -- I told you, I have -- I had some  
19 issue. What was the issue exactly, I don't know.  
20 I don't remember.

21 Q. So you had an issue, but you don't remember, but you  
22 haven't said in your statement that you had an issue at  
23 all, do you?

24 A. Yes, but I don't know exactly what was the issue.  
25 Basically, you know, my accountant done everything, so

1 14:11 the data content is not now with me (unclear ...). So,  
2 you know, I terminated a lot of my employees, so data  
3 content also included. So he told me that we cannot --  
4 we could not transfer money immediately to  
5 internationally. So I don't know what is the exact  
6 issue. Basically, my accountant knew. This is truth.

7 Q. Yes, you say that. So, just to recap, you trusted  
8 Dr Sheikh; yes?

9 A. Yes.

10 Q. You were aware that MAS ClearSight had some financial  
11 difficulties; yes?

12 A. Yeah, Dr Sheikh told me.

13 Q. You had no interest in financial services; correct?

14 A. I have no interest in, not mean financial interest.  
15 I don't know about financial interest.

16 Q. You have no interest in financial services?

17 A. Financial services, yes.

18 Q. When you wanted comfort that you would be repaid, the  
19 comfort related to Dr Sheikh's potential sale of his  
20 property in Pakistan; correct?

21 A. Yes, in Islamabad. Yes, you're right.

22 Q. You paid the money in Pakistani rupees to Dr Sheikh's  
23 representative in Islamabad; correct?

24 A. Yes, yes, correct.

25 Q. Now, we don't have the loan agreement, do we? You

1 14:13 haven't located it yet.

2 A. Loan agreement. Basically that day I change my house  
3 from defence to Bahria Town. So I think so, not only  
4 this agreement I lost, I lost my car documents, I lost  
5 my -- one other property document. This is 100 per cent  
6 truth.

7 I lost these two documents also. My car, whole  
8 file, I lost. My flat is in Bijar(?) Road, royal  
9 property. I have lost that file also. At that time  
10 when I change my house, so these documents I lost and  
11 the loan agreement also included.

12 Q. Is it possible, given you don't have the agreement to  
13 remind you, that you didn't agree to lend MAS money, but  
14 perhaps you agreed to lend some money to Dr Sheikh in  
15 Pakistan?

16 A. Yes.

17 Q. Is that possible?

18 A. Repeat, please?

19 Q. I'm putting to you that you are mistaken when you say  
20 that you had an agreement to lend money to MAS. It's  
21 more likely if you lent any money to Dr Sheikh, it was  
22 to him personally, not to MAS?

23 A. No, MAS, basically loan to MAS and that in agreement  
24 mention clearly. This loan is -- I'm giving to MAS, not  
25 to Dr Sheikh.

1 14:15 Q. When was the last time you saw the loan?

2 A. Yes?

3 Q. When is the last time you physically had sight of the  
4 loan agreement?

5 A. Last time was -- I don't remember.

6 Q. You don't remember, so how can you remember who the  
7 agreement was with?

8 A. No, I don't remember at all.

9 Q. You don't remember at all, so --

10 A. I think I saw only that time when I signed it. After  
11 that, I don't know where that document.

12 Q. Isn't it possible, Mr Ahmed, that there is no agreement  
13 and if you lent money, in Pakistan, to Dr Sheikh, it was  
14 to him personally? Is that possible?

15 A. You can repeat it now. Sorry, really very sorry for  
16 this. I'm not understanding.

17 Q. Did you lend the money to MAS or to Dr Sheikh?

18 A. MAS.

19 Q. How can you be so sure?

20 A. This is 100 per cent sure, because I signed agreement,  
21 so I'm told -- I told you clearly mentioned in agreement  
22 the money is -- I'm giving the money to MAS, not  
23 Dr Sheikh. This is 100 per cent sure.

24 Q. Why would you lend the money to MAS? You have no  
25 interest in financial services. Your interest was in

1 14:17 your personal relationship with Dr Sheikh.

2 A. I did not have money for financial interest, I only this  
3 money to Dr Sheikh's company, for Dr Sheikh. I want to  
4 Dr Sheikh bring out from MAS, which he told me that his  
5 company is in problem, financial problem. This is only  
6 loan.

7 Q. But you paid the money to him in Pakistan and your  
8 comfort that you would be repaid is his personal  
9 property was for sale?

10 A. Yes, you're right.

11 Q. Why didn't you just lend him the money?

12 A. Company, I'm giving you, MAS, but the person in front of  
13 me is Dr Sheikh. So I want the guarantee from  
14 Dr Sheikh.

15 Q. My question is why not just have an agreement with  
16 Dr Sheikh? You like him, you trust him, it's him you  
17 know.

18 A. It is Dr Sheikh's company, Dr Sheikh, of his company.

19 Q. You know Dr Sheikh has a company in Pakistan, don't you?

20 A. Yes, I know.

21 Q. MAS Pakistan. Were you aware of MAS Pakistan?

22 A. Yes, I know Dr Sheikh has company in Pakistan in the  
23 name of MAS.

24 Q. If you had difficulty or restrictions on transferring  
25 money outside of Pakistan, as you now describe for the

1 14:19 first time, why not lend the money to MAS Pakistan?

2 A. From account to account, I think I was telling you,  
3 account to account transfer has some issues in Pakistan.  
4 You know how Pakistan is, you know, was going. So  
5 I don't want to go in detail. At that time, I have some  
6 issue, account to account, please.

7 Q. But why didn't you have an agreement with MAS Pakistan  
8 if you wanted to have a contract with a company? You  
9 had no interest in financial services or MAS in Dubai.  
10 Why are you so sure that the agreement referred to MAS  
11 in Dubai?

12 A. Basically, my company is not giving the money to  
13 Dr Sheikh's company. I'm giving the money to  
14 Dr Sheikh's company. So I don't want to make  
15 agreement --

16 Q. There are good reasons?

17 A. Reason is only I want guarantee from Dr Sheikh, but he  
18 wanted money to my company, but I wanted a guarantee  
19 from personally Dr Sheikh.

20 Q. Yes, we understand that --

21 A. I wanted my company -- my money back. So if I signed  
22 agreement with his company, I think so I did not get  
23 anything which I have, already, you know, pending to  
24 Dr Sheikh. So if I signed the agreement with the  
25 company, but I think so I didn't get one penny. So

1 14:21 that's why I want a guarantee to personally from  
2 Dr Sheikh. I was clearly told him, "If you will take  
3 a guarantee, personally, then I can do something  
4 for you."

5 Q. I'll ask you one last time, because this is our case.  
6 If there is an agreement -- and we haven't seen one and  
7 my submission to the tribunal will be that there  
8 probably isn't an agreement, but even if there is an  
9 agreement, there's no agreement between you and MAS in  
10 Dubai. That's highly unlikely. Do you understand that?

11 A. Yes.

12 Q. Can I take you to paragraph 19 of your statement.

13 A. Yes.

14 Q. Now this time, it's around June 2015, and Dr Sheikh had  
15 told you that he may not be able to repay you on time;  
16 yes?

17 A. Yes.

18 Q. In paragraph 18, you reached out during the second week  
19 of June to Dr Sheikh and he told you that he was going  
20 to have difficulty in repaying you; correct?

21 A. Yes.

22 Q. Because a deal had fallen through?

23 A. Yes.

24 Q. In paragraph 19, you say this came as a shock to you and  
25 then, "I asked him to return my money ..." Yes?

1 14:23 A. Yes, you're right.

2 Q. He said he was actively trying to sell his property, as  
3 he told you before; yes?

4 A. Yes.

5 Q. Why did you ask -- your agreement was with MAS  
6 ClearSight. That's your evidence. Then why were you  
7 asking him to return the money? Why didn't you speak to  
8 MAS? You're a creditor of MAS; correct?

9 A. This was the one you are basically asking me before, why  
10 I did agreement with Dr Sheikh. So that's why I did  
11 agreement to Dr Sheikh, not his company. Because I know  
12 very well Dr Sheikh will return my money at any cost.

13 Q. Do you know that MAS became insolvent shortly after  
14 that?

15 A. Did I know?

16 Q. Yeah.

17 A. What?

18 Q. That it was insolvent, MAS had gone out of business in  
19 I believe towards the end of June 2015.

20 A. Yes.

21 Q. So did you take steps to protect your rights as  
22 a creditor of MAS with the liquidator?

23 A. You have to repeat it again. Sorry.

24 Q. You're a creditor of MAS; correct?

25 A. My creditors? Yes, you are right.

1 14:25 Q. You are a creditor of MAS; yes?

2 A. Yes.

3 Q. You have just confirmed that you're aware that MAS  
4 became insolvent; correct?

5 A. Yes.

6 Q. What steps did you take to protect your interest as  
7 a creditor in MAS once it became insolvent?

8 A. Again, I'm sorry, I'm not understanding your words.

9 Q. Can I just --

10 MR PRESIDENT: Let me put it another way.

11 You say that the loan you made was to MAS; correct?

12 A. Yes, correct.

13 MR PRESIDENT: MAS went bust, it went insolvent, it became  
14 broke; correct?

15 A. Yes.

16 MR PRESIDENT: Why didn't you claim the money back from the  
17 liquidator, the person in charge of MAS when it was  
18 broke?

19 A. Sorry, I'm not understanding.

20 MR PRESIDENT: Well, I'm going to try again. Mr Khalil  
21 Ahmed, you do speak English quite well. Do you  
22 understand that MAS went into liquidation, it went  
23 broke? Do you understand that?

24 A. Went broke?

25 MR PRESIDENT: It couldn't pay its debts. You understand

1 14:26 that MAS stopped trading?

2 A. MAS stopped businesses?

3 MR PRESIDENT: Yes.

4 A. Yes.

5 MR PRESIDENT: When it stopped business, why is it that you  
6 did not claim the money back from MAS?

7 A. Now, I understood. Basically, you are talking -- I told  
8 you before time, I don't want to go to court. I know  
9 Dr Sheikh will return my money at any cost. So that's  
10 why I trust him. So that's why I didn't go anywhere  
11 left and right, I just want to contact to Dr Sheikh,  
12 definitely I proceed in this way.

13 MR KHAN: Thank you, sir.

14 Mr Ahmed, you're obviously a successful  
15 international businessman, from what you have told us  
16 about your business interests. I'm going to put it to  
17 you that it's incredible, unbelievable, that as  
18 a creditor of a company that's gone into liquidation,  
19 you would not express to the liquidator your interest as  
20 a creditor of MAS. That's unbelievable. Do you agree?

21 A. I don't know which is unbelievable. I did not go to  
22 court, so this is unbelievable?

23 Q. No, that you didn't go to the liquidator. You don't  
24 have to go to court, you just write to the liquidator,  
25 as you full well know, and express your interest as

1 14:28 a creditor. That's how it works, doesn't it?

2 A. Which creditor?

3 Q. I'm going to move on, sir, but I hope you understand my  
4 case, Mr Ahmed. I don't want it to be said that  
5 I haven't put my case to you.

6 Just moving on, from between paragraphs 17 and 26 of  
7 your statement, can you just quickly remind yourself  
8 what you say there. They're quite short paragraphs.  
9 From 17 -- and Fatima, when you tell her, will scroll  
10 down to paragraphs 22 to 26 as well on the next page.

11 A. Yes.

12 Q. Sorry, can we just go back, Fatima, and also can you  
13 remind yourself what you say in paragraphs 14 and 15 as  
14 well.

15 Here you recall the detail of the communications --

16 A. Yes.

17 Q. -- between you and Dr Sheikh concerning an alleged  
18 investment agreement between MAS and a third-party  
19 investor; yes?

20 A. Yes.

21 Q. Then from paragraph 17 onwards, you refer to a number of  
22 communications in connection with the repayment of your  
23 loan in May and June; yes?

24 A. Yes.

25 Q. How did you communicate with Dr Sheikh? Did you email

1 14:31 him? Did you send a text message?

2 A. I -- Mr Atta -- basically Mr Atta is, you know, someone  
3 I know who can contact -- contacted to me with  
4 Dr Sheikh. At that time, I think so, that's Dr Sheikh  
5 disappear for some time.

6 Q. Mr Ahmed, let me take it step by step. I'm sure this is  
7 my fault.

8 Can you look at paragraphs 14 and 15.

9 A. Yes.

10 Q. In paragraph 14, you say that in mid-May 2015, you asked  
11 Dr Sheikh for your money back?

12 A. Yes.

13 Q. Then at paragraph 15, you say that Dr Sheikh told you  
14 about an investment agreement. Let's just focus on  
15 those paragraphs for a moment.

16 A. Yes.

17 Q. Were those communications contained in an email or  
18 a text message?

19 A. No, I try to contact with mobile number.

20 Q. How did you --

21 A. And also WhatsApp, which I had, I think so. Also my  
22 Dubai number, you know, is not working right now, so for  
23 that number, I contact with Dr Sheikh to send WhatsApp  
24 message and calls.

25 Q. WhatsApp messages and calls. Did you email?

1 14:33 A. No, email, no.

2 Q. No email, so there are WhatsApp messages?

3 A. Yes.

4 Q. That's helpful, because we know Dr Sheikh has recently  
5 found his Dubai phone, so maybe we can ask him about  
6 those messages.

7 A. Yes, I did not email --

8 Q. Do you have access now to those WhatsApp messages?

9 A. Yes, I have.

10 Q. So you can send us a copy of those WhatsApp messages,  
11 a screenshot?

12 A. Now?

13 Q. We can arrange for it later today, but you have access  
14 to those WhatsApp messages on your phone, do you,  
15 from 2015?

16 A. No, not 2015. I told you my number. I know 0567600.  
17 This was my number. So that number I contact to  
18 Dr Sheikh. But at that time -- but that number is not  
19 now with me.

20 Q. So you don't have access to it?

21 A. Now I don't have that number.

22 Q. When is the last time you looked at those messages?

23 A. The last time until now, with my Pakistani number.

24 Q. When is the last time you looked at the WhatsApp  
25 messages that you have just given evidence about?

1 14:35 A. You want my messages now which I did with Dr Sheikh?

2 MR PRESIDENT: No --

3 A. You want my messages?

4 MR PRESIDENT: Mr Khalil Ahmed, wait. What counsel has  
5 asked you twice now is this. He's twice asked you when  
6 you last -- the last time you looked at the WhatsApp  
7 messages that you have been telling us --

8 A. Yes.

9 MR PRESIDENT: When did you last look at them?

10 A. When I last my previous number, where I did messages to  
11 Dr Sheikh?

12 MR PRESIDENT: When you last saw the messages, when did you  
13 last see them?

14 A. That number I told you, three, four years ago that  
15 number is not with me. I don't have even that phone.

16 MR KHAN: I think we have an answer, Mr Ahmed, thank you.  
17 So it's a long time ago.

18 You haven't looked at those messages for a long  
19 time, have you?

20 A. Yes. Basically, I'm not exactly understanding, if you  
21 have a translator, can you arrange translator for me?  
22 Basically, I'm not understanding what you want. Which  
23 I understood you want messages which I did in 2015 to  
24 Dr Sheikh from my mobile. You want text messages  
25 screenshot. I'm correct?

1 14:37 Q. No. What I asked you, first of all, is do you have  
2 access to those WhatsApp messages? I understood you to  
3 say you no longer have access to that mobile telephone  
4 number. Is that right or not?

5 A. Yes, correct. So my answer is that number I don't have,  
6 I don't have with me right now. Two, three years back,  
7 that my number is not with me. I have a new number two  
8 years back.

9 Q. I think we understand each other. Moving on, hopefully  
10 less painfully, to the other conversations you refer  
11 to --

12 A. By phone?

13 Q. At paragraph -- sorry. I'll ask my question. At  
14 paragraphs 17 and 18, you say you tried to and then  
15 finally contacted Dr Mubashir in the second week  
16 of June; correct?

17 A. Yes.

18 Q. Was that also by WhatsApp message?

19 A. I'm saying that WhatsApp message is not with me now.  
20 This is five years back --

21 Q. But --

22 A. I don't have that number with me. I don't have that  
23 phone with me. This is truth.

24 Q. Yes, I understand that you no longer have access to it.  
25 But in June 2015, did you communicate by WhatsApp?

1 14:39 A. Yes. By phone and by messages, WhatsApp or messages,  
2 I not know exactly I remember, but I contact with phone  
3 or messages.

4 Q. Either by telephone, speaking on the phone or by  
5 WhatsApp message; correct?

6 A. Yes.

7 Q. You don't remember quite which --

8 A. I got this number two years before.

9 Q. Is that the same for all of the conversations you refer  
10 to down to paragraph 26? There are a number of  
11 conversations. I can take you to each of them, if it  
12 will help, but I don't believe it will. Is your answer  
13 the same, that those conversations took place, either  
14 over a telephone conversation or possibly by WhatsApp?

15 A. Which paragraph I mention?

16 Q. Paragraph 19 to paragraph 26.

17 A. Yeah.

18 Q. I ask you to read a few minutes ago.

19 A. Yes, by phone.

20 Q. Is it possibly by WhatsApp message as well?

21 A. No, on phone.

22 Q. How do you remember --

23 A. Basically, I told you, my English is not good, so that's  
24 why 100 per cent, I contact by phone to Dr Sheikh and/or  
25 WhatsApp phone.

1 14:41 Q. Mr Ahmed, your English is perfectly good. You've told  
2 us that you send messages by WhatsApp. You're now  
3 telling us --

4 A. These are 2015.

5 Q. Yes, these are all conversations --

6 A. Maybe I have sent -- I would have sent one or two, but  
7 I'm not understanding why you are focusing on messages,  
8 messages, messages.

9 Q. Don't worry why I'm focusing on it. I'm just trying to  
10 get an --

11 A. By phone --

12 Q. -- answer to a simple question.

13 A. WhatsApp message --

14 Q. Just to be clear, you had some communications by  
15 WhatsApp message, correct, in --

16 A. Maybe, maybe I did, but not -- mostly, I'm not contact  
17 to any person with messages. I'm chief executive  
18 officer of my airline, one of the second largest airline  
19 in Pakistan, I don't have much time to reply messages to  
20 other. Mostly, I use my phone. Please, don't ask again  
21 and again and again, WhatsApp messages, WhatsApp  
22 messages, WhatsApp messages.

23 Q. So if --

24 A. My employee number is 5000, you can check Aero Asia in  
25 Pakistan.

1 14:42 Q. I'm not interested in that.

2 A. I'm not employee of other --

3 MR PRESIDENT: Mr Ahmed, please be silent. Mr Khan is  
4 trying to ask you questions. Please just answer the  
5 questions. Sometimes you may find the question  
6 difficult --

7 A. Sir, he's repeating a hundred times, messages, WhatsApp,  
8 messages, WhatsApp.

9 MR PRESIDENT: Would you please stop. You've not been asked  
10 a question yet, so just wait there. Mr Khan will ask  
11 you a question. I think one of the reasons the  
12 questions may sound difficult is that the sound system  
13 sometimes cuts out. Mr Khan's questions are not always  
14 clear. It's not because he's not making clear  
15 questions, it's because the technology sometimes  
16 distorts. So if you would please just wait there and  
17 listen to the question and answer just that question.

18 MR KHAN: Thank you.

19 Apologies if my questions cut out, Mr Ahmed. I'll  
20 take it as slowly as I can.

21 What I'm going to put to you is that you can't  
22 possibly remember the detail of the conversations set  
23 out in your witness statement from five years ago, given  
24 that you have no access to WhatsApp messages or the  
25 telephone conversations you had at the time?

1 14:44 A. Yes.

2 Q. Do you accept that you could be mistaken about the  
3 content of those conversations?

4 A. I mistaken?

5 Q. I'm asking you, could you be mistaken about --

6 A. No, no --

7 Q. -- content of the conversations?

8 A. No, no. I don't think so.

9 Q. I'm afraid I'll have to take you to one example,  
10 paragraph 15. You remember that Dr Sheikh told you that  
11 he had already signed an investment agreement for  
12 \$2 million?

13 A. Yes.

14 Q. Do you expect the tribunal to believe that you remember  
15 that from your memory from five years ago?

16 MR PRESIDENT: Mr Khan, that's not a question -- he can't --  
17 it's not a fair question to say, "Do you expect".  
18 Please just put the question as simply as possible.

19 MR KHAN: Mr Ahmed, you don't remember that conversation, do  
20 you? You have been asked by Dr Sheikh to provide this  
21 evidence, haven't you?

22 A. So your question is how I remember 2MM agreement  
23 Dr Sheikh told me? 2MM is amount. So 2MM, I can  
24 remember. I could remember, the word of 2MM.

25 Q. Your recollection of the conversation from paragraph 14

1 14:46 through to paragraph 26 is not your true recollection,  
2 is it, Mr Ahmed?

3 A. Is not?

4 Q. Is not your true recollection?

5 A. Is not my true recollection?

6 Q. Yes.

7 A. "Is not my true recollection" means?

8 Q. Is not your true memory.

9 A. No, it's my -- I think so which I remember, I mentioned,  
10 this is true mention. I told you this 100 per cent  
11 truth. How can you say this is not true memory?

12 Q. Because the reason I'm asking this, just so we're  
13 absolutely clear, is because these are conversations  
14 from five years ago --

15 A. But you are focusing on messages.

16 Q. These are conversations from five years ago.

17 A. Yes.

18 Q. I'm asking you, I'm putting to you that you can't  
19 possibly remember this detail from five years ago.

20 A. Yes, okay. Okay. From 14 to 26, the main statement,  
21 the main is I contact with Mr Atta, main is 2MM  
22 agreement, main is my interest 30,000, 37,500, main is  
23 my amount. This is the main thing. Other than is  
24 detail. Other than is story.

25 Q. Where did you get the story from?

1 14:48 A. This is not story. I'm saying this other one, how I can  
2 contacted? How I can -- my manager calls me. This is  
3 main, you know, word. I explained these words in 14  
4 to 26.

5 Q. Let me take you to one more example, paragraph 23.

6 A. Yes.

7 Q. You say:

8 "Dr Mubashir told me that he has access to MAS  
9 ClearSight capital and based on the limited resources,  
10 he is unable to pay his entire loan amount."

11 A. Yes.

12 Q. Is it your case that you remember that being told to you  
13 in 2015?

14 A. So this is only word. This is only statement.  
15 Dr Sheikh say "limited resources". So what resources?  
16 If Dr Sheikh told me, I don't remember. But limited  
17 resources, that this is I remember.

18 Q. In the next sentence, you say:

19 "This made me very furious that I trusted and lend  
20 money to MAS ClearSight DIFC entity when they were in  
21 dire need for capital and now ..."

22 A. Hold on:

23 "... I trusted and lend money to MAS ... DIFC entity  
24 when they were in dire need for capital and now, I need  
25 my liquidity back to ensure my business activities and

1 14:49 Dr Mubashir is given me excuses."

2 Yes. What is question?

3 Q. My question is that I'm putting to you that you can't  
4 possibly remember that detail from five years ago.

5 A. Yes.

6 Q. Not true, is it? You don't remember that?

7 A. No. I not in detail remember.

8 Q. Well, tell me what you remember and what is just in the  
9 witness statement.

10 A. This is, you know, highlighted thing. I can't basically  
11 explain it.

12 Q. You can't explain it? Okay. I'll ask you about one  
13 more, if I may, paragraph 25.

14 A. Yes.

15 Q. You say:

16 "Dr Mubashir told me that he has access to Company's  
17 liquidity and could only give me back half the money."

18 A. Yes.

19 Q. Again, I'm going to put it to you that you can't  
20 possibly remember that detail from 2015. That's  
21 correct, isn't it?

22 A. The detail, I don't remember. But half of the money is  
23 not detail.

24 Q. Who provided you with the detail? It's in this witness  
25 statement.

1 14:51 A. Which detail?

2 Q. The detail I've just referred you to.

3 A. No, I don't have -- I didn't have any detail.

4 Q. Who wrote this witness statement?

5 A. No, where I mention I know the detail?

6 Q. Who wrote the witness statement, Mr Ahmed?

7 A. Where I mention I know the detail -- Dr Sheikh's  
8 company?

9 Q. Who wrote the witness statement, Mr Ahmed?

10 A. Yes.

11 DR SHEIKH: Your Honour, may I clarify this question with  
12 your permission, sir?

13 MR PRESIDENT: No.

14 MR KHAN: No --

15 A. I am not understanding, detail --

16 MR PRESIDENT: First of all, will someone please remove this  
17 statement from the screen. Thank you.

18 Dr Sheikh, you do not interrupt cross-examination of  
19 a witness. You will notice that Mr Khan did not  
20 interrupt you. So, please, the answer is you may not,  
21 no.

22 DR SHEIKH: I apologise, sir. Thank you.

23 MR PRESIDENT: It's okay.

24 Dr Sheikh, I can't say too often, you're not used to  
25 this, so it's not a criticism. I quite understand, but

1 14:53 you mustn't interrupt during the cross-examination.

2 Thank you very much.

3 DR SHEIKH: Yes, sir.

4 MR KHAN: Mr Ahmed, I'll ask the question one last time.

5 Who wrote the witness statement?

6 A. Yes. Yes, I wrote.

7 Q. Did you write it yourself?

8 A. Not myself. Basically, I contact to my lawyer and so  
9 he -- I take, you know, my ...

10 Q. Did Dr Sheikh tell you what to write in your witness  
11 statement?

12 A. Dr Sheikh?

13 Q. Yes.

14 A. One? Repeat it?

15 Q. Did Dr Sheikh tell you what to write in your witness  
16 statement?

17 A. Dr Sheikh -- did Dr Sheikh tell me to write witness  
18 statement? This is your question?

19 Q. Yes, the content.

20 A. You know, Dr Sheikh told me I need a statement from me,  
21 so I wrote with, consult my lawyer.

22 Q. Yes, I understand that, but did Dr Sheikh tell you what  
23 to write in the witness statement?

24 A. No, this is what I -- what in my mind.

25 MR KHAN: Thank you, Mr Ahmed. Sir, I'm just going to check

1 14:55 my instructions, if I may.

2 Thank you, Mr Ahmed, for your patience with me.

3 Sir, tribunal, those are my questions.

4 MR PRESIDENT: Thank you, Mr Ahmed. There may be some more  
5 questions.

6 Questions by the TRIBUNAL

7 MR PRESIDENT: May I just ask you some questions first.

8 Would you look at paragraph 18 of your statement.

9 Do you see at paragraph 18, you say:

10 "I was finally able to reach Dr Mubashir during  
11 second week of June 2015 ..."

12 Do you see that?

13 A. Yes.

14 MR PRESIDENT: How do you know now that it was the second  
15 week of June 2015?

16 A. This is second or third, but this is June, so

17 I mentioned second week, so this was the June.

18 MR PRESIDENT: But how can you remember that it was then?

19 A. Hello?

20 MR PRESIDENT: Hello?

21 A. Yes, now I'm hearing.

22 MR PRESIDENT: How can you remember that it was the first  
23 week of June? What is it that causes you to remember  
24 that date?

25 A. I remember only June, so I expected that the first week

1 14:57 or the second week, but it was June.

2 MR PRESIDENT: Can I ask you another question. You told us  
3 that there was a loan agreement. Do you remember?

4 A. Yes.

5 MR PRESIDENT: I think you lost the loan agreement, you told  
6 us, when you moved house?

7 A. Yes.

8 MR PRESIDENT: Who prepared the loan agreement? Was it you  
9 or was it Dr Mubashir?

10 A. You know, I can't make agreement, you know, I told you  
11 already my English is not good. So it's made by our  
12 mutual -- you know, we have a mutual friend,  
13 Mr Sheharyar, so I think he made it by some, you know,  
14 lawyers or consultant.

15 MR PRESIDENT: Can I ask you another question, and that is  
16 this. As I understand it, you made the loan in cash  
17 with the Pakistani rupee equivalent of US\$300,000?

18 A. Yes.

19 MR PRESIDENT: Where did you get the cash from?

20 A. Where I pay?

21 MR PRESIDENT: Where did you find the cash? Where was it?

22 A. Yes, in Dubai.

23 MR PRESIDENT: Where did you get it from?

24 A. In Dubailand, it's some restaurant, Indian restaurant  
25 I think or something.

1 14:59 MR PRESIDENT: You gave him \$300,000 in Pakistan --

2 A. No, no, no. Sorry, sorry. I received that money in  
3 Dubailand from Mr Atta in some India restaurant. I gave  
4 this money -- I gave this money in Pakistan.

5 MR PRESIDENT: Where did you get it from in Pakistan?

6 A. In office.

7 MR PRESIDENT: But what was it doing in the office?

8 A. That office, the MAS office in stock exchange, I think  
9 so.

10 MR PRESIDENT: Do you keep US\$300,000 in rupees in cash in  
11 your office?

12 A. In rupees.

13 MR PRESIDENT: Do you usually keep in your office that much  
14 cash?

15 A. Yes, with my -- you know, with my guard and with my  
16 accountant.

17 MR PRESIDENT: Thank you. I have no more questions. Do my  
18 colleagues have any questions?

19 MR AL AIDAROUS: I'm afraid I have one or two quick  
20 questions.

21 Well, Mr Khalil Ahmed, you have just said that you  
22 have Dr Mubashir repaid you the loan through Mr Abdul  
23 Ul-Hayee in an Indian restaurant in Dubailand; is that  
24 correct?

25 A. Yes.

1 15:01 MR AL AIDAROUS: And when you received it was in cash, in  
2 dirham or in dollars?

3 A. Yes, in dirham.

4 MR AL AIDAROUS: In dirham. Okay. Did you give him  
5 a receipt?

6 A. No, I didn't give receipt.

7 MR AL AIDAROUS: You didn't give any receipt to Dr -- how  
8 Dr Mubashir would know that Mr Ul-Hayee has paid you  
9 this amount, if you do not give him receipt?

10 A. I think so that time he call to Dr Sheikh and confirm  
11 that I have taken -- I confirm that I have taken it and  
12 confirm that he has given to me, so that's all.

13 MR AL AIDAROUS: Thank you, sir. I have no further  
14 questions.

15 MR KHAN: Sir, Mr Mackie, if I may interrupt, I'm terribly  
16 sorry, but there was one further -- I have to put my  
17 case on one issue to Mr Ahmed that I have missed out on  
18 my notes.

19 MR PRESIDENT: Okay, go ahead.

20 MR KHAN: I'm grateful, sir. I'm very sorry to Dr Sheikh.  
21 This shouldn't happen this way around.

22 Further cross-examination by MR KHAN

23 MR KHAN: Mr Ahmed, just one more point to put to you, at  
24 paragraph 27, Ali Al Aidarous just took you to, about  
25 Mr Atta and he gave you 900,000 dirhams, do you see

1 15:02 that?

2 A. Yes.

3 Q. Just so you understand it, it's our case, the DFSA's  
4 case, that there was no exchange of money on that day.  
5 He did not pay you that money back. Do you understand  
6 that?

7 A. I'm not understanding.

8 Q. I'm saying that the first sentence of paragraph 27 is  
9 not true.

10 A. Not true, why?

11 Q. Do you accept that or not?

12 A. This is true.

13 MR KHAN: Thank you, Mr Ahmed.

14 A. Paragraph 27 is true.

15 MR KHAN: Thank you, sir.

16 Further questions from the TRIBUNAL

17 MR AL HASHIMI: May I ask one question? Mr Khalil, you said  
18 that you have received 900,000 dirhams in Dubai.

19 A. Yes.

20 MR AL HASHIMI: Did you receive it in dirhams?

21 A. Received?

22 MR AL HASHIMI: Yes, you received 900,000 dirhams in Dubai?

23 A. Yes, yes.

24 MR AL HASHIMI: You received it in which currency, in  
25 dirhams?

1 15:03 A. In dirham.

2 MR AL HASHIMI: Where did you take this 900,000 dirhams?

3 A. I told you already, in Dubailand, I think some, in one  
4 of the restaurants there -- I don't know the name of  
5 that restaurant.

6 MR AL HASHIMI: Mr Khalil, after you have taken the 900,000  
7 dirhams, did you take it to your bank, did you take it  
8 to an exchange and transfer it out of UAE? What did you  
9 do with the 900,000 dirhams?

10 A. I did use it somewhere.

11 MR AL HASHIMI: Could you tell us how did you use it?

12 A. Different ways, different uses, gave to some person for  
13 investment, so --

14 MR AL HASHIMI: The question is, you did not take the  
15 900,000 dirhams to your bank in the UAE?

16 A. Yes, yes, you are right.

17 MR AL HASHIMI: You did not transfer the money outside UAE?

18 A. Yes, you can say this. You are right.

19 MR AL HASHIMI: You mean you spend it in Dubai --

20 A. (unclear ...) everything in Dubai.

21 MR AL HASHIMI: Thank you. No more questions from my side.

22 MR PRESIDENT: Thank you very much. Dr Sheikh --

23 A. Thank you very much. Forgive me if I made any mistake.

24 MR PRESIDENT: Dr Sheikh, did you want to ask anything else?

25 DR SHEIKH: No, your Honour, thank you very much. Thank

1 15:05 you, Mr Khalil.

2 MR PRESIDENT: Thank you very much for coming. Mr Khalil,  
3 thank you very much.

4 (Witness withdrew)

5 MR PRESIDENT: Where are we in terms of the evidence? It's  
6 probably convenient for us to take a longer break at  
7 this point, is it?

8 MR KHAN: Yes, sir, that would be convenient for us.

9 MR PRESIDENT: Dr Sheikh, you have Mr Ul-Hayee next.

10 MR KHAN: Yes, your Honour.

11 MR PRESIDENT: I forget how long the estimate was from  
12 Mr Khan for Mr Ul-Hayee.

13 MR KHAN: Sir, it was one to one and a half hours, but given  
14 my experience this morning, I think I may have  
15 underestimated, so --

16 MR PRESIDENT: Sorry, go on.

17 MR KHAN: I suspect I'll take one and a half to two hours,  
18 possibly.

19 MR PRESIDENT: I just don't want to get Dr Sheikh having to  
20 sort of prepare himself to give evidence today if he's  
21 not going to. So it sounds to me, subject to my  
22 colleagues, that we should break now for an hour, it  
23 being the middle of the day, at least here, or almost,  
24 and then resume. And we will have the evidence of  
25 Mr Ul-Hayee and when that finishes, we will break until

1 15:07 tomorrow, when, as I understand it, we've got Dr Sheikh  
2 and then -- or with Dr Sheikh, we've got Mr Akbar and  
3 Mr Yer. Have we understood that correctly?

4 DR SHEIKH: Yes, sir.

5 MR KHAN: That's my understanding, sir.

6 MR PRESIDENT: Is that convenient to you, Dr Sheikh?

7 DR SHEIKH: Yes, indeed, sir.

8 MR PRESIDENT: We'll break now and we will --

9 MR AL AIDAROUS: I don't know, is it possible just to make  
10 a little bit shorter the break, maybe 45 minutes? Then  
11 can we have privately have some conference together the  
12 tribunal after the few minutes.

13 MR PRESIDENT: Yes, I was certainly going to do that.

14 Now, is it convenient to break for less than an hour  
15 to counsel, to Dr Sheikh?

16 DR SHEIKH: Yes, your Honour.

17 MR PRESIDENT: Would half an hour be okay?

18 DR SHEIKH: That's fine, your Honour.

19 MR KHAN: Yes, sir.

20 MR PRESIDENT: Half an hour? My colleagues, is that all  
21 right? 30 minutes?

22 MR AL HASHIMI: Yes.

23 MR AL AIDAROUS: That's fine.

24 MR PRESIDENT: So we will begin again at, in English time,  
25 12.40, which I guess is 3.40 Dubai time. So we'll meet

1 15:08 again at 20 to. Thank you all very much.

2 (3.09 pm)

3 (Lunch break)

4 (3.48 pm)

5 MR ATTA UL-HAYEE

6 MR PRESIDENT: Mr Ul-Hayee, welcome. Can you hear us?

7 WITNESS: Yes, absolutely.

8 MR PRESIDENT: You're going to give evidence to us.

9 WITNESS: Yes.

10 MR PRESIDENT: I must ask you either to swear an oath or if

11 you'd rather not swear an oath to make what's called an

12 affirmation that what you're going to tell us is true.

13 WITNESS: I'll take affirmation.

14 MR PRESIDENT: Would you like to repeat after me. I do

15 solemnly and sincerely affirm.

16 WITNESS: I do solemnly and sincerely affirm.

17 MR PRESIDENT: That the evidence I shall give.

18 WITNESS: That the evidence I shall give.

19 MR PRESIDENT: Shall be the truth.

20 WITNESS: Shall be the truth.

21 MR PRESIDENT: The whole truth.

22 WITNESS: The whole truth.

23 MR PRESIDENT: And nothing but the truth.

24 WITNESS: And nothing but the truth.

25 MR PRESIDENT: Thank you very much.

1 15:49 WITNESS: Welcome.

2 Examination-in-chief by DR SHEIKH

3 DR SHEIKH: Thank you, your Honour.

4 Atta, thank you for joining us today. I'm going to  
5 request a young lady, Fatima, who works with the IT  
6 team, to bring your statement or actually both the  
7 statements, one by one. I will have them slowly scroll  
8 down and I will have a couple of small questions after  
9 each statement.

10 Atta, do you see the screen in front of you and you  
11 saw the witness scrolling down? Can I ask you, if you  
12 can confirm, is this your statement?

13 A. Yeah, this is my statement and there are my signature on  
14 there.

15 Q. Thank you, Atta. Can you kindly confirm that the  
16 statement you have given is to the best of your  
17 recollection?

18 A. Yes.

19 Q. Fatima, could you kindly bring the other, scroll down.

20 Atta, do you kindly confirm that this is your  
21 statement?

22 A. Yes, this is my statement.

23 Q. Can you kindly confirm the signatures above your name  
24 are your signatures?

25 A. Yes, these are my signatures.

1 15:51 Q. Can you kindly confirm that the statement that you have  
2 given is to the best of your recollection?

3 A. Yes.

4 DR SHEIKH: Thank you, Atta. I will now pass your witness  
5 to the opposing counsel, Mr Khan. He will have a few  
6 questions for you.

7 A. Yes. Okay.

8 Cross-examination by MR KHAN

9 MR KHAN: Thank you, Dr Sheikh.

10 Good afternoon, Mr Ul-Hayee.

11 A. Good afternoon.

12 Q. Can I take you, please, to your first witness statement.

13 A. Sure.

14 Q. Fatima, can you scroll down to paragraph 1.

15 So we see here that you joined MAS ClearSight as  
16 business support manager in January 2013; correct?

17 A. Yes, correct.

18 Q. Was it Dr Sheikh personally who hired you?

19 A. No, it was -- I was hired by Mr Ali Awais. I was  
20 interviewed by Mr Ali Awais and Qasim. There was a real  
21 estate director, Mr Qasim Mansoor, I guess.

22 Q. Did you know Dr Sheikh before you joined MAS ClearSight?

23 A. Yeah, I know before, because he was worked in Citibank  
24 and I also worked in Citibank.

25 Q. How long have you known him overall?

1 15:53 A. You can say in banks, I had one or two instruction when  
2 he was in Citibank and then when I came to Dubai. Then  
3 before joining, I had one instruction with him and then  
4 after the work I have been knowing him more.

5 Q. How many years have you known him back from today?

6 A. Back from today, if you say knowing him as a colleague,  
7 I know him from back in Citibank, but I don't remember  
8 how much years is there. But what I can say, that  
9 I know him very well after joining the MAS, from 2013.

10 Q. Fatima, we can go to 797. This is your CV.

11 A. Yes.

12 Q. Thank you for providing that. Very detailed and very  
13 helpful.

14 If you scroll down just a bit, that's fine.

15 You're currently and since February 2016, the chief  
16 operating officer of a company called Mount Everest  
17 General Trading; is that correct?

18 A. Yes, I was still there till September 2018, then I left  
19 that company.

20 Q. What are you doing now?

21 A. Now I'm working for a company over here as financial  
22 consultant.

23 Q. Just looking at your career, after joining MAS  
24 ClearSight as a business support manager, and then  
25 moving to chief operating officer of Mount Everest

1 15:55 General Trading, that's a considerable step up,  
2 isn't it?

3 A. If you see, if you look, I was -- if you see, I was also  
4 director operation and finance in MAS ClearSight  
5 aviation advisory.

6 Q. In the middle for about a year and a half.

7 A. Yes.

8 Q. But taking your role when you joined Dr Sheikh at MAS  
9 ClearSight, in January 2013, and then around three years  
10 later, chief operating officer of Mount Everest, that's  
11 a considerable step up, isn't it, professionally?

12 A. Professionally, you can say, but if you say graduate,  
13 you see -- before if you see my Citibank experience,  
14 11 years with Citibank in a managerial position. Then  
15 also in Dunia Finance, I was also area operations  
16 manager.

17 So you can say MAS, first year with MAS, you can say  
18 I was little bit one step back to joining them, because  
19 I joined them, then it was -- I say I joined a little  
20 bit back, then I moved back to my -- which was my  
21 current level, which is supposed to be.

22 Q. Yes, I'm not suggesting that there's anything untoward  
23 about it. I'm just describing what -- seeing if you  
24 agree that you had a steep professional development.

25 A. Yes, yes.

1 15:57 Q. When you took the job at Mount Everest

2 General Trading --

3 A. Yes.

4 Q. -- were you required to provide references for that job?

5 A. No.

6 Q. Mount Everest didn't ask for a reference from your  
7 former employer?

8 A. No, because the person, the owner of Mount Everest was  
9 also close friend of me, who I know from like four to  
10 five years, so he knew my career, so he didn't ask me  
11 for the reference.

12 Q. Does he also know Dr Sheikh?

13 A. No.

14 Q. Nevertheless, given that steep career progression that  
15 happened from when you joined MAS to becoming the chief  
16 operating officer of a company in Dubai, you must be  
17 grateful for Dr Sheikh for his part in your professional  
18 development?

19 A. No, whatever I got, got with my personal ability. If  
20 I was capable of that, so I got it. There's nothing you  
21 can say I could be grateful. It was if I showed some  
22 work, if I'm capable of that thing, then I get that  
23 thing.

24 Q. Yes. No, I don't question that you fully deserved that  
25 promotion, if I can call it that.

1 15:58 A. Yes.

2 Q. But nevertheless, I'm asking you if you felt some  
3 gratitude towards Dr Sheikh for his role in your  
4 professional development?

5 A. Gratitude, if you say for gratitude, whenever you have  
6 worked for some colleague, you have gratitude, as  
7 a colleague, but you cannot say he can be like you owe  
8 him something. Nothing. If he's given me some -- if  
9 you say someone has given me, you cannot say him like if  
10 someone has given me favour or he's given me some favour  
11 which was I was not deserve. This nothing such thing,  
12 there's no gratitude like this. It's general gratitude,  
13 general as a colleague, you respect someone, same like  
14 that.

15 Q. He promoted you, didn't he, effectively, from your time  
16 at MAS ClearSight as the business support manager, to  
17 director of operations at MAS ClearSight Aviation? So,  
18 separate company, but a related company and he  
19 effectively promoted you, didn't he, to director of  
20 operations, in February 2014?

21 A. Yes, he like my work, because we had a track record and  
22 when the position I was joined in MAS, then you  
23 cannot -- if you say there was no position like to my --  
24 at that time, in MAS ClearSight, there was no position  
25 to my career level, then I got opportunity, then I've

1 16:00 got promoted there.

2 Q. Fatima, can we please take Mr Ul-Hayee and the tribunal  
3 to his second statement at C92.

4 While Fatima is putting that document up, another  
5 question. You'd accept, would you not, that you grew  
6 very close to Dr Sheikh during your time working with  
7 him at MAS?

8 A. Yes, because he trusted me.

9 Q. Yes. As you say in, I think, both of your witness  
10 statements, but I was going to take you to your second  
11 statement. He trusted you with his personal -- so if we  
12 can go to paragraph 9 on page 1156.

13 This is in a context that is relevant to the issues  
14 in this case and I'll come back to that. But just to  
15 make good the proposition that, as you say, he told you  
16 he trusted you with his personal matters. One sees that  
17 at paragraph 9?

18 A. Yes.

19 Q. That's a quote, isn't it, of what he told you, you say?

20 A. Can you repeat your question again, what you're asking?

21 Sorry.

22 Q. What I'm going to do, having shown you that, now give  
23 you an example and ask you about that example.

24 A. Okay.

25 Q. Can we scroll down to the next page, if you just remind

1 16:02 yourself what you say in paragraph 16.

2 A. Okay.

3 Q. You say here that when Dr Sheikh was outside of Dubai,  
4 he had left Dubai, the beginning of July.

5 A. Yes.

6 Q. He asked you to sell his property in Dubai.

7 A. Yes.

8 Q. He gave you a limited power of attorney from the UK to  
9 enable you to execute that transaction; yes?

10 A. First part of the question was -- I couldn't hear you,  
11 due to some issues. Can you repeat the question again?

12 Q. Yes. If you give me a moment, I'm going to change my  
13 audio, so that you can hear me. I apologise,  
14 Mr Ul-Hayee, it may well be my end.

15 Can you hear me better now?

16 A. Yes, much better.

17 Q. Just looking at paragraph 16, he asked you to sell his  
18 property in Dubai on his behalf; correct?

19 A. Yes.

20 Q. He gave you a limited power of attorney from the UK;  
21 correct?

22 A. Yes.

23 Q. To be clear, by this time, you'd been made unemployed,  
24 I presume, by MAS Aviation or were you still working  
25 there?

1 16:04 A. I was still working there at MAS Aviation.

2 Q. But this is not part of your ordinary role at MAS  
3 Aviation, is it? It's a personal matter.

4 A. He trusted me, because of my track record, he know me.  
5 He has -- but he has interest in me, he has so much  
6 trust in me that he asked me a personal favour.

7 Q. Yes, but it's not just that he trusted you. It must be  
8 that you have a close personal relationship?

9 A. He trusted me that much that he asked me, because there  
10 was -- in the Dubai, if he was not there, someone --  
11 I was the one who was more trustable than anyone. He  
12 must have 100 friends, but he trusted me more. Because  
13 when you trust with a property, you see which one is  
14 honest and who can you trust. Who cannot stab you in  
15 the back.

16 Q. So, in this respect, one might say that for Dr Sheikh  
17 you're one in a hundred as a friend?

18 A. That Dr Mubashir can tell.

19 Q. We'll ask him about that. Is it also right to say that  
20 you always regarded Dr Sheikh as your senior?

21 A. Yes.

22 Q. In terms of age?

23 A. Correct.

24 Q. Professional status?

25 A. Yes, definitely.

1 16:06 Q. Would it also be true to say that in social status, in  
2 Pakistan, he's also someone you regard as a senior?

3 A. No, Pakistan, because I don't have any personal  
4 interaction with him, because he was stationed in some  
5 other city, I was stationed in some other city. So we  
6 don't have any social or something.

7 Q. When he asked you to take the trouble to take a limited  
8 power of attorney and arrange for and execute the sale  
9 of his property, did you hesitate?

10 A. No.

11 Q. Is that because if he asked you to do something, you  
12 would generally do it?

13 A. Yes. If I can, if something that is not -- I can manage  
14 easily, so I have no problem. It's not with Dr Sheikh,  
15 with any other my colleague, you know, even with Amit,  
16 he was my boss, I also used to do some things for him as  
17 well.

18 Q. Fatima, can we please turn back to Mr Ul-Hayee's first  
19 witness statement and go to paragraph 15, which is at  
20 page 791.

21 You describe there at paragraph 14 onwards, your  
22 interactions with Dr Mubashir.

23 A. Yes.

24 Q. You say that he was very kind and helpful to his  
25 employees. That's in paragraph 14.

1 16:08 A. Yes.

2 Q. In fact, you go further in paragraph 15 and say:

3 "I have yet to meet a more kind-hearted and generous  
4 man ..."

5 A. Yes.

6 Q. Do you see that?

7 A. Yes.

8 Q. You regarded him as an extraordinary character in your  
9 mind?

10 A. Yes, if you see, I have diversified experiences, I have  
11 15 years, 16 years' experience, I have worked with  
12 different bosses. And also for the sale, if he was  
13 heading, and I see him very kind, very humble. Where  
14 I have seen the bosses, they were useless, they always  
15 very rude to their subordinates and I don't see him like  
16 this. I have never seen any boss like this. Was very  
17 polite to everyone. I have never seen him like in any  
18 anger for this like degrading any staff. So that's why  
19 this was my personal opinion which I mentioned there.

20 Q. That's certainly the impression we get from Dr Sheikh in  
21 my limited interaction with him. He's a very polite  
22 man.

23 What I'm interested in is when you say he was  
24 kind-hearted and generous, was he kind-hearted and  
25 generous towards you?

1 16:09 A. With every staff, not with me. It was with every staff,  
2 because what I noticed this, there was if I was working  
3 in Citibank, if the RM doesn't perform one month or two  
4 months, he gets a notice and after six months, he get  
5 fired, but he never fired anyone there. I've seen a lot  
6 of my friends who was in there, they were fired. They  
7 were non-performer, like someone was two or three  
8 months, if they don't perform, they don't meet the  
9 targets, they're fired. But I don't see him in my two  
10 years or three years interaction in the MAS, there was  
11 no -- not a single person was asked to leave the  
12 company.

13 Q. Did he do anything that was kind and generous to you  
14 personally?

15 A. No, not out of the favour. What he do is like within  
16 the company, there's nothing he can do which you can say  
17 personally, nothing. Professionally, you can say yes.

18 Q. Given what you've said about your close relationship to  
19 him and the fact that he trusted you --

20 A. Yes.

21 Q. -- is it right to say that you were loyal to him?

22 A. Every employee, if being an employee, I have to be loyal  
23 to employer. This is part of job.

24 Q. Given he trusted you to sell his personal property --

25 A. Yes, that was his -- because I feel it honoured that

1 16:11 someone like such a big businessman and such  
2 a kind-hearted person trusted me to -- for his personal  
3 matter, because property is something you don't trust  
4 anyone.

5 Q. But would you accept that that tends to suggest that you  
6 were loyal to him as well?

7 A. Yeah, I'm loyal. If you say loyalty is for job, my  
8 first priority is loyalty. For any job, I'm loyal to  
9 the employer. I have to be loyal.

10 Q. But selling another person's property was not part of  
11 your job, so it's loyalty that goes beyond just that of  
12 an employee, isn't it?

13 A. That's because he trusted me and I give him a favour.  
14 And also, if you say, in there, because also I think  
15 there was no harm in this. As for selling property as  
16 per law, there's only in Dubai -- you cannot get payment  
17 on my name. I have to get payment on his name. So  
18 I was just as a mediator. I will get the payment and  
19 put it in his account.

20 Q. Fatima, can we please go back to Mr Ul-Hayee's second  
21 witness statement and can we please go to 1155,  
22 paragraph 4. I would be grateful if you would remind  
23 yourself, Mr Ul-Hayee, what you say in this witness  
24 statement at paragraph 4.

25 A. Yes.

1 16:13 Q. You provide some helpful detail here about matters that  
2 happened in May and June 2015 onwards.

3 A. Yes.

4 Q. Where Dr Sheikh asked you to deal with some cash  
5 handling matters?

6 A. Yes.

7 Q. For a significant amount of money, 2.4 million dirhams  
8 from his personal account?

9 A. Yes.

10 Q. Then you say that Dr Sheikh called you a few times?

11 A. Yes.

12 Q. And asked you to hand the cash out to several people; is  
13 that correct?

14 A. Yes.

15 Q. In fact, you remember at least two of those people,  
16 Mr Khalil and Mr Salahuddin; correct?

17 A. Yes.

18 Q. But also some office vendors?

19 A. Yes.

20 Q. Then, in fact, there's 1 million dirhams that you gave  
21 to a client whose name you can't recall; is that right?

22 A. Yes.

23 Q. You say you had some data about that information on  
24 a laptop; is that correct?

25 A. Yeah, because normally when I keep my finances, I made

1 16:15 Excel for this, to keep the record. This much money,  
2 this much I paid out, how much is left with me. So  
3 I don't miss any money.

4 Q. When you created that spreadsheet and populated it with  
5 information about these payments, did you send that to  
6 Dr Sheikh?

7 A. No, this was my -- because this is for my personal use,  
8 because for my personal expenses, I do maintain an Excel  
9 sheet.

10 Q. But it wasn't your personal finances, it was Dr Sheikh's  
11 personal finances, wasn't it?

12 A. Yeah, it was, but because I was handed with the money,  
13 so I was keeping, because I was accountable for the  
14 money, so I have to make sure that same amount of  
15 I don't miss out any money. So that's why I keep the  
16 record.

17 Q. But you're accountable to Dr Sheikh; correct?

18 A. He's asked me. He might also be maintaining his data,  
19 I don't know, because he call me and I give him. He  
20 don't ask me anything, so I don't give him anything.

21 Q. Did you keep any receipts or any other documentary  
22 record of these payments?

23 A. No, because usually what happen, when the person comes  
24 to me, he ask me to talk -- have a call with  
25 Dr Mubashir. I call, I take confirmation over the phone

1 16:16 and hand over the payment.

2 Q. So, for example, you handed over 1 million dirhams to  
3 a client, but your case is that you didn't need to keep  
4 some form of receipt or record that you handed over the  
5 payment?

6 A. No, because Dr Mubashir, if I have -- I'm speaking with  
7 Dr Mubashir at that time and he's giving me okay to give  
8 him, so why do I need to keep a receipt? Because it's  
9 his money, he's saying to give to someone. So I'm just  
10 giving it away.

11 Q. Mr Ul-Hayee, when you're involved in cash operations in  
12 Citi and elsewhere, you had to verify a client before  
13 handing over money --

14 A. Yes.

15 Q. You were involved in that, yes?

16 A. Yes.

17 Q. You would have given them a receipt, would you not or  
18 asked them to sign something?

19 A. Look, that's an account, it's getting from the account  
20 and this bank have record. This is something personal.  
21 This is not you can say is a professional thing. It's  
22 a personal thing and it was his money, that the way he  
23 chose it. So I did like this. He was okay with this.  
24 I have no issue with it, because it was Dr Mubashir's  
25 money. If he asked me to take a receipt, I would have,

1 16:17 but he said, "No, I will talk and you give me  
2 confirmation." Over the phone, I talk, and give him the  
3 payment.

4 Q. You say that you lost the data on your laptop?

5 A. Yes.

6 Q. Unfortunately, when you were shifting, when you were  
7 moving, I presume; is that right?

8 A. Yes.

9 Q. When did you lose the laptop or the data?

10 A. I was moved here in 2018, then, during transition.

11 Actually, I lost my laptop with the data. It's  
12 everything.

13 Q. Do you remember when in 2018?

14 A. It was September.

15 Q. When you came to draft this witness statement, dated  
16 14 December 2019, over a year later --

17 A. Yes.

18 Q. -- how did you remember the information in paragraph 4?

19 A. Because, you know, Mr Khalil, I knew. Mr Ziauddin,  
20 I knew personally.

21 Q. They were --

22 A. Yeah, Mr Ziauddin was working in MAS Pakistan business,  
23 so I had interaction with him. Mr Khalil was also,  
24 I work with him when we were aviation business. I had a  
25 couple of interaction with him during that time. So

1 16:19 being Pakistani, it's easy to remember them. The other  
2 amount is because this was a big amount I was giving,  
3 that's stuck into my mind. There was some, I think so,  
4 western guy to whom I give it.

5 Q. A Russian guy?

6 A. Western, western.

7 Q. Restaurant? What do you mean a restaurant guy? Someone  
8 who --

9 A. West, from the west, from the west. A white person.

10 Q. Sorry, I apologise. My misunderstanding.

11 Someone who was western?

12 A. Western, yeah.

13 Q. So possibly European or American?

14 A. Possibly, I don't know, because I don't ask him for the  
15 nationality.

16 Q. We can ask Dr Sheikh about that.

17 A. Yeah.

18 Q. But so I'm understanding correctly, you recall all of  
19 this from your memory?

20 A. Yes.

21 Q. Fatima, can we please turn to Mr Ul-Hayee's interview,  
22 dated 20 January 2019, at C, document 87. It starts on  
23 page 799, just so I can give you the context before  
24 taking you to extracts.

25 So you see there, Mr Ul-Hayee, your interview with

1 16:21 DFSA took place on 20 January 2019?

2 A. Yes.

3 Q. You recall attending that interview and answering  
4 questions?

5 A. Yes.

6 Q. If I can take you first to page 859, at the top of the  
7 page, Mr Jensen of the DFSA asks you whether or not  
8 you're aware of the withdrawals that were happening at  
9 the time. Just to place that in context, those are the  
10 withdrawals that Dr Sheikh made in May and June 2015;  
11 correct?

12 A. Yes.

13 Q. You said that you weren't aware at the time of the  
14 withdrawals?

15 A. Yes.

16 Q. Then you say, further down, you became aware after the  
17 company was closed?

18 A. Yes, when DFSA took over.

19 Q. Then Mr Jensen says:

20 "So you weren't involved in the cash withdrawals at  
21 all then?"

22 Do you see that?

23 A. Yes.

24 Q. Then you say, "No".

25 A. Yes.

1 16:22 Q. Then can we go to page 863.

2 You see there that Mr Jensen presented you with  
3 a bank statement document?

4 A. Okay.

5 Q. Then scrolling down, he describes the document to you.

6 Then, over the page, if I may, he asked you to scroll  
7 down, line 18, and you see there that he's taken you to  
8 transactions dated 14 June. Do you see that?

9 A. Yes.

10 Q. I can, if you'd like, in a moment, take you to this  
11 document as well, but it's your answers at this  
12 interview that I'm interested in for now.

13 A. Yes.

14 Q. Then, on the next page, he tells you about two  
15 transactions for 65,000 dirhams.

16 A. Yes.

17 Q. On that date, so those are two cheques that you cashed;  
18 correct?

19 A. Yes.

20 Q. Then we see at the bottom there, he then takes you to  
21 the actual cheques, the ultimate line, 26?

22 A. Yes.

23 Q. Thank you, if you could bear with me. I'll come to  
24 a question. I just want to remind you of what you've  
25 said.

1 16:25 A. Sure.

2 Q. Then I think if we go to 866, at the bottom of that  
3 page, line 26 onwards, I think this has reminded you of  
4 the existence of these cheques and then you provided an  
5 explanation --

6 A. Yes.

7 Q. -- which we see there:

8 "... Dr [Sheikh] gave me two cheques. He'd asked.  
9 Then he called me and said, 'Go and withdraw 65,000 from  
10 the branch'."

11 A. Yes.

12 Q. Then the next page, if we go to the last couple of lines  
13 on 867. Then if you read that and scroll down to the  
14 next page, it may help if you read that page, so you  
15 have the full context. You're explaining the process by  
16 which Dr Sheikh asked you to give money to people --

17 A. Yes.

18 Q. Do you see that?

19 A. Yes.

20 Q. Then at 868, we carry on down, Mr Jensen's question  
21 about payment. He asks for details, line 16:

22 "Can we get any details from you on who those people  
23 were and what amounts you gave to them in cash?"

24 Do you see?

25 A. Line 16.

1 16:27 Q. If you scroll down to line 19, sorry, Fatima, can you go  
2 to 868.

3 I apologise, Fatima, that was my fault.

4 So line 16, "Can we get details? Who and how much?"

5 You said:

6 "No. No. He -- last time, he called me, "Okay,  
7 this person's coming. Give it to them."

8 A. Yes.

9 Q. He said, "But which people?" You say, "I -- no, I don't  
10 have it."

11 A. Yeah.

12 Q. Then you say:

13 "So if you want, then I have to look through or you  
14 can ask Dr Mubashir it -- about it."

15 A. Yes.

16 Q. He presses you again. It's obviously important to the  
17 DFSA:

18 "... can you please figure out who you gave the cash  
19 to and what amounts."

20 You ask him to repeat the question on the top of  
21 page 869. He presses you again, saying that even if we  
22 have to go away, can you try and recall and tell us  
23 later?

24 A. Yes.

25 Q. And you make it absolutely clear in your next answer,

1 16:29 line 9 onwards, "I don't remember ..."

2 A. Yes.

3 Q. "... but Dr Mubashir might have because he knew who  
4 to pay."

5 A. Yes.

6 Q. He does continue to press you over the next two pages.

7 I don't intend to take you there, because there are no  
8 answers to the questions.

9 A. Sure.

10 Q. But my question to you, thank you for persisting, I have  
11 taken you through and reminded you of what you said to  
12 the DFSA in January 2018.

13 A. Yes.

14 Q. And you don't remember anyone who received money?

15 A. Yes.

16 Q. And you don't remember any of the amounts that you were  
17 asked to hand over?

18 A. Yes. I'm talking about only the two cheques of 130,000.  
19 65,000, two cheques. We're talking about that one.

20 Q. Yes. So when you got to your December statement, same  
21 year, this is 10 months later, 11 months later.

22 A. Yes.

23 Q. You're able to provide quite a lot more detail and  
24 information?

25 A. But that was for the amount which he gave me in cash.

1 16:30 That was a big amount and there was a big amount, so  
2 that's why I remember. I just gave the two persons'  
3 name which I know. Because I told you, I know them  
4 personally, so I can remember paying that, Mr Khalil and  
5 Mr Ziauddin, what detail given. Because one western guy  
6 that I remember, that was a big amount, so I just keep  
7 remember this I'm giving him amount.

8 This was 130,000 was very little amount. I don't  
9 remember that. I also mention that some vendors I have  
10 to pay.

11 Q. Yes. At paragraph 15 of your second witness statement,  
12 you explain that Dr Sheikh asked you to hand over money  
13 to certain people?

14 A. Yes.

15 Q. You say at paragraph 15, "... to the person mention  
16 above ..."

17 A. Yes.

18 Q. So I took that as a reference to the people you refer to  
19 in paragraph 4; is that right?

20 A. Yeah, some of which I remember the name, I told you. To  
21 my best my memory recalled.

22 Q. Am I right in thinking that you did not mention the  
23 2.4 million dirhams, Mr Khalil, Mr Ziauddin or the  
24 western man that you handed over a million dirhams to,  
25 to the DFSA in the interview in January?

1 16:32 A. Because they didn't ask me.

2 Q. So if they asked you, you would have provided that  
3 information to them?

4 A. Yes, if they would have asked, because the other  
5 statement, then he asked, Dr Mubashir asked me to give  
6 the further financial matter for the personal finance  
7 which he gave to me. He want some clarification for  
8 this, then I gave the statement.

9 Q. Can we go now to your first statement.

10 A. Yes.

11 Q. Fatima will very kindly, as she has been, take us there.  
12 If we go to C87-794. At paragraph 35, you describe  
13 a conversation you say you had with Mr Salahuddin?

14 A. Yes.

15 Q. Some time after the events?

16 A. Yes.

17 Q. So I believe in June or July -- I don't think it  
18 matters.

19 A. Yes.

20 Q. You discuss the withdrawal of funds with Mr Salahuddin  
21 and you provided an explanation of your understanding as  
22 to why that money was withdrawn; correct?

23 A. Yes.

24 Q. So you're talking about the withdrawal of money, but in  
25 your first witness statement, there's no mention that

1 16:34 you were involved in the withdrawals in June, is there?

2 A. Which withdrawal? We are talking about the withdrawal  
3 of the capitals? You're talking about the withdrawal of  
4 capital?

5 Q. Yes, so there are withdrawals in May and then there were  
6 two withdrawals in June at least.

7 A. Yes.

8 Q. Which you were involved in, the 65,000 dirhams.

9 A. 65,000 dirham, if capital is 600,000, how can I be sure  
10 capital withdrawal or some other withdrawal? Because  
11 this is he gave me cheque and I withdraw that.

12 Q. So you are saying that you weren't aware --

13 A. Yes.

14 Q. -- the money you withdrew was part of the money that you  
15 were discussing with Hassan?

16 A. Yes.

17 Q. There's also no mention in this statement of the details  
18 that you provide in your second witness statement about  
19 money that you were told to distribute on behalf of  
20 Dr Sheikh. Didn't you think that was relevant?

21 A. Because Dr Mubashir -- because this statement was  
22 specifically for Mr Yer and Mr Akbar, first statement.  
23 Secondly, then he called me for the financial matters,  
24 then I mentioned this there.

25 Q. You say in your second witness statement that Dr Sheikh

1 16:35 asked you to give evidence and focus on money matters.

2 A. Yes.

3 Q. The paragraph 4 that we have been looking at in your  
4 second statement.

5 A. Yes.

6 Q. Did he tell you what to write in your statement?

7 A. No, he just asked me, "Whatever you remember for the  
8 money which I gave to you, you give me your statement,  
9 whatever you remember."

10 Q. It's the DFSA's case that it's likely that he did more  
11 than that and he helped provide the information that's  
12 gone into your statement, including this second  
13 statement.

14 A. I cannot say anything about this. The DFSA, they are  
15 free to think what they think. But I'm telling the fact  
16 which I know.

17 Q. Can we now turn back to your experience and expertise.

18 A. Yes.

19 Q. Fatima, thank you for persevering with me. Can we  
20 please go back to the first witness statement at  
21 C87-789. If you go down to the third paragraph. You  
22 explain there that prior to joining MAS, you were  
23 employed as a manager of cash operations at Citi in  
24 Lahore.

25 A. Yes.

1 16:37 Q. You just describe in paragraph 3 what your experience  
2 and expertise was.

3 A. Yes.

4 Q. If we turn now to the CV, Fatima, at 798. If you can  
5 scroll down a couple more lines so we can see the entry  
6 for Citi Lahore. You started there in 2000?

7 A. Yes.

8 Q. You were a senior custodian of ATMs. Is that ATMs in  
9 the sense of a cash machine?

10 A. Yes.

11 Q. You were involved in managing the off-site ATMs in the  
12 Lahore region?

13 A. Yes.

14 Q. And ensuring, for example, that they have enough money  
15 in them from time to time so you can draw money?

16 A. Yes.

17 Q. Then if we look at the next entry up, December 2006, you  
18 worked at Citi in Lahore and Sialkot. You have been  
19 effectively promoted, it seems; is that right?

20 A. Yes.

21 Q. From a management role?

22 A. Yes.

23 Q. You worked as head of branch operations?

24 A. Yes.

25 Q. Johar town branch and then you moved around branches?

1 16:39 A. Yes.

2 Q. Then you seemed you were involved in operational matters  
3 and on audit reviews; is that correct?

4 A. Yes.

5 Q. Then as part of this rapid rise that we have alluded to  
6 before, you then became manager of cash operations and  
7 risk control coordinator at Citi Faisalabad?

8 A. Yes.

9 Q. You worked as head of branch operations and risk  
10 controls; yes?

11 A. Yes.

12 Q. Your job included, if you look at the second paragraph,  
13 at the bottom of 1666, you ensure timely preparation,  
14 revision and implementation of all internal as well as  
15 regulatory policies. So you were taking on a managerial  
16 and policy role; correct?

17 A. Yes, in the department.

18 Q. All very much operational; yes?

19 A. Yes.

20 Q. Before joining MAS ClearSight, we see you -- if you can  
21 just scroll up, Fatima -- you joined Dunia Finance?

22 A. Yes.

23 Q. And you were the manager of the internal control team;  
24 correct?

25 A. Yes.

1 16:41 Q. It seems to me there's a pattern developing of a deeply  
2 experienced cash handling operation and internal risk  
3 control professional?

4 A. Yes.

5 Q. Do you accept that? Yes.

6 You weren't involved in corporate finance at the  
7 bank, were you, at Citi?

8 A. No.

9 Q. You weren't involved in what might be regarded as  
10 investment banking, were you?

11 A. No. Investment banking, sometimes if you say there was  
12 some investment, there was some bank insurance of the  
13 customers which needs to be booked from the consumer  
14 client, that was been coordination, that was I have  
15 knowledge of that. We used to scan this funds and used  
16 to send it to centralised operations.

17 Q. Can I go back to the witness statement, Fatima,  
18 paragraph 7.

19 Just pause there. Thank you.

20 You say in paragraph 7:

21 "In August 2013, I was tasked with focusing upon MAS  
22 ClearSight Pakistan ..."

23 You're still at MAS ClearSight in Dubai, but you're  
24 looking at the Pakistan business; correct?

25 A. Yes.

1 16:42 Q. It says:

2 "... due to my existing business relationships and  
3 knowledge of the Pakistani investment banking  
4 marketplace from my time at Citi NA."

5 Do you see that?

6 A. Yes.

7 Q. I'm going to put it to you that that creates the  
8 impression that you had investment banking experience  
9 when that's not quite true, is it?

10 A. I was just there, because my experience was in the  
11 operation, but I knew the clients who used to invest in  
12 investment banking with some investments. So my focus  
13 was there to refer them to the clientage, which are in  
14 my network, which I know, who are like willing to invest  
15 in investment banking, who has investments. So we were  
16 targeting those clients.

17 Q. You don't mention any of that --

18 A. This is what I mention, because I was giving -- there  
19 was nothing as anything if you don't ask me, if they  
20 would ask me, I would have explained in detail. This  
21 was a general expression.

22 Q. No, I'm asking you about your CV, not any questions that  
23 were being asked of you.

24 A. Yes.

25 Q. In your CV, you don't say, "I had existing business

1 16:44 relationships and knowledge of the Pakistani investment  
2 banking marketplace", do you?

3 A. In CV is nothing like, is something I know personally,  
4 if I have some personal interest. If I was not giving  
5 any role in professional, so it's not to be mentioned in  
6 the CV, something which I know --

7 Q. You don't say personal relationships, you say existing  
8 business relationship knowledge --

9 A. Relationship and knowledge of Pakistani investment  
10 banking market. So some business relationship, what we  
11 had business relationship, relationship with the clients  
12 over there. And then I also have the knowledge of  
13 investment market in Pakistan, where the people are  
14 going to invest and high net worth clients who used to  
15 come, because I was being mainly cash and operation,  
16 there's the people who don't want to stand in the queue.

17 They come directly to my operation and we have  
18 clientage of call. We need to priority banking. High  
19 net worth client, we used to give them prioritised  
20 services. They were not in, you can say, in organised  
21 queues, they were dealt with on a priority basis and  
22 then you have some personal interaction with them.

23 That's what I have mentioned.

24 Q. Fatima, can we scroll up to paragraph 5. Your evidence  
25 here is, you say:

1 16:45 "Due to my previous experience at Citi NA from  
2 August 2000 to March 2011, I was hired by MAS to carry  
3 out middle and back office management tasks, and to  
4 support and improve client relationships."

5 Do you see that?

6 A. Yes.

7 Q. Then, at paragraph 6, you explain what that involved.

8 A. Yes.

9 Q. It seems that what happened at MAS is that  
10 a relationship manager, in the nature of an investment  
11 banker, would have client relationships; correct?

12 A. Yes, correct.

13 Q. And then when it's necessary, because they've  
14 successfully brought a client into the business, you'd  
15 carry out or your team would be responsible for on  
16 boarding the client?

17 A. Yes.

18 Q. Or carrying out KYC checks?

19 A. Yes.

20 Q. Compliance and risk procedures, et cetera. Do you see  
21 that?

22 A. Yes.

23 Q. Just so that we're clear about that, if we can go back  
24 to the CV and look at what you say about your experience  
25 at MAS, at 1666, if we have MAS ClearSight Aviation and

1 16:47 MAS ClearSight Ltd on screen.

2 MAS ClearSight, you handled the project of setting  
3 up new companies in BVI and DMCC.

4 A. Yes.

5 Q. Handled all operation related matters, ensured  
6 maintenance of client database, contracts and  
7 agreements, worked closely with RMs to ensure all KYC  
8 and compliance procedures, et cetera, are fulfilled.

9 That reflects, doesn't it, your evidence at  
10 paragraph 6 --

11 A. Before on boarding a client.

12 Q. Yeah. So that reflects what you say about being  
13 involved in middle and back office?

14 A. Yes.

15 Q. Operationally; correct?

16 A. Yes.

17 Q. Then when you moved --

18 A. They are talking about two different things. Do you  
19 see, if I'm handling about setting up the companies,  
20 I have to manage all the operational activity of the  
21 companies and being business support manager, I was also  
22 working with RMs to ensure their compliance, fulfilled  
23 for on boarding the client.

24 Q. Yes. No, I think we're in agreement on that, that that  
25 was your role?

1 16:48 A. Yes.

2 Q. At MAS ClearSight Aviation, when you became director of  
3 operations, obviously you're in a much more senior role?

4 A. Yes.

5 Q. You handled the project of setting up the new company in  
6 the Dubai Airport free zone; correct?

7 A. Yes, correct.

8 Q. It says you handled all operational related matters?

9 A. Yes.

10 Q. Again, you then go on to describe very similar  
11 operational matters that you were responsible for?

12 A. Because, you know, it was beginning of the company, we  
13 don't have much staff. So I was singularly handling all  
14 the things. There was all the stuff, so I have to  
15 manage everything.

16 Q. But all operational matters; correct?

17 A. Yes. Because the setting up and whenever you are  
18 building a company, you have to multi-task. One person  
19 has different responsibilities, he has to do everything  
20 himself.

21 Q. Fatima, can you please go back to the first witness  
22 statement, paragraphs 9 and 10.

23 Just read 9 and 10 to yourself and 11 on the next  
24 page.

25 At paragraph 9, when you refer to your network of

1 16:50 contacts in Pakistan.

2 A. Yes.

3 Q. You may have a network of contacts in Pakistan, but they  
4 certainly don't come through your experience at  
5 Citibank, do they?

6 A. They come from my experience in Citibank.

7 Q. Well, for the reasons I've just shown you on your CV,  
8 that's not reflected in your professional CV, is it?

9 A. What reason you are talking about specifically?

10 Q. In paragraph 11, you say that when you became director  
11 of operations at MAS Aviation:

12 "... I was still responsible for client management  
13 and relationships at MAS and had a lead role in  
14 supporting its business relationships and in steps taken  
15 to grow the business, which I will explain in further  
16 detail below."

17 Do you see that?

18 A. Yes.

19 Q. You're here referring to the evidence you give about  
20 Mr Akbar and Mr Yer; correct?

21 A. Yes.

22 Q. But as we've shown, as I've attempted to show and you  
23 may disagree, your experience and background is in  
24 middle and back office operations, you're very senior in  
25 that role, and you had deep experience, but it was

1 16:52 limited to being middle and back office roles. And so,  
2 I put it to you that it's highly unlikely that you had  
3 a network of investment banking clients from your time  
4 in the bank.

5 A. I explain you before, that for the client who needs --  
6 because Pakistan very heavily saturated market. The  
7 people who are high network clients, they used to come  
8 and meet in person, and for withdrawal, they want  
9 priority services.

10 So that's why I got into, because whenever they  
11 want, as best manager, I need to give them services.  
12 I need to meet them and give them services. That's why  
13 they become my friends.

14 And then when they come, and if they come for cash  
15 withdrawal, we sit for one hour or 30 minutes. We used  
16 to have coffee and something like that, under this whole  
17 process, and then we have discussions and then we become  
18 friends. That's why this client basis come.

19 Q. At Citibank, there were relationships managers, weren't  
20 there?

21 A. Relationship manager was there, but for the cash  
22 withdrawal, as procedures and policies are there, client  
23 must have to go to the cash -- cash area, yeah.  
24 Relationship manager was not authorised to interfere any  
25 cash related dealing.

1 16:53 Q. But it's their client, they manage the relationship;  
2 yes?

3 A. Yes.

4 Q. If that client has an investment banking, professional  
5 investment banking issue, he or she would go to the  
6 relationship manager, not the cash operations manager?

7 A. Yeah, they will go definitely to them. I'm just saying  
8 I know the person with my personal contacts, which they  
9 have high net worth, so I can refer them to the -- I can  
10 refer them to the investment opportunity.

11 It's not that I'm guiding any customer about making  
12 their portfolio or guiding them any -- selling them any  
13 investment. I'm just referring them. High net worth,  
14 if they want to invest, which one I know they want to  
15 invest, they have some money, they want to invest,  
16 I just referring them to the MAS.

17 So they can -- then the sales team can meet with  
18 them and decide. Then both parties have to decide.

19 Q. Fatima, can we please go to paragraph 22 on page 792.  
20 You say you had a "strong network of contacts during my  
21 time at Citi"?

22 A. Yes, because Citi, I have spent around 11 years.  
23 Faisalabad is a big business community. Sialkot is also  
24 a very big business community. Lahore also. Because  
25 Citibank, mostly there was high client. Citibank was

1 16:55 like a lead bank over there. This was not for the  
2 ordinary man. Because we have in Pakistan at that time,  
3 in 2000, minimum account balance is 100,000. That was  
4 not for any simple person and there was a gold segment  
5 which was US\$100,000. So Citi was like an elite bank.

6 Q. No, I'm sure it was, a US bank in a developing region,  
7 it would have a lot of clout. But I can understand why  
8 if you were a relationship manager, or an investment  
9 banker, you could say that after 11 years at Citi in  
10 a major financial centre, you would have a strong  
11 network of contacts where the context is that you're  
12 looking for investors. What I don't understand is how  
13 from a middle office cash operations role, you can say  
14 you had a strong network of contacts for the purposes of  
15 investment.

16 A. Yeah, I told you, because sometimes the customer used to  
17 come to me for cash withdrawal. Mostly, they don't go  
18 every time to RM, and if RM was busy, if he's going to  
19 withdrawal and he has personal contacts with me, because  
20 I need to give them service. For cash withdrawal, he  
21 has to come to me. As I explained to you earlier,  
22 I knew them from that way.

23 Q. Why would they come to you for investment advice or  
24 recommendation? You'd come to --

25 A. I pitch them, because they don't recommend. They

1 16:57 said -- when we sit, we talk. "Okay, I made this  
2 investment. I made this investment. I have this money.  
3 If you have something good, do let me know." But  
4 I don't give them advice. I tell them, "This is the  
5 opportunity. You see, and meet with Dr Mubashir."

6 The case with Mr Yer and Mr Akbar, I referred them  
7 to Dr Mubashir. To Dr Mubashir, they come and see, and  
8 if it's agreeable, if they understand, then they can  
9 invest.

10 In Pakistan, they have simple formula. Okay, if  
11 I invest this X amount, how much I will get? This is  
12 the mentality of most Pakistani. If you can say in  
13 Pakistan, you cannot find any like if you say in  
14 investment banking, true investment banking is 2 to 3 to  
15 4 per cent who are educated who know the investment  
16 market. Other people, they simply say, "Okay, I want X  
17 amount. If I put X amount, what will I get?" They have  
18 a simple formula.

19 Q. So you approached Mr Akbar and Mr Yer, as you say in  
20 paragraph 23?

21 A. Yes.

22 Q. Then based on your recommendation, the investors decided  
23 to meet Dr Sheikh; correct?

24 A. Yes, because I was outside, I was in Dubai and because  
25 Pakistan, if something -- people, they have the craving

1 16:58 in Pakistan, the investor have the craving to invest  
2 outside Pakistan, especially in foreign currency,  
3 because the relation of currency and the investment gets  
4 good refunds, good returns.

5 Q. Why did you choose Mr Akbar and Mr Yer as potential  
6 investors?

7 A. They was in contact with me, I know they have some  
8 money, they can invest. There was some other customer  
9 also, but they didn't work out. This one I referred  
10 three, four clients, which I know they have money, they  
11 can invest, which have the net worth. Which I know from  
12 my previous knowledge, they have such net worth that  
13 they can -- high net worth client, they can put money  
14 for -- investing for them, there's no problem. So  
15 I refer to Dr Sheikh. Only these two was the one which  
16 were materialised.

17 Q. Were Mr Akbar and Mr Yer interested in financial  
18 services?

19 A. They were interested in getting, making money. Their  
20 goal was to making money.

21 Q. You weren't aware of them having any interest in  
22 financial services?

23 A. No, I don't think so. They might have interest in  
24 financial services, because they were not, you can say,  
25 they don't have such education or knowledge, you can

1 16:59 say. They are just, you can say, a mentality of  
2 a feudal landlord. They want money. They want  
3 a return. They want to earn money. They don't care how  
4 it comes. They want returns.

5 Q. Mr Ul-Hayee, during your interview, I won't take you  
6 there, but I'll give, for the transcript, the  
7 references.

8 A. Yes.

9 Q. At C87-829, you say:

10 "... in Pakistan those people [that's Mr Akbar and  
11 Mr Yer] they were ... very simple ... not much  
12 [educated] ..."

13 A. Yes.

14 Q. Is that accurate?

15 A. Yes.

16 Q. At 838, you say they are not educated; is that right?

17 A. Yes.

18 Q. You say that they don't want to run the company, they  
19 want to be a silent partner; is that right?

20 A. Yes. Because they are not technical person, they don't  
21 know, they're shy with dealing with people and speaking  
22 English, there's a problem in Pakistan as well.

23 Q. And that they have the mentality of feudal landlords?

24 A. Yes.

25 Q. You accept that?

1 17:01 A. Yes.

2 Q. Can I please take you to Mr Akbar's agreement at  
3 C89-892. Can I just, before we look at this, can I ask,  
4 were you offered or paid a broker's or finder's fee for  
5 introducing these investors?

6 A. No. Look, at that time, when I introduce them, then the  
7 company was in, you can say, they were in crunch, so  
8 I find as an employee, I think I should have something  
9 to keep the business running, something which is  
10 beneficial for everyone.

11 For me, if the company is running, I'm getting, my  
12 job is secure, so if I can help the company business  
13 running. That was my basically in my mind to introduce  
14 them. So if the company is there, everyone gets paid  
15 and my job is there, I'm getting every month service.  
16 So it's like you can say earning day to day, day-to-day  
17 work, it's going on, bread and butter, you can say.

18 Q. You worked in MAS aviation, not MAS ClearSight.

19 A. Yes, but I was, as you see in my statement, I was coming  
20 daily to MAS ClearSight. And as a colleague, Mubashir  
21 specifically asked every colleague, "If you have some  
22 investor who can invest, please refer to me."

23 Q. Looking at the agreement, we can scroll down, clause  
24 (B). It says here, "The Investor is a Company ..."  
25 which I think is a mistake, because Mr Akbar is not

1 17:03 a company.

2 Putting that to one side, it says:

3 "The Investor ... has business interest to take  
4 a long term strategic ownership stake in the financial  
5 services company."

6 That doesn't sound accurate given what you told us  
7 about Mr Akbar?

8 A. Because this agreement is not I have seen and this was  
9 between Mr Akbar and Dr Sheikh. This answer, you can  
10 ask Dr Sheikh.

11 Q. But, in your opinion, the statement contained in recital  
12 (B), that's inaccurate given what you know about  
13 Mr Akbar?

14 A. That's up to Mr Akbar. He's signing a document. He  
15 might have read it, that he has to do it. Because  
16 agreement, I was not there, it was not my responsibility  
17 for the agreement, so I cannot give any opinion about  
18 it.

19 Q. Let's forget the agreement. In your opinion, did  
20 Mr Akbar have a business interest to take a long-term  
21 strategic ownership stake in the financial services  
22 industry?

23 A. Mr Akbar, because he wanted to secure his investment, if  
24 his investment, he want something as a security and  
25 that's why he asked for some stake in the company. And

1 17:04 he never wanted to run the company.

2 Q. He had no interest --

3 A. Yeah, he has no interest --

4 Q. -- in a financial services company, did he?

5 A. He has interest in getting his return. He was getting  
6 return and that was -- I don't know what they discuss  
7 with Dr Mubashir or no, what was their mutual agreement  
8 on this. My part was to introduce it. Other part was  
9 from Dr Mubashir and Mr Akbar. I'm not the one to give  
10 the personal opinion for anyone. Mr Akbar or  
11 Dr Mubashir can tell what was going on. They agree on  
12 something, that's up to them.

13 Q. I'm not interested in the agreement. You know Mr Akbar  
14 better than anyone in this case, so I'm asking your  
15 personal professional opinion, as to whether you  
16 believe, knowing him, that he had an interest in  
17 financial services --

18 A. Look, I cannot answer this. I don't know, because  
19 I just referred him to this amount, there's opportunity  
20 to invest and get return. That was what we discussed  
21 before. I don't go in this. That's Mr Akbar can tell  
22 or Dr Sheikh can tell this thing.

23 So I cannot be 100 per cent, I cannot give any  
24 opinion about anyone. Or what he thinks, what he's not  
25 thinking. You know, if you know someone, you cannot

1 17:06 give opinion on his behalf, but he's 100 per cent -- you  
2 don't know everyone 100 per cent, what is in his mind,  
3 what he like, what he doesn't like. And the people do  
4 change by the course of time.

5 Q. Fatima, can we please go back to the witness statement  
6 at paragraph 23. We are now moving on to discuss the  
7 alleged meetings in March and April 2015 with Mr Akbar,  
8 and then with Mr Akbar and Mr Yer.

9 A. Yes.

10 Q. That's after paragraph 23.

11 A. Yes.

12 Q. We have seen that. And at paragraph 24, it says based  
13 on your recommendation, both investors decided to meet  
14 with Dr Sheikh and then we come to the first investment  
15 meeting with Mr Akbar.

16 A. Yes.

17 Q. You say you brought them to the office?

18 A. Yes.

19 Q. That was in Dubai; correct?

20 A. Yes.

21 Q. They'd arrived from Pakistan, I presume?

22 A. Yes.

23 Q. Do you remember what hotel they were staying at?

24 A. I don't remember, because they came to -- I asked them  
25 to come to the DIFC. I meet them downstairs and I bring

1 17:07 them upstairs.

2 Q. You didn't go to meet them?

3 A. Yeah.

4 Q. Then in 26, you describe the negotiation at the meeting.

5 A. Yes.

6 Q. You say that Dr Sheikh made a sales pitch; is that  
7 right?

8 A. Yes.

9 Q. What was his sales pitch?

10 A. He was asking for investment about of around  
11 \$2 million and in return, normally, he was asking for --  
12 normally, he returns for around 10 per cent per year, a  
13 return of the investment.

14 Q. That's the deal. I'm interested in the sales pitch.

15 How did he persuade them that MAS was a good investment?

16 A. That I don't remember. That was just from Mubashir was  
17 talking and he was there.

18 Q. You were there throughout the two-day meeting; correct?

19 A. Yes, I was there in initial meeting, but the second  
20 meeting, I was not there. Because I was there for some  
21 time and then I leave for some other work and then when  
22 the meeting finish, then I escort them back.

23 Q. Sorry --

24 A. Initially, I was there. I think from my understanding,  
25 there was not everything was finalised on first meeting,

1 17:09 there were two, three meetings going on.

2 Q. But you say:

3 "... I saw Dr Mubashir make his sales pitch ..." in  
4 the meeting --

5 A. Yes.

6 Q. Correct?

7 A. Yes.

8 Q. So I'm asking you, what was his sales pitch?

9 A. Sales pitch, I don't know what he said, "This is my  
10 company and this much you will get it."

11 Q. So he told them that it's his company, and he told them  
12 they would get a return?

13 A. Yes.

14 Q. That was his sales pitch. He said nothing else?

15 A. I don't remember there was a different thing, I would  
16 have said, you can ask Dr Mubashir, what he made a sales  
17 pitch.

18 Q. I can, but you're there as well. That's why I'm asking  
19 you.

20 A. I was there, but I wasn't taking note, because I was  
21 not -- my part was to just introduce these two parties.  
22 Nothing else. Nothing keeping notes or keeping points.  
23 This was not my job to do.

24 Q. But you remember the detail of the negotiation. You say  
25 that Mr Akbar confirmed he'd like to invest

1 17:10 \$2 million in return for 75 per cent shareholding.

2 A. Yes.

3 Q. Then Dr Mubashir convinced Mr Akbar that that was  
4 effectively too high a price.

5 A. Yes, that I remember.

6 Q. You remember that detail; correct?

7 A. Because he remember that thing that if he's going to  
8 give away everything from the company, why should -- how  
9 you will be earning, what's left for Dr Mubashir? That  
10 I remember. If you are giving three-quarters of your  
11 company to someone else, what you have got left with  
12 you?

13 Q. Did you help Dr Sheikh prepare his sales pitch, prepare  
14 for the meeting?

15 A. No.

16 Q. Did you tell him about Mr Akbar, Mr Yer and what they  
17 were like, what their interests were?

18 A. We have general information. I just little bit  
19 I explained them, that these are client, they have net  
20 worth. And little bit I give them information about  
21 Akbar and Yer.

22 Q. What information did you give to Dr Sheikh?

23 A. That they have net worth, they are high net worth, they  
24 are usually interested in invest in property, they have  
25 money, they might be interested to invest in the company

1 17:12 for a good return. Because they want a secured  
2 investment with something in which they have -- we can  
3 make a good money. They might be interested in any  
4 investment.

5 Q. You don't say that in your witness statement, do you?  
6 You don't say that you spoke to Dr Sheikh about Akbar  
7 and Yer and why they might be good investors?

8 A. When I introduce them, I told them -- if this is  
9 nothing, this is something of general knowledge, if  
10 you're selling someone, you have to give little bit  
11 idea. It's commonsense to give little idea of a person,  
12 what he's like. If you're giving brief introduction, if  
13 you're meeting two person, you're telling, "Look, I'm  
14 bringing this person, this is my net worth", what he's  
15 like.

16 If you introduce me to someone and you will tell  
17 that, "He's my friend, he's something this, this, his  
18 profile or this kind of interest he has, would you like  
19 to meet him?" This is example, I'm quoting it. That's  
20 why this is nothing to be mentioned on the statement.

21 Q. But Mr Ul-Hayee, we're not talking about a personal  
22 introduction. We're talking about a professional  
23 introduction of clients from what you say is your strong  
24 network of Pakistani investment connections, and you're  
25 telling me that you just provided a general introduction

1 17:13 of Mr Akbar and Mr Yer to Dr Sheikh?

2 A. Yes, because I told them, "These are potential  
3 investment and this is up to you how you can sales your  
4 pitch and agree them." That's up -- because sales is  
5 not my business.

6 Q. No, it's not, and I think we've established that.

7 A. Yeah.

8 Q. You say that about --

9 A. I know some person, I know person if he has some  
10 investment, he wants to invest, I just connect two  
11 persons that he can be -- which can be -- they can agree  
12 if something is beneficial for both. For my job is just  
13 to connect these two people.

14 Q. What about the other work? You say that Akbar and Yer  
15 met with Dr Sheikh based on your recommendation.

16 A. Yes.

17 Q. Can you just explain what you said when you made the  
18 recommendation?

19 A. I said there's a company in Dubai who wants some  
20 investment in the company and they will be offering  
21 a good return. If there's something, you can come and  
22 meet with Dr Sheikh, he's PhD of business, he's running  
23 this company, he's an ex-banker, ex-Citi banker,  
24 ex-banker, so you can meet him and decide if  
25 something -- if you can understand -- if you can

1 17:14 understand, if you want to invest, you can invest. Just  
2 meet him. There's an opportunity. You can make money  
3 on this.

4 Q. Did you say anything about what the business of MAS was?

5 A. Just general, I told them it's investment banking, but  
6 not in details.

7 Q. Sorry, you don't understand investment banking?

8 A. I just told them this investment banking, just general  
9 introduction of the company, not in details, not in deep  
10 business model.

11 Q. What did you say about the MAS business?

12 A. That's an investment bank advisory firm, we advise some  
13 clients, who invest on behalf of -- who make, give us  
14 services between investment bank and some high net worth  
15 client for their investments and place with some  
16 different banks.

17 Q. Moving back to the two-day meeting that you say at 26  
18 and 27, you confirm you don't remember what the sales  
19 pitch was from Dr Sheikh. I understand that. Do you  
20 remember if he provided any financial information?

21 A. No. Financial information was not my part and I don't  
22 have any access to the financial information.

23 Q. No, but did Dr Sheikh provide any financial information  
24 during that meeting?

25 A. I don't remember if he provide. Dr Sheikh can tell.

1 17:16 Q. There was a two-day meeting or a meeting that took place  
2 over two days.

3 A. Yes.

4 Q. And you don't recall whether or not any financial  
5 information was provided from a potential seller to  
6 a potential investor in a business. You don't remember  
7 that?

8 A. You're right. I don't remember that, because I told you  
9 what their mindset is. They are not technical person to  
10 go in these details, so I don't know the commercial  
11 percentage or they ask Dr Mubashir that, I don't know.

12 Q. You remember in detail the negotiation and then the deal  
13 done in paragraph 27 or at least the gist of the deal?

14 A. Yeah.

15 Q. You remember the detail, but you don't remember --

16 A. Yeah, this is a basic thing. This you can say big  
17 things are such like that. I don't go into the details  
18 thing. This is one basic thing. Something basis to  
19 investment or something like that. This is just a basic  
20 pitch. That I remember. But I don't go in the detailed  
21 pitch. Something is basic.

22 That's what their interest that I remember, okay,  
23 you are doing this, you are putting X, how your X amount  
24 is secured and Y amount you're getting it. That's what  
25 I remember. Because that was their interest.

1 17:17 Q. One final question about this March meeting. At the end  
2 of paragraph 26, you say:

3 "Dr [Sheikh] convinced Mr Akbar that any investment  
4 would need to be mutually beneficial for both parties,  
5 and that by giving away such a significant shareholding  
6 in the Company it would be unduly disincentivise  
7 Dr Mubashir and disproportionately dilute his interest  
8 in the business."

9 What does that mean?

10 A. You see, if someone is asking for 75 per cent of the  
11 company, I remember I think I talk Dr Mubashir about it,  
12 I can say 80 or 85 per cent, if he's giving about  
13 75 per cent, what is left with him? This is not -- you  
14 cannot say, if some person has sanity of mind, he can do  
15 this for 2 million, he can hand over his whole company  
16 to someone else. This is not benefit. It's a general  
17 sense.

18 If I'm taking, if I'm running a business, I don't  
19 give it 75 per cent of business for some investment.  
20 It's beneficial for me, if I get something, I also make  
21 something for it.

22 Q. Mr Ul-Hayee, you have just explained very eloquently, in  
23 your own words, what you understand that to mean.

24 A. Yes.

25 Q. Why does your witness statement say that it would unduly

1 17:18 disincentivise Dr Mubashir and disproportionately dilute  
2 his interest in the business? It doesn't sound like the  
3 words you would use, if I may say so.

4 A. I told you, this statement was drafted by a lawyer. The  
5 wording -- because it was his wording. He quoted this  
6 thing. I just give him an idea and then it was drafted  
7 by a lawyer. You know, the lawyer, they use such  
8 language.

9 Q. One last question about Mr Akbar's agreement. As  
10 I understand it, your evidence isn't that you witnessed  
11 that agreement being signed or executed, did you?

12 A. Akbar's, no.

13 Q. Moving on to the April meeting with Mr Yer, but also  
14 Mr Akbar present, how long was that meeting?  
15 Paragraph 28 onwards.

16 A. What you're asking about it?

17 Q. How long was the meeting?

18 A. I don't remember exactly, maybe two, three hours,  
19 I don't know. You're talking about asking me something  
20 about like five years ago. Timings, I can't remember  
21 how long.

22 Q. That's right. I think we agree, you don't remember any  
23 detail about the meeting, do you?

24 A. Yes.

25 Q. Other than what you say at paragraphs 29 and 30?

1 17:20 A. Yeah, basic details I remember, because the objective  
2 was to bring in money and how much money they were  
3 bringing in or how much was this.

4 Q. But you go further at paragraph 29. You say:

5 "... Dr Mubashir agreed to a short-term loan from  
6 Mr Yer of USD 600,000 with a monthly interest rate of  
7 2 per cent for a period of three months in addition to  
8 5 per cent of the ownership in MAS in order to ensure  
9 that the company's liquid assets requirements remained  
10 intact."

11 Do you remember that detail? What does that mean?

12 A. Because he pitch Dr Mubashir, for Yer, for internal loan  
13 of 600,000, until he gives the investment for -- from  
14 Mr Akbar. For internal period, he needed -- so that,  
15 you know, as I remember, there was capital requirement.  
16 So he wanted to be capital -- for the capital cannot be  
17 breached, so we can -- for this amount, you can run the  
18 day-to-day expenses, salary which was delayed, that can  
19 be processed from this money.

20 Q. I think what you've explained is our understanding of  
21 Dr Sheikh's case in these proceedings, but what you've  
22 said in paragraph 29 is your recollection of what was  
23 discussed and agreed at that meeting; correct?

24 A. Yes. He said I need -- what was the purpose of loan,  
25 then when there was loan, he was asking for the loan, he

1 17:22 explained them the purpose of loan. That he need to run  
2 some daily expenses of the business, like salary, some  
3 bills from rents needs to be paid. And he has money,  
4 but he don't want to utilise the capital.

5 Unless the money from Akbar comes, for the interim  
6 period, he needs some money to run the business.

7 Because that was what -- because he asked for some  
8 investment and then I know investment was required for  
9 running the business. That's general thing. Everyone  
10 knows that.

11 Q. Everyone knows that you need capital -- you have capital  
12 requirements and you have money that you need to run the  
13 business.

14 A. Yes.

15 Q. And you have do that but maintain enough capital  
16 requirements. I understand that. But just to be clear,  
17 your recollection is that that was discussed at this  
18 meeting?

19 A. That I think. That what I recall it was discussed.

20 Q. You don't sound very sure. Is it possible that you  
21 don't remember this?

22 A. That you can say it is recollection of my statement is  
23 statement of mine. It can be my understanding or if it  
24 can be discussed in the meeting, I'm not sure about it.  
25 This is from what -- I gave this statement is what was

1 17:24 in my mind. This is statement on my behalf.

2 Q. At paragraph 30, you say:

3 "I was present when this agreement between Mr Yer  
4 and Dr Mubashir was signed."

5 A. Yes.

6 Q. Are you sure about that?

7 A. Yes.

8 Q. Can you describe the circumstances in which the  
9 agreement was signed?

10 A. What do you mean by "circumstances"?

11 Q. Where were you? What happened?

12 A. We were in a meeting and then he -- when they agree, he  
13 give them the agreement and they signed it.

14 Q. Was that at the same meeting?

15 A. It was, I think, in the second meeting.

16 Q. There were two meetings with Mr Yer?

17 A. Yeah, I guess so.

18 Q. You guess so. You don't sound very sure.

19 A. Yeah, but I'm not sure whether it was agreement was  
20 signed, it was in the first meeting or second meeting.

21 I'm just thinking about it. But I must have given in  
22 the thing in my -- you can refer it to my interview.

23 There will be. The interview with the DFSA, you can  
24 check it from there.

25 Q. But your witness statement says that there's only one

1 17:25 meeting --

2 A. Look, we are just talking about five years, so I'm not  
3 going to just putting it with me in front of this.  
4 I don't remember for what was happened in five years  
5 ago. So everything that was interview I recollected  
6 this statement and I've not gone through, this statement  
7 I have given in 2018, so I have not gone through this  
8 again.

9 Q. In your interview, you say there was a meeting between  
10 Dr Sheikh and Mr Yer and you just happened to be passing  
11 by?

12 A. Yes.

13 Q. We're going to have a look at that. Can we please go to  
14 C87, page 849.

15 Just to provide context, Ms Paddon of the authority  
16 had asked you to explain the very sentence in your  
17 witness statement that I've just asked you to explain.

18 A. Which one?

19 Q. This is the answer you provided.

20 A. Yeah, so this you say is in the second meeting.

21 Q. I have to say, Mr Ul-Hayee, it doesn't make a great deal  
22 of sense to me. Can I give you another opportunity to  
23 explain, as far as you remember, what happened and how  
24 you came to be at the signing of the Yer agreement,  
25 please?

1 17:27 A. Let me read this, what I have said.

2 Q. Of course.

3 A. Yeah, so it's second meeting where the agreement was  
4 signed.

5 Q. Can you tell us what happened, because I'm struggling to  
6 follow this passage.

7 A. Look, I was going with somewhere with Dr Mubashir and  
8 Mr Yer called, so he was ready to sign the agreement.  
9 So we went there and we meet over the lunch and after  
10 that we went there and signed the agreement.

11 Q. Sorry, it says here that you and Dr Sheikh were going  
12 out for some lunch and then they called.

13 A. Yes.

14 Q. So what is it? You were going somewhere with Dr Sheikh  
15 and they called you for lunch or were you going to lunch  
16 and then they called you?

17 A. No, we were going for the lunch and then we received  
18 a call to come and sign the agreement. Dr Mubashir  
19 received the call, come and sign the agreement, so  
20 Dr Mubashir says, "Okay, if I'm going, so you come along  
21 with me."

22 Q. So you went there --

23 A. Yes.

24 Q. -- for the meeting. Where did you go?

25 A. We meet at some, I think some hotel lobby.

1 17:29 Q. Which hotel?

2 A. I don't remember. It was in Sheikh Zayed Road. Most  
3 probably it was The Address Downtown, but I don't  
4 recall.

5 Q. Are you sure about that or are you just trying to  
6 remember, but may be mistaken?

7 A. I'm not sure about it. It is five years ago. Because  
8 sometimes they stay in Sheikh Zayed Road, Crowne Plaza,  
9 sometimes they stay in Address Downtown, so I'm not sure  
10 where at that time he was staying in, where we meet.  
11 You can ask Dr Sheikh where he was staying.

12 Q. Where were you going for lunch?

13 A. We were going for lunch in DIFC down there to the  
14 Chinese.

15 Q. I'm going to put it to you that this doesn't really make  
16 a huge amount of sense and that's probably because it  
17 didn't happen.

18 A. What are you saying?

19 Q. I'm saying that you have been persuaded by Dr Sheikh to  
20 make up your evidence to place you at the signing of the  
21 Yer agreement, which didn't take place.

22 A. How you can say? I was present there, it was signed  
23 there. How can you say that?

24 Q. Would you like to say anything in response to that?

25 A. I say that this was meeting was held and I was present

1 17:30 there for the signing.

2 Q. Fatima, can we please go back to the witness statement,  
3 page 795.

4 Your evidence here is that Mr Akbar and Mr Yer  
5 appeared to have a change of mind and you received  
6 a call from Mr Akbar in May 2015.

7 A. Yes.

8 Q. Do you remember when in May 2015?

9 A. I don't remember. Maybe it's in the second half.

10 I don't remember exact date.

11 Q. Are you sure it was May?

12 A. Yes, that I recall it was May.

13 Q. You have explained, haven't you, that at the meeting  
14 with Mr Yer, you understood that his loan was necessary  
15 to ensure that MAS maintained its liquid assets;  
16 correct?

17 A. Yes.

18 Q. You specifically remember that, don't you?

19 A. Yes.

20 Q. You also said, didn't you, in the same paragraph, that  
21 Mr Yer had agreed to make the loan, knowing full well  
22 that his investment was secured as Mr Akbar was also  
23 investing. That's right, isn't it?

24 A. Yes.

25 Q. Paragraph 30. We don't need to go back there, but we

1 17:32 looked at it.

2 A. Yeah, because he invested because of Akbar, because he  
3 know he will be investing 2 million. His investment  
4 will be secured.

5 Q. When you found out in May, some time in May, that  
6 Mr Akbar was having second thoughts about the deal, you  
7 must have also been aware that Mr Yer must be having  
8 second thoughts about the deal. That's possible, wasn't  
9 it?

10 A. No, in my opinion, if he had -- I came to know later  
11 that he didn't invest, at that time, but money didn't  
12 come. But, in my opinion, he has already -- when he has  
13 signed the agreement, he must have made the payment at  
14 that time.

15 But then later I come to the fact that he didn't --  
16 I realise after this, when the company was closed, that  
17 the payment didn't come from Mr Akbar -- Mr Yer. Mr Yer  
18 didn't make the payment. Due to some fault, I don't  
19 know what happened, the payment was not through. But at  
20 that time, in May, I was not aware the payment have not  
21 come from Mr Yer.

22 Q. But when you received that phone call from Mr Yer to --  
23 Mr Akbar, sorry, you must have been very concerned  
24 hearing that he may not be investing the \$2 million you  
25 knew that MAS needed. It must have been an alarming

1 17:34 phone call for you to receive; correct?

2 A. Yes, correct.

3 Q. So did you immediately tell Dr Sheikh about this?

4 A. No, I didn't follow up with Dr Mubashir, but I tried  
5 with Akbar to reconsider his side, because already a few  
6 have invested, so I ask him to reconsider it. And  
7 I don't want to disturb Dr Mubashir. He was there -- he  
8 was not here, he was outside his country, with his  
9 ailing mother, so I don't want to disturb him. I wanted  
10 to sort this issue on my own. So even I ask him to give  
11 it a second thought. So maybe he can invest, he change  
12 his mind, so company doesn't go down.

13 Q. You're saying -- your evidence is you tried to persuade  
14 him --

15 A. I ask him to just reconsider his decision.

16 Q. But then at paragraph 39, you say:

17 "I decided to tell Mr Akbar that it appears that the  
18 company is in a downward spiral. Dr Mubashir is in  
19 London on a personal visit and the office environment is  
20 dysfunctional."

21 A. Yes.

22 Q. It doesn't seem like you're trying to persuade him to  
23 change his mind. You're trying to give him a reason to  
24 pull out, aren't you?

25 A. Because he asked me, specifically something happened --

1 17:35 what's happening in the company, because Dr Mubashir  
2 payments were being delayed. So I tell him the actual  
3 situation because Dr Mubashir is not here, just let us  
4 wait when he comes and then decide. Because he might  
5 come and he might come and he might handle the things  
6 better, because he's not here, the things are not -- in  
7 his absence, things are not good.

8 Q. Mr Ul-Hayee, that's not your evidence in your statement.  
9 That's all new. What's in your statement is what's set  
10 out at paragraph 39. So which is it?

11 A. I told him everything, that this is thing, but I also  
12 ask him to just reconsider it.

13 Q. Did you not think to let Dr Sheikh know that a new  
14 majority investor in the company was on the verge of  
15 pulling out?

16 A. No. I told you in which situation was he was there, he  
17 was with his mother, I don't want to disturb him. So  
18 maybe I was thinking I could convince him later on,  
19 maybe he can think about it and when Dr Mubashir come,  
20 the things are good.

21 Q. Did you tell anyone else?

22 A. No, because this was me, Dr Mubashir knew about this  
23 thing. Dr Mubashir was directly dealing with this.  
24 There was no other one who was in between us.

25 Q. You're not aware of anyone else in the company knowing

1 17:37 about this?

2 A. No. I know people -- after when I secure the investors,  
3 other people become aware about that, I introduce  
4 investor and they were not happy that if how come they  
5 are unable, some senior staff was not happy with me,  
6 because they were unable to bring some investor. And  
7 I was able as a junior, I was much junior than them, and  
8 able to bring something, which is some potential thing  
9 on the table, which was about to materialise. Some  
10 concrete thing.

11 Q. At paragraph 41, you say:

12 "I later told Dr Mubashir what had happened ..."

13 A. Yes, that I tell after when the company was closed and  
14 everything was happened.

15 Q. Isn't it a bit late by then to be telling him about this  
16 phone call? The company has already gone under.

17 A. What you can say? Already if company has gone  
18 unforeseen, then he ask -- because I don't want -- he  
19 used to call me, I don't want to disturb him and when he  
20 was okay, he called me, then I told him, "Okay, if I  
21 feel myself responsible, also I was sad. I think it was  
22 also my part that I think due to my revealing this  
23 information that Akbar decided to pull off."

24 And that was my opinion and that's why I feel myself  
25 somewhat responsible of downfall of the company. So

1 17:38 that's why I tell him that this might be because of me  
2 also.

3 Q. Isn't it the case that your evidence about the meetings  
4 and about your conversations with Mr Akbar and Mr Yer  
5 are a false version of events?

6 A. No, this all true version of events.

7 Q. And you provided this muddled and ultimately false  
8 version of events because of your loyalty to Dr Sheikh?

9 A. No.

10 Q. Because you felt sorry for him?

11 A. No, not at all.

12 Q. Final set of questions, if I may. Go back to the  
13 conversation at paragraph 35 that you say you had with  
14 Mr Salahuddin?

15 A. Yes.

16 Q. Can I just clarify when the conversation took place,  
17 because it's not clear from your statement. I think at  
18 paragraph 24 you say some time after the events in  
19 question?

20 A. Yes, this is after -- after this everything was, company  
21 was closed, everything after that.

22 Q. At paragraph 35, you again explain your understanding  
23 that the short-term loan from Mr Yer of the  
24 \$600,000 would cover everything to save the company.

25 A. Yes.

1 17:40 Q. Just to be clear, that's your recollection having heard  
2 that at the meeting with Mr Yer in April 2015; is that  
3 right?

4 A. Yes.

5 Q. Mr Salahuddin gives no evidence about this. It may be  
6 that you're mistaken about this conversation.

7 A. I'm not, because Mr Salahuddin and we met quite a few  
8 times after the company was closed. We were friends, we  
9 used to talk and we used to meet. I don't know why he  
10 don't -- I cannot allow, on his behalf, why didn't he  
11 give anything about this.

12 Q. Do you know that it's part of Dr Sheikh's case that  
13 Mr Salahuddin was aware of the cash withdrawals and the  
14 investment deal in May and that this happens to be  
15 supportive of Dr Sheikh's case against Mr Salahuddin?  
16 Are you aware of that?

17 A. No. I told Hassan Salahuddin, when he asked me that  
18 when we was -- I explained him that I had, when later,  
19 we have discussion that he knew there was withdrawal was  
20 done and he distanced himself. Then I explained it  
21 why -- I believe why, in my opinion, how why Dr Mubashir  
22 has, if he has withdrawn, and why he would have  
23 withdrawn the money, because on the basis of this, that  
24 the same amount which Mr Yer promised to pay.

25 That's what was my conclusion which I discussed with

1 17:41 Hassan Salahuddin. That's what my analysis, my personal  
2 analysis for this situation.

3 MR KHAN: Thank you very much, Mr Ul-Hayee.

4 Sir, those are my questions.

5 MR PRESIDENT: Thank you very much. I have no questions of  
6 this witness. Do my colleagues have some questions?

7 MR AL HASHIMI: I don't have any.

8 MR AL AIDAROUS: I have one quick one for Mr Ul-Hayee.

9 Questions by the TRIBUNAL

10 MR AL AIDAROUS: Mr Ul-Hayee, you say in your statement that  
11 you have paid significant amount to various creditors,  
12 I'm not sure whether in June or July 2015, on behalf of  
13 Dr Mubashir in cash. And when Mr Khan asked you why you  
14 don't take a proper receipt, you mentioned that, "This  
15 is Dr Mubashir's money and I'm trustworthy person to him  
16 and I don't question his payment. You ask me to pay  
17 someone, I'm going to pay him. I don't bother to take  
18 any receipt."

19 My understanding is correct?

20 A. Yes, at that time, when I handed the payment, first  
21 I call with Dr Mubashir, "I speak with the person", he  
22 said, "Okay, give this."

23 MR AL AIDAROUS: Perfect. You have explained very well.

24 I just want to make sure if I understand well, sir.

25 Just before you we have heard from Mr Khalil Ahmed

1 17:43 that you have handed over to him 900,000 dirham in  
2 a restaurant in Dubailand.

3 A. Yes.

4 MR AL AIDAROUS: I believe this payment also came as at that  
5 time you paid on behalf of Dr Mubashir, I believe?

6 A. Yeah, because he called me, when Dr Khalil come and  
7 I make both to speak and then I hand over the payment.

8 MR AL AIDAROUS: When you ask him to pay this amount,  
9 900,000, what he asked you, how he explain you? This is  
10 money owed to the company or owed to him or?

11 A. That I don't know, because Dr Mubashir just called me,  
12 "Okay, Mr Khalid is coming, just pay him 900,000 from  
13 the money which I gave to you." I just pay to him.

14 MR AL AIDAROUS: Which is explained that you haven't taken  
15 a receipt, because if it is for the company, you would  
16 have asked him to -- you will ask him to proper receipt  
17 that he receive that money, because, at that time, you  
18 are under impression that you are acting on behalf of  
19 Dr Mubashir, because you have, apart from your role in  
20 the company, you provide, used to give him some personal  
21 services because you are trustworthy person to him.

22 My understanding is correct?

23 A. Yeah, Dr Mubashir give me some, this money, that this --  
24 as a personal request, he gave me this money. I don't  
25 ask him, "This money, for which purpose you are giving,

1 17:45 which purpose you are not giving?" He give me just X  
2 amount of money, he said, "I will ask to send some  
3 person, you give it to them."

4 MR AL AIDAROUS: Okay, but you give it to them under the  
5 impression that --

6 A. Personal errand.

7 MR AL AIDAROUS: I understand that --

8 A. It was personal errand.

9 MR AL AIDAROUS: You don't ask Dr Mubashir, but I'm asking  
10 your understanding that as your usual, you pay on behalf  
11 of Dr Mubashir, you made this payment on behalf of  
12 Dr Mubashir, as per his request. It's nothing to do  
13 with the company?

14 A. I don't know. For my understanding, Dr Mubashir said  
15 this, he knows better which purpose of, because I don't  
16 know.

17 MR AL AIDAROUS: I understood. I hear you properly now. If  
18 you are acting for the company, then you are also  
19 officer of the company, then you have to have a proper  
20 receipt. So at that time --

21 A. No --

22 MR AL AIDAROUS: -- you have an understanding that this is  
23 money you are paying on behalf of Dr Mubashir for  
24 something related to the company, but you never ask him,  
25 this matter is relating to Dr Mubashir directly?

1 17:46 A. Directly, because at this time, MAS was closed. So  
2 I don't know MAS payment or what payment, that I have no  
3 idea.

4 MR AL AIDAROUS: Thank you very much. I have no further  
5 questions. Thank you.

6 MR PRESIDENT: Dr Sheikh, do you have any questions of the  
7 witness?

8 DR SHEIKH: No, your Honour. Thank you, Mr Atta.

9 MR PRESIDENT: Thank you, Mr Atta, very much for your help.  
10 You can close the link now. Thank you.

11 (Witness withdrew)

12 MR PRESIDENT: That concludes the evidence for today. Can  
13 we just be clear, Dr Sheikh, who we have got first  
14 tomorrow? Is it you first or is it Mr Yer or Mr Akbar?

15 DR SHEIKH: May I revert back to you by way of email,  
16 because I had scheduled for Mr Akbar and Mr Yer to be  
17 first and I had scheduled myself to be at the tail end,  
18 but I want to be able to reconfirm if that's okay for  
19 your Honours.

20 MR PRESIDENT: You will send us a message, will you, to let  
21 us know who's first?

22 DR SHEIKH: Indeed, your Honour.

23 MR PRESIDENT: Is there anything else that anyone wants to  
24 raise before we break off until 8 am UK time and 11 am  
25 Dubai time tomorrow?

1 17:47 DR SHEIKH: May I take the liberty to ask a question, your  
2 Honour. You remember that I had requested that if there  
3 is a possibility for a translation, which I understood  
4 very well that the opposing counsel is probably  
5 rightfully so opposing and if there is a little bit of  
6 struggle in terms of understanding for Mr Akbar or  
7 Mr Yer, is there a potential solution for that? Or  
8 I understood that you said we'll go along and see, so  
9 may I have some guidance from your goodself, your  
10 Honour?

11 MR PRESIDENT: Are you saying that neither of these  
12 gentlemen speak English?

13 DR SHEIKH: No, no, they do. My question was that, as  
14 I explained to you, that they're a little bit nervous,  
15 but nevertheless that they just wanted to see and they  
16 asked that if they can have their lawyers sitting, not  
17 to speak for them, but just to help them with little bit  
18 of translation, if required.

19 Because I made it explicitly clear, as per your  
20 Honour's guidance, that they have to speak for  
21 themselves. And that's the question that I wanted to  
22 ask. But I understood last time, when I highlighted  
23 that, your Honour had given a guidance to me saying that  
24 the translation is not possible or we will see how it  
25 goes. So I just seek some clarity from your goodself,

1 17:49 your Honour.

2 MR PRESIDENT: The position is this. First of all, they  
3 have to give evidence, not their lawyers.

4 DR SHEIKH: Indeed.

5 MR PRESIDENT: Their lawyers cannot interfere or influence  
6 what their replies are.

7 DR SHEIKH: Indeed.

8 MR PRESIDENT: What makes you think that they can have their  
9 lawyers there? But, I mean, I'll ask Mr Khan. But it  
10 would be unexpected if they had to turn to their lawyers  
11 for a translation.

12 I mean, you had this morning, we had Mr Qasim  
13 Shahzad giving evidence and he had some difficulty with  
14 English, but it wasn't necessary for there to be  
15 a translator.

16 Sometimes people do give their evidence in  
17 a different language, but then there is a formal process  
18 by which you have a qualified and independent  
19 translator. Their lawyers may be very eminent, but  
20 they're not really independent translators, are they?  
21 Because they represent their client.

22 Before I finish, I'll let Mr Khan give his views.

23 MR KHAN: Sir, I have nothing to add to that, other than to  
24 say we would object to a partial lawyer intervening  
25 whether to translate or otherwise.

1 17:50 DR SHEIKH: May I make another observation with your kind  
2 permission, your Honour?

3 MR PRESIDENT: Yes.

4 DR SHEIKH: Thank you. Your Honour, I was just asking the  
5 question that I can't speak intelligently on behalf of  
6 Mr Khan, but I speak Urdu, of course, and I speak  
7 English, I think reasonably okay.

8 The point is that if it is appropriate, and I don't  
9 know the answer, hence I'm asking the question, that if  
10 there is a question that is being asked and they don't  
11 understand, if I translate that in presence of the  
12 panel -- I'm making an assumption that maybe Mr Khan  
13 also understands the local language of Urdu and that's  
14 an assumption, I don't know that -- then I'm only going  
15 to translate the question into Urdu, so that then  
16 Mr Akbar or Mr Yer can answer in English.

17 Is that maybe acceptable?

18 MR PRESIDENT: It's so difficult to know until I understand  
19 how good or bad their knowledge of English is.

20 Mr Khan, what do you say about that?

21 MR KHAN: First of all, I'm of Bangladeshi extraction,  
22 unfortunately, to complicate matters, because I don't  
23 speak Urdu. But even if I did, sir, I think it would be  
24 highly irregular for the applicant in this case to be  
25 translating questions. So much can be conveyed,

1 17:51 intentionally or not, in the manner in which  
2 a translation is conveyed.

3 The question and the answer must be transparent to  
4 both the tribunal, counsel asking it and the person  
5 answering as well. Also, some of the parties observing,  
6 including those instructing me, it would be deeply  
7 unsatisfactory to have anyone translating.

8 If we get to a position where I ask a question and  
9 with the best will in the world, to try and make it as  
10 straightforward a question as possible, the language  
11 barrier makes it impossible for Mr Akbar and Mr Yer to  
12 answer in an intelligible way, given where we are,  
13 I just don't see anyway around that. Certainly not in  
14 these proceedings.

15 Dr Sheikh could have raised this when he raised the  
16 issue of lawyers sitting next to or intervening when he  
17 approached the tribunal by email prior to the hearing.  
18 He did, during the investigation, it was suggested that  
19 lawyers might be able to provide answers for Mr Akbar  
20 and Mr Yer.

21 So I'm afraid my comments are also tinged with an  
22 element of suspicion. I have to be straightforward  
23 about that. For all those reasons, I find it highly  
24 irregular and we would oppose it, sir.

25 DR SHEIKH: May I make another observation with your kind

1 17:53 permission, your Honour?

2 I wanted to ask that your Honour was saying  
3 something -- and please correct me if I made a mistake  
4 in understanding -- is there a procedure that if the  
5 witnesses gives a language in another language that  
6 there is a proper process to follow which requires some  
7 more administrative words?

8 Would you kindly -- may I request if your Honour  
9 would kindly, if you wish to elaborate a little bit or  
10 maybe I'm mistaken?

11 MR PRESIDENT: I think it's too late for that. It's very  
12 common in courts and tribunals for evidence to be given  
13 in someone's first language. Most obviously if you come  
14 to the United Kingdom and you don't speak English and  
15 you're accused of a crime, then there will be someone  
16 there to translate in court. But that is an independent  
17 person.

18 If you had applied, if this had come up much sooner,  
19 we could have arranged for these gentlemen to give  
20 evidence in Urdu and to have an independent translator  
21 in Urdu. Particularly in the UK, there are lots of  
22 people who are independent and respected translators who  
23 could have been engaged for that process. But you've  
24 left it late.

25 DR SHEIKH: No, I respect that, your Honour.

1 17:54 MR PRESIDENT: Tomorrow, we will just have to do the best we  
2 can.

3 DR SHEIKH: I think so, your Honour. I'll follow your  
4 guidance, and we'll hope for the best, and we do the  
5 best we can, and then we take it from there.  
6 I appreciate that. Thank you for your guidance, your  
7 Honour.

8 MR PRESIDENT: Fine. Mr Khan should not be afraid of his  
9 origins. I come from Scotland and I'm not frightened of  
10 it at all. I'm proud of it and so should you be.

11 Okay, thank you very much. We will meet again at  
12 8 am tomorrow. My colleagues and I will go into the  
13 private chat for a few minutes. Thank you. Goodbye.

14 (5.55 pm)

15 (The hearing adjourned until 11.00 am  
16 on the following day)

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