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

Case: FMT 19006

B E T W E E N:

Dr Mubashir Ahmed Sheikh

Applicant

- and -

The Dubai Financial Services Authority (DFSA)

Respondent

- before -

His Honour Mr David Mackie CBE QC (President)

Mr Ali Al Hashimi

Mr Ali Al Aidarous

Day 2

Monday, 27 April 2020

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 PRESIDENT: Welcome back, everyone, and thank you for
4 your work on the order. I hope you got my message
5 saying we can only do the best we can, so don't worry if
6 we have some gaps. Mr Khan, over to you.

7 MR KHAN: Before we call our next witness, there are one or
8 two housekeeping matters we want to raise, if we may.
9 The first is just to update you and Dr Sheikh in
10 relation to the publication of the transcript. We
11 understand that's due to go live shortly on the FMT's
12 website. It's yet to go up, but will do shortly.

13 Secondly, you have the witness order. Thank you
14 very much for giving that indication. I'll be providing
15 my time estimates for witnesses during the course of
16 today.

17 But just to put a marker down, that I hope to get
18 through most, if not all, of Dr Sheikh's witnesses
19 tomorrow, so on any view, whether at the beginning of
20 the day or partway through the day on Wednesday, I would
21 hope to start, make a start with my cross-examination of
22 Dr Sheikh.

23 What that means, with your permission, sir, is that
24 I'd ask Dr Sheikh that all his witnesses be available
25 for cross-examination tomorrow, because I may well get

1 11:00 through most, if not all of them.

2 The final matter relates to a note provided in
3 comment from Dr Sheikh on the witness order relating to
4 the lawyer to Mr Akbar and Mr Yer acting as some time
5 translator. I'm afraid we do have a concern about that.
6 The way this has evolved is that, first of all, it was
7 not clear to us whether or not Mr Akbar and Mr Yer would
8 appear.

9 Dr Sheikh then confirmed very helpfully that they
10 would appear, but asked if their lawyer may assist them
11 in providing answers.

12 You responded, sir, saying that would be irregular
13 and then Dr Sheikh confirmed that Mr Akbar and Mr Yer
14 would appear and would provide their own answers, albeit
15 their lawyer would be with them. That was the status
16 and I understand from the communications last night and
17 this morning, that Dr Sheikh anticipates that certainly
18 in relation to Mr Yer, the lawyer may assist him in
19 translating the answers.

20 Given the way this matter has unfolded, we do have
21 a concern. If Dr Sheikh had said prior to the tribunal
22 hearing starting, that a translator would be needed for
23 one or more of his witnesses, then in the ordinary way,
24 the tribunal would consider that, make an order and the
25 parties would arrange for an independent third-party

1 11:02 translator, as is orthodox.

2 I appreciate Dr Sheikh is acting for himself and
3 unrepresented, we take that into account, of course, but
4 we have already ventilated the issue of whether or not
5 a lawyer would be involved, assisting Mr Akbar and
6 Mr Yer. So he's had every opportunity to raise the
7 issue of translations. It has never been raised before.
8 He's never said Mr Akbar and Mr Yer may have trouble
9 understanding and answering questions in English.

10 It's raised for the first time last night.

11 I raise that issue. I don't know what the answer
12 is, sir. I have spoken to the DFSA lawyers and it's
13 going to be very difficult to, at this late stage,
14 procure a third-party independent translator, not least
15 given the circumstances in which this trial is taking
16 place.

17 But I raise that issue, I'm afraid, without an
18 answer at the moment, but it is something we say the
19 tribunal may have to grapple with when we get to
20 Mr Akbar and Mr Yer's evidence.

21 MR PRESIDENT: Thank you very much. Dr Sheikh, have you got
22 something to say about that?

23 DR SHEIKH: Yes, sir, I do. I take the liberty to respond
24 to Mr Khan's couple of housekeeping matters. First of
25 all, I have organised to ensure that the four of my

1 11:03 witnesses, as have circulated late last night, will
2 certainly, God willing, be available for the
3 questioning.

4 Mr Akbar and Mr Yer would not be available and that
5 is the reason that I have switched them from 28th to
6 29th and that's why the four witnesses will be available
7 for tomorrow as kindly Mr Khan has alluded to.

8 On 29th, Mr Akbar and Mr Yer will be, God willing,
9 available and in addition to that, I will then be the
10 remaining and only last witness left, which I will be
11 happy to initiate my questioning as a witness soon after
12 Mr Akbar and Mr Yer have gone through.

13 So I wanted to draw your kind attention, Mr Khan,
14 and to request for the tribunal, that Mr Akbar and
15 Mr Yer would be available on 29th, not before, sir.

16 MR PRESIDENT: But there's no reason, is there, why you
17 should not start, if we run out of witnesses, to use the
18 lawyer's expression, there's no reason why you shouldn't
19 start your evidence and then we can break off and then
20 put these gentlemen in and then you could start again?

21 DR SHEIKH: With pleasure. I'm very happy to comply, your
22 Honour.

23 MR PRESIDENT: What's all this about lawyers? Because we
24 would not normally allow a lawyer to represent anybody
25 or say anything.

1 11:05 DR SHEIKH: Sure, and I respect that. Please, let me try to
2 qualify one more time that I received a word from Mr Yer
3 yesterday highlighting that there may be times when he
4 may have difficulty understanding the question, because
5 his very limited ability to communicate specially. So
6 the lawyer is not necessary. Anybody, it can be.

7 And I for one, because they're my witness and
8 I speak both their language and English, so I ask for
9 the question, if that is possible, if that is not
10 possible, then an independent translator can be arranged
11 from our side if the opposing counsel is okay with it.

12 Alternatively, I was duty bound to report as soon as
13 I found out that there may be a need for this and that's
14 why I brought the subject to your kind attention
15 yesterday in the evening.

16 MR PRESIDENT: But these gentlemen gave -- I mean, their
17 witness statements are in English, are they not?

18 DR SHEIKH: Indeed, so the point is that they both
19 understand English. I imagine the hesitation a little
20 bit comes not from my hesitation, but the ability to be
21 able to communicate properly or may not be able to
22 communicate in the manner and not be able to understand.
23 So that was just their concern, that they --

24 MR PRESIDENT: Well, let's see how we go. But, of course,
25 we won't be able to permit a lawyer who is there to do

1 11:06 any translating, because it could lead to
2 misunderstanding.

3 DR SHEIKH: Certainly, your Honour.

4 MR PRESIDENT: Frankly, what would happen is if you read it
5 aloud, the DFSA would claim that the lawyer was giving
6 the answers rather than the witness. Do you understand?

7 DR SHEIKH: Absolutely, your Honour.

8 MR PRESIDENT: We'll see how we go with that.

9 DR SHEIKH: Very well, your Honour.

10 MR PRESIDENT: Unless there are any other housekeeping
11 issues, then we're on to the next witness.

12 MR KHAN: Yes, sir, we call Mr Jensen.

13 MR ANTHONY JENSEN

14 MR PRESIDENT: Mr Jensen, do you want to take an oath or do
15 you want to affirm?

16 WITNESS: Affirm, please, sir.

17 MR PRESIDENT: Would you repeat after me, please. I do
18 solemnly, sincerely and truly declare.

19 WITNESS: I do solemnly, sincerely and truly declare.

20 MR PRESIDENT: And affirm that the evidence I'm about to
21 give.

22 WITNESS: And affirm that the evidence that I'm about to
23 give.

24 MR PRESIDENT: Is the truth, the whole truth and nothing but
25 the truth.

1 11:07 WITNESS: Is the truth, the whole truth and nothing but the
2 truth.

3 MR PRESIDENT: Thank you very much.

4 Examination-in-chief by MR KHAN

5 MR KHAN: Thank you. Good morning, Mr Jensen. May I ask
6 for bundle C, document 50 to be brought up, please.

7 Can you please scroll through to page 339 where
8 there's a signature. Mr Jensen, is that your signature?

9 A. Yes, it is.

10 Q. Is this your witness statement?

11 A. Yes, it is.

12 Q. Are its contents true, to the best of your knowledge and
13 belief?

14 A. Yes.

15 MR KHAN: Thank you. If you wait there, there will be
16 questions.

17 Cross-examination by DR SHEIKH

18 DR SHEIKH: Mr Jensen, thank you for appearing today.

19 I will take the liberty to ask a few questions.

20 Sir, have you read the contracts of investors of
21 Mr Akbar and Mr Yer?

22 A. Yes, I read the investment contracts purporting to be
23 from Mr Akbar and Mr Yer.

24 Q. If you believe the contracts for Mr Akbar and Mr Yer are
25 fabricated, can you think of a reason why the MAS

1 11:09 accounts show payments made to India Focus Cardinal FZE?

2 A. Sorry, can you just repeat the beginning of the
3 question?

4 Q. Sir, if you believe the contracts for Mr Akbar and
5 Mr Yer are fabricated, can you think of a reason why the
6 MAS accounts show payments made to India Focus
7 Cardinal FZE?

8 A. Firstly, I should say I'm not sure if my belief as to
9 whether or not they're fabricated is relevant. My
10 understanding is the DFSA has found that they may have
11 been fabricated. The second part of the question, why
12 would there have been payments? I don't know.

13 Q. Sir, in the questionnaire answers that you sent out to
14 Mr Collin Wu, the DMC legal representative, on
15 26 February 2018, on reference A140, page 3, you said
16 the following:

17 "Enforcement has not interviewed or been in contact
18 with Mr Akbar or Mr Yer. Enforcement did not consider
19 it necessary to attempt to interview either
20 individuals."

21 My question, what basis did you have for making this
22 claim that it was unnecessary to attempt to interview
23 them, sir?

24 A. First of all, I should just clarify, that is
25 enforcement's view. I was part of enforcement. I was

1 11:11 the investigator. But that view is reached obviously
2 after consultation with my superiors, which at the time
3 was an associate director within enforcement and also
4 the head of enforcement and as well as after taking
5 legal advice. So just to clarify, it's not my personal
6 view.

7 The basis was, as I said in the email, we didn't
8 feel it was necessary. We thought there was sufficient
9 evidence as set out in the investigation report, to make
10 the recommendations to the DMC that we did make.

11 Q. Did Mr Qureshi, Mr Akbar and Mr Yer lawyer, so I'm
12 saying Mr Nadeem Qureshi, who was Mr Akbar and Mr Yer's
13 lawyer, reach out to you in 2019?

14 A. I believe eventually he did, after initially using the
15 incorrect email addresses. As you may recall, he used
16 "dfsa.com" instead of "dfsa.ae" and that was the
17 incorrect email address for me.

18 Q. Did you interact with Mr Kureshi?

19 A. Yes, by email, yes.

20 Q. Sir, did you attempt to verify the information from the
21 contracts, cheques and witness statements of Mr Akbar
22 and Mr Yer by talking to Mr Qureshi about them?

23 A. Did I speak to Mr Qureshi, their lawyer, about them?

24 Q. I beg your pardon, let me rephrase my question for your
25 convenience.

1 11:13 Sir, did you attempt to verify the information from
2 the contracts, cheques and witness statements that
3 I have provided for Mr Akbar and Mr Yer by talking to
4 Mr Nadeem Qureshi, their lawyer?

5 A. I don't believe I've ever spoken to Mr Qureshi, no, but
6 I have emailed him.

7 Q. I'll take the liberty to direct a line of questioning to
8 a different subject matter with your kind consent. Why
9 DFSA did not question Mr Anish Bhatia for SEO?

10 A. So I believe the view was taken at the time that it
11 wasn't necessary, because our understanding was
12 Mr Bhatia's involvement in the events, including the
13 cash withdrawals, was very limited. Also, we understood
14 that he had resigned some time in April 2015.
15 Therefore, I believe the view was taken that it just
16 wasn't necessary. It would have been inefficient use of
17 our resources.

18 Q. In the questionnaire that you filled out from Mr Collin
19 Wu, the DMC legal representative, on 26 February 2018,
20 reference A140, page 3, you said the following:

21 "Enforcement did not consider such an interview
22 necessary. Mr Bhatia was replaced as SEO by Dr Sheikh
23 and absent from around 26 April 2015. Before the events
24 in May and June 2015 ..."

25 Mr Jensen, can you please confirm by stating "yes"

1 11:14 or "no" if the DFSA had access to MAS emails?

2 A. Yes, we had MAS emails. I believe we had the entire
3 email archive.

4 Q. May I request, Fatima, can I ask you to put B002 on the
5 screen and kindly go to page 2.

6 I beg your pardon, I think it's page 9.

7 A. Is it document B0009?

8 Q. Yes, sir. I beg your pardon. I misread. I apologise
9 for my mistake.

10 Can I ask IT to kindly put B009 on the screen.

11 Kindly go to page 2.

12 Were you able to find Mr Bhatia's resignation email
13 dated 27 April 2015, sir?

14 A. I'm just trying to recall when I first saw that email.

15 I may have come across it in my initial searches of the
16 MAS emails, but I don't think it formed part of our
17 original investigation report circulated to you
18 on March 2017.

19 I understand it more recently came to our attention
20 because you submitted it as a document to be considered.

21 I'm sorry, was that clear?

22 Q. Yes. Thank you, sir.

23 May I request, Fatima, if you can kindly go to
24 page 1, where you -- Mr Jensen, the question is: were
25 you able to find Mr Bhatia's email reminding me that his

1 11:17 notice period was over on 27 May 2015?

2 A. Was I able to find it at which time, Dr Sheikh?

3 Q. I suppose I'm not -- I haven't prepared the timings of
4 the questions. The question essentially is have this
5 email crossed your eyes, if I may, with respect, sir?

6 A. I can't recall whether I saw it at the time of my
7 initial review of MAS' emails in 2015.

8 Q. Just one day before Mr Bhatia tendered his resignation,
9 the topic of resignations was discussed in the board of
10 directors meeting. In this meeting, it was decided that
11 anyone who was asked to step down would have to serve
12 their 30 days' notice period.

13 Mr Jensen, the question is: did you find any
14 evidence of Mr Bhatia's notice period being waived?

15 A. No.

16 Q. In the decision notice, the DFSA has suggested that the
17 board of directors' minutes and senior management
18 members' statement led the DFSA to believe that I was
19 the SEO -- "I" is referring to myself -- since December
20 of 2014.

21 Sir, the question is: can you please tell me if you
22 were referring to Mr Gregory Pritchard as the senior
23 management member who told you this?

24 A. So that statement would have been based on the totality
25 of the evidence gathered during the investigation. So

1 11:19 including my interviews with Hassan Salahuddin,
2 Mr Kamath, Greg Pritchard, Faheem Aziz and Ali Awais.

3 So it would have been just as a result of all of
4 those -- all of that evidence. But certainly to answer
5 the question directly, yes, that was what Mr Pritchard
6 told us, that he understood that Mr Bhatia had stepped
7 down from around December 2014.

8 Q. May I request, Fatima, if you can kindly put B010 up on
9 the screen.

10 Sir, the question is, have you read the email
11 Mr Bhatia wrote to the MAS staff, on 28 May 2015, where
12 he says his farewell to the company?

13 A. Yes, I have read that email.

14 Q. The enforcement team had sufficient evidence to suggest
15 that Mr Bhatia was in the office until 28 May 2015, as
16 per his own emails, which he wrote himself. How come
17 enforcement put more weight on a secondary source than
18 the primary source which was Anish himself?

19 A. I'm sorry, Dr Sheikh. I'm struggling to follow, because
20 it's quite a long question. I believe the first part of
21 the question is you making a submission or a statement,
22 as in what enforcement's assumptions or view was.

23 Q. I beg your pardon. For your convenience, would you
24 allow me to read the question again for you, sir?

25 A. Thank you.

1 11:21 MR PRESIDENT: Go ahead, Dr Sheikh.

2 DR SHEIKH: Thank you.

3 The enforcement team had -- so I suppose the first
4 part of the comment is the statement following the
5 question for your ease, sir.

6 The enforcement team had sufficient evidence to
7 suggest that Mr Bhatia was in the office until
8 28 May 2015, as per his own emails, which he wrote
9 himself.

10 Now the question, sir. How come enforcement put
11 more weight on the secondary source than the primary
12 source which was Anish himself?

13 A. So my understanding is that while formally Mr Bhatia
14 issued his resignation on 27 April or thereabouts, in
15 fact and practically, he was largely absent from the
16 office in terms of MAS function. He may well have been
17 in and out of the office on other MAS business, other
18 MAS entities, their business. But my understanding is
19 he was certainly not, in fact, the SEO during that time,
20 after the board meeting of 26 April 2015.

21 Q. Yesterday, Mr Pritchard stated that he only came to MAS
22 offices approximately twice between December 2014
23 and June 2015. He also said that he did not have access
24 to a lot of information and that he could not know the
25 day-to-day things at MAS from the UK.

1 11:23 Sir, my question is: how come enforcement considers
2 Mr Pritchard's witness to be more important and stronger
3 than Mr Bhatia's own emails?

4 A. I'm not really sure I understand the question.

5 Q. I beg your pardon. May I repeat the question for you,
6 sir?

7 A. Sorry, yes, please.

8 Q. I start by making a small statement following the
9 question.

10 Yesterday, Mr Pritchard stated --

11 A. Sorry, I understand the statement. It was just the
12 question.

13 Q. I beg your pardon. My question is, sir, how come
14 enforcement considered Mr Pritchard's witness to be more
15 important and stronger than Mr Bhatia's own email?

16 A. I can't recall actually doing that weighing up exercise.
17 But I think the view was taken that Mr Pritchard's
18 evidence was accurate and reliable, as well as the
19 totality of all the other evidence, including from other
20 staff saying that you, Dr Sheikh, were the de facto
21 acting or quasi-CEO at the start of May 2015.

22 So we -- enforcement would have relied on that
23 totality of the evidence. As I said, I can't recall the
24 weighing up exercise of Mr Bhatia's emails versus
25 Mr Pritchard's evidence.

1 11:24 Q. With your permission, I'm going to re-direct the
2 questions to a different set of topics.

3 These are questions related to Mr Peter Zeman.

4 Are you aware that there is a record of significant
5 email exchanges between Mr Zeman's company and MAS over
6 the years?

7 A. Yes, I'm aware and I recall doing searches on -- so we
8 have a database called Neuwitz, which contains all of
9 the materials that we gathered during the investigation.
10 And I've conducted word searches of that database and it
11 had many hits for Peter Zeman -- when I say "many",
12 maybe less than a hundred, I think. So I'm aware of,
13 yes, some emails from Mr Zeman's company with MAS
14 ClearSight.

15 Q. Sir, Mr Jensen, we have been told by DFSA that there is
16 no need for Wasif to present himself as a witness during
17 these proceedings as they have no questions for
18 Mr Wasif, as you recall from yesterday. Would you
19 kindly confirm if it is indeed true?

20 A. That's my understanding --

21 MR KHAN: I hesitate to interrupt the questioning, but this
22 is really a matter for myself and Dr Sheikh.

23 MR PRESIDENT: Yes. Dr Sheikh, what's happened is that DFSA
24 have said that through their counsel and that is it.

25 But if you have got sort of more detailed questions, you

1 11:26 can ask them, but basically you needn't trouble the
2 witness with this point, because once the DFSA have said
3 it, that's it. Similarly, when you say the same sort of
4 thing about your witnesses. So let's just move on to
5 something else.

6 DR SHEIKH: Sure. I apologise, Mr Jensen, and I --

7 MR PRESIDENT: Nothing to apologise about. If you were
8 doing this every week, Dr Sheikh, then there would be
9 something to apologise for, but you're not. So please
10 just relax and let's move on.

11 DR SHEIKH: Thank you, sir.

12 I'm troubled in my mind to ask the next questioning,
13 but I'm not sure. Would the panel allow me just
14 a brief -- and if the question is inappropriate, I would
15 request your Honours to tell me to continue to move on.

16 MR PRESIDENT: No, that's all right. If in doubt, ask the
17 question, and we'll help. Don't worry.

18 DR SHEIKH: Thank you.

19 Following to the earlier question, Mr Jensen, does
20 this mean that the contract that Mr Wasif refers to in
21 his witness statement, which talks about Mr Zeman
22 receiving either equity or fee, is accepted by the DFSA
23 as a legitimate document?

24 MR PRESIDENT: I'm sorry to interrupt, but that's a good
25 point to raise, Dr Sheikh, but I think the time to raise

1 11:28 it is later when you make your submissions, because
2 I think what you're seeking to say is that since the
3 DFSA is not going to ask questions, the DFSA is
4 accepting the statement to be true and what follows from
5 that, you will say, is that what the gentleman says
6 about the contract should also be true.

7 Is that where you're going?

8 DR SHEIKH: Indeed, your Honour.

9 MR PRESIDENT: That is something called a submission. It's
10 a fair point to make, although there may be a good
11 answer to it, I don't know, but I think you can --
12 that's a good point to make as a submission, but not as
13 a question to Mr Jensen. Mr Jensen is, of course,
14 a lawyer, as we know, but he's here giving evidence as
15 a witness of fact and not wearing his lawyer's hat.

16 DR SHEIKH: Yes, your Honour. Thank you for the
17 clarification. And I apologise, Mr Jensen.

18 A. Not a problem, Dr Sheikh.

19 DR SHEIKH: Under the guidance I just received from your
20 Honour, I'm just reviewing a couple more questions, so
21 that I can already eliminate them under advisement from
22 your goodself, sir.

23 MR PRESIDENT: Take your time.

24 DR SHEIKH: Thank you for allowing me the little pause.

25 Mr Jensen, in your interview with Mr Kamath, he told

1 11:29 you that I was purposefully keeping the bank statements
2 for May 2015 from him. Is this correct?

3 A. I don't recall the entirety of the interview or the
4 transcript, so perhaps could I be taken to the
5 transcript, so I can refresh my memory, please?

6 Q. Maybe I can help Mr Jensen by a follow-up question,
7 which will then allow us to bring the transcript up.

8 A. I believe the transcript is A002.

9 Q. I beg your pardon. Please continue, Mr Jensen. My
10 apologies.

11 A. Sir, I believe the transcript is in document A002.

12 MR PRESIDENT: Right.

13 A. Apologies, Dr Sheikh. I'm just reluctant to answer
14 a specific question about a specific answer in an
15 interview.

16 DR SHEIKH: No, please take your time.

17 Maybe the search should be "purposefully keeping",
18 Ms Fatima.

19 Mr Jensen, can you see this section? Maybe, Fatima,
20 can you scroll a little bit up to give a pretext to this
21 comment. Then if you can kindly slowly scroll down so
22 Mr Jensen can comfortably read.

23 A. Yes, I can see the passage in the transcript, Dr Sheikh.
24 Apologies, what was the question?

25 Q. Sir, the question was: in your interview with Mr Kamath,

1 11:33 he told you, ie as Mr Kamath told you, that I, as
2 Mubashir, was purposefully keeping the bank statements
3 for May 2015 from him and I wanted to ask, is this
4 correct, to your recollection, sir?

5 A. That's not my understanding of Mr Kamath's answer.

6 Q. I suppose then we need to -- forgive me --

7 MR PRESIDENT: Had Mr Jensen finished?

8 A. So my understanding of what Mr Kamath is saying is that
9 Salman, Mr Haider, told him, Mr Kamath, that Mr Kamath
10 purposefully gave false information in a report.

11 DR SHEIKH: Thank you for that, sir. May I request, Fatima,
12 if you can do the next search for "purposefully". It
13 appears this expression was used more than once in the
14 transcript.

15 Just take one step at a time, so that we can -- if
16 I can -- could you kindly go back to the last "purpose"?
17 The word should not be "purpose", the word should be
18 "purposefully", I think it will help narrow the search.

19 A. Sorry, Dr Sheikh, is this the correct document?

20 Q. Sorry, beg your pardon. You were referring to?

21 A. I was just asking, are we looking at the correct
22 document? Because that phrase doesn't appear to be in
23 this document.

24 Q. Okay. Let me table this question and I will revert back
25 to you, if it's okay, and I move on in this --

1 11:35 MR PRESIDENT: Yes, that's fine. You can come back to it.

2 DR SHEIKH: I will make a small note here for myself, if you
3 don't mind.

4 Sir, I draw your attention to the next question. In
5 the interview of Mr Kamath -- the question reads, in his
6 interview with you, Mr Kamath told you that Hassan
7 Salahuddin told him that only I, as Mubashir, had access
8 to the bank statements. Is this supported by evidence
9 from Emirates NBD, which you shared with me in discovery
10 recently, sir?

11 A. Firstly, yes, that is my recollection of what Mr Kamath
12 told me.

13 On the Emirates NBD documents, I understand other
14 employees at MAS ClearSight had log-ins or had access to
15 the online bank account. So I think from memory,
16 Ms Mokra, I think Amit Bhojwani, maybe even Mr Awais, as
17 well as Hassan, but my recollection is you weren't one
18 of those log-in users of the online banking. Sorry,
19 does that answer the question?

20 Q. Yes, indeed, but I was just reading one more time, so
21 I request for your patience little bit, so that I can --

22 A. Okay.

23 Q. I indeed confirm with your goodself that the people who
24 had online access on the account under question was
25 indeed Mr Anish Bhatia, Mr Ali Awais, Ms Adela Mokra,

1 11:37 Mr Hassan Salahuddin and Mr Amit Bhojwani. And you are
2 once again indeed right that I was not even -- I never
3 even had an online access as confirmed by the
4 Emirates NBD information which DFSA have secured.

5 I move on to the next question, sir.

6 So when Mr Kamath says that only I, as Mubashir, had
7 access, was he misinformed by Hassan Salahuddin?

8 A. I don't think so. I think what Hassan was saying was
9 that you had given Hassan access verbally to the online
10 bank account and that you had also verbally removed that
11 access, so Hassan was telling Kamath that Hassan's
12 understanding was that the only person who had access to
13 get the bank statements, whether it be by way of online
14 access or otherwise, the only person who had that access
15 was you, Dr Sheikh.

16 Q. I think I was not clear in my question, so with your
17 permission, I will re-ask the same question.

18 Following the just comment that we have confirmed
19 that the online access was available to at least five of
20 the MAS employees, and among them, I was not one of
21 them.

22 A follow-up question to this comment is when
23 Mr Kamath says that only I, so Mr Kamath is inferring
24 that only Mubashir in MAS had the access, then the
25 question I suppose -- maybe it's unfair, it's probably

1 11:39 more relevant question for Mr Kamath, not for your
2 goodself. I think that it's unfair question to ask you,
3 because it's probably a better question for Mr Kamath
4 than for your goodself.

5 So please ignore my question and I apologise I have
6 wasted your few minutes here. I move on to the next
7 question.

8 A. Okay. No need to apologise.

9 Q. The next question is, did Mr Hassan Salahuddin have
10 access to the online banking system in June 2015 when
11 the DFSA representatives came to the MAS office?

12 A. Yes, he did, because I recall my colleague Ms Hackett
13 asked Mr Salahuddin to use his online banking log-in to
14 access a bank statement and print it off for the DFSA
15 and he did that. So he still had technical access, even
16 though you had verbally withdrawn his right to use that
17 access.

18 Q. May I request, Fatima, if you could kindly put E143,
19 that's bundle E143 on the screen and slowly scroll it.

20 Mr Jensen, the purpose for showing this is to be
21 able to see if you'll recollect seeing this document and
22 I want to get to a specific point. Please continue to
23 scroll it, Fatima.

24 Scroll to the end of the document, Fatima.

25 Mr Jensen, the question I have is, on 14 March 2020,

1 11:41 as you just saw from this document, I wrote you another
2 email -- I beg your pardon. Fatima, can you go kindly to
3 the top of the document. That's 23 February.

4 Mr Jensen, the question for your goodself is: on
5 23 February 2020, I sent an email to you regarding your
6 witness Mr Hassan Salahuddin where I disclosed
7 information to you about how he was not being honest
8 with the DFSA in his witness statement. You did not
9 reply to this email. Can you please tell me what
10 actions you took to look into the allegations I made in
11 this email?

12 A. I'm sorry. What I'm looking at, it appears to be
13 a letter dated 23 February 2020.

14 Q. Indeed.

15 A. It's titled, "Response to DFSA Supplementary Witness
16 Statement". This is document E143. It's addressed to
17 the respected members of the hearing panel and the
18 financial markets tribunal. I'm sorry, this doesn't
19 appear to be an email to me, Dr Sheikh.

20 Q. Understood. Thank you for the clarity. And indeed,
21 I suppose you're right that this was my feedback on your
22 earlier document, and indeed, since it was not addressed
23 to your goodself, I appreciate that. So I move on to
24 the next point.

25 It's more or less in the same direction, which is

1 11:43 I had written -- Fatima, could you kindly put E173,
2 please.

3 This is again a similar question and a similar kind
4 of an answer. So I take the liberty to move on,
5 Mr Jensen. As very well noted that both these emails
6 indeed were addressed to the tribunal and not to your
7 goodself.

8 The next question, Mr Jensen, you told Mr Collin Wu
9 during the DMC proceedings that an interview with Rizwan
10 Khan, who happened to be one of the directors of MAS,
11 was not necessary. He was the chairman of the risk
12 committee and you did not think he should have been
13 interviewed. Why?

14 A. I recall, and as I can see that I said in the email, it
15 didn't appear to enforcement that it was necessary,
16 because Mr Khan did not appear to be relevant. He
17 didn't appear to be involved in the events in May
18 and June 2015, including the cash withdrawals.

19 Q. Mr Jensen, you told Mr Collin Wu during the DMC
20 proceedings that an interview with Mr Salman Haider, who
21 was the compliance officer for MAS, was not necessary.
22 Mr Salman Haider was a legally appointed compliance
23 officer and he had to be monitoring MAS closely. This
24 was his responsibility, so why did you consider it
25 unnecessary to interview him, sir?

1 11:45 A. So again, just to reiterate, this is enforcement's
2 investigation, not mine personally. The decision, as
3 I said, was made in consultation with an associate
4 director, my line manager, and head of enforcement, as
5 well as legal advice.

6 What I said in the email was on 3 March 2016,
7 enforcement served a notice on Mr Haider compelling him
8 to attend an interview on 14 March 2016. Mr Haider, who
9 was in Saudi Arabia, said that that date wasn't
10 suitable, so we moved the date. But also by the same
11 token, we formally withdrew the notice and arranged for
12 a voluntary interview, which was scheduled for
13 17 March 2016. However, on that date, to my surprise,
14 I recall that he said he could no longer attend the
15 interview and he refused to attend.

16 So, therefore, as an alternative, we interviewed
17 Mr Faheem Aziz, who, as you know, was the SEO or CEO of
18 Kinetrix and he was intimately involved in the events in
19 around May/June 2015, so we thought that that was
20 suitable for the investigation to move it forward.

21 Q. On the same line of thoughts, you told Mr Collin Wu
22 during the DMC proceedings that an interview with Moore
23 Stephens, who were the external auditors for MAS
24 ClearSight, was not necessary. How does the DFSA
25 justify not interviewing the auditors when the situation

1 11:47 itself consists of financial matters?

2 A. So I can't actually specifically recall the point at
3 which we would have discussed interviewing Moore
4 Stephens or not. But my recollection is that there was
5 no fact in issue which could have been decided or for
6 which we could proceed to evidence by interviewing
7 someone from Moore Stephens.

8 Sorry, by that I mean, we didn't have any questions
9 for them that we needed them to answer.

10 Q. Mr Jensen, I have a few more questions, but may I direct
11 the next comment to your Honours.

12 May I be allowed for a brief five minutes recess, so
13 that I can just quickly --

14 MR PRESIDENT: The answer is yes, so we'll break for five
15 minutes. Do you want five minutes or 10?

16 DR SHEIKH: Five minutes is fine, your Honour.

17 MR PRESIDENT: We'll break for five minutes and stop now.

18 DR SHEIKH: Thank you, your Honours.

19 (11.50 am)

20 (Short break)

21 (11.54 am)

22 DR SHEIKH: Thank you, your Honours.

23 Mr Jensen, by way of this investigation, as you have
24 been involved initially as a member of the enforcement
25 team, leading on to becoming the legal representative

1 11:54 for the DFSA, is it safe to -- do you believe that I, as
2 Mubashir, was trying to raise capital for MAS by way
3 of -- in the way of your investigation? Were there
4 sufficient reasons for you to believe that I was trying
5 to raise capital for the firm, sir?

6 A. So I'm not sure my belief is most relevant, but -- so my
7 understanding is that the DFSA reached the view -- the
8 DMC reached the view that it was more likely than not
9 that those investments didn't take place. So I believe
10 that that's a reasonable position for the DFSA to take.

11 Q. I beg your pardon. I was not specifically referring to
12 specific investments of Mr Akbar and Mr Yer. I was
13 making a broader comment that I, as Dr Mubashir, was --
14 do you have sufficient belief, based on your
15 investigation, that I, in principle, was trying to raise
16 capital for MAS, holistically, not specific to one or
17 two individuals, sir?

18 A. I'm sorry, Dr Sheikh. I understand.

19 I do have that belief, because I have seen evidence
20 and heard evidence from others that you and others
21 within MAS were actively seeking investors. So, for
22 example, it's listed in the minutes to the April 2015
23 board meeting, that you were actively seeking
24 investments, seeking investors. So, yes, I have that
25 belief.

1 11:56 Q. Part of your investigation, did you also have the belief
2 that I, as Mubashir, was trying to sell my property in
3 hopes to raise capital for the company in May and June
4 of 2015, sir?

5 A. Again, to the extent that my personal belief is
6 relevant, rather than what the DMC decided, yes, I have
7 that belief, because I have seen evidence, including
8 emails, which included yourself, in relation to the
9 selling of your property in Pakistan.

10 DR SHEIKH: Your Honour, it seems like you wanted to say
11 something?

12 MR PRESIDENT: Only to say that, Mr Jensen, you are the
13 witness, as it were, so I think if Mr Dr Sheikh asks you
14 questions about your personal belief, then I think you
15 should answer them. Just to give you that as a general
16 steer. There have been several questions where
17 I understand why you have replied that this is a matter
18 for the tribunal -- for the DMC, but I think since you
19 have been put up as the witness, if you're asked about
20 your personal beliefs, then I think you should answer,
21 if that's okay?

22 A. Of course, sir. Thank you.

23 MR PRESIDENT: Sorry, Dr Sheikh. Just trying to help. On
24 you go.

25 DR SHEIKH: Thank you, sir.

1 11:57 Mr Jensen, are you aware that there was a meeting
2 took place between the MAS compliance and DFSA
3 supervision in the early days of June 2015, where my
4 application for being considered to become an SEO was
5 presented and the feedback from the DFSA supervision was
6 that this is a wrong authorised individual application
7 and I should fill a different authorised individual
8 application. This was in an email communication between
9 DFSA and the compliance.

10 The question I'm asking is, has that document
11 crossed your eyes, sir?

12 A. Yes, I think I've seen that document as part of these
13 proceedings, yes.

14 Q. I suppose my last question is that there was an email
15 from Ms Adela Mokra addressed to me, which is part of
16 the documentations, which was part of discovery
17 documentations recently, in the early 2020 was where she
18 has written to me, while I was in London on 10 or
19 11 June that:

20 "Dr Sheikh,

21 Our compliance had met with DFSA and they are
22 suggesting that the application which we have submitted
23 for you to be considered as becoming an authorised
24 individual as the SEO is the wrong one.

25 Attached is the correct application. Could you

1 11:59 kindly sign it and send it back to us?"

2 This email communication was on 10 or 11 June 2015,
3 sir.

4 The question I have is: have you had a chance or
5 such an email has crossed your eyes, sir?

6 A. I believe it has, as you describe the email. It may
7 help my recollection if I could see a copy of the email.
8 Sorry, my answer is yes, I recall an email of that
9 nature. I remember seeing that as part of these
10 proceedings, yes.

11 Q. Mr Jensen, I'd like to thank you for your answering the
12 questions and for your candid feedback. And at this
13 point, I have no further questions, your Honours, for
14 Mr Jensen.

15 MR PRESIDENT: Thank you very much, Dr Sheikh. Mr Jensen,
16 thank you very much for your evidence, but there may be
17 one or two questions from Mr Khan. Let's just see.

18 MR KHAN: Sir, no, just to confirm I have no questions.

19 MR PRESIDENT: Thank you, Mr Jensen.

20 (Witness withdrew)

21 MR PRESIDENT: Mr Khan, next witness.

22 MR KHAN: Due up next is Mr Salahuddin. I'm just going to
23 check that he's joined or available to join now.

24 MR PRESIDENT: Okay. Take your time.

25 MR KHAN: Sir, I believe Mr Salahuddin has joined us.

1 12:05 MR HASSAN SALAHUDDIN

2 MR KHAN: Mr Salahuddin, can you please turn on your video.

3 WITNESS: Yes, sir.

4 MR PRESIDENT: Mr Salahuddin, welcome.

5 WITNESS: Thank you, sir.

6 MR PRESIDENT: You can give evidence, before you give

7 evidence, you have to either swear an oath or affirm.

8 That is make an affirmation, that what you're going to

9 say is true. Which would you rather do? Do you want to

10 swear an oath or do you want to affirm?

11 WITNESS: Sir, I will give affirmation.

12 MR PRESIDENT: Right, if you kindly repeat after me.

13 I do solemnly, sincerely and truly declare.

14 WITNESS: I do solemnly and sincerely declare.

15 MR PRESIDENT: And affirm.

16 WITNESS: And affirm.

17 MR PRESIDENT: That the evidence I'm about to give.

18 WITNESS: That the evidences I'm about to give.

19 MR PRESIDENT: Is the truth.

20 WITNESS: Is the truth.

21 MR PRESIDENT: The whole truth and nothing but the truth.

22 WITNESS: The whole truth and nothing but the truth.

23 MR PRESIDENT: Thank you very much.

24 Mr Khan will ask you some questions, perhaps, and

25 then you'll get some from Dr Sheikh.

1 12:07 WITNESS: Sure, sir.

2 Examination-in-chief by MR KHAN

3 MR KHAN: Good afternoon, Mr Salahuddin. Fatima, can you
4 please bring up document C, tab 23.

5 Can you please scroll through that document to
6 page 11.

7 Mr Salahuddin, is that your signature?

8 A. Yes.

9 Q. Is the document we have just scrolled through your
10 witness statement?

11 A. Yes.

12 Q. Is it true, to the best of your knowledge and belief?

13 A. Yes, sir.

14 Q. Thank you. Now, I'm going to bring up your second
15 statement. Fatima, bundle C, tab 86.

16 May you please, Fatima, scroll through that to
17 page 788.

18 Mr Salahuddin, is that your signature again?

19 A. Yes, sir.

20 Q. This is your witness statement?

21 A. Yes, correct.

22 Q. Again, the contents are true, to the best of your
23 knowledge and belief?

24 A. Yes, sir.

25 MR KHAN: Thank you. If you wait there, Dr Sheikh and then

1 12:09 the tribunal will have some questions for you.

2 Cross-examination by DR SHEIKH

3 DR SHEIKH: Hassan, I'm going to take the liberty to ask
4 a few questions.

5 A. Sure.

6 Q. Thank you for joining us today.

7 How many years did you work at MAS?

8 A. Sir, it was around four years, approximately.

9 Q. Have you and I ever met outside of the office for lunch
10 or something else?

11 A. Sir, we had some time lunches in DIFC, with team members
12 or sometimes maybe once or twice alone in DIFC.

13 Q. Qasim Shahzad has gone on record to state that he did in
14 fact drive us, you and I, to lunch a few times. Do you
15 have any idea why he would make this statement up?

16 A. Sir, I don't know, but I don't remember that I have gone
17 outside of DIFC with Qasim and you in the car for
18 lunches. I don't remember, seriously. I don't think
19 I ever gone outside DIFC.

20 Q. Could you clarify what role you had after Amit Bhojwani
21 left the company in 2015?

22 A. I was working as a financial analyst, as you know, sir,
23 so then when Amit was leaving, so you asked me to take
24 the responsibilities and primarily the external audit,
25 support to the external auditors. We did have that

1 12:11 outside finance officer, so I was just, you know,
2 handling the day-to-day matters which Amit was handling
3 after he left. You asked me to do -- take that
4 additional responsibilities along with my existing
5 financial analyst job.

6 Q. Were you given access to MAS online banking system with
7 three-layered access?

8 A. Yes, sir.

9 Q. Why were you given this three-layered access?

10 A. Sir, it was given to me by Amit and yourself, sir.

11 Q. The question is, for your understanding, why was this
12 access given to you?

13 A. For making transactions or for the downloading of bank
14 statement for the auditors.

15 Q. Were you carrying out the finance related tasks beyond
16 communicating with external auditors?

17 A. Sir, it was like accounts related thing, right? I was
18 working directly under your supervision, so whatever
19 I was told by you, so I was doing those things. It
20 related to accounts, it related to external audit as
21 well.

22 Q. If I understood well, Hassan, you just confirmed that
23 you were indeed doing the finance related works, the
24 works that Amit used to do for us before he left. Could
25 you kindly confirm by "yes" or "no"?

1 12:14 A. Sir, actually, I don't know what Amit's complete role in
2 finance. Whatever he handed over to me or given to me,
3 and was told to me, so I did accordingly. It's
4 a support function which I was doing and you are well
5 aware of this.

6 Q. In your witness statement, dated 17 February 2020, you
7 have made the following statement:

8 "It is true Dr Mubashir told me that Amit has left
9 the company and all his tasks were being given to me,
10 and asked me to provide the external auditors with all
11 information they requested."

12 Amit's tasks went far beyond just liaising with
13 auditors.

14 If you were given all Amit's tasks, were you also
15 doing things other than talking to the external
16 auditors?

17 A. Yes, sir, because, for example, if there is some
18 payables, so people send me the invoices that these are
19 the payables to the company, because I was also given
20 those records to the external finance officer. So I was
21 the intermediary sort of a thing in the whole accounts
22 process. That was not my core job. So it was just
23 a support function which, at that time, on your request,
24 I took it.

25 Q. Does this mean that you were given finance related tasks

1 12:15 as a responsibility?

2 A. There was no proper handover thing, no written document
3 which handed over to me at that time. So it was all
4 verbal. For example, if Amit was handling 10 things and
5 he handed over to me five things, so, for me, those five
6 things are what Amit was handling and I took those five
7 things.

8 So I don't know what 100 per cent finance functions
9 he was doing. So I was taking care of what he was
10 handed over to me or what you asked me to do in that
11 period. So there was no written handover, takeover,
12 line by line that these are the tasks or finance
13 accounts related things which I have to do.

14 Q. Fatima, may I ask you to please open A008 and kindly go
15 to page 33.

16 Are you able to see the screen in front of you?

17 A. Yes, sir.

18 Q. In your interview with Madam Alya Mawaleed, you have
19 said, and I quote:

20 "It was given to me for auditors and once they left,
21 he [as Dr Sheikh] asked me, 'I will take care of it.
22 Thank you very much. So please give me the chequebook.
23 Please don't access the online banking.' So I,
24 Mr Salahuddin, said, 'Please deactivate it or I will
25 take care of it'."

1 12:18 My question to you is: why would you need the MAS
2 chequebook to liaise with the auditors?

3 A. Sir, it was given to me when Amit handed over things to
4 me, so he also gave me the chequebook. And, sir, you
5 are also aware that you asked him to, you know, hand
6 over things to me, whatever he was in possess. So he
7 gave it to me.

8 And I clearly remember primarily when we had
9 a meeting in your office, when Amit was leaving, so you
10 asked me, you have to support and primary that is for
11 external audit. And then day by day, things were
12 getting -- I mean, in a way that I got the invoices and
13 everything, so there was no defined rule and you know
14 it, sir. Primarily, it started from external audit that
15 it is going on and you have to support the company.

16 Q. In the interview, when you said:

17 "Please deactivate it or I will take care of it."

18 What do you mean by that phrase?

19 A. Because -- so I will no longer be able to access, right?
20 So it's better to deactivate the account to my access to
21 the online banking system. The way it was given to me,
22 sir.

23 Q. The follow-up comment to this is and the question: this
24 comment of yours had two sections, "Please deactivate
25 it". And the second section is "or I will take care of

1 12:20 it."

2 Would you kindly tell me when you made the comment,
3 "I will take care of it", what led you to make this
4 comment, please?

5 A. No, sir, "I will take care of it", so I requested you
6 for deactivate, so you said that, "I will take care of
7 it". How can I take care of it? I mean, there is no
8 way I can take care of it.

9 Q. Are you still able to read the comments that you have
10 written, which says clearly:

11 "Please deactivate it or I will take care of it."

12 Could you kindly advise what do you mean by "I will
13 take care of it"?

14 A. I didn't say that I will take care of it. It is written
15 like that, so you told me that, "I will take care of
16 it". So it's a repetition. It also says, "So he said
17 'I will take care of it, I will deactivate it'."

18 How can, sir, I take care of it? There is no way
19 I can take care of it.

20 Q. Were you able to log in to the online banking system
21 in June 2015 when DFSA supervisors came to MAS office?

22 A. Yes, sir.

23 Q. Can you please tell me when Amit left the company?

24 A. Sir, it's in start of April, around I think 5 April, his
25 last day.

1 12:21 Q. After Amit left, did he leave the MAS chequebook with
2 you?

3 A. Yes, sir.

4 Q. Did you keep the chequebook until I told you to give it
5 back to me in May 2015?

6 A. Yes, sir.

7 Q. Fatima, may I request if you would kindly pull E143
8 document and kindly go to the page 3 at the bottom.

9 Can you see this, Hassan?

10 A. Yes, sir.

11 Q. The date on the cheque is 1 May 2015, after Amit had
12 left the company and during the time that you had the
13 chequebook. Did you write this cheque?

14 A. Sir, I don't remember. Maybe, yes.

15 Q. Can you please read the cheque and tell me who this
16 transaction was made to?

17 A. Sir, it's mobile bill.

18 Q. Fatima, I would like to ask if you can scroll down to
19 the next page, so we can see the first two cheques.

20 Hassan, can you see these two cheques?

21 A. Yes, sir.

22 Q. Can you kindly tell me what cheque number 62, the one on
23 the top, is for?

24 A. Yes, sir.

25 Q. Can you tell me who is this cheque written for?

1 12:24 A. The DIFC investments rent cheque.

2 MR AL HASHIMI: Just for the clarity, here we are looking
3 at -- and for the record, you are referring to the side,
4 the part of the cheque that is in the side, the left
5 side.

6 DR SHEIKH: That's right.

7 MR AL HASHIMI: That has the number, not on the right side,
8 because the right side says "chequebook application", so
9 we are not looking into a cheque by itself. We are
10 looking into the remaining of the part of the cheque
11 that, you know, usually a person writes what the cheque
12 was for.

13 DR SHEIKH: You're right.

14 MR AL HASHIMI: Just for the confirmation. Thank you.

15 DR SHEIKH: Yes, your Honour. My apologies. You're
16 absolutely right, your Honour.

17 Hassan, the follow-up question. In Dubai, is it
18 common to submit postdated cheques for rent?

19 A. Yes, sir.

20 Q. I'm sorry, what's the answer?

21 A. Yes, sir, it was postdated cheques.

22 Q. The question is, in Dubai, is it common to submit
23 postdated cheques for rent?

24 A. Yes, sir.

25 Q. Fatima, may I request, if you could kindly scroll the

1 12:26 screen, through pages 6 to 8, for Hassan to look at them
2 before going back to page 2 and stop there.

3 Fatima, could you please slowly scroll back up the
4 screen. Go to page 2 kindly for me and stop where you
5 will see certain cheque butts, which means the left side
6 of the cheque. Is this the beginning of the cheque
7 imprints?

8 Hassan, can you see this, the side portion of the
9 cheques?

10 A. Yes, sir.

11 Q. These are cheque receipts from my personal chequebook.
12 Are these cheques for MAS employee salaries in the month
13 of May 2015? Can you kindly read and confirm, in terms
14 of what you're able to see.

15 A. Sir, names?

16 Q. Names, just to see that these are cheques from my
17 personal chequebook, are these cheques for MAS employee
18 salaries for the month of May?

19 A. Sir, I can see the names. These are MAS employees, sir.

20 Q. Can you scroll down, Fatima, a little bit more to give
21 a little bit more.

22 Can you see the cheque for Mayor and your goodself?

23 Hassan, are you able to see this?

24 A. Yes, sir --

25 Q. Fatima, could you further scroll down.

1 12:29 -- Hassan, do you see this for Juvy and Bhavma?

2 A. Yes, sir.

3 Q. Do you see this for Qasim and Rajesh?

4 A. Yes, sir.

5 Q. Thank you, Fatima.

6 In your second statement, dated 17 February 2020,
7 you made the statement that the last salary you had
8 received was from me personally in April 2015. If that
9 is true, why is your name written on one of the cheques
10 on the screen dated 11 May 2015 if the last salary you
11 received was in April 2015?

12 Fatima, can you go to where Hassan's name was, for
13 his ease of reading.

14 A. No, sir. I mean, that was in May, not April, because if
15 the transaction was happened in May. It was not April.
16 The amount is same, yes, and you gave me your personal
17 cheque, sir.

18 Q. Next question is: I asked IT to scroll through the
19 pages 6 to 8, so that you can see the match of your
20 handwriting from the MAS chequebook and my personal
21 chequebook. Can you please explain to me why your
22 handwriting is in my personal chequebook?

23 A. Sir, I never write a cheque from your personal
24 chequebook, sir.

25 Q. So the handwriting of these cheques is different than

1 12:31 the cheque that you just confirmed that you wrote on the
2 MAS chequebook?

3 A. This is your personal chequebook, right, sir?

4 Q. That's correct.

5 Do you recollect, for my ease, at times I used to
6 request you that, "Hassan, please fill out these
7 cheques", which is my chequebooks, which means I used to
8 give you my personal chequebook and for my ease and
9 comfort, you were, on my request, you would help me
10 write these cheques, so that I can just simply sign? Do
11 you remember me asking you from time to time to do that
12 or at least once to do that?

13 A. Maybe I don't remember, seriously.

14 Q. Fatima, can you please scroll down a little bit to the
15 section where you will see -- just a little bit up,
16 where you see the two different handwritings on the
17 chequebook. Could you enlarge this for me, please?

18 Hassan, are you able to see this picture?

19 A. Yes, sir.

20 Q. The reason I want to show this is that on the right side
21 where there is a cheque, which I have certainly wrote
22 from my handwriting and I confirm this is my
23 handwriting, to Elite Properties, and the cheque which
24 is on the left side, and the purpose for me to show this
25 is for you to be able to see that my handwriting

1 12:33 unfortunately looks like this and obviously your
2 handwriting looks like the one on the left. And that's
3 just for me to highlight the point that if I was writing
4 the cheques sideways in my handwriting, my handwriting
5 would look like this, contrary to the one on the left.
6 That's just for your visual.

7 A. Yes, sir.

8 Q. Hassan, next question. You said that you received
9 a cheque from me in April for a salary. Do you remember
10 how you got this salary or what the amount was?

11 A. When in my second statement, so the question was asked
12 that when I received the salary, so at that time,
13 I didn't remember actually that what exactly the month.
14 So I remember that it was April, but actually it
15 was May, because I checked my bank statement also. So
16 it was May and it was 26,000 dirhams.

17 Q. Fatima, may I request you again to please kindly pull up
18 E173 on the screen. Could you kindly scroll down to the
19 section where you will see some imprints of text
20 messages. Fatima, go up to the first two pictures.

21 Hassan, do you recognise these text messages?

22 A. Yes, sir, I remember this text message.

23 Q. Could you kindly read it little bit out loud for me the
24 text message where it says, "Dear sir"?

25 A. Yes:

1 12:36 "Dear Sir
2 I am sorry but I am in deep problem as my landlord
3 is going to present my rent check tomorrow which was due
4 on 1 April. I [stretched] him as much as I can but now
5 he became very lethal. Please help me.

6 Regards."

7 Q. Could you kindly read --

8 A. Then you replied:

9 "Dear Hassan, Asslam o Alikum. What is the minimum
10 you need to get off the hook? Please advise.

11 Regards, Mubashir?"

12 So I said:

13 "Sir, it's AED 22500."

14 Q. Fatima, can you scroll up --

15 A. "Okay. Kindly meet --

16 Q. Fatima, could you scroll up so Hassan can read -- scroll
17 down, I beg your pardon.

18 Could you read the response that I sent?

19 A. Yes, sir.

20 Q. Can you read it what I said, "Okay. Kindly ..."

21 A. "... meet me at Al Barsha Mall at 8 pm. I will give you
22 a cash check. Don't worry. I am with you.

23 Regards Mubashir."

24 Q. Can you please read now the timestamp, which is under
25 your first message, that reads 16.38.

1 12:37 A. Sir.

2 Q. And my message in 16.40, which is essentially two
3 minutes later.

4 A. Yes, sir.

5 Q. Then your message, the amount, that's 16.43. And then
6 my message --

7 A. Yes, sir.

8 Q. -- which reads 16.43.

9 A. Yes, sir.

10 Q. Would you say that I was concerned for your wellbeing
11 and I was very proactive in responding to your goodself,
12 Hassan?

13 A. Yes, sir.

14 Q. Thank you. Do you remember having to receive this
15 cheque from me, Hassan?

16 A. Yes, sir, I met you in Al Barsha Mall. So it's outside
17 Barsha Mall, where you gave me the cheque.

18 Q. Thank you. The next question for you is, when I asked
19 you at the start of the interview if you had ever met me
20 outside office, what was your answer? Could you remind
21 me?

22 A. Sir, I said we never go out for lunches with Qasim and
23 you. So that was -- actually, you asked me to come, you
24 were there, I just came, go there, and you handed over
25 the cheque to me and I came back.

1 12:39 Q. Then I handed over the cheque to you. Was I on my feet
2 or was I sitting in the car and I gave you the cheque?
3 Do you remember?

4 A. Sir, it was late evening, like 8 o'clock. So you were
5 sitting in the car and I went to you.

6 Q. If my memory serves me well, Hassan, in one of the two
7 statements that you have kindly confirmed, you have
8 highlighted somewhere that you have not met me outside
9 and you don't even know the car that I have or the car
10 that I drive. Do you recollect making that statement in
11 either one of the statements?

12 A. Yes, sir.

13 Q. As you can appreciate, that the salaries has been a hot
14 topic for this. The question that I have is since
15 salaries were a hot topic of discussion in this
16 investigation, why did you choose to withhold this
17 information from the DFSA in your interview?

18 A. Sir, I told them that I received the salary, but it was
19 in May, it was not April. That was from your personal
20 cheque, sir.

21 Q. In your witness statement, you have said:

22 "In May 2015, there were tense days at the company
23 because employee salaries were not being paid for
24 several months, although the employees kept working."

25 Can you please tell me how many months of salaries

1 12:41 you were personally not paid since January 2015, up
2 until May 2015?

3 A. Sir, approximately two months salary, sir.

4 Q. Two months salaries you were not paid?

5 A. Yes, sir. So till June, I mean two months salaries,
6 since June, two months salaries are pending.

7 Q. So the two months salaries means one salary for the
8 month of June and which would be the other salary,
9 Hassan?

10 A. Sir, April or May, it can be April or May, because
11 it's April or May or maybe May to June. I don't
12 remember, but two months salaries are pending,
13 because -- so, at that time, when I put a claim, so at
14 that time, I calculated that how much I have received
15 and how much is pending. So it's approximately two
16 months salaries which were pending, sir.

17 Q. Before I depart from the questions relating to salaries,
18 can you please confirm the following. Was it my
19 responsibility to pay your salaries?

20 A. Yes, sir.

21 Q. I'm referring to when I'm saying that I'm paying my
22 salaries from my personal account, Hassan.

23 A. Sir, because you were the single point of contact at
24 that time, for everyone. Everyone goes to you to
25 discuss things or to get the salary. So everyone -- so

1 12:42 including me, I also went to you. You were handling
2 everything, sir.

3 Q. Let me reinstate my question and I apologise, maybe
4 I was not clear in asking the question.

5 A. Sir.

6 Q. The question I wanted to ask you was, that when I'm
7 paying salaries from my personal account, can you please
8 confirm that was this my responsibility to pay the
9 salaries of the employees from my personal account?

10 A. Sir, at that time, you were handling everything, right?
11 So you were the only person who was taking care of
12 everything. So me being employee, sir, I was working
13 for you, for MAS ClearSight, right?

14 So if you are paying me salary or from company
15 account, it is being paid, it is immaterial for me,
16 because I need my salary at that time, right? I was in
17 a deep financial crunch, which I requested you, and
18 I was not being paid for it. So, I mean, I requested
19 you and you paid me from your personal account.
20 I didn't ask you to pay me for personal account.

21 Q. Fatima, can you kindly pull up D478, third tab.

22 Hassan, can you please read the list of names in the
23 tab where it says user IDs.

24 A. Amit, Adela, Ali Awais, Hassan and Amit Bhojwani.

25 Q. Do you see my name on this list?

1 12:45 A. No, sir.

2 Q. In the last days of May, Mr Kamath's team reached out to
3 you for bank statements and you told them that only
4 I had access to MAS statements. You can see on the
5 screen that I have never had access to the online
6 banking system for MAS. So my question to you is: how
7 could I provide Mr Kamath with statements from all the
8 way in London if I did not have online access?

9 A. Sir, when the online access was given to me, so I didn't
10 know at that time that who has access or who doesn't
11 have access to the system. Right? I don't know that
12 Adela has access or not, you have access or not, you
13 being management or chairman, and you told me that you
14 will take care of the finances and everything, right?

15 So obviously I have to refer it to you, because
16 I was working with you. I don't know whether you have
17 access or not, because it was not given to me, told to
18 me. They just make my user ID and access to bank
19 account. No one told me that who has access, who
20 doesn't have access. How can I know, sir?

21 Q. I will come back to this question as a follow-up
22 a little bit later, Hassan.

23 A. Sir.

24 Q. Earlier when I made you to read the Du mobile payment
25 from the chequebook, dated 1 May, that was payment

1 12:47 transaction; correct? Do you remember this a couple of
2 minutes ago?

3 A. Yes, sir, yes.

4 Q. Were you involved in the transactions to transfer
5 capital from US dollar to AED accounts in the month
6 of May 2015?

7 A. Yes, sir.

8 Q. So you know that there were transactions in the month
9 of May, because you yourself made the transaction. How
10 could you write an email to Mr Kamath telling him that
11 there wasn't any transaction? Surely you yourself knew
12 that the email you were writing was not truthful.

13 A. Sir, you asked me to transfer funds from USD to AED
14 account and it's the same MAS bank account. It's not
15 a transfer outside the business. It's internal
16 transfer, where the funds are in USD or AED. So funds
17 can only deplete once it goes out from the company. It
18 never went out from the company. I made transaction
19 from USD to AED on your instructions, sir.

20 Q. I understand. Just a few questions back I asked you the
21 question, earlier when I made you to read the Du mobile
22 payment from the chequebook, dated 1 May, that was a
23 payment transaction, and you said "yes".

24 A. Sir.

25 Q. Do you recall? Then 1 May, which means in the month

1 12:48 of May, there was transaction in addition to the
2 internal transfer between the two accounts, was also
3 a transfer for the Du payment, which you just confirmed?

4 A. But I don't remember when I made the cheque. Maybe it
5 is in April.

6 Q. I understand. So you knew that there were transactions
7 in the month of May because you yourself made the
8 transaction. How could you write an email to Mr Kamath
9 telling him that there wasn't any transaction? Surely
10 you knew that the email you were writing was not
11 truthful.

12 A. No, sir. It is not like that. I mean, writing a
13 cheque, I made cheque for DIFC, I remember, which you
14 just showed, a postdated cheque. And, you know, you
15 asked me to prepare the cheques, which I did. So maybe
16 the dates would be May or, you know, June, whatever the
17 date.

18 So writing a cheque doesn't mean that the
19 transaction has happened. And I didn't have access to
20 banking system or, you know, for the bank statements.
21 How can I confirm? Because I spoke to you and you told
22 me that, tell come, that there is no transaction. You
23 remember, sir? I spoke to you on the phone and only
24 then I sent email to Kamath. I discussed this with Ali
25 also, sir, at that time, when I was -- when they were

1 12:49 asking for the bank statements.

2 Q. I appreciate your answer. I'm not going to comment
3 certainly to the allegations, but I appreciate your
4 answer.

5 A. This is not allegation, sorry, sir.

6 Q. Sure. Moving on. In this one incident, you have
7 misinformed Mr Kamath twice. Once when you told him
8 that only I had access to the online accounts, which
9 I never had, and another time when you wrote to him that
10 there was no transactions in the month of May. Can you
11 confirm that?

12 A. Can I take two minutes, sir? Amit left and you
13 requested me to do -- to support the company. Amit was
14 there, Ali Awais was there, you requested me, right?
15 You know, I honour your request at that time, right,
16 sir? He gave me the banking accesses, he gave me the
17 chequebook. I took it on a face value fairly, right?

18 I were directly working with you. In one month of
19 period, while I have other jobs in hand, how can I take
20 hundred per cent knowhow of the company finances or
21 accounts department that who has access, who doesn't
22 have access. And I was directly working with you. For
23 me, you were the only focal point person in the company,
24 because you asked me to take that responsibility, right?

25 So I always go back to you. And for Kamath, I also

1 12:51 said the same thing, "Only Dr Mubashir can have the
2 access or he will provide you the bank statements, since
3 I don't have access."

4 So I refer it to -- him to you and you spoke to him.

5 Q. My question is: if you knew that the information you
6 were giving to Kamath was wrong --

7 A. It was not wrong, sir. That was on best of my
8 knowledge, sir, that you are the only focal point for me
9 in accounts and you were handling everything, sir. You
10 were the one who giving personal cheque to me or else
11 maybe for salaries, so you were the person who was
12 handling end-to-end thing.

13 Q. I understand. Next question. Do you have a proof of
14 this conversation ever happening?

15 A. Sir, which conversation?

16 Q. The conversation we just had.

17 I'll repeat. Let me repeat the question again for
18 your ease of memory and then you can maybe understand.

19 A. Sir.

20 Q. I just highlighted to you that there were two
21 transactions in the month of May that at least you know
22 of. One was the internal transaction and the second one
23 was the Du transaction.

24 A. Sir.

25 Q. Then I asked you the question, that did you misinform

1 12:53 Kamath knowing very well that there was a transaction in
2 the month of May? And then another time you wrote to
3 him saying that there was no transaction in the month
4 of May.

5 My question for you is: if you knew that the
6 information you were giving to Mr Kamath was wrong, and
7 why did you -- and you said no, that this was -- you
8 gave the correct information, if I understand well. Can
9 you confirm that?

10 A. Sir, that AED to USD internal transfer is a transfer of
11 funds which I did upon your request within MAS system.
12 Right? So funds being laid in USD account or AED
13 account, it's not outside transfer. It's internal
14 transfer of funds within the bank account of MAS
15 ClearSight.

16 I did that transaction, sir, at your request,
17 transferring funds, internal transfer from USD to AED.
18 That was not transfer outside which deplete the account
19 balance of the MAS ClearSight.

20 So that is not a transfer transaction, sir, outside
21 MAS ClearSight. So if we convert USD or AED, the same
22 amount is there in the account, sir.

23 Q. Earlier on we established that you still had online
24 access to the MAS account, but you say that you were not
25 accessing it because I told you not to. When

1 12:55 Mr Kamath's team came to ask you about the bank
2 statements, you still had access. Did you attempt to
3 ask permission to view the account so that you could
4 provide Mr Kamath with the relevant information?

5 A. Sir, you asked me not to do, so I haven't done it.
6 I just refer those people, the Kamath and the team, to
7 you.

8 Q. Let me ask the question again. Maybe I'm not able to
9 ask correctly. Earlier we have established that you
10 still had online access to MAS account, but you say that
11 you were not accessing it because I told you not to.
12 When Mr Kamath's team came to ask you about the bank
13 statements, you still had access. Did you attempt --
14 this is the question -- to ask permission to view the
15 account so that you could provide Mr Kamath with the
16 relevant information?

17 A. Sir, before when the access was taken from me, so
18 I requested to deactivate my account. At that time,
19 I didn't know whether I have access or not. I only came
20 to know when DFSA came to office and they asked me to
21 log in to the system. So I told them that I don't have
22 access to the system, it is not permissible or I don't
23 have access. I don't know whether it is deactivated or
24 not.

25 At that time, I entered my credentials and it was

1 12:56 activated. And we never spoke about this, I never
2 requested you that -- to attempt logging into the
3 system. I never requested you, sir, after that day when
4 things were handed over to you, sir.

5 Q. Fatima, could you kindly pull up C031, slowly, and go
6 through the pages.

7 The next question for you is: the DFSA has said that
8 in an email that you sent me on 26 May 2015, which was
9 supposed to be sent to Gregory Pritchard, the
10 information provided is not correct. Do you remember
11 talking to me on the phone about this questionnaire?

12 A. Sir, you sent me this email and asked me to fill it up
13 and you dictated me, actually, the answers.

14 Q. Can you kindly read question number 1 and question
15 number 2.

16 A. Yes, sir:

17 "1. Since the date of the last Board meeting has any
18 payment been received from MAS Pakistan? Answer yes or
19 no only. Yes.

20 2. If yes, how much has been received? Provide
21 monetary amount only. USD425,500."

22 Q. Do you remember if I told you that the amount for
23 receivables would have been around 350,000 plus three
24 months of my waived salary, which is about 25,000 each
25 month and that adds to 75,000. So 350 plus 750,000

1 12:58 translates into 425,000. Do you remember me saying this
2 to you?

3 A. Sir, even I don't remember that email. When I saw that
4 email, so then I will scroll in my personal emails.
5 Sir, you are the one who dictates me, you know, who told
6 me what to do, what to write. How can I write "N/A" to
7 a shareholder, sir?

8 Q. I'm coming to that. I'm asking you a question, that
9 when you -- the question that I'm asking is, do you
10 remember that I told you that I remember \$350,000 and
11 I remember to have waived 25,000, which is my per month
12 secondment salary times three and that translates to
13 75,000? And 350 plus 75 translates to 425,000? Do you
14 remember me saying this to you when you say that I told
15 you this figure?

16 A. Sir, I don't remember. I only put the figure which you
17 told me. But, yes, I know that you, and I think most of
18 the people in MAS know, since you are the major, you
19 know, person, so you haven't taken your salary. You
20 said this on the email also, which you sent to all staff
21 members, that you haven't taken salary, you gave loan to
22 MAS ClearSight, to company and everyone, right?

23 But these calculations, I don't remember. But, yes,
24 you were the owner, sir. You have all the right to, you
25 know, waive off your salary or take your salary.

1 13:00 But this document I wrote on your literally
2 dictation, sir, which you gave me and I typed it and
3 sent it back to you. You sent me the document,
4 I punched the answers and then I send it back to you,
5 sir.

6 Q. Does the question 1 specify the date of the board of
7 directors meeting that Mr Pritchard is asking about?

8 A. Yes, we can say, yes.

9 Q. What does that mean "yes"? The question is, does the
10 question 1 specify the date of the board of directors
11 meeting that Mr Pritchard is asking about? Can you read
12 the question 1, please?

13 A. It says, "Since the date of last Board meeting ..."

14 Q. The question is, does the question 1 specify the date --

15 MR PRESIDENT: Dr Sheikh, I don't understand why you're
16 asking that question, because we can all read
17 paragraph 1. It doesn't.

18 DR SHEIKH: Sorry, your Honour. Please continue.

19 MR PRESIDENT: I don't understand, when you tried to ask the
20 question of what paragraph 1 of this document says, but
21 we can read it. It says, "Since the date of the last
22 Board meeting ..."

23 I don't understand what you're now asking.

24 DR SHEIKH: Your Honour, this question was directed to

25 Mr Hassan Salahuddin, because it is my belief that he's

1 13:02 misrepresenting information under oath.

2 MR PRESIDENT: Yes, but you asked whether -- maybe

3 I misheard you. I thought you were asking whether the

4 first paragraph states the date of the last board

5 meeting. Obviously, it doesn't, because we can read it.

6 DR SHEIKH: Sure. Thank you for your --

7 MR PRESIDENT: But on you go. I may have misunderstood you.

8 Carry on.

9 DR SHEIKH: Thank you, your Honour.

10 For MAS Aviation -- Hassan, that's a question for
11 you -- I had told you to go check the amount receivables
12 in the MAS books for Hajj booking and you provided me
13 with the number of 576,000. The DFSA says that this
14 value is wrong and that I sent an email to Mr Pritchard
15 with wrong information.

16 My question for you is: can you tell me if you knew
17 when Mr Kamath rejected this revenue of Hajj booking on
18 our books?

19 A. Sir, this reply is only dictated by you, sir, to me,
20 which I wrote there. Sir, I was blindly trusting you,
21 sir. I mean, whatever you were saying, I was doing
22 that. I didn't know that things are like -- I mean,
23 come to that level, which is very -- it's a learning,
24 sir.

25 Q. I understand. The question is a little bit directed, so

1 13:03 for your comfort, I will read one more time the specific
2 question.

3 The DFSA says that this value, which is the
4 \$576,000, is wrong, and that I sent this email to
5 Pritchard, which is Greg, with wrong information.

6 My question for you is: can you tell me if you
7 know -- and that's a question, can you tell me if you
8 know, or if you remember, that when Kamath rejected this
9 revenue?

10 A. Sir, I don't remember, seriously.

11 Q. Just for your information, that Kamath rejected this
12 revenue on 7 June. So which means that this revenue
13 remained on our books during the email discussed under
14 which was 25 or 27 May -- 26 May.

15 Anyway, Hassan, you remember I said that we will
16 come back to one or two questions?

17 A. Sir.

18 Q. In your interview to DFSA, you made a comment regarding
19 the online access and you said that you don't know, but
20 you think that there are other people in MAS who had the
21 online access. Do you recollect saying that?

22 A. Yes, sir.

23 Q. I want to take the moment to thank you for the time
24 today.

25 A. Sir.

1 13:05 DR SHEIKH: Sorry. Your Honour, would you allow me to take
2 five minutes of recess and I want to continue with a
3 couple of follow-up questions with Mr Salahuddin?

4 MR PRESIDENT: We would usually at this time have
5 a 15-minute break, so we'll take a 15-minute break and
6 we'll start again, if that's convenient, at about 20
7 past 10, which is 20 past 1 in Dubai.

8 DR SHEIKH: Thank you, your Honour.

9 (1.05 pm)

10 (Short break)

11 (1.25 pm)

12 DR SHEIKH: Hassan, after having a few minutes of reflection
13 on the answers and the questions that you have
14 responded, at this point, I'd like to thank you for
15 appearing. I have no more further questions for you,
16 Hassan.

17 MR PRESIDENT: Very well. Mr Khan, do you have any
18 questions?

19 MR KHAN: No questions from me, sir.

20 MR PRESIDENT: Thank you very much, Mr Salahuddin, for your
21 help. We're most grateful.

22 WITNESS: Thank you very much.

23 MR PRESIDENT: Thank you, you can just log off.

24 WITNESS: So I can leave the meeting?

25 MR PRESIDENT: Yes, please, thank you.

1 13:26 (Witness withdrew)

2 MR KHAN: Mr Aziz is the next witness and he's due to join
3 at 10.30, UK time, that's 1.30 Dubai time, so in about 3
4 or 4 minutes.

5 MR PRESIDENT: Shall we break and start again then?

6 MR KHAN: Yes, sir.

7 MR PRESIDENT: Let's start at half past.

8 (1.27 pm)

9 (Short break)

10 (1.30 pm)

11 MR FAHEEM AZIZ

12 MR KHAN: Sir, Mr Aziz has now joined us.

13 MR PRESIDENT: Mr Aziz, welcome.

14 You're going to either take an oath, in which you
15 swear by God, or you can affirm. What would you prefer
16 to do?

17 WITNESS: I'll swear by God.

18 MR PRESIDENT: All right. Would you kindly repeat after me.

19 I swear by almighty God.

20 WITNESS: I swear by almighty God.

21 MR PRESIDENT: That the evidence I'm about to give.

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

23 MR PRESIDENT: Is the truth, the whole truth and nothing but
24 the truth.

25 WITNESS: Is the truth, the whole truth and nothing but the

1 13:31 truth.

2 MR PRESIDENT: Thank you very much.

3 Examination-in-chief by MR KHAN

4 MR KHAN: Mr Aziz, I'm going to now pull up your witness
5 statement. Fatima, can you please pull up document in
6 bundle C, tab 36, and then scroll through so that
7 Mr Aziz may see page 224.

8 Mr Aziz, you see a signature there. Is that yours?

9 A. That is mine, yes.

10 Q. Is this your witness statement?

11 A. That's right.

12 Q. Are its contents true, to the best of your knowledge and
13 belief?

14 A. That's right.

15 MR KHAN: Thank you. If you wait there, Dr Sheikh and the
16 tribunal will have some questions for you.

17 Cross-examination by DR SHEIKH

18 DR SHEIKH: Faheem, thank you for being here today. I'm
19 going to take the liberty to ask a few questions. Is
20 that okay?

21 A. That's perfectly okay.

22 Q. Would you kindly answer the following question. What
23 was your connection to MAS ClearSight in 2015?

24 A. I was the CEO of Kinetrix and Kinetrix was mandated to
25 be the compliance officer. Salman Haider was the

1 13:32 compliance officer of MAS.

2 Q. Salman Haider was the compliance officer or was the firm
3 itself was the compliance officer?

4 A. Salman Haider was the compliance officer.

5 Q. Therefore, Mr Salman Haider was the authorised
6 individual as a compliance officer for MAS?

7 A. That's correct.

8 Q. What was the scope of the compliance officer's contract?

9 A. I'm not sure I completely understand the question. The
10 scope of the compliance officer's contract is to ensure
11 that the company is compliant with all the rules and
12 regulations.

13 Q. It is compliance monitoring; correct?

14 A. Correct.

15 Q. Did you personally carry out the day-to-day compliance
16 work for MAS?

17 A. Me personally?

18 Q. Yes.

19 A. We work very much as a team, actually. So I was one of
20 the people within the team, as well as other people
21 within the team, that was looking at all of the
22 information.

23 Q. How involved were you in the work with Mr Salman in the
24 month of May 2015?

25 A. Like I said, we were working very much as a team, so it

1 13:33 wasn't so much the work that Salman was doing, it was
2 the work that the team was doing, so I was involved in
3 that capacity.

4 Q. In your witness statement, you have said that you were
5 invited to the board of directors meeting. Can you
6 explain to me why you were asked to join on the board of
7 directors meeting on April 26, 2015, and not Mr Salman
8 Haider?

9 A. Salman Haider wasn't in the country at the time and we
10 were very much working, as I said, as a team. And
11 I think some of the issues that were prevalent that we
12 had identified within MAS, I took very much a lead in
13 that.

14 Q. Fatima, may I request if you can kindly pull section
15 C037 on the screen.

16 Faheem, this is an email that Adela Mokra sent out
17 on 12 April 2015 in which you were copied. Can you
18 please read out the attendees of the meeting?

19 A. Can I read them out?

20 Q. The attendees, if you would be so kind.

21 A. I can see the directors, I can't see the names, I'm
22 sorry. Those are the directors, the attendees, yeah.
23 So there's yourself, Anish Bhatia, Ali Awais, Rizwan and
24 Gregory Pritchard.

25 Q. Little bit further down, Fatima.

1 13:35 Your name is not listed in this. However,
2 I understand that you would be asked to speak on
3 compliance matters later in the meeting. You fell under
4 the category -- you fall under the category "as and when
5 required". Were you aware of this?

6 Can you scroll down a little bit. Yes:

7 "Invited -- as and when required."

8 Faheem, could you confirm if you were aware of this,
9 that it was based on as and when required, that members
10 who were non-directors were to be invited?

11 A. That's right.

12 Q. In your witness statement, it says that you waited
13 outside for two hours and then left, and told Ali Awais
14 that you would be back in your office. This has been
15 recorded in the board of directors' meeting minutes, as
16 Mr Awais said that you were busy. Do you believe this
17 is an inaccurate account of the situation?

18 A. I believe so.

19 Q. Just to clarify, all matters relating to the compliance
20 occurred near the end of the board of directors meeting,
21 as it is clear from the meeting minutes, which shows
22 that the compliance matter were only raised on page 15
23 and to page 17.

24 You have made the statement that Mr Awais has
25 misrepresented your lack of appearance in the meeting.

1 13:38 sent me an email saying that he had to cancel because he
2 had a headache. I thought he must have been very ill to
3 miss the meeting, given what I wanted to discuss with
4 him was really quite serious."

5 Were you asked to share this email with the DFSA?

6 A. Which email, sorry? The one that I sent you?

7 Q. Yes, indeed.

8 A. No, I don't think I was asked, because the DFSA I don't
9 think were aware at the time. Are you talking about at
10 the time or are you talking about later?

11 Q. Just for your information, I would like to point out
12 that for the record that, on 11 June 2015, was the day
13 that I found out that Mr Akbar and Mr Yer had reneged on
14 their investments. Just a comment.

15 In your witness statement, you have stated that you
16 wanted to have a meeting with me to say that MAS was
17 insolvent and that it should be closed down. Can you
18 please tell me how you knew that the company was
19 insolvent before the meeting?

20 A. It wasn't that I felt it was insolvent. I believed so,
21 because I wanted to take the receivable and
22 re-categorise it as a bad debt. And therefore, it would
23 be insolvent, in my opinion.

24 Q. Can you please tell me who told you that the company
25 capital adequacy had been breached?

1 13:40 A. Sorry, when was it breached? Sorry. Can you please
2 elaborate. I can't remember that far back.

3 Q. I'm specifically referring to the conversations that we
4 had while I was in UK. And to the best of my
5 understanding, that I, in the call, which was scheduled
6 and rescheduled, rightfully so, was the one who informed
7 that the company has breached and the capital is no
8 longer in the account. Can you confirm that, sir?

9 A. I mean, I can't remember that far back, but I recall
10 something around that, yes.

11 Q. I want to make a follow-up comment on the question
12 I just asked, and you mentioned, and I say, "But you
13 said in your witness statement", and that's your witness
14 statement, sir:

15 "During the meeting, Dr Sheikh told me that there
16 was 'no money left in the company'."

17 So which is it? Which means that I was the one who
18 had informed during the call and this is to help you
19 recollect. Does that ring a bell to you, sir?

20 A. That is what you said to me.

21 Q. Were you and Mr Greg Pritchard in a lot of communication
22 during the month of June 2015?

23 A. We were in communication, yes.

24 Q. When was the first time that Mr Pritchard reached out to
25 you with concerns about MAS?

1 13:42 A. I can't remember. I'm sorry. It could have been at the
2 inception. It could have been shortly after. I can't
3 honestly remember. But it was really early on in the
4 relationship.

5 Q. Say that again? Forgive me.

6 A. It was early on.

7 Q. Can you please describe his concerns, whether they were
8 more about the company's debt or the possibility of
9 potential investors? I'm referring to Mr Pritchard's
10 comments.

11 A. I can't remember, honestly.

12 Q. Understood.

13 A. But I know there were some concerns and I was in contact
14 with him.

15 Q. Fatima, may I request if you can please pull C036 to
16 page 5 at the very bottom.

17 Sir, can you see -- can you kindly read from the
18 fourth last line, that states:

19 "I refused and said I was going to tell the DFSA
20 from my point of view ..."

21 Till the end of the page.

22 A. "I refused and said I was going to tell the DFSA from my
23 point of view, Dr Sheikh has his point of view and he
24 should present it as well. Dr Sheikh's point of view
25 was that it would be more favourable for it to be

1 13:43 a voluntary liquidation rather than it being imposed on
2 the firm."

3 Q. Thank you. You have said that you were going to tell
4 DFSA from your point of view. Can you please highlight
5 what your point of view was?

6 A. My point of view, as I have stated, is that I thought it
7 was -- that the company was insolvent and it should be
8 reported as such.

9 Q. In the passage you just read, it says:

10 "Dr Sheikh's point of view was that it would be more
11 favourable for it to be voluntary liquidation rather
12 than it being imposed on the firm."

13 Why did you disagree with the voluntarily
14 liquidation, sir?

15 A. I think it had been very much because I just wanted to
16 make sure that I was telling the DFSA, rather than
17 coming jointly, because I wasn't quite sure what was
18 happening. And so, I wanted to make sure that the
19 message came from me and from me only. But you did say
20 that you wanted to do it directly as I have stated.

21 Q. Just a quick follow-up, that when you said that you
22 wanted to tell DFSA, was it not that I who had informed
23 yourself along with other members of your team and my
24 team about what has happened in the company? And I have
25 highlighted that we need to not only inform DFSA, but we

1 13:45 need to figure out the next steps that we need to do.

2 Do you recollect having this conversation, Mr Aziz?

3 A. I recollect the conversation on that. I think this is
4 on the Friday, if I'm not mistaken, on 12 June. This is
5 on Friday. So it was through the conversation that
6 I actually said that the debt should -- sorry, the
7 receivables should be classified as a bad debt and
8 therefore should be liquidation. And forgive me if my
9 recollection and order of the conversation is wrong or
10 may be different to yours, but as I recall it, I think
11 I brought the subject up first and then we moved on to
12 the decision of who should tell the DFSA.

13 Q. In principle, you agreed with the fact that we should
14 move towards liquidation?

15 A. That's right, yes.

16 Q. I'm going to ask the follow-up, two, three specific
17 questions, in light of this comment. It's okay for you?

18 A. Absolutely.

19 Q. Is it true that the decision making of the company in
20 liquidation is removed from the management of the
21 company when the court appoints the liquidator?

22 A. As I understand it, yes.

23 Q. Is it true that the management of the company who has
24 filed the liquidation can withdraw its application for
25 liquidation, up until the court has not decided on the

1 13:47 liquidation to be accepted?

2 A. I will take your better judgment on that, but it sounds
3 like that's probably what it should do, yes. Because
4 liquidation, you can come in and out of liquidation.

5 Q. Once the court has appointed the liquidator, does the
6 control of the company in the hands of the management
7 ceases to exist?

8 A. You're asking about liquidation process, something that
9 I don't fully have knowledge or expertise over, but my
10 comments or understanding is that the liquidation
11 process is with the liquidator. And, you know, I don't
12 think sort of -- I mean, I wouldn't want to sort of go
13 any further than that, because I think that's a little
14 bit outside of my expertise.

15 Q. I appreciate that. Thank you for at least making the
16 effort. The reason I ask these questions is that if you
17 remember, and I'll try to raise, that I'm now referring
18 to earlier on.

19 Do you remember presenting to me and to Mr Awais
20 pitching us the experience of turnaround professional of
21 the company, knowing very well that the MAS is going
22 through some financial crisis?

23 I suppose what I'm asking is, do you remember that
24 you had kindly once offered that you have a very deep
25 understanding of turning around companies and you were

1 13:48 making a pitch that if we were to go in this direction?

2 Does that ring a bell to you, Mr Aziz?

3 A. I think it does ring a bell, yes.

4 Q. In your witness statement, it says that you were aware
5 that I was making efforts in June 2015 to sell my family
6 property to be able to finance the companies personally.
7 Why did you think I was making these efforts in the
8 company if the company was sinking under debt, in your
9 opinion, sir?

10 A. This is something that you had told me.

11 DR SHEIKH: Mr Aziz, I want to thank you for your time.

12 I have no further questions for you.

13 MR PRESIDENT: Mr Khan?

14 MR KHAN: Sir, no follow-up questions from me.

15 MR PRESIDENT: Mr Aziz, thank you very much for your help.

16 Were most grateful. You can now leave the meeting.

17 (Witness withdrew)

18 MR KHAN: Sir, I believe based on the rough timings, and

19 I appreciate they're only anticipated timings, we'd
20 asked Mr Kamath to be ready for 2 pm, Dubai time.

21 MR PRESIDENT: Okay.

22 MR KHAN: I don't know if he can be brought forward, if
23 that's what the tribunal would like us to try and do.

24 MR PRESIDENT: Well, 2 pm Dubai time is 11 am UK time, which
25 is only 10 minutes away.

1 13:50 MR KHAN: Yes, I believe so.

2 MR PRESIDENT: Which, first of all, congratulations on the
3 timing.

4 Secondly, shall we stop then, break now until 5 past
5 11 and see what's happened?

6 MR KHAN: Yes, sir.

7 MR PRESIDENT: Is that convenient? Let's have a break until
8 5 past 11 and see if we can have the next witness
9 available.

10 (1.50 pm)

11 (Short break)

12 (2.07 pm)

13 MR KHAN: Mr Kamath, can you hear me?

14 Hello, Mr Kamath.

15 WITNESS: Yes, Farhaz. Yes, Mr Khan, yes.

16 MR KHAN: You have now joined the hearing. If you just wait
17 there for a moment.

18 MR PRABHAKAR KAMATH

19 MR PRESIDENT: Mr Kamath, we're going to ask you to either
20 swear an oath or make an affirmation about the truth of
21 your evidence. Are you more comfortable swearing an
22 oath or would you rather just affirm?

23 WITNESS: Yeah, I'm comfortable, yes.

24 MR PRESIDENT: In which case, would you repeat after me.

25 I do solemnly, sincerely and truly declare and affirm.

1 14:08 WITNESS: Sorry, I couldn't get that.

2 MR PRESIDENT: I'll take it more slowly. I'm sorry.

3 Repeat after me. I do solemnly, sincerely and truly
4 declare.

5 WITNESS: Not very clear. Sorry.

6 MR PRESIDENT: Can you hear me?

7 WITNESS: Yeah, I can hear you.

8 MR PRESIDENT: Has the DFSA explained that you have to give
9 an affirmation or make an oath?

10 WITNESS: Yes.

11 MR PRESIDENT: Right. Well, would you please listen
12 carefully to me and I will make it even slower.

13 Repeat the following. I do solemnly, sincerely and
14 truly declare.

15 WITNESS: Yes.

16 MR PRESIDENT: Repeat the words, please.

17 WITNESS: Yeah, I have given the statement, witness
18 statement, and I --

19 MR PRESIDENT: I'm sorry, Mr Kamath. It seems that you have
20 not been briefed by the DFSA. You have to begin your
21 evidence by promising to tell the truth and to do that
22 in public. Now, just listen carefully and repeat after
23 me. I do solemnly.

24 WITNESS: Repeat? Yeah, I do solemnly.

25 MR PRESIDENT: Sincerely and truly declare.

1 14:10 WITNESS: Sincerely and truly declare.

2 MR PRESIDENT: And affirm.

3 WITNESS: And affirm.

4 MR PRESIDENT: That the evidence I'm about to give.

5 WITNESS: That the evidence I'm about to do.

6 MR PRESIDENT: Is the truth.

7 WITNESS: Is the truth.

8 MR PRESIDENT: The whole truth.

9 WITNESS: The whole truth.

10 MR PRESIDENT: And nothing but the truth.

11 WITNESS: And nothing but the truth.

12 MR PRESIDENT: Thank you very much. I'm sorry to have

13 confused you by not explaining things clearly. Thank

14 you very much.

15 WITNESS: Thank you. No, little bit slowly, so I can hear.

16 MR PRESIDENT: I'm sorry about that. Thank you.

17 Examination-in-chief by MR KHAN

18 MR KHAN: Hello, Mr Kamath. Fatima, can you please bring up

19 Mr Kamath's witness statement, bundle C, tab 13. Can

20 you scroll through that document.

21 A. One second.

22 Q. Mr Kamath, if you just wait. I'll have a question in

23 a moment. If you just look at that document as it's

24 scrolling through.

25 A. Yes, it is point number 47 is the last -- yes, this is

1 14:11 my statement.

2 Q. That's your statement. Is that your signature?

3 A. Yes, that's my signature.

4 Q. Are the contents of this statement true, to the best of
5 your knowledge and belief? "Yes" or "no"?

6 A. Yes.

7 MR KHAN: Thank you. If you wait there, Dr Sheikh will have
8 some questions for you.

9 Cross-examination by DR SHEIKH

10 DR SHEIKH: Good afternoon, Mr Kamath.

11 A. Good afternoon.

12 Q. I'm going to take the liberty to ask a few questions.

13 What was your connection to MAS ClearSight in 2015, sir?

14 A. Yeah.

15 Q. What was your connection to MAS ClearSight in 2015, sir?

16 A. In 2015, I was the CFO officer -- outsourced CFO
17 officer.

18 Q. In the month of May 2015, did you try to get the MAS
19 bank statements, sir?

20 A. Yes, the company was supposed to provide me bank
21 statement. They didn't provide.

22 Q. Who did you ask first for the statements, sir?

23 A. It's my staff who are assigned to do the accounting work
24 from my company, Dinesh Poojary. The statement of
25 account should have been given by company, company's

1 14:13 officers. At that time, it was Hassan.

2 Q. Have you historically ever emailed to me personally to
3 ask about bank statements or did you liaise with Amit or
4 Hassan or Ali in the past?

5 A. I could not recollect the necessity to ask by email. We
6 got the bank statement till the month of April from the
7 company. Always we have got. So whether I asked by
8 email, I don't remember. I can't answer that. But we
9 have got the statement from them.

10 Q. I appreciate that. I will try to ask the question
11 differently, because I think I was not able to explain
12 the question.

13 Sir, my question is, that normally, when you or the
14 members of your team ask for the information from MAS,
15 normally do you ask or your team ask those questions to
16 me directly or do they go first and ask the questions to
17 Amit or Hassan or Ali Awais, sir?

18 A. Well, it depends. We can ask anyone for doing the
19 financials, but until that month, the necessity -- if
20 I recollect correctly, I'm not sure, I need to refresh
21 my memory or I need to contact again. The necessity to
22 ask you bank statement didn't arise until that month.

23 Q. I understand. When --

24 A. Because they were providing it.

25 Q. Yes, sir. Thank you.

1 14:15 When you asked or the members of your team asked
2 Hassan for the bank statements in May 2015, what did he
3 tell you? What did Hassan tell you, sir?

4 A. First of all, Dr Sheikh, it is not in 2015, it is bank
5 statement pertaining to 2015. I hope you agree with
6 that.

7 Q. I apologise. Please continue.

8 A. So the bank statement for 2015 was not provided to us by
9 any member of the MAS and responsibility -- we told that
10 it was provided by Amit earlier, after Amit was
11 resigned, Hassan was giving it. And Ali Awais also was
12 involved, he was coordinating.

13 Q. When you or your team asked for the month of May bank
14 statement for the year 2015, the question is that you
15 were not provided. My question to you, sir, is that
16 whoever that you asked, whether is it Hassan, what did
17 he reply to you when you asked the question that,
18 "Please provide me the bank statement for the month
19 of May", sir?

20 A. He say that it's not available with them.

21 Q. I am assuming that it is Hassan which was your first
22 point of contact. Did Hassan tell you that he did not
23 have access to the statement, sir?

24 A. I don't recollect. Statement was not provided to us by
25 anyone.

1 14:17 Q. Did Hassan tell you to ask me for the statements, sir?

2 A. Initially, no, but when we refused, you call me. When
3 we refused to submit the financial statement to the DFSA
4 and we confirm that we thought this bank statement, we
5 will not be providing the statement, monthly statement,
6 after some time, you called me. So I think they told
7 you. You called me from London.

8 Q. My question was: do you recollect that did Hassan from
9 MAS office ask you to be in touch with me in London to
10 collect the bank statements, sir?

11 A. Actually, I don't recollect the entire happening that
12 day. It was we who found out that bank statement is not
13 available and no one was able to provide. We told that
14 we will not be able to submit the financial to the DFSA.

15 Q. Sir, you wrote in the email to Dinesh and Mahesh on
16 7 June 2015 that you would not report the financial
17 situation unless the bank statement was received. Is
18 that why you called me on the same day to ask for the
19 bank statements, sir?

20 A. I didn't call you, sir. You called me, sir, from
21 London.

22 Q. Did I have the statements to give you when we spoke on
23 the telephone, sir?

24 A. I don't know. That I can't say.

25 Q. Did I give you the bank statements when I spoke to you

1 14:19 in London, sir?

2 A. You said that you don't have -- you can't, you are not
3 able to give me the statement. You are in some medical
4 emergency, et cetera. And you requested me -- yeah.

5 Q. Sorry, please continue. Please let me not interrupt
6 you.

7 A. No, no. I answered your question. That anything else
8 is there, I think you have some more questions, you can
9 ask me.

10 Q. Thank you, sir.

11 Do you remember telling me that you will not report
12 any of the financial unless you have the statement or if
13 I send you an email telling you about the transactions
14 in May 2015, sir?

15 A. No. The conversation didn't go like that. I said
16 I will not provide, it is not possible and with bank
17 statement, I will not be able to submit the report to
18 DFSA.

19 Q. After the phone call, did you receive the bank
20 statements from me or anyone else at MAS ClearSight,
21 sir?

22 A. No.

23 Q. When did Hassan write you the email? Before or after
24 you and I spoke on the phone, sir?

25 A. When I spoke over the phone, you were very -- it looked

1 14:20 like you were very tense and you are crying. You said
2 that your mother is in hospital, it is serious.
3 Otherwise I would have provided the statement. But
4 I can assure you, you told me, and everything is your
5 words, not exact words, I don't remember, but this is
6 what is the essence of what you told. And you were
7 almost in very emotional voice, you told, "Please submit
8 the report, because I can confirm that there are no
9 transactions in the month of May in the bank. There is
10 no transaction."

11 And you tried to convince me why there are no
12 transaction, "Because if any money was withdrawn, it
13 would have violated the capital adequacy, obviously, so
14 I will not touch any money, so bank balance is same,
15 I can assure you, and I can confirm it in email."
16 That's what you told me. After few minutes, Hassan sent
17 that mail on behalf of you.

18 Q. Thank you for answering, sir.

19 The answer was that Hassan sent the email after we
20 spoke to each other. Correct, sir?

21 A. He said that the email is already in this one, it is
22 attached as the witness. I don't know. I don't know
23 what exactly. I can read out, but basically what he
24 said was, "Based on what Sheikh confirm, I can confirm
25 that there are no transactions for the month of May",

1 14:22 and you assure me that as soon as possible, you will
2 provide me the statement during our call.

3 Q. Thank you, sir. Did you report the financials because
4 of an email that Hassan sent you, on my behalf, where he
5 said that there were no transactions in the month
6 of May?

7 A. Can you repeat the question?

8 Q. Did you report the financials because of an email that
9 Hassan sent you, on my behalf, where he said that there
10 was no transactions in the month of May?

11 A. Can I ask you what do you mean by "because of"?

12 Q. What I want to say is that when Hassan sent you the
13 email confirming to you that there are no transactions
14 and he is speaking on my behalf, after having to receive
15 that email, you went and submitted the financials as per
16 confirmed by Hassan to your goodself. Is that true?

17 A. I took it as an official representation from the company
18 and its officials that there were no transactions. And
19 as the CFO, I'm expected, I can rely on you, I can,
20 because, at that stage, I didn't have any doubt as to
21 why I should not trust your words.

22 Q. Thank you, sir.

23 A. And I submitted the financial report.

24 Q. Did I send you an email from my own personal account,
25 sir?

1 14:24 A. No. Hassan sent and he marked you.

2 Q. Did you know that it is wrong to report the financials
3 to DFSA without the statements, sir?

4 A. Sir, I don't have to answer this question. That is for
5 the DFSA to judge and they already investigated the
6 matter.

7 Q. I understand.

8 A. I'm not expected to reply to you on this.

9 Q. I respect that, sir. Thank you.

10 In your witness statement, you have said:

11 "I did not have access to the MAS Emirates NBD
12 accounts. I believe Amit had online access to these
13 accounts. After Amit resigned and left MAS
14 in April 2015 I believe Hassan was given access, and
15 then finally Dr Sheikh."

16 Can you please tell me who told you that I had
17 online banking access, sir?

18 A. Can you refer the number in my statement?

19 Q. Fatima, can I ask if you pull out Mr Kamath's witness
20 statement.

21 A. If you're not reading from that, let me try to access.

22 Q. Thank you. I'm referring to the section where you said,
23 "I did not have access ..."

24 MR KHAN: It's paragraph 10 at the bottom of the second page
25 of the statement.

1 14:26 MR PRESIDENT: Thank you very much. Page 2.

2 A. Point number 9?

3 DR SHEIKH: Sir, point number 10.

4 A. Yes. I read to that. What is the question? Can you
5 repeat?

6 Q. Can you please tell me who told you that I had online
7 banking access from MAS team?

8 A. Well, Hassan could not view. In April, he had the
9 access and, in May, he could not view. He said he
10 doesn't have or he could not view. And when we call
11 you, we spoke, you told that, "I will provide after my
12 emergency, medical emergency, in the hospital." So
13 I believe that you have the access.

14 Q. Can you please read the list of names in the table where
15 it says under "Details" -- forgive me, let me first ask
16 Fatima, could you kindly pull in one reference. It's
17 D478 and kindly click on the third tab. I think you
18 have already done that in the past, earlier today for
19 me.

20 Could you kindly once again bring the names of the
21 people and zoom in, for ease of visual.

22 Mr Kamath, are you able to see the screen in front
23 of you?

24 A. Yes.

25 Q. This is an Emirates NBD online user official document.

1 14:29 Can you please read the list of the names in the table
2 where it says, "User ID" and if you would be so kind.

3 A. It is visible, right?

4 Q. Yes, sir.

5 A. What are you trying to say?

6 Q. Let me do this. This picture reads five names. This is
7 an official document from Emirates NBD Bank, which
8 confirms the people who have MAS ClearSight account
9 online access.

10 I read for your convenience. It says the first user
11 is Amit, the second is Adela, third is Ali, fourth is
12 Hassan -- sorry, first is Amit B, and I don't know what
13 this represents, but it's Adela, Ali, Hassan and Amit
14 Bhojwani. I just wanted for ease to remind you that
15 this is what it is.

16 My question for you: as you can clearly see in this,
17 that I am not on the list and this confirms the fact
18 that I never had MAS ClearSight bank's online access.
19 I have displayed this just for your information purpose,
20 sir.

21 A. Yeah, but I don't know. I have never seen this list.

22 I'm not aware. So what you want me to do about this?

23 Q. Nothing. I just wanted to show this. Thank you.

24 I move on to the next question.

25 The list that I have just shared with you, sir, the

1 14:31 question is: this list shows that the people who had
2 access to MAS online bank accounts, so when Hassan told
3 you that finally I had access, he was not telling the
4 truth. He was also not telling the truth when he told
5 Dinesh that he no longer had access.

6 Can you please tell me how I could have given your
7 statements if I did not have access to the Emirates
8 online banking -- and that's maybe just a poorly
9 articulated question, but do you understand what I'm
10 trying to say, sir?

11 A. Well, Dr Sheikh, I as the finance officer was about to
12 prepare the monthly statement and I need to be provided
13 bank statement. I don't care who provides. All those
14 months it was available. That month it was not
15 available. You are the ultimate person who can provide
16 it. I don't know. I don't know what is the question
17 and what is the answer.

18 Q. No problem, sir. Thank you. Thank you for making the
19 effort. I'll move on to the next question.

20 A. But basically, officials from MAS ClearSight are
21 supposed to provide me the bank statement.

22 Q. I understand, sir.

23 A. As long as it comes, I don't care from who.

24 Q. I now take the liberty to direct the questions in
25 a different subject. Moving on to MAS receivables from

1 14:33 Pakistan -- let me restate my question again. Forgive
2 me, sir.

3 Do you remember that there was a revenue regarding
4 some Hajj flights, which was posted as a revenue for the
5 month of May, in 2015, which you refused to admit in the
6 financials of May 2015? Do you recollect that, sir?

7 A. I recollect I refused 500,000 something worth of
8 revenue, because I felt that it was not substantiated.

9 Q. I respect that. Thank you, sir.

10 Did you prepare the financials for the month of May
11 in May or was it in the early days of June, sir?

12 A. No, can you repeat the question?

13 Q. Sure. Did you prepare the financials of MAS for the
14 month of May, in the month of May, or was it in the
15 early days of June?

16 A. Not both. We prepared somewhere in the first week
17 of June.

18 Q. Fatima, may I please request you if you can pull A002
19 and kindly go to page 116.

20 Fatima, just to give you, I'm going to request
21 Mr Kamath to take the trouble, if he does not mind, for
22 reading, just two small dialogues of this transcript, so
23 slowly scroll up once Mr Kamath has done the reading.

24 Mr Kamath, may I kindly request you, if you can
25 please read the thing which starts with "Mr Christopher

1 14:36 D'Cotta"?

2 A. No, what is this, actually? Can you go up and tell me
3 what is that?

4 Q. With pleasure. Fatima, can you kindly go up a little
5 bit to give a better continuity of the sentence,
6 I suppose.

7 Wherever would you like, sir?

8 A. No, no, can you go to the first page and tell me what is
9 this?

10 MR PRESIDENT: I think, Dr Sheikh, the witness would like to
11 know what this is?

12 A. A transcript, yeah, okay.

13 DR SHEIKH: Thank you, your Honour. My apologies, I should
14 have highlighted. This is indeed your transcript of
15 3 April 2016 when you were kind enough to give,
16 I suppose, a volunteer interview to the DFSA enforcement
17 gentlemen.

18 Are you back on the same page, Fatima? Can you
19 scroll up a little bit for the ease of Mr Kamath.

20 Mr Kamath, I'm going to request you to kindly read
21 just the two dialogues, starting from where it reads,
22 "MR CHRISTOPHER D'COTTA", and he starts, "Ok. And
23 then --"

24 A. Dr Sheikh, I don't know whether I need to read this.

25 I refuse to read. This is the transcript between -- for

1 14:38 the investigation between DFSA and me. And this is over
2 and DFSA has taken appropriate action against me.

3 I don't know why you want to ask about this. I refuse
4 to do any of this.

5 Q. I respect that, sir. I respect what you're saying and
6 with your permission, your Honours, I will take the
7 liberty to read this for the ease, or convenience, if
8 that's okay --

9 A. No, I'm not going to answer any question pertaining to
10 this transcript, because this is between me and DFSA.

11 MR PRESIDENT: Mr Kamath, I do not understand what you're
12 saying. This is an interview between you and the
13 DFSA --

14 A. Yes.

15 MR PRESIDENT: -- about MAS, is it not?

16 What is it that you're objecting to?

17 A. No, this is the investigation DFSA conducted against me
18 and that matter was investigated in detail. And I had
19 a settlement between DFSA and me. They have censored me
20 for whatever deficiencies in my duties. According to
21 me, that matter is over between me and DFSA. I don't
22 think I need to answer anything at this forum,
23 especially when Dr Sheikh ask.

24 The investigation was complete --

25 MR PRESIDENT: I'm sorry, Mr Kamath, but you're giving

1 14:39 evidence to this tribunal and you're being asked about
2 a document that is one of the papers in the tribunal.
3 Your dispute, if any, with the DFSA is --

4 A. I have a confidential agreement with DFSA, so I'm not
5 sure if I need to answer.

6 MR PRESIDENT: I'm not really concerned about your
7 confidentiality agreement with the DFSA, unless the
8 DFSA, through Mr Khan, their barrister, tells me that
9 they object to you being asked questions about this
10 document.

11 Mr Khan, do you object to the witness being asked
12 questions about this document?

13 MR KHAN: No, sir. I believe Mr Kamath may be referring to
14 any questions that may be asked, but have not yet, about
15 his settlement process with the DFSA, but that's
16 separate. Here he's being asked questions about
17 evidence he gave in the MAS investigation and from our
18 point of view, he ought to answer that the best he can.

19 MR PRESIDENT: That is why I have a difficulty in
20 understanding this. This is not part of any
21 investigation into you. This is the investigation, as
22 it were, into Dr Sheikh and the company. This is what
23 you said in that investigation.

24 So, Mr Kamath, since the DFSA has no objection to
25 you answering the questions, would you please now answer

1 14:41 them and I'll ask Dr Sheikh to ask it again.

2 DR SHEIKH: Thank you, your Honours.

3 Mr Kamath, for your ease and comfort, I want to make
4 a short comment. Please be rest assured that --

5 MR PRESIDENT: No, Dr Sheikh. I'm not interested in
6 comments. I want questions. Now just ask the
7 questions, please.

8 DR SHEIKH: Of course, sir.

9 The question, Mr Kamath, is that in the transcript,
10 which is just presented in front of you, I'm going to
11 ask the question where you have used the expression and
12 in the statement reads from your goodself:

13 "Then it's a fraud, Mubashir has made a fraud, and
14 he made us believe that -- I don't know. Basically,
15 actually I don't understand why Mubashir has to submit
16 the financials on 9th or just said, okay, wait. I don't
17 understand what was his motive? It is just stupidity."

18 Then Christopher D'Cotta, the gentleman from DFSA
19 said:

20 "Sorry, on the 9th?"

21 Then, sir, you replied:

22 "No, no, no, on the 15th, what prompted Mubashir
23 from the 8th to so strongly retain the good status of
24 the company, and by the 15th he called Salman saying
25 there is no capital adequacy or taken funds out?"

1 14:42 This is the pretext. I have three questions to ask
2 with regards to this extract, which I just read for
3 you, sir.

4 The first question is: you have made the statement
5 that a fraud has happened. Can you please explain what
6 you mean by "fraud" here, sir?

7 A. I mean the "fraud" by here means the funds are withdrawn
8 without anyone's knowledge, from the company -- without
9 anyone's knowledge. And you represented me over the
10 phone and you asked Hassan to write to me, to represent
11 to me that there were no transactions in the bank. But
12 whereas there were transactions and all the amount were
13 withdrawn and apparently by you. So that's why I meant
14 it's a fraud.

15 Q. In the conversation, you have said that Salman Haider
16 spoke with me on 15 June. However, Mr Aziz, who was
17 also on the call, said that the call happened on
18 12 June.

19 I am referring to the conversations that I had with
20 Mr Salman and Mr Aziz while I was in UK. And I'm just
21 wondering whether it is just a lapse of memory that the
22 call happened on 12th, but you have mentioned 15th, or
23 is it something that you are aware that Mr Salman spoke
24 on 15 June, sir?

25 A. I don't recollect which call you're referring.

1 14:44 Q. Your comments says that you have said that Salman spoke
2 with me on 15 June, which means Mr Salman had --

3 A. Yes, 15th, yes. Spoke to me on 15th.

4 Q. I understand. Thank you, sir.

5 Do you know who was the first person to communicate
6 that the company had breached its capital requirement,
7 sir?

8 A. It was the compliance officer, somewhere in June 15.

9 Q. I am going to also read one small section of your
10 conversation in the same transcript that we just saw
11 a few minutes ago and then I will follow up with one
12 small question.

13 The transcript reads, which is on A002, page 87:

14 "Basically, I was reluctant still, but then you
15 know, at the end I thought okay -- basically, I thought
16 okay, it's not here, the bank statement is -- which is
17 true that Hassan did have the access, I'm telling you
18 what went in my mind. Hassan didn't have access, and
19 he's in London, and some other reason, this one, if
20 there is no bank statement -- I mean, if there are no
21 transactions in the bank statement, the amount which
22 is -- we are allowing it here is true, and there was no
23 reason -- I never, ever thought that a man of this
24 kind ..."

25 I assume you're referring to me?

1 14:47 A. Yes.

2 Q. "... will do something like what he had done, it is
3 totally stupid, so there is no reason to doubt his
4 statement. So I -- but then I said, at least I ..."

5 So that's your comment and the question that I have
6 is the following. When you have said:

7 "... I never, ever thought that a man of this kind
8 will do something like what he has done ..."

9 What do you mean by "the man of this kind", sir?

10 A. "Man of this kind", I don't remember now, at that time
11 I remembered, of so many years' bank experience,
12 a doctorate, and working in financial industry, and also
13 running a successful, till then at least, firm, as to
14 why he has to do all this, withdraw the money without
15 anyone's knowledge. That's what I meant.

16 Q. Thank you, sir. In your witness statement, you have
17 said that you have never heard of a person named
18 Mr Peter Zeman with whom MAS had contract. My question
19 for you, sir, is: were you working for MAS in 2011 when
20 the contract was signed with Mr Zeman?

21 A. No, I was not. We started our work with you only in
22 2014, October.

23 DR SHEIKH: I want to thank you for your time that you have
24 given us today. I have no further questions for
25 Mr Kamath, your Honours.

1 14:48 A. Thank you.

2 MR PRESIDENT: Mr Khan, do you have any questions to
3 Mr Kamath?

4 MR KHAN: Nothing from me, sir.

5 MR PRESIDENT: Thank you very much, Mr Kamath. That's it.

6 We're most grateful to you for your help. Thank you for
7 sparing the time.

8 (Witness withdrew)

9 DR SHEIKH: Your Honours, may I address your goodselves for
10 just a quick minute, sirs?

11 MR PRESIDENT: Yes, all right.

12 DR SHEIKH: It has been a long day for me and a trying day.
13 I have been talking a whole lot. I'm feeling a little
14 bit uneasy, so with your kind permission, since at least
15 the running which has been foreseen from my side, that
16 we have gone through the four witnesses, would your
17 Honours permit that the session for today should be
18 concluded until tomorrow morning?

19 MR PRESIDENT: Let's see what the DFSA have to say about
20 that.

21 Mr Khan, what's your position here?

22 MR KHAN: Sir, first of all, that is the DFSA's case brought
23 to a close. We now go to Dr Sheikh's evidence and his
24 case. It's a matter for him as to the order he wants to
25 call witnesses.

1 14:49 I note that the next witness would be Mr Awais, so
2 if he's not available, and no other witnesses are
3 available, then we're comfortable with starting
4 tomorrow.

5 If it assists the tribunal, we have three days left
6 to hear the evidence, which is comfortably more than
7 I need to complete my cross-examination of all of
8 Dr Sheikh's witnesses.

9 In fact, this morning, I sent the DFSA, who, if they
10 have not already, will shortly send to Dr Sheikh, my
11 estimate of how long I need with each witness.

12 I may be able to get through all of Dr Sheikh's
13 witnesses, save for Dr Sheikh himself, possibly tomorrow
14 and certainly by Wednesday morning. So, on any view, we
15 get onto Dr Sheikh's evidence, live evidence, on
16 Wednesday and complete it either that day or on
17 Thursday.

18 So we are comfortable as a result of taking an early
19 adjournment, given Dr Sheikh is not feeling very well.

20 MR PRESIDENT: Very well. Dr Sheikh, can you just remind my
21 colleagues and I, if we were to break now until tomorrow
22 morning, are you going to have witnesses ready tomorrow
23 morning?

24 DR SHEIKH: Yes, your Honour. For your kind self and the
25 other your Honours, that my first witness, God willing,

1 14:51 will start, which is Mr Awais. And these are Pakistan
2 timings, but it will start right at the very beginning,
3 which means 9 am Swiss time or 8 am UK time after the
4 initial comments.

5 And then following that is Mr Qasim Shahzad and then
6 Mr Khalil and then Mr Atta Ul-Hayee, and they are one
7 after the other. Since I'm not aware of the expected
8 length of the questioning from Mr Khan, I would be
9 grateful if this can be shared with me, so I can ensure
10 that my witnesses are at least 15 minutes ahead of
11 schedule ready to move in the hopes that there is no
12 loss of time for the tribunal.

13 MR PRESIDENT: That's fine. You have Mr Akbar and Mr Yer on
14 the 29th, which is Wednesday.

15 DR SHEIKH: That's right, your Honours.

16 MR PRESIDENT: Tomorrow, we have Mr Awais and we have
17 Mr Shahzad.

18 DR SHEIKH: That's right, sir.

19 MR PRESIDENT: And Mr Ul-Hayee?

20 DR SHEIKH: And Mr Amit, sir.

21 MR PRESIDENT: Then if those witnesses do not take --
22 depending on how much time they take, we would then have
23 on Wednesday, Mr Akbar and Mr Yer. But you might need
24 tomorrow to be ready to start your own evidence. You
25 understand that?

1 14:53 DR SHEIKH: I understand, sir.

2 MR PRESIDENT: Very well. Are my colleagues happy with us
3 breaking now? Do you agree?

4 MR AL HASHIMI: Yes, I'm in agreement.

5 MR AL AIDAROUS: Yes, sir.

6 MR PRESIDENT: Both my colleagues are in agreement. So
7 thank you all very much for your help and we will stop
8 now and we'll start again tomorrow morning at 8 am UK
9 time, which is 11 am Dubai time. Thank you very much
10 for your help.

11 (2.53 pm)

12 (The hearing adjourned until 11.00 am
13 on the following day)

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