
IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE
FINANCIAL MARKETS TRIBUNAL
Case: FMT 19007

B E T W E E N:

Al Masah Capital Limited
Al Masah Capital Management Limited
Shailesh Kumar Dash
Nrupaditya Singhdeo
Don Lim Jung Chiat

Applicants

- and -

The Dubai Financial Services Authority

Respondent

- before -

His Honour Mr David Mackie CBE QC (President)
Mr Ali Malek, QC
Mr Patrick Storey

Day 6
Sunday, 17 May 2020

Mr Richard Hill, QC, and Mr Gregory Denton-Cox
(of 4 Stone Buildings), Mr DK Singh, Ms Bushra Ahmed and
Ms Tina Asgarian (of KBH Kaanuun) appeared on behalf of the
Applicants

Ms Sarah Clarke, QC, (of Serjeants' Inn) and Mr Adam Temple
(of 4 Pump Court) appeared on behalf of the Respondent

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1 PROCEEDINGS

2 (1.00 pm)

3 PRESIDENT: Welcome. Just a couple of things before we
4 start. First, we're grateful to Mr Singh for his
5 witness statement. We accept his explanation, and are
6 grateful to him for taking the trouble to deal with the
7 matter in detail. As far as we are concerned, the
8 matter as regards to him is over, if it ever arose.

9 Next, can I just remind everyone that we've got two
10 days, because we're not sitting -- at least we're not
11 due to be sitting on Tuesday, and I know at least one of
12 us can't do so, so it's going to be quite important to
13 concentrate on getting the evidence from these
14 witnesses.

15 If I could just say a couple of things about that,
16 which may or may not assist in the process. Firstly, it
17 is, of course, important that, with allegations of
18 knowledge, that these be put to the witness. We
19 recognise that, and of course, it's got to happen.

20 However, we don't expect absolutely everything to be
21 put to a witness. It may assist if we say that if there
22 are going to be points made in closing submissions that
23 something was not put to a witness, we'd be grateful if
24 instead of leaving it till then, in this case, it will
25 be Mr Hill, if you could raise it either at the time of

1 13:02 or in his re-examination. So Ms Clarke knows that she's
2 sort of not having to ask every question in sight, in
3 case there's an allegation of lack of -- an accusation
4 being put.

5 So that's the first one.

6 The second one is that, clearly, the witnesses we
7 are dealing with, they are parties to the process, they
8 have been through questioning by the DFSA, they have
9 been through the DMC process, they have been through
10 preparing their case for this hearing.

11 It does seem to us that it may save time if
12 Ms Clarke feels that she doesn't have to do much laying
13 of the groundwork. Indeed, I was particularly struck by
14 what was a most unusual answer, in the sense Mr Dash was
15 able to cite in his answer, not only the fact that it
16 was in a skeleton argument, but the paragraph and the
17 subparagraph and do so accurately.

18 So if you just bear that in mind.

19 The third point, perhaps a more old-fashioned point,
20 but the observation by counsel, "Mr So and So, we will
21 get along much better if ..." followed by what is not
22 a question, but a rebuke of some kind, I do find to be
23 unhelpful.

24 Firstly, if you were giving evidence, the last
25 person you would take advice from would be the

1 13:03 cross-examiner. And secondly, I recall in about the
2 summer of 1971, doing the same and being rebuked by the
3 stipendiary magistrate at Tower Bridge, in terms that
4 are as memorable as they are now unrepeatable, when
5 I was unsuccessfully trying to get admissions from what
6 was then called the weights and measures inspector.

7 So if we could bear that in mind, on we go.

8 MR HILL: Sir, before Ms Clarke resumes, could I just
9 mention one point of housekeeping, which is there's also
10 a further witness statement from Mr Singhdeo, which
11 should have come your way. It's very short. It's not
12 objected to by the DFSA. So that will be part of
13 Mr Singhdeo's evidence.

14 One other thing. Just on your point about
15 re-examination. I'll obviously do my best to pick up
16 points in re-examination. Just so it's clear to my
17 learned friend, our position also is that not every
18 point needs to be put. Obviously, the important points
19 do need to be put. I'll try, if important points
20 haven't been put, to mention them in re-examination.
21 But obviously, I'm having to operate in real time, so
22 there's a chance that I may miss the fact that something
23 important hasn't been put.

24
25

1 13:05

MR SHAILESH KUMAR DASH

2 Cross-examination by MS CLARKE (continued)

3 MS CLARKE: Mr Dash, on Thursday when we broke, I was asking
4 you questions about the issue of the information that
5 was provided to Investor A or [redacted]; do you
6 remember that?

7 A. That's correct.

8 Q. If you remember, I showed you the email, which had the
9 original table in it of figures, et cetera, produced by
10 Mr Singhdeo. And then if you remember, I asked you
11 questions about the meeting or the phone call that you
12 then subsequently had. I'd now like to take you to the
13 final email, with the proposed response to [Investor A],
14 which is exhibit A14228.

15 Mr Dash, you can see that the first part of that
16 email is from obviously Don Lim to you and a number of
17 others, including Mr Singhdeo. The response that he
18 writes there is:

19 "All --with inputs from NS, SD and Andreea, here's
20 the proposed response ... Do take a look and give your
21 comments pls. If ok then Andreea will need to send it
22 to [redacted] ..."

23 Then if you scroll down, we can see, first of all,
24 there's a table. Do you see that?

25 A. That's correct.

1 13:08 Q. There's number of differences, isn't there, in that
2 table, from the one that you were originally sent?

3 A. That is correct.

4 Q. Just to summarise it, in terms of the wording, the
5 descriptions of the items, the only change is that
6 "Transaction fee income", which is the bottom item, has
7 become "Advisory and transaction Fee Income", hasn't it?

8 A. That's correct.

9 Q. But in terms of the numbers, there's quite a lot of
10 change, isn't there? For example, "Management Fee
11 Income" has gone up by about a million. "Placement Fee
12 Income", on the other hand, has gone down by about
13 7.8 million.

14 A. That's correct.

15 Q. "Portfolio Management Fee Income", up by 2.2 million.
16 And "Advisory and transaction Fee Income", up by
17 5.8 million.

18 A. That's correct.

19 Q. When you look at this table, presumably you must have
20 seen, in particular, as regards the placement fee
21 income, the very large change in the numbers. Did you
22 see that, Mr Dash?

23 A. That is correct.

24 Q. So you did notice the very large change in the numbers?

25 A. That's correct.

1 13:09 Q. But you didn't make any query, did you, as to why those
2 numbers had changed as much as they had, in particular
3 the placement fee number?

4 A. No, I think you did cover it towards the end of the day
5 while we're having this discussion. We saw that Don had
6 sent the financial statements of Al Najah and Healthcare
7 MENA to [Investor A]. And when this discussion was
8 going on, I had said that if they're sending the annual
9 report of AMCL, which is a year ending March, and the
10 healthcare company, which has a year ending in December,
11 and the education company, which has a year ending
12 in September, and if somebody wants to mix and match
13 those periods into the March year end of AMCL. And at
14 the same time, I do understand that E&Y -- and PwC, who
15 was the auditor for AMCL and E&Y was the auditor for
16 Healthcare MENA and Al Najah, they were using different
17 terminologies in their audited financial statements.

18 So I had told them that if you have sent those
19 financials and you're sending these financials, make
20 sure that -- I'm sure they're going to crosscheck very
21 far. They have to match with each other. They have to
22 make sense, the numbers that you're sending out.

23 We have seen that in Al Najah, I think the financial
24 statements, audited statements have been presented here
25 and we have seen that Ernst & Young used to tell them as

1 13:11 transaction and advisory fee income.

2 Q. That's what you assumed accounted for the difference in
3 the numbers?

4 A. That's correct.

5 Q. What about the statement that we can see in the email.

6 And if you look at the last sentence in the wording just
7 above the table:

8 "The fee income that pertains to the PE platforms
9 [so that's the four investments we're concerned with] is
10 the Management Fee income of [USD 4.7 million]."

11 A. Yes --

12 Q. Presumably, you would have read that too, wouldn't you?

13 A. The discussion, if you see the answer -- this is, of
14 course, five months of Q&A happening, if you would see
15 that, at that time, I didn't remark. I didn't see it.
16 All that stuff, I was going through superficially,
17 because it was being handled by very senior team
18 members. But when the question that initially Don had
19 started with, is they're trying to find the AUM, the
20 assets under management that you have, or the assets
21 that are provided by you, as to what is the kind of fee
22 income. So from the fee income to find the AUM. So
23 that is only possible if you know the management fee, to
24 know the AUM of a company.

25 Q. Yes, but of course, that statement isn't true, is it?

1 13:12 Because the placement fee income also related to the PE
2 platforms?

3 A. The fee income of the PE platforms is in the management
4 fee income. The fee income that pertains to the PE
5 platforms is in the management fee income.

6 Q. What is the management fee income?

7 A. It says that income includes management fee income from
8 the platforms and as well as the other management fees
9 that we have from the different funds that we had,
10 because they have to match also with the AMCL
11 financials. So PwC, any management that we do from the
12 funds and the companies, they're all covered in this
13 segment.

14 Q. That's not what it said, is it? I suggest that you read
15 this email perfectly well and you knew exactly what was
16 happening, which was that this was an attempt to
17 disguise to [Investor A], the amount of placement fees
18 that were being paid. And secondly, to disguise the
19 fact that placement fees related to the private equity
20 platforms.

21 A. We have seen that -- this actually goes on to prove that
22 we were very eager to give the right information to
23 a commercial partner that we're discussing
24 a partnership, that when they have all the statements in
25 front of them, they should be able to mix and match.

1 13:14 Q. Then I'm going to go to the next allegation, which is
2 the information that was provided to distributor B,
3 which is Noor Bank. All right?

4 Just to set the scene, Noor Bank sought financial
5 information as part of the due diligence process, didn't
6 they? If you look at exhibit 723, page 5, at the
7 bottom, we can see that that request was forwarded to
8 Mr Singhdeo, Mr Ghosal and you. So you were aware of
9 what they'd asked for, weren't you?

10 A. That's correct.

11 Q. Then we know that, because, of course, the next email up
12 on page 5 is you responding, saying, "Please send the
13 information."

14 A. Yes, correct.

15 Q. What then happened was there was some toing and froing
16 in email exchanges, which you were not copied into. But
17 then at exhibit 764, page 1, the bottom of page 1,
18 there's an email from Mr Lim to you and Mr Singhdeo and
19 "Eyad -- Dubai".

20 "They are asking for copies of audited financial
21 statements -- I will like to send the copy of the annual
22 report instead of the signed audited statements. If
23 they want to sight signed financial statements, will ask
24 them to do it in our office."

25 To which you reply, "That's right." I suggest --

1 13:16 A. Not really. After that there's an email after that.

2 Q. Sorry?

3 A. No, I replied to the email from Eyad, which is the next
4 email.

5 Q. "Send them the annual report as it includes the
6 financial statement."

7 To which you reply, "That's right".

8 A. That's correct.

9 Q. I suggest the reason why you did that was because you
10 knew that the financial statements that were in the
11 annual reports did not contain reference to the
12 placement fees.

13 A. I don't agree with that, because from the email of --
14 even if though I didn't see this email at that time,
15 I replied to Eyad's email. But Don's email says that
16 he's willing to share everything if they come to the
17 office, so there is no hiding there. It only shows that
18 we are very honest, in terms of sharing all information.
19 Nobody is hiding anything. It's saying that, you know,
20 "Please come to the office and look at whatever you wish
21 to look."

22 Q. Final topic, Mr Dash, lack of cooperation with the
23 investigation. You've seen what Mr Hammond says in his
24 witness statement number 3. I'm not going to suggest we
25 look at it.

1 13:17 I'm going to suggest that your firm did adopt an
2 obstructive attitude just as that witness statement
3 says.

4 A. I think this has been running for four and a half years.
5 For the first time I hear that even in the DMC, it was
6 never told that there have been any obstruction. It has
7 been said that we have been very helpful. The first
8 thing, first time I'm hearing this statement, which is
9 totally incorrect, because whatever has been in our
10 power to provide any information, including two
11 voluntary interviews, we've done it. We always have
12 provided for whatever the regulator has needed.

13 MS CLARKE: Thank you. That's all I ask.

14 Re-examination by MR HILL

15 MR HILL: Mr Dash, you were taken on Wednesday, that is on
16 day 4, to one of your DFSA interviews and questions were
17 put to you about whether, in your DFSA interview, you
18 were regarding private equity structures as funds or
19 not.

20 I'm going to read you an answer that you gave on
21 Wednesday. And for everyone's note, it's at day 4,
22 page 88. You said -- and I'm just going to read you
23 your whole answer:

24 "The four are not funds, we all know that. I mean,
25 the characterisation is not funds, they're companies.

1 15:40 Companies are very distinct from funds. Anybody would
2 know that. I don't know why I would say this. This,
3 for sure, is not correct. Because companies are
4 companies, funds are funds. Everybody would know that.

5 But can we go down a bit more if I did describe
6 anything more on this? Sorry, I don't have it in front
7 of me."

8 Then you may recall, Mr Dash, you were then trying
9 to look further down on the transcript, for further
10 answers from you on the topic of whether or not private
11 equity platforms were funds.

12 Now, you had been taken to two passages of
13 transcript. One on page 26 of the interview transcript
14 and one on page 43. I'm just going to look at a passage
15 in the middle of those passages, between those two
16 references, that you weren't shown. I'm going to ask
17 you to be shown page 34 and it's, Fatima, exhibit 107,
18 bottom of the page.

19 Do you see there the question is asked:

20 "All right. Now, just in respect of Al Najah, is
21 that a fund -- is it structured as a fund or is it
22 simply a company that's issuing shares.

23 Shailesh Dash: No, company which is issuing
24 shares."

25 Like Ms Clarke, I'm not suggesting to you this is

1 13:21 everything on the topic, but does that assist you in
2 relation to your search for other statements made by you
3 on that topic?

4 A. That is correct. That's correct.

5 Q. When being asked about that topic by Ms Clarke on
6 Wednesday, you offered to give her your own perspective
7 on the difference between funds and corporate structure
8 like the private equity platform we had.

9 Ms Clarke didn't take you up on the invitation, but
10 said that I could. For everyone's note, that was at
11 page 90 on day 4. I'm giving you an opportunity now, if
12 you want to, to say something more from your perspective
13 about the difference, as you see it, between funds and
14 the corporate structure, like the private equity
15 platforms.

16 A. Thank you. A fund is where a fund manager receives the
17 fund, in the account of the fund, of course, but is
18 fully liable in terms of how the money gets invested.
19 A fund manager decides where to put the money, when to
20 put the money and when to sell the businesses.

21 The liability solely lies and all activities are
22 done by the fund manager, no other person is involved in
23 that. We can see that in an equity fund, in a hedge
24 fund, in a bond fund, in a money market fund. That is
25 how a fund unit operates, such as the IPO fund that we

1 13:22 had, the opportunities fund that we had, the five fixed
2 maturity funds that we had. So we know the structures
3 of how a fund operates.

4 Instead, a company is always belongs and owned by
5 the shareholders of the company. They are the real
6 owners of the company. They can give the management
7 rights to a CEO, to a board, to a management team,
8 whoever they wish, they can give a salary, they can give
9 a bonus, but the real ownership lies with them.

10 This is a big difference. And when people invest
11 into funds, they invest at a certain value of that
12 particular fund. For example, we can take a dividend
13 yielding fund where investor invests at a certain
14 premium or discount to the fund. As a result, his
15 dividend yield could go higher or lower. But in terms
16 of a company, it is run by the articles of the company,
17 such as the dividend policy that was set up for these
18 four companies in the articles of its company.

19 So the directors of the company are bound by the
20 articles of the company and the shareholders have the
21 right, when they get together, to remove any manager,
22 any board members that might be sitting in the board of
23 these companies. These rights are not available in any
24 fund to the unit holders of the company -- of those
25 funds.

1 13:24 So this is a huge difference, which gives a lot of
2 ownership and rights to the shareholders of a company,
3 compared to fund unit holders.

4 MR HILL: Thank you, Mr Dash. I don't have any other
5 questions, but the tribunal may.

6 PRESIDENT: I have no questions. Mr Storey?

7 MR STOREY: Nothing from me, thank you.

8 PRESIDENT: Mr Malek?

9 MR MALEK: Nor me, thank you.

10 PRESIDENT: Mr Dash, it's been a very long time of giving
11 evidence. Thank you very much indeed for your help.
12 We're most grateful. You can switch off now, if you
13 wish.

14 WITNESS: Thank you.

15 (Witness withdrew)

16 PRESIDENT: The next witness, please.

17 MR HILL: I now call Mr Singhdeo. I don't know whether we
18 need five minutes to rearrange things.

19 PRESIDENT: Let's do that. It will be quicker if it's done
20 informally.

21 (1.25 pm)

22 (Short break)

23 (1.29 pm)

24

25

1 13:29

MR NRUPADITYA SINGHDEO

2 PRESIDENT: Welcome, Mr Singhdeo. Thank you for coming to
3 give evidence before us. Mr Hill will now want to speak
4 to you.

5 Examination-in-chief by MR HILL

6 MR HILL: Mr Singhdeo, could you give your full name?

7 A. Nrupaditya Singhdeo.

8 Q. You have chosen to give an affirmation, so can you
9 please repeat after me. I do solemnly, sincerely and
10 truly declare and affirm.

11 A. I do solemnly, sincerely and truly declare and affirm.

12 Q. That the evidence I am about to give.

13 A. That the evidence I am about to give.

14 Q. Is the truth, the whole truth and nothing but the truth.

15 A. Is the truth, the whole truth and nothing but the truth.

16 Q. You have made three witness statements for these
17 proceedings, substantive witness statements. Could you
18 be shown bundle C011.

19 If Fatima could scroll down, is this your third
20 witness statement? Do you see that?

21 A. Yes.

22 Q. Can we go down to page 22, Fatima. Is that your
23 signature?

24 A. Yes.

25 Q. Are the contents of that statement true?

1 13:31 A. Yes.

2 Q. Could we go to the fourth witness statement, which is at
3 bundle C015. Scroll down a little, Fatima.

4 Do you have there "Fourth Witness Statement of
5 Mr Singhdeo"?

6 A. Yes.

7 Q. Can we go down to page 4. Is that your signature?

8 A. Yes.

9 Q. Are the contents of that witness statement true?

10 A. Yes.

11 Q. Finally, you've made a very short fifth witness
12 statement, which is at bundle C019. Is that your fifth
13 witness statement?

14 A. Yes.

15 Q. Can we look at page 2. Is that your signature?

16 A. Yes.

17 Q. Are the contents of that statement true?

18 A. Yes.

19 MR HILL: If you wait there, Ms Clarke will have some
20 questions.

21 Cross-examination by MS CLARKE

22 MS CLARKE: Mr Singhdeo, during the period that we are
23 concerned with, by background, you were a qualified
24 chartered accountant, weren't you?

25 A. Yes.

1 13:32 Q. With at least 15 years' experience in various roles,
2 including audit, investment and advisory and alternative
3 investments?

4 A. Correct.

5 Q. At the time you were the CFO of Al Masah Capital?

6 A. Al Masah Capital Management and Al Masah Capital.

7 Q. Yes, and also a partner in Al Masah Capital, weren't
8 you?

9 A. That's correct.

10 Q. And part of what's described as the senior leadership
11 team in various documents that we've looked at with
12 Mr Dash; yes?

13 A. Yeah, that's correct.

14 Q. You've already told us that you were the CFO of Al Masah
15 DIFC. I think the position is that you were also the
16 deputy money laundering and reporting officer of
17 Al Masah DIFC, weren't you?

18 A. I do recollect that was the position which was put
19 against my name.

20 Q. You reported in respect of these roles, directly to
21 Mr Dash, didn't you?

22 A. I had a reporting to Mr Dash.

23 Q. In terms of the investment companies or holding
24 companies, as the applicants refer to them, you were
25 a board member of each one of the four companies,

1 13:34 weren't you?

2 A. That's correct.

3 Q. In terms of the Al Masah education platform, referred to
4 as ANEL by me, you were the CEO of ANEL, weren't you?

5 A. That's not correct.

6 Q. Can we have a look at exhibit 231. It's page 1. Scroll
7 down to where we can see Mr Singhdeo's entry, please.

8 This is a document that comes from the ANEL website
9 and it lists the directors. And you will see that under
10 your name, it says:

11 "... Board Member

12 Chief Executive Officer and Board Member."

13 Do you see that?

14 A. Yes, that's correct.

15 Q. I'll ask you again: were you the CEO of ANEL?

16 A. I was the CEO of ANEL from the period I have given in my
17 witness statement, that was from May 2016 till --

18 Q. I see. So from May 2016, but not before; is that the
19 position?

20 A. Yeah, that's correct.

21 Q. But during the relevant period, you were also a member
22 of the ANEL audit committee, weren't you?

23 A. That's correct.

24 Q. The person who gave you all of these opportunities was
25 Mr Dash, wasn't it?

1 13:36 A. It was the board of Al Masah who eventually gave me all
2 the responsibility.

3 Q. Yes, but it was Mr Dash that introduced you to AMC,
4 Al Masah Cayman, and Al Masah DIFC, wasn't it?

5 A. I joined the company, along with him.

6 Q. Because he approached you to help him develop and set up
7 Al Masah Capital, didn't he?

8 A. That's correct.

9 Q. In due course, designing and implementing the four
10 platforms that are the subject of this case?

11 A. The subject of discussion, not the subject of the case.

12 Q. Right. Okay. But anyway, the point is, you helped him
13 to put it altogether and set it up, didn't you?

14 A. That's correct. I was part of the original team.

15 Q. In return, he gave you the roles in the companies that
16 we have spoken about, didn't he, or at least made that
17 possible?

18 A. That's correct.

19 Q. Contractual agreements, you would have known, because of
20 the various roles that we've just talked about, that
21 there were contractual agreements in place between
22 Al Masah Cayman and Al Masah DIFC?

23 A. I was aware.

24 Q. We went through them with Mr Dash last week. I'm not
25 suggesting we do the same with you. But you knew

1 13:37 broadly that there was a service fee agreement, an
2 investment advisory agreement and an advisory agreement,
3 didn't you?

4 A. That's correct.

5 Q. You also knew that there were management agreements and
6 placement fee agreements in place between Al Masah
7 Cayman and each of the investment companies, didn't you?

8 A. That's correct.

9 Q. In terms of placement fees, you knew that the placement
10 fee agreement said that Al Masah Cayman would receive
11 fees of up to 10 per cent of the capital raised from
12 each investor?

13 A. From the platform company, not from each investor.

14 Q. But in terms of the actual value of the placement fee,
15 it came from the amount invested by the investor,
16 didn't it?

17 A. The money received by the platform company, that's what
18 I would say.

19 Q. Yes. I'm not talking about where the money actually
20 came from, but the percentage was derived from
21 a percentage of the amount of the money invested?

22 A. That's correct.

23 Q. You also knew that a placement fee, not necessarily
24 always 10 per cent, but a placement fee of some sort of
25 percentage was always paid by the platform to Al Masah

1 13:39 Cayman on every investment, wasn't it?

2 A. A placement fee was paid by the holding company to
3 Al Masah on the funds raised on their behalf.

4 Q. Exactly. In every instance?

5 A. I would say that is correct.

6 Q. One of your roles, in fact, as the CFO of Al Masah
7 Cayman, was to ensure that placement fees and management
8 fees were regularly collected from the holding companies
9 and accounted for in Al Masah Cayman's balance sheet?

10 A. That's correct.

11 Q. In terms of what investors were told about the fees that
12 were going to be charged in respect of their investment
13 in the platforms, the two types of fees that investors
14 were specifically told about, in the marketing documents
15 and the subscription forms, were management fees of
16 2 per cent per annum, payable by -- from the holding
17 company to Al Masah Cayman. You were aware of that,
18 weren't you?

19 A. Yes, I'm aware of that.

20 Q. Secondly, an incentive fee paid to Al Masah Cayman on
21 exit?

22 A. That's correct.

23 Q. Subject to certain conditions. You were aware, weren't
24 you, that those were the two fees that were specifically
25 disclosed in the marketing documents and subscription

1 13:40 documents?

2 A. That's correct.

3 Q. You knew that at the time that we're concerned with,
4 didn't you?

5 A. That's correct.

6 Q. You also knew, again, at the time that we are concerned
7 with, that investors in those documents were not
8 specifically told about the placement fee, didn't you?

9 A. The investors were not charged placement fee, so to that
10 extent, they were not specifically told.

11 Q. Exactly. Therefore, you knew that there was no
12 reference to that fee in the marketing materials, nor in
13 the subscription forms -- no specific reference?

14 A. The subscription form had reference to the articles, but
15 there was no reference in the marketing material.

16 Q. Exactly. There were times, of course, weren't there,
17 where you yourself would email subscription forms or
18 offer documents to various entities, if required?

19 A. Just if I can clarify the question. "Entities", when
20 you say, the holding companies or?

21 Q. For example -- I'm not suggesting we bring the documents
22 up, because I think you refer to them yourself in your
23 witness statement, but there was an occasion when you
24 emailed a subscription form and other marketing material
25 to somebody called Pramod?

1 13:42 A. Yes, that's correct.

2 Q. I'll give the references for the transcript, but I'm not
3 suggesting we look at it. It's exhibits A032 and A033.

4 Similarly, again, no need to look at it, but
5 exhibit 709, you sent the HML offer document and teaser
6 to somebody called Anil Goyal. Do you recall that?

7 A. That's correct.

8 Q. The last exhibit, A040, sent subscription forms to Dipti
9 Dhingra. Do you recall that, Mr Singhdeo?

10 A. Yes, Ms Dipti was a board member. I recall having sent,
11 yes, I do recall.

12 Q. It was a deliberate decision, wasn't it, that placement
13 fees would not be disclosed to investors?

14 A. No, I disagree with your statement that there was any
15 deliberate decision not to disclose placement fees to
16 investors.

17 Q. I suggest that that decision was made principally by
18 Mr Dash, in his capacity as CEO of Al Masah Cayman, and
19 his involvement with the other companies that we're
20 concerned with.

21 A. No, I don't agree with that statement.

22 Q. I suggest that you were aware of and a party to that
23 decision.

24 A. No, I don't agree to that statement.

25 Q. You, in interview, made reference to knowing that the

1 13:43 subscription forms contained a reference to investors
2 having read, et cetera, and agreed to be bound by the
3 articles of association of the holding company into
4 which they were investing, didn't you?

5 A. That's correct.

6 Q. Again, I'm not suggesting we bring it up, because we
7 looked at it last week with Mr Dash, but you may recall
8 that I referred him to article 11 of one of the articles
9 of association and to the sentence that said:

10 "The Company may pay such brokerages as may be
11 lawful."

12 A. That's correct.

13 Q. That is the line in the articles that you, the
14 applicants, point to as saying, "Well, that's
15 a reference to placement fees." That's the purpose of
16 pointing out that part of article 11, isn't it?

17 A. Article 11, it refers to any fundraising fee, what the
18 companies do pay to entities who help them to raise
19 funds.

20 Q. But it's not, is it, an explicit reference to placement
21 fees, in the sense the term "placement fee" is not used?

22 A. Yeah, it is a fee which is paid by the holding companies
23 for helping them to raise funds. So that is the
24 reference of article 11, where it mentions about
25 brokerage on fundraising.

1 13:45 Q. Nor does it say that placement fees were always charged
2 on an investment, which we know they were, because you
3 just told us that?

4 A. Yeah, that's correct. It has a "may" clause.

5 Q. Yes, exactly. That line is the only reference in any of
6 the documents that a prospective investor might receive
7 to suggest that a placement fee would be payable on
8 their investment, a percentage of their investment,
9 isn't it?

10 A. I don't agree with that statement, because the investors
11 were not paying any placement fees. Those placement
12 fees were being paid by the company for whom the fund
13 raising was happening.

14 Q. The point was, that one line, assuming that an investor
15 received a copy of the articles and read it, that one
16 line is the only reference in any document they might
17 receive to even the vague possibility of another fee?

18 A. That is a disclosure which is made to them to be aware
19 that the entity where they're investing will be paying
20 fee for fundraising purpose.

21 Q. Referral agents. You were sometimes involved in
22 negotiating their fees, weren't you?

23 A. I don't recollect.

24 Q. Do you want to have a look at exhibit 719? Bottom of
25 page 1, email from you, cc'd to Mr Dash and to various

1 13:47 others:

2 "Dear Distribution Team

3 We have reviewed the current arrangement of sharing
4 referral fee with our various gatekeepers ... The
5 revised fee sharing incentive will be with effect from
6 1st October 2013."

7 Then there's percentage fee numbers given. It does
8 seem as if, doesn't it, that you were involved in
9 negotiating and setting percentages that were going to
10 be paid to referral agents?

11 A. I would say it is not negotiating, but I'm communicating
12 to the team, the placement team, who were having the
13 relationship with the gatekeepers that this is the
14 decision what the management or the company has now
15 taken. And they, in turn, need to negotiate or
16 communicate to the end referral agent, with whom they
17 have the relationship.

18 Q. In terms of the referral agents agreements with Al Masah
19 Cayman, you would be aware, wouldn't you, that there was
20 no specific reference in those agreements to the
21 referral agent having to tell the investor that Al Masah
22 Cayman would also receive a percentage placement fee on
23 the investment made?

24 A. I don't recall, but having been part of the proceedings,
25 I am aware, because this was a discussion which has

1 13:49 earlier happened. So I do confirm that there is no
2 disclosure obligation on the referral agent.

3 Q. Could we go to the topic of the ANEL audit 2013. First
4 of all, a few questions about the audit process. Common
5 ground, the audit act in 2013 was being done by Ernst
6 & Young, wasn't it?

7 A. That's correct.

8 Q. The audit was not being done specifically for the
9 benefit of the directors of ANEL, was it?

10 A. It was being done for the company. As per the articles,
11 the audit was to be done for the directors.

12 Q. But it was also intended, wasn't it, that the audit or
13 that the results of the audit might be used for other
14 purposes, such as marketing or providing information to
15 investors?

16 A. That's not correct.

17 Q. The engagement letter that we have at exhibit F301, we
18 can bring it up, if you want, but I suggest that it
19 doesn't limit in that engagement letter the purpose of
20 the audit.

21 A. The engagement letter has a reference.

22 Q. Do you want to look at it?

23 A. Yes.

24 Q. Let's look at it, F301. It's quite long. It's nine
25 pages. I have read it through. I can't find

1 13:51 a reference that says it's specifically limited to only
2 the directors of ANEL.

3 A. Yeah, if I recollect, there is a reference in the
4 engagement letter where they say they will do the audit
5 in accordance with the articles of the company.

6 Q. I see.

7 A. Yeah, if we go to point 4, sub-bullet point --

8 Q. Page 4?

9 A. No, point 4, in page 1 itself. Sub-bullet point (ii),
10 and it says:

11 "... and in accordance with the provisions of the
12 law and the Entities' Articles of Association."

13 Q. I see. You would say that that means that the purposes
14 of the audit was limited to the directors of ANEL, would
15 you?

16 A. That's correct.

17 Q. Because one of the things that you said in your witness
18 statement, your fourth witness statement, is you refer
19 to an audit done on ANEL by BDO, in 2015, don't you?

20 A. That's correct.

21 Q. You produce, I think, an exhibit in connection with
22 that, NS 4-7. I'm not sure that we need to specifically
23 look at it or actually maybe we should. Let's go to
24 that. That's C015. This document is the BDO audit,
25 isn't it? You say that that document demonstrates that

1 13:53 audits are intended solely for the company's management?

2 A. Yeah, it is for the company's board of directors.

3 Addressed to the company's board of directors.

4 Q. But there's an email chain, if you would please go to
5 exhibit F305. If we look at page 2 of this email chain,
6 we can see that this is an email dated March 2014. So
7 this is when Ernst & Young were still the auditors. It
8 says:

9 "Please find attached the draft separate ...
10 statements.

11 ... verify the numbers ... let us know your
12 comments ..."

13 You're cc'd on that, as you can see.

14 Then if we go up the page, Mr Agarwalla responds,
15 cc'd to you and Mr Lim, and it's point 2:

16 "Also you need to remove the line which saying the
17 separate financial statement have been prepared for
18 management information purposes only ..."

19 A. I read that statement.

20 Q. What seems to be happening there is that it's a request
21 from ANEL that you were aware of, saying, "Please remove
22 the line which restricts the financial statements for
23 management purposes only, management information
24 purposes only."

25 A. No, management information purposes, but it was for the

1 13:55 board of the company. So it was not --

2 Q. I'm not saying it wasn't, but the point of this, I'm
3 suggesting, is that you wanted to be able, if you
4 wanted, if you decided to, to use these documents, in
5 terms of marketing or information to investors or
6 prospective investors.

7 A. No, that is not correct.

8 Q. In terms of -- again, back to the audit process, the
9 ANEL audit committee actually dealt with the practical
10 aspects of the audit process, didn't it?

11 A. The practical aspects of the audit process was dealt by
12 the ANEL finance team.

13 Q. Did the ANEL finance team report to the ANEL audit
14 committee?

15 A. The ANEL finance team used to report to the ANEL audit
16 committee.

17 Q. Were you the head of the ANEL audit committee? I think
18 you were, weren't you?

19 A. No, I was not head of the ANEL audit committee.

20 Q. Who was?

21 A. There was another board member who was the chairman of
22 the audit committee.

23 Q. Were you on the finance committee?

24 A. No, I was not on the finance committee.

25 Q. According to Mr Sikander, you and Mr Lim were Ernst

1 13:56 & Young's primary contacts in terms of preparation of
2 and conduct of the audit?

3 A. That's not correct.

4 Q. Then in terms of who was, who do you say was Ernst
5 & Young's primary contact?

6 A. Mr Sikander's witness statement himself says that the
7 primary contact for relationship purposes was
8 Mr Singhdeo. But for the field work, it was Mr Raj
9 Kumar Agarwalla, during when he did the audit.

10 Q. Then what would happen is a draft audit report would be
11 prepared, wouldn't it, and then that would be presented
12 to the audit committee?

13 A. That would have been the ideal process.

14 Q. Once the audit committee approves the financial
15 statements, the draft financial statements, then it's
16 finalised; is that correct?

17 A. That is correct.

18 Q. And then --

19 A. But that didn't happen in Al Najah's case.

20 Q. Then I suggest that once they have been finalised, then
21 the audited financial statements and the audit report
22 are issued by Ernst & Young.

23 A. That would have been the ideal process.

24 Q. I suggest that is the process that would have been gone
25 through, isn't it?

1 13:58 A. No, that was not the process which the audit of Al Najah
2 went through.

3 Q. What about in 2013? Why wasn't that the process that it
4 went through?

5 A. 2013 was the first year when E&Y issued the audit
6 report. So if I recollect correctly, there was an audit
7 committee and a board meeting scheduled to be held for
8 finalising or looking into the audit of Al Najah, which
9 was around 24 April 2014, if I recollect the date well,
10 because I have gone through the emails. And we were
11 presented or told by the finance team of Al Najah, at
12 that point of time, that E&Y would require a consent
13 that the draft is agreeable to the board.

14 So we went on, at that point of time, we said,
15 "Okay, fine. We will sign on the financials." And
16 finally, they have to present the financials to the
17 audit committee and the board when the meeting happens.

18 So this event happened around the last of March. So
19 that's the reason I say that that whole process was not
20 followed as far as the audit of 2013 is concerned.

21 Q. But in general terms, the process I've described is the
22 process that is meant to have been gone through?

23 A. That's the process which it should have gone through.

24 Q. You're aware, aren't you, that the consent of Ernst
25 & Young had to be obtained if their audited financial

1 14:00 statements are subsequently reproduced?

2 A. As far as the 2013 engagement letter is concerned, there
3 was no express clause, but I'm aware that is the
4 protocol which should be followed, if the audited
5 financials has to be presented.

6 Q. Apart from anything else, you're a chartered accountant
7 yourself, so you'd know that anyway, wouldn't you?

8 A. Yeah, that's what I'm saying. That's the protocol,
9 whether it is there in the engagement letter or not, if
10 you're producing audited financials, then you need to
11 take consent of the auditor.

12 Q. The engagement letter for Ernst & Young also says that
13 copies of printer's proofs of the annual report would
14 have to be provided to them prior to filing, didn't it?

15 A. I do recollect, but it also puts a caveat. It says that
16 if the consolidated financial statement is there in the
17 annual report, then you need to take E&Y's consent.

18 Q. If we look, then, at F302, which is the letter, page 5,
19 paragraph 18. That's where I derive the suggestion
20 I made to you:

21 "The Group shall provide us with copies of the
22 printer's proofs of its annual report prior to filing
23 for our review."

24 Do you see that?

25 A. Yes. It says "consolidated financial statements" also.

1 14:02 Q. Where's that? In the same -- yes, okay:

2 "We will review the document for consistency between
3 the annual consolidated financial statements and other
4 information contained in the document, and to determine
5 if the consolidated financial statements and our report
6 thereon have been accurately reproduced. If we identify
7 any errors or inconsistencies that may affect the
8 consolidated financial statements, we will advise
9 management and those charged with governance, as
10 appropriate."

11 So that's what was supposed to happen. Again, you
12 knew that, didn't you, that that was the process that
13 should have been gone through?

14 A. I haven't read the full content of the engagement
15 letter. Obviously, it was an engagement letter between
16 E&Y and Al Najah, so the finance team of Al Najah should
17 have been aware about the terms of the engagement
18 letter, certainly.

19 Q. But in general terms of your role as a chartered
20 accountant and the role that you had in ANEL on the
21 audit committee, you would have known anyway, wouldn't
22 you, that if there was going to be any reproduction of
23 the annual consolidated financial statements or extracts
24 thereof in the annual report, that should have been
25 shown to Ernst & Young before publication? You'd have

1 14:03 known that that's what should have happened?

2 A. Yeah, if the audited financials have to be reproduced,
3 the consent should certainly be taken. Otherwise also,
4 as a good order, they should have been contacted. The
5 finance team should have contacted.

6 Q. Of course, we know that that did not happen in respect
7 of either the 2013 or the 2014 annual report, did it?

8 A. Yes, I do agree that process was not followed by the
9 finance team of Al Najah.

10 Q. I suggest not just by the finance team, but also by you
11 and Mr Lim.

12 A. I disagree with that statement.

13 Q. Let's carry on. The audited financial statements, as we
14 know, were produced around the end of March and they
15 were approved subsequently by the board of ANEL. And
16 then the statements, the audited financial statements,
17 were signed by you and Mr Lim, weren't they?

18 A. As I explained, in the first year of audit, we were made
19 to understand that the audited financial statements or
20 the draft audited statements will be presented to the
21 board of Al Najah on the date when the board and the
22 audit committee meeting will be held, which was
23 scheduled for 24 April 2014.

24 However, myself and Don, we had signed the
25 financials on 31 March and we were given to believe that

1 14:05 these are our consent being taken on the draft
2 financials, so that it can be presented to the board.
3 So the actual signature or the approval had already
4 happened before the board meeting, which took place on
5 24 April.

6 Q. The question was, they were signed by you, though, and
7 Mr Lim, weren't they, the audited financial statements?

8 A. That's correct.

9 Q. That was the only question I asked.

10 Can you have a look at exhibit F303. This is
11 a document produced by Ernst & Young, summary review
12 memorandum, relating to the preparation of the 2013
13 accounts.

14 At page 4 of the document, it provides an
15 explanation at section B, which is just under halfway
16 down the page, a heading, "Transaction costs of equity
17 increase". It explains about how the company is liable
18 to pay placement fees, et cetera. That's paragraph 1.
19 And that the expenses referred to and the placement fees
20 and the other fee referred to -- expense, sorry,
21 referred to are set off against the share premium first
22 and then the remaining balance charged to accumulated
23 losses.

24 That's how they treated those matters for the
25 purposes of the 2013 financial statement, isn't it?

1 14:06 A. Yeah, that's correct. That is their internal document,
2 which they have provided.

3 Q. Yes, I realise. I'm not suggesting you necessarily saw
4 this, but the point I wanted to refer you to was really
5 the next paragraph, where it says:

6 "The company incurred USD 6.50 million (placement
7 fees of USD 6.02 million and travelling and marketing
8 expenses of USD 0.48 million) in the current year ..."

9 Right?

10 A. Yeah, okay.

11 Q. That's the figure that they had identified as being
12 attributable to placement fees and travelling and
13 marketing expenses, so total of 6.5 million.

14 Going back, then, to the audited financial
15 statements. We know, and again I'm not suggesting we
16 look at these, unless you really want to, because we've
17 looked at them and I'm sure you have too, but the share
18 premium figure that's given in the statement of assets
19 and liabilities was 4.256-odd million, wasn't it?

20 A. Yeah, that's correct.

21 Q. Then there was a reference to note 7 and then just to
22 summarise, note 7, and then read with note 10, explained
23 that the gross share premium figure was 10.76 million.

24 A. That's correct.

25 Q. And 6.5 million was paid out in transaction costs

1 14:08 representing advisory fees and other incremental costs
2 paid to a related party in relation to the capital
3 increase. Yes?

4 A. That's correct.

5 Q. The reason I referred you, therefore, you can now see,
6 to the document that we've got on the screen, is that it
7 explains that the US\$6.5 million figure does, in fact,
8 refer to 6 million or so placement fees and just under
9 half a million of the expenses, travelling and marketing
10 expenses; yes?

11 A. That's correct.

12 Q. The wording that was used in notes 7 and 10 to describe
13 the 6.5 million figure, that was the subject of
14 discussion between you, Mr Lim and Mr Sikander,
15 wasn't it?

16 A. I had discussed with Sharif. I'm not aware if Don was
17 also part of that discussion.

18 Q. You don't recall that Mr Lim was part of the discussion.
19 Mr Sikander says he was.

20 A. If you show me the email, because essentially, I did the
21 discussion, I remember, because I have seen that email
22 and it was shown as part of the tribunal hearing
23 proceedings, so I'm aware that there was a discussion
24 between Mr Sharif and myself.

25 Q. There was a discussion you think between Mr Sharif and

1 14:10 yourself. Mr Sharif recalls that Mr Lim was part of the
2 discussion. But if we can go to the upshot of it all,
3 which is exhibit 766, page 2, there's an email. You're
4 right that Mr Sikander's email was only to you. That's
5 probably what you were trying to say; is that right?

6 A. Yeah, that's correct.

7 Q. The email from Mr Sikander makes clear that he's
8 discussed the matter with his IPR, shared the placement
9 fee agreement, et cetera. What Mr Sikander has said is
10 that his recollection of the discussion, which he
11 recollects involved you and Mr Lim, was that you and
12 Mr Lim were asking him whether references to placement
13 fees could be removed from the financial statements.
14 You agree that that is the subject of the discussion
15 that you had with him?

16 A. I don't recollect that, but whatever email is here, this
17 is the discussion I did have with Mr Sikander. I'm not
18 aware if Mr Lim was involved in any sort of discussion.

19 Q. Let's just focus on you, then. Let's not worry about
20 Mr Lim for now. Let's focus on you.

21 When you spoke to Mr Sikander, following which
22 Mr Sikander went and consulted with his colleagues and
23 then sent you this email on 7 April, but when you spoke
24 to him about this issue, I suggest that, as Mr Sikander
25 has told us, the subject of the discussion was you

1 14:12 saying to him: "Do we have to put placement fees in
2 these financial statements? Can references to placement
3 fees please come out?"

4 A. Yeah, I do agree that this is the discussion with him.

5 Q. Thank you. He then went away and discussed it with
6 colleagues. He comes back and this is the email that he
7 sends you. He says that the current treatment is
8 appropriate for the reasons that he gives in his first
9 paragraph. But he suggests an alternative to the
10 current presentation format, which is to present the
11 share premium as a net figure in the audited financial
12 statements and then include the gross movements in the
13 notes. And then he demonstrates how that might be done,
14 and then gives this description:

15 "Transaction costs represent costs placement fees
16 (advisory fees) and other costs incurred in connection
17 with the equity raising activity."

18 Then he asks you to let him know what you wanted to
19 do; yes?

20 A. Yeah, that's it, but --

21 Q. No, sorry, I'm just pointing out that that's what he
22 suggested as an option. If we go to page 1, then we
23 have your response, don't we? You say:

24 "Further to our discussion in the morning, would
25 accept the alternate treatment suggested by you, with

1 14:13 few change to the language in the note, which I have
2 marked out below. Hope the same will be acceptable to
3 you."

4 Then if we could go to the changes, what you have
5 done there is removed the words "costs placement fees"
6 and also removed the words "in connection with the
7 equity raising activity"?

8 A. Yeah, I had suggested these wordings, but I would like
9 to add that these were discussions happening at the
10 audit closeout process and it is not unusual for an
11 audit committee member, if he has a subject knowledge,
12 to engage into a discussion with the auditor, if
13 a particular proposal is being placed, so that is what
14 I'm doing out here.

15 Q. You're the man who has the specific knowledge of
16 placement fees, aren't you, as you told us, because that
17 fell squarely within your role as CFO of Al Masah
18 Capital?

19 A. I didn't follow your question. If you can repeat it
20 again.

21 Q. Earlier you told us that one of the things that fell
22 squarely within your remit was making sure that
23 placement fees were properly accounted for and paid to
24 Al Masah Cayman by the holding companies?

25 A. Yeah, my responsibility was in relation to Al Masah

1 14:15 Cayman's financials. So certainly, I was responsible to
2 account placement fee appropriately out there.

3 Q. But the upshot of this email exchange is that you wanted
4 the words "placement fees" specifically taken out of the
5 financial statements, the audited financial statements,
6 didn't you?

7 A. Yeah, I had kind of explained it earlier to the DFSA,
8 when we did the representation in the DMC, that there
9 has been a discussion within the Al Najah board that
10 they would not like to disclose the placement fee which
11 they pay to their referral agents or to the people who
12 are helping them to raise funds.

13 Q. This was a deliberate decision by the ANEL board that
14 they didn't want references to placement fees in the
15 audited financial statements?

16 A. No, they wanted -- they had no role, they didn't want --
17 in the audited financials, it was anyway disclosed, so
18 there was no deliberate decision not to disclose
19 placement fees in the audited financial statements.

20 Q. What was it that the board members of ANEL had said
21 about the issue of placement fees, then, in relation to
22 these financial statements?

23 A. The board members of ANEL had said that, fine, they
24 would not like placement fees to be disclosed to
25 outsiders. It was not about non-disclosure in the

1 14:16 audited financial statements.

2 Q. So that's a slightly separate issue, is it? But you
3 wanted the words "placement fees" deleted from the
4 audited financial statements, didn't you? You did not
5 want that word in that document at all?

6 A. I proposed wording, which if they can accept in
7 accordance with the auditing or accounting standards, it
8 was for them to accept or not to accept.

9 Q. I understand that, but it was you that said, "Please
10 delete the words 'placement fees'", wasn't it?
11 Specifically, you.

12 A. Yeah, this is what the email says, but I proposed in
13 terms of what is accepted as per the accounting
14 standards. This was the final agreement with E&Y which
15 we reached into.

16 Q. I suggest the reason why you wanted those words
17 specifically deleted, was because you knew that
18 investors had not been told that placement fees were
19 being charged and you didn't want that getting out.

20 A. That is not correct.

21 Q. Exhibit 765. If we go, first of all, to top of page 2.
22 Agarwalla emails Mr Lim and you:

23 "Please find attached final word FS for annual
24 report."

25 Do you see that?

1 14:18 A. That's correct.

2 Q. Then what we see, if we go up the page, is that 12
3 minutes later, Mr Agarwalla forwarded the email and the
4 attachment to you and Mr Singhdeo -- sorry, that's not
5 right.

6 Sorry, top of the page, what happens is Mr Lim
7 replies to that, to Mr Agarwalla and you:

8 "financial statements for Al Najah will only be
9 accessible to the 3 of us here.

10 any usage of the statements or sharing with any
11 party outside the 3 of us can only be done through NS or
12 myself."

13 What we know, then, from this email chain is that
14 you, Mr Agarwalla and Mr Lim, each of the three of you
15 had a copy of the Word version of the financial
16 statements?

17 A. Yeah, that's correct.

18 Q. Of course, it is easier to edit a Word version of
19 a document than a PDF version, isn't it?

20 A. That's correct, but ...

21 Q. That was only the question. But you're aware of that.

22 The next question I have is that Mr Agarwalla's
23 email to you and Mr Lim said:

24 "Please find attached final word FS for annual
25 report."

1 14:20 So it is clear, isn't it, that, at this time, what
2 is being discussed is the annual report and the
3 preparation of it?

4 A. Yeah. I do agree, but I would like to add here that the
5 annual report preparation, it was more of a wrong
6 implementation, rather than a wrong intent. Because
7 when I -- the chairman's message, which was kind of
8 showed to the tribunal yesterday, I remember the process
9 was to prepare an annual report once the audit would
10 have got over.

11 When you look into the sequence of events, the
12 preparation of annual report had started
13 around November 2013 for the audit of 2013. That was
14 a separate team which were anyway working around for
15 preparation of the annual report.

16 Now we are looking at a timeline of April 2014,
17 which is around seven or eight months from the time when
18 the first kind of effort had started for preparation of
19 the annual report.

20 So, Don is quite mindful that once the team which is
21 preparing the annual report, they should get the right
22 version, because it was a discussion to have happened in
23 the Al Najah board, whether the full audited financials
24 should have been part of the annual report or the
25 summarised financials should have been part of the

1 14:21 annual report.

2 So he wanted Agarwalla not to share it with the
3 team, which were already in the process of preparing the
4 annual report, because they otherwise would include it
5 in the financial statements and they would have included
6 if a summary has to be included. So then it should have
7 been presented as a summarised version rather than as an
8 audited version.

9 So that was the reason why he did put a caveat that
10 it should be shared with three of -- should be between
11 three of us only.

12 Q. The Word FS for the annual report was shared between the
13 three of you, but it's clear that the response was, from
14 Mr Lim:

15 "financial statements for Al Najah will only be
16 accessible to the 3 of us here.

17 any usage of the statements or sharing with any
18 party outside the 3 of us can only be done through NS or
19 myself."

20 Therefore, you and Mr Lim were the gatekeepers, as
21 it were, as regards the signed audited finalised
22 financial statements, weren't you?

23 A. I explained my position, where there was no wrong intent
24 for the presentation of the audited financials. It was
25 a decision, which was supposed to be taken by the board

1 14:23 of Al Najah, whether a summarised financial statement or
2 the audited financial statement should go into.

3 There was already a process, which was continuing
4 for the last four or five months, by a separate team for
5 preparing the annual report. So Don wanted to ensure
6 that till the board takes a decision, it should not be
7 released to the team which was helping to prepare the
8 financial -- the annual report.

9 Q. But the point is, you -- Mr Lim, Mr Singhdeo and
10 Mr Agarwalla have got Word versions of the financial
11 statements. Only the three of you. Mr Agarwalla is
12 referring to the annual reports, so financial statements
13 for the annual report, and that's being sent in an email
14 to the two of you; yes?

15 A. That's correct.

16 Q. The final email in the chain tells us that you and
17 Mr Lim are the gatekeepers for the sharing of the final,
18 of the actual signed audited financial statements?

19 A. The gatekeeper was still --

20 Q. Sorry, let me ask the question. You were keeping
21 a tight control over the real signed audited version,
22 weren't you? You and Mr Lim.

23 A. No, the tight control was still the responsibility of
24 the Al Najah finance team. Our guidance was that:
25 please ensure that it is not misused. Once the board

1 14:24 takes a decision whether a summarised or an audited
2 version should go into the annual report, then you
3 please kind of take due actions, so that the correct
4 version is put in the annual report.

5 Q. What I suggest is that this email exchange provides
6 clear evidence that you, Mr Lim and Mr Agarwalla are
7 well aware that what was proposed to go in the annual
8 report was not the same as what was in the signed
9 audited financial statements.

10 A. That is not correct. What I would say, the intention
11 was that the annual report, whether it should have the
12 audited financials or the summarised financials, that
13 decision would have happened after the board meeting,
14 which was scheduled on 23 or 24 April. So that is what
15 I'm trying to say.

16 Q. You told us earlier that the ANEL board had made
17 a decision not to include placement fees in the ANEL
18 annual reports, didn't you?

19 A. They had taken a decision to present summarised
20 financials in the annual report.

21 Q. But that included a deliberate decision not to include
22 references to placement fees, didn't it?

23 A. The decision not to include something which will make
24 them less competitive.

25 Q. That decision would have been taken, wouldn't it, at the

1 14:26 time that production of an annual report first started
2 to be discussed?

3 A. The production of annual report had already been started
4 by a team, as I mentioned, around November 2013, because
5 the expectation was that the audit would have been over
6 by October 2013. Unfortunately, it got extended by
7 eight months, so there was an implementation issue and
8 a process flaw rather than any wrong intent as far as
9 producing the annual report was concerned. So it was
10 still the responsibility of the Al Najah finance team to
11 have ensured that the decision of the board is correctly
12 implemented.

13 Q. Mr Singhdeo, the question was: the ANEL board's decision
14 not to include placement fees in the annual reports,
15 that decision would have been taken at the time that the
16 board decided that an annual report should be produced,
17 wouldn't it?

18 A. No, I have given you the sequence of events. So the
19 board decided to -- the board were still deciding
20 whether to have the audited financials or summarised
21 financials, but the intention to prepare the annual
22 report had already started some seven months back, by
23 the business development team of Al Najah. It was
24 Al Najah's decision to have an annual report.

25 Q. You remember that I asked Mr Dash last week about

1 14:28 a section of the representations to the decision making
2 committee that you, the five applicants, made in
3 writing. Do you remember that? I referred him to
4 a specific paragraph on this topic.

5 A. That's correct.

6 Q. Perhaps we can bring that up, just so that you can
7 refresh your memory. It's F011, page 49. It's 147.2.6.
8 I've just brought that up so you can see the full
9 wording, Mr Singhdeo, out of fairness to you. This was
10 a document that was submitted by your lawyers on behalf
11 of all five of you. Do you remember that?

12 A. That's correct.

13 Q. What we can see is that it said:

14 "The Board Members of ANEL in various discussions
15 about retaining their competitive edge in the market
16 decided that Placement Fees should not be referred to in
17 the financial statements included in the Annual Reports,
18 and accordingly that the Annual Reports should not
19 purport to include audited financial statements."

20 Of course, you were a board member of ANEL, weren't
21 you?

22 A. Yes, that's correct.

23 Q. You'd have been a part of this discussion?

24 A. I would have been part of this discussion, that's
25 correct.

1 14:30 Q. So you would have been part of the discussion that
2 decided specifically, according to these
3 representations, that placement fees should not be
4 referred to in the financial statements included in the
5 annual reports?

6 A. No, if you are including the audited financial
7 statements in the annual report, so then, obviously the
8 whole disclosure should have been there. If the board
9 of Al Najah wanted to prepare an annual report with
10 a summarised financial statement, it was something which
11 is for them to decide, whether there has to be
12 a disclosure of placement fee or not.

13 Q. You're on the board, so you're part of the decision.
14 First of all, do you accept that what is written in the
15 document, submitted on your behalf, is true, ie that the
16 board members had decided that placement fees should not
17 be referred to in the financial statements in the annual
18 reports? That's question 1. Had that decision been
19 made?

20 A. Yes, that decision was made, not to include it in the
21 audited financials, which will go into the annual
22 report.

23 Q. Secondly, it says here:

24 "... and accordingly that the Annual Reports should
25 not purport to include audited financial statements."

1 14:31 Yeah?

2 A. That's what I said.

3 Q. Those decisions would have been taken prior to this
4 email chain that we had previously been looking at, at
5 exhibit 765, which is the email chain here, are Word
6 versions of the financial statements for the annual
7 report. And then the response from Mr Lim:

8 "Financial statements for Al Najah will only be
9 accessible to the 3 of us here."

10 That email chain would have been after these
11 decisions were made by the ANEL board, wouldn't they?

12 A. No, that is not correct.

13 Q. That is why we have the email chain that we do at
14 exhibit 765, isn't it?

15 A. No, I'd explain you the sequence that the Al Najah board
16 was supposed to happen on the date which was after
17 having received this email. And Don wanted to put
18 a control that it should not happen that they should
19 include the audited financial statements when the
20 Al Najah board would like to include a summarised
21 financial statement in the annual report. That was the
22 decision taken, that they should include a summarised
23 financial statement in the annual report.

24 Q. What I'm going to suggest is that that explains why that
25 email chain exists. It's because the three of you are

1 14:32 making sure that there are no references to placement
2 fees or fees that might be interpreted as placement fees
3 in the financial document that's going to go into the
4 annual report. That's what the three of you are doing
5 in that email chain?

6 A. Yeah, it was end of the day, the responsibility of the
7 finance team to ensure that the annual report should
8 have and should be prepared in accordance with the
9 required consent of the auditor, if required, or the
10 direction of the board. If they have asked them to
11 include a summarised financials, they should have
12 included a summarised financials in the annual report.

13 MS CLARKE: Let's move on from this. I think we've done
14 this one as far as we need to.

15 PRESIDENT: In which case, it's probably time to have
16 a break for the shorthand writer. We'll stop now for
17 10 minutes and resume in 10 minutes' time.

18 MS CLARKE: Certainly.

19 (2.33 pm)

20 (Short break)

21 (2.43 pm)

22 MR HILL: Sir, can I raise one matter which has just come up
23 and I want to let everyone, particularly my learned
24 friend know, as soon as possible.

25 The tribunal and my learned friend will know that on

1 14:43 the applicant's side, we filed evidence from Mr Dash
2 dealing with the corporate entities and then a separate
3 witness statement from himself. Each of Mr Singhdeo and
4 Mr Lim have filed witness statements dealing with their
5 own positions.

6 I have instructions that Mr Lim, at least as far as
7 I know -- if anything changes by lunchtime, I will say
8 so, but assume this is correct. Mr Lim will not be
9 attending to be cross-examined. I have instructions
10 that's come from him.

11 I wanted my learned friend to know that as soon as
12 possible in case it affects her cross-examination of
13 Mr Singhdeo and I just wanted everyone to know that.

14 PRESIDENT: Thank you. Ms Clarke, do you want to take a few
15 minutes to think about that?

16 MS CLARKE: Sir, would you mind if I take a few minutes just
17 to discuss that with the team?

18 PRESIDENT: Of course. Take 5 or 10 minutes and let us know
19 when you're ready.

20 MS CLARKE: Thank you very much.

21 (2.44 pm)

22 (Short break)

23 (2.52 pm)

24 PRESIDENT: Ready when you are.

25 MS CLARKE: Thank you, sir. Can I just deal with the issue

1 14:54 that Mr Hill has raised.

2 Our view is that although we had requested Mr Lim to
3 attend to give evidence and be cross-examined, and we
4 had understood until literally 10 minutes ago, that
5 that's what would be happening, if he is choosing not to
6 attend and subject himself to cross-examination, then,
7 in the end, I suppose that is a matter for him.

8 In terms of where that leaves us, it may be that as
9 a result of his non-attendance, there might be a few
10 more documents that I would take Mr Singhdeo to, which
11 I might otherwise have simply saved for Mr Lim.

12 But given that it's now nearly 12 o'clock, with the
13 best will in the world, and you'll see that I've speeded
14 up considerably, I don't think I will finish with
15 Mr Singhdeo by lunchtime. So I'm hopeful that we can
16 review that position over lunch and then still my aim is
17 to finish Mr Singhdeo today.

18 PRESIDENT: Thank you very much for that. An issue for
19 Mr Hill to think about, for which I'm grateful to
20 Mr Malek, is simply the question of whether Mr Hill and
21 his team are still representing Mr Lim in these
22 proceedings. And I don't ask you to respond to that,
23 but perhaps you could let me know or let us know around
24 about the lunchtime break. Thank you.

25 MS CLARKE: Mr Singhdeo, before we broke, we were discussing

1 14:55 the annual report that was produced for ANEL in 2013.

2 We know, don't we, that the annual report was published
3 on or about 27 April 2014?

4 A. That's correct.

5 Q. Therefore, about two weeks or so after that email
6 exchange that we had referred to before lunch,
7 exhibit 765, we don't need to bring it up, which was on
8 or about 10 April. So just over two weeks later, the
9 annual report was published.

10 What is clear is that the annual report for 2013
11 purported to include the genuine audited financial
12 statements, didn't it?

13 A. Yeah, I'd explained it earlier also, that the annual
14 reports were to be published after the Al Najah board
15 and audit committee meeting would have taken place and
16 which took place on either 23 or 24 April. And the
17 reason why Don had said to keep it between three, that
18 is between him, me and Raj Kumar, was to maintain the
19 confidentiality of the document till the consent of the
20 board is taken, as to what should be published in the
21 annual report.

22 Q. My question was: the annual report purported to include
23 the genuine audited financial statements, didn't it?

24 A. The annual report were supposed to include the
25 summarised version of the financials, as decided by the

1 14:57 board of Al Najah.

2 Q. I'll ask it again. Maybe we'll bring the document up
3 and that will solve the problem, exhibit 503, page 69.

4 Mr Singhdeo, my question was, the annual reports
5 purported to include the genuine audited financial
6 statements, didn't it? We can see there at page 69 that
7 that is exactly what the report is representing,
8 isn't it?

9 A. I do see that, but as I explained, the annual report
10 should have had the summarised financial statement and
11 I have already kind of -- when I did my representation
12 to the DMC, we do admit that the annual report shouldn't
13 have had the audited financial statement.

14 Q. Page 70 of that document, the report. If we could go
15 down to the signature. The signatures have changed from
16 you and Mr Lim to you and Mr Bukhamseen. Were you aware
17 that that had happened?

18 A. That's correct. But I had explained to you the
19 sequence, in terms of when E&Y issued the draft and we
20 were made aware that we are just signing on the draft.
21 But where the actual audited financial statements, which
22 me and Don had signed, and those were dated 31 March, if
23 I remember correctly, when the actual audit committee
24 meeting happened, then myself and Mr Bukhamseen signed.

25 Because another thing which has come to my

1 15:00 attention, as we were discussing, is the email between
2 myself and Sharif Sikander. It is dated 9 April. So
3 I don't know how E&Y has kind of managed that process
4 internally for themselves.

5 Q. Therefore, even on your explanation about who signed
6 what documents, what you appear to be saying is these
7 two signatures are what appeared on the final version of
8 the audited financial statements?

9 A. These signatures were supposed to have been in the final
10 versions of the audited financial statements, but E&Y
11 told us that they have already issued the audited
12 financials on 31 March 2014.

13 Q. Somebody, then, has changed the signatures from you and
14 Mr Lim to you and Mr Bukhamseen, haven't they?

15 A. Me and Mr Bukhamseen, we signed on 23 April 2014.

16 Q. But this is dated 31 March.

17 A. Yeah, that's a wrong date, which is here as part of the
18 annual report.

19 Q. Anyway, the point is that to a reader of this annual
20 report, a reader would think that they were looking at
21 the genuine audited financial statements, wouldn't they?

22 A. If they see this document, they may have the view that
23 these are genuine audited financial statements.

24 Q. May have or would have?

25 A. The message from the board was to include a summarised

1 15:02 version of the financial statement, not the audited
2 financial statement.

3 Q. Put yourself in the position of a reader of this
4 document. A reader of this document would think that
5 they were looking at the genuine audited financial
6 statement, wouldn't they?

7 A. I can't comment, because the annual report would have
8 had a summarised version. If it is mentioned as
9 audited, then it should have the full audited financials
10 That's what --

11 Q. It did mention "audited", because we've just looked at
12 that at page 69, haven't we?

13 A. Yeah, I do have mentioned it, that ...

14 Q. Sorry, did you want to say something?

15 A. Yeah, I do have mentioned it, that the board had taken
16 a decision to publish a summarised financial statement
17 and being a private company, it had all its rights to
18 publish a summarised financial statement. It is neither
19 a listed company, nor had it any obligation of filing
20 anywhere to publish the audited financial statement as
21 part of its annual report.

22 Q. What is in here from page 69 onwards is an almost
23 perfect copy of the genuine audited financial
24 statements, apart from notes 7 and 10, isn't it?

25 A. Yeah, this document should not have the audited

1 15:03 financial statement. It should have had the summarised
2 financial statement.

3 Q. You keep saying that, but what in fact is in here is the
4 audited financial statements where someone has edited
5 notes 7 and 10, haven't they?

6 A. Yes, that's correct.

7 Q. The edits to notes 7 and 10 -- I don't suggest we look
8 at them unless you want to -- is that they have been
9 altered to remove any references to transaction costs,
10 advisory fees, et cetera, and also the 6.5 million
11 placement fee plus expenses amount that had been
12 deducted from the gross share premium figure. That's
13 what had been deleted from notes 7 and 10, wasn't it?

14 A. Yeah, I explained it, even though it may sound
15 repetitive, but again, I would say that that the board
16 had taken a decision not to disclose information which
17 are sensitive or competitive to them and to present
18 a summarised version of the financial statements as part
19 of the annual report.

20 Q. The effect of the deletions is that a reader would think
21 that the share premium figure in the separate statement
22 of financial position, which is at page 74 in the annual
23 report -- again, I don't think we need to see it -- was
24 4,256,000?

25 A. If I can see it again.

1 15:05 Q. Page 74. Under, "Equity and Liabilities", you can see
2 there, share premium figure, 4,256,260; yes?

3 A. That's correct.

4 Q. A reader, reading that, would think that's what the
5 share premium figure was, but because of the deletions
6 in notes 7 and 10, the reader would not know that the
7 true gross share premium figure was in fact
8 10.7 million, because that figure had been deleted from
9 note 7, hadn't it?

10 A. Yeah, that figure is not reflected in note 7, that's
11 correct.

12 Q. The reader, therefore, would not know that
13 \$6.5 million had been deducted from the share premium
14 figure in the form of transaction costs, advisory fees,
15 et cetera. The reader wouldn't know that, would they?

16 A. Yeah, the document of the audited financials, it is for
17 the board. So the audited financials, what was
18 available to the board, it had the gross figure and the
19 net figure. The annual report is for users who may be
20 gatekeepers or business partners. So certainly, they
21 will not know that there was a gross share premium of
22 10 million.

23 Q. It's also intended, at least, for the shareholders of
24 the annual report, wasn't it?

25 A. There was no need or requirement to circulate the annual

1 15:07 report to shareholders.

2 Q. But it did go to the shareholders, didn't it? We know
3 that.

4 A. The annual report were supposed to have summarised
5 financial information and that was supposed to be shared
6 with the shareholders.

7 Q. The point of this is that the effect of the deletions to
8 notes 7 and 10 hid the 6 million-odd dollars worth of
9 placement fees from the reader, including --

10 A. There has been nothing -- I would defer out here, when
11 you say that it was hidden, there was nothing hidden
12 from the reader. The placement fee amount, as I had
13 explained earlier, it was a charge on the company, not
14 on the shareholders, so there was nothing hidden as far
15 as the placement fee amount to the shareholders.

16 Q. This document is plainly misleading, false and
17 deceptive, isn't it?

18 A. The audited financials, which has been presented as part
19 of the annual report, is not correct. That I agree.

20 Q. You agree, don't you, that it is misleading, false and
21 deceptive?

22 A. The audited financials, which is part of this, yes, it
23 is incorrect.

24 Q. No, what about misleading, false and deceptive? It's
25 all three of them, isn't it?

1 15:08 A. I don't have a view on that. The reason that the annual
2 report should have contained the summarised financials,
3 there was an implementation flaw. The people who were
4 responsible to present the summarised financial
5 information in the annual report, they had not done that
6 job. And that is the reason there is a gap in terms of
7 the information, which eventually has formed part of
8 this particular document.

9 Q. The deletions made to notes 7 and 10 can only have been
10 done deliberately, can't they?

11 A. I would not agree to the term "deliberate", but, yes,
12 the intention was to present summarised financial
13 information and not to show the placement fees amount
14 which has been paid for fundraising.

15 Q. The only three people who had access to a Word version
16 of the financial statements were you, Mr Lim and
17 Mr Agarwalla?

18 A. I missed out, because there was audio problem. If you
19 can just repeat the question, I can hear it.

20 Q. The only three people who had access to a Word version
21 of the financial statements were you, Mr Lim and
22 Mr Agarwalla?

23 A. Yes, that was before the board meeting date. It was
24 only available to three of us, yes.

25 Q. Of the three of you, you and Mr Lim are more senior than

1 15:10 Mr Agarwalla, aren't you?

2 A. Mr Agarwalla was part of the Al Najah finance team. We
3 were there in the board of Al Najah belonging to
4 a different company.

5 Q. So you and Mr Lim are more senior than Mr Agarwalla,
6 aren't you?

7 A. Mr Agarwalla was an employee of Al Najah, who had
8 (audio feed lost ...)

9 Q. Sorry, I've lost you.

10 A. I probably didn't follow the question.

11 Q. We seem to be breaking up. I'm not sure whether it's me
12 or you, but I'll try again.

13 Of the three of you, you and Mr Lim are more senior
14 than Mr Agarwalla? That was the question.

15 A. Mr Agarwalla didn't have any day-to-day reporting to me,
16 so it will be wrong to say that I was senior to him.

17 Q. You and Don Lim are on the board and he's not, for
18 example.

19 A. Yeah, in that way, yes, we were one level above him.

20 Q. Given that you and Mr Lim are on the board of ANEL, you
21 would, wouldn't you, have seen a draft of the annual
22 report before it was published?

23 A. No, that is not correct.

24 Q. And had the opportunity to look through it and check
25 that you, the board, were happy with it?

1 15:12 A. That is not correct, because I had explained you the
2 process. The preparation of the annual report,
3 unfortunately, for Al Najah, it started off
4 in November 2013. There is an email which we have seen
5 the chairman's message, being sent to the chairman
6 around November 2013. The audit is getting over
7 in April 2014 or 31 March 2014. The board meeting
8 happening on 23 April 2014, which is around six or seven
9 months after the date, the draft of the chairman's
10 message has been prepared.

11 So we never had any opportunity to see the full
12 version of the annual report, which was finally
13 published. So it will be wrong to say that we had seen
14 the annual report which was finally published.

15 So the board took a decision to include summarised
16 financials and that decision was given to the Al Najah
17 finance team and the business development team, who were
18 responsible for preparing the annual report and working
19 on the annual report for the last seven months
20 (unclear ...) the board's decision.

21 Q. You would also -- you and Mr Lim -- have reviewed the
22 financial section of this report to check that the
23 board's decision had been carried out, because you say
24 the board's decision was to include only a summary, you
25 would therefore have checked to ensure that's what had

1 15:13 happened, wouldn't you?

2 A. Unfortunately, that didn't happen and I do regret that
3 I should have checked, that unfortunately that I had not
4 checked whether the board decision has been implemented
5 correctly, because we had left it for the Al Najah
6 finance team to carry out that particular exercise.

7 Q. I suggest that, actually, you may not have needed to
8 check it as a board member -- well, because you wouldn't
9 have, because you and Mr Lim knew perfectly well that
10 what was being done was that the supposed audited
11 financial statements were going to go into the annual
12 report, which you and he -- and I don't know what
13 Mr Agarwalla's role in this was, but certainly you and
14 he had been involved in editing to delete those
15 representations in notes 7 and 10. That's the truth
16 of it?

17 A. No, that is not correct.

18 Q. Therefore, you and Mr Lim were a knowing party to what
19 had happened here. What do you say to that?

20 A. I lost the audio again.

21 Q. You and he were a knowing party to the misleading, false
22 and deceptive deletions that had happened to this
23 document in notes 7 and 10?

24 A. That is not correct, because there was --

25 Q. Sorry?

1 15:15 A. There was nothing misleading. It was a summarised
2 version of the financials which should have gone into
3 the annual report. So to say that something is
4 misleading, I don't agree with you.

5 Q. Furthermore, that Mr Dash was also involved in this,
6 that he knew what was happening, perhaps had directed
7 it, but certainly was aware of what had happened and
8 why?

9 A. No, that is not correct. In fact, Shailesh didn't
10 attend the 23 April board meeting of Al Najah. When
11 I saw the minutes later on, this is what I learnt.

12 Q. Minutes, of course, have never been provided, as far as
13 I know, but you say you've seen them. The whole point
14 of this was to hide from investors that placement
15 fees -- large, very large placement fees had been paid
16 from this holding company to Al Masah Cayman. That was
17 the whole point of this exercise, I suggest.

18 A. No, that is not correct. The board had decided not to
19 disclose placement fee as these were information which
20 they feel is competitive and sensitive and they didn't
21 want Al Najah to lose out on the competitive edge of
22 raising capital. And that was the reason why they were
23 not disclosed.

24 Q. Can we go to 2014 and the annual report and audited
25 financial statements produced for the year 2014.

1 15:17 Audited financial statements were produced. They
2 were signed by Mr Lim and by you, weren't they?

3 A. That's correct.

4 Q. We know that notes 7 and 10 were in identical terms to
5 the notes 7 and 10 in the genuine financial statements
6 from the previous year, weren't they?

7 A. Yeah. Can you repeat the question again for me?

8 Q. I'm trying to summarise it, because of course, you've
9 seen all of this when I took Mr Dash through it.

10 A. Yeah.

11 Q. Exactly the same as for the genuine financial statements
12 for 2013, placement fees were dealt with in exactly the
13 same way in the 2014 audited financial statements,
14 weren't they?

15 A. Yeah, that's correct. Because again, the intention was
16 to have summarised financials in the annual report.

17 Q. Leave the annual report to one side at the moment.
18 Let's just focus on the genuine audited financial
19 statements, all right? That's what we're on now.

20 A. Okay.

21 Q. Do you understand?

22 A. Okay.

23 Q. The process to be followed in terms of getting the
24 financial statements approved, you've already told us
25 about. It should go to the audit committee, they

1 15:18 approve it and then the final version is presented to
2 the ANEL board. That's the process that should happen;
3 correct?

4 A. That was Don's expectation, but Al Najah never had an
5 audit manual or an audit committee manual. That was by
6 commonsense, Don was proposing. But as you can see, in
7 terms of timeline, the audit of 2013 was also signed and
8 approved by members who were not members of the audit
9 committee. Because our expectation was that the audit
10 committee will finally approve the 2013 financials, but
11 as you can see, E&Y had accepted mine and Don's
12 signature, because technically, the board of Al Najah
13 can approve the audited financials.

14 Q. We're talking about 2014 now.

15 A. Correct.

16 Q. The process should have been, it goes to the audit
17 committee, they approve and then the final version of
18 the audited financial statements are presented to the
19 ANEL board, aren't they? That's what should happen?

20 A. That was the expectation.

21 Q. Now we look at exhibit C009. If you could go down to
22 the bottom of page 1. This is the email that I think
23 you were referring to just now, from Mr Lim to you and
24 Mr Dash, subject, "Financials for Al Najah Education":
25 "Shailesh,

1 15:20 We had spoken to Sharif [Mr Sikander] and we will be
2 getting the final F/S for Al Najah from EY within a day
3 or 2.

4 We are thinking that Nrupaditya [which is you, of
5 course] and myself will sign the F/S and close this
6 case. We do have an Audit Committee in Al Najah but we
7 can just separately brief them right after the Board and
8 we prefer not to have Sharif join us in the event he
9 brings up the placement fee issue from last year etc.

10 What do you think?"

11 So that is what you have said to Mr Dash.

12 The reason that you give as to why you don't want
13 Mr Sikander to attend the audit committee meeting, which
14 according to the process would be the first step in
15 approving the audited financial statements, and
16 according to your email, Mr Sikander would normally
17 attend that meeting -- I think Mr Sikander told us that
18 too -- and the reason you've given us is in case he
19 brings up the placement fee issue from last year.

20 What you're referring to there is the discussions
21 that were had with him about whether placement fees need
22 to be disclosed and how that should happen. That's what
23 you're referring to, isn't it?

24 A. Yeah, this is an email from Don to Shailesh. I'm
25 certainly cc'd. So that's a suggestion from Don. But

1 15:22 if you want, I can certainly answer --

2 Q. Yes.

3 A. -- what would have happened --

4 Q. You and Mr Lim had discussed this in advance, hadn't
5 you?

6 A. I didn't follow the question. Probably I lost out
7 again.

8 Q. It's clear from Mr Lim's email that you and Mr Lim had
9 discussed the proposal in advance?

10 A. No, I don't recollect the sequence of events, which are
11 five years back, but I can apply commonsense to answer
12 you. Because this is an email of 27 April 2015. We are
13 talking of audit of 31 August 2014, which is when we
14 take the timeline, it is almost nine months has passed
15 from the time the year end has happened. And it is
16 quite possible to call the audit committee, which had
17 other two members who never used to -- who were external
18 members in terms of they used to stay out of Dubai. One
19 used to be in Egypt, another one in Kuwait. It probably
20 would have taken another month. Maybe it would have
21 been summer, Ramadan, holidays. So it would have
22 happened either in the first week of June or some time
23 when the next year's closing would have happened.

24 I don't recollect if there was even a board or an
25 audit committee for 2015, because, as I said, it is

1 15:23 almost an eight or a nine months period which has passed
2 from the close of the financial year.

3 So the simplest thing would have been, as allowed by
4 the articles, and even though we say that, okay, fine,
5 this is the process, but we also have to understand that
6 all of these were start-up companies where there are
7 certain expectations of a process to be there, but it
8 may not be there.

9 So with all that background, myself and Don would
10 have signed the financials on or around these dates.

11 Q. The reason, though, that you did that or you wanted to
12 do that, was to avoid Mr Sikander coming along to the
13 audit committee meeting and raising the issue of
14 placement fees?

15 A. No, that is not correct. Because Mr Sikander had
16 already attended the previous year's audit committee and
17 he had put it in his witness statement, that he attended
18 the first audit committee meeting on or around whenever
19 it would have happened. And if I'm correct, he has
20 mentioned around 23 April, which is the date again I'm
21 mentioning.

22 And the reason why Don would have proposed this is,
23 as I explained, almost nine months have gone. You would
24 be starting the next year's audit in the next couple of
25 months. I would have thought that it is a more

1 15:25 appropriate way to close the process rather than to wait
2 for another month and bring in the audit committee
3 members, so that they can approve the financials.

4 Q. The reason, I suggest, that Mr Lim is sending this
5 proposal, which he couches in terms of both of you
6 having come up with it ie he used words like, "We had
7 spoken to Sharif" and, "We are thinking that", is
8 because it directly concerned the issue of placement
9 fees and that is an issue that Mr Dash takes a very keen
10 interest in, isn't it?

11 A. I disagree with you.

12 Q. Mr Dash does not want investors or prospective
13 investors, for that matter, knowing that placement fees
14 were being paid as a percentage of their investments,
15 does he?

16 A. I can't comment on that.

17 Q. That is why Mr Lim is emailing him with this proposal
18 and making it clear that the reason for it is to try and
19 stop Sharif bringing up the placement fee issue?

20 A. I had already explained what may be a sensible reason
21 why Don would have proposed, even though this is an
22 email from Don. I told that 27 April, which means four
23 months, August to December, those are another five
24 months, so we are talking of a date which is nine months
25 after the year-end date.

1 15:26 The most sensible way to close the process is to
2 approve the financials. And as can be seen in the
3 articles, any of the two -- the board can approve the
4 financials and if the auditors require any of the two
5 board members to sign, it would have been me and Don,
6 who had some kind of involvement in Al Najah, who would
7 have signed and closed the process of audit with E&Y.

8 Q. Then what we know happened is that the annual report --

9 PRESIDENT: I'm sorry to interrupt. Can I just ask one
10 question. If you look at this email, as I understand
11 it, if you look at the second paragraph, it begins, "We
12 are thinking that ..." Then there is a reference to
13 yourself and Mr Lim "... will sign the F/S and close
14 this case".

15 Then towards the end, it says:

16 "... we prefer not to have Sharif join us in the
17 event he brings up the placement fee issue from last
18 year etc."

19 What do you mean by that?

20 A. The placement fee, sir, was already discussed in the
21 last year's audit committee meeting. So it was not that
22 Sharif Sikander had not briefed the board or the audit
23 committee about the placement fee, which the company
24 pays for raising capital. And if -- I can't speak on
25 behalf of Don, but maybe Don would have thought that it

1 15:28 would have taken more board time in terms of that same
2 discussion again happening. So that would be my
3 understanding, without trying to conclude that, fine,
4 that was the only thing what Don was mentioning in this
5 email.

6 PRESIDENT: Very well. Thanks very much.

7 MS CLARKE: 2014 annual report is produced. To cut a long
8 story short, exactly the same situation. It purports to
9 include the full genuine audited financial statements,
10 doesn't it?

11 A. It would have included a summarised financials. Again,
12 I would repeat, even though I may sound repetitive.

13 Q. It did include what purported to be the genuine audited
14 financial statements, didn't it?

15 A. No, it didn't include the genuine audited financial
16 statements.

17 Q. Do you understand what the word "purported" means? Is
18 that what's confusing you?

19 A. Yeah, probably I'm not understanding the question well.

20 Q. I'm sorry, then that's my fault. The question is this:
21 that annual report pretended to show the genuine audited
22 financial statements, didn't it?

23 A. Yeah, that was a wrong implementation. It should not
24 have shown as audited.

25 Q. The same thing had happened as regards the 2013 annual

1 15:29 report. The edits to notes 7 and 10 were exactly the
2 same, weren't they, except the numbers were different,
3 obviously?

4 A. Yes, disclosure of placement fees was not there, yes.

5 Q. Again, I suggest that you knew perfectly well that that
6 is what had happened, that those deletions had been
7 made. You knew that?

8 A. At that point of time, my understanding was that
9 a summarised version of the financial statements had
10 been part of the annual report. That was my
11 recollection.

12 Q. I suggest that you and Mr Lim knew that perfectly well,
13 that he also knew that.

14 A. The annual report had summarised financials, that was my
15 understanding.

16 Q. I suggest that you and Mr Lim were actively involved in
17 making those deletions, however --

18 A. I disagree.

19 Q. -- it happened, that you and he were instrumental in it
20 happening.

21 A. I disagree with that. As I have explained, the board
22 had taken to have a summarised financials and it was
23 left to the Al Najah team to implement the board
24 decision.

25 Q. Because for two years running, exactly the same

1 15:31 deletions had been made and the purpose of them was to
2 hide references to placement fees?

3 A. That is not correct.

4 Q. It was done by you and Mr Lim, wasn't it, with the
5 involvement of Mr Dash?

6 A. I had explained that the board had taken a decision to
7 include a summarised financials. However, the finance
8 team of Al Najah, there was an implementation issue to
9 have included the audited financials in the annual
10 report.

11 Q. I'm going to move on a little bit in time
12 to August 2015, when Mr Kishore Dash wrote an email to
13 you and Mr Lim, regarding Mr Agarwalla, and that is
14 exhibit 768.

15 We need to look at page 2. We're going to look at
16 the bottom email first. So this is an email from
17 Mr Kishore Dash, 2 August 2015, to you and Don Lim:

18 "Urgent please reply."

19 Then scroll down so that we can see the content of
20 the email.

21 To summarise, it seemed as if the relationship
22 between Mr Agarwalla and Mr Kishore Dash was breaking
23 down and Mr Kishore Dash, in effect, wanted to get rid
24 of him, didn't he?

25 A. That's what the email says.

1 15:33 Q. He, Mr Kishore Dash, is informing you and Mr Lim of the
2 situation, isn't he?

3 A. That's correct.

4 Q. If we could scroll up and we will see your reply:

5 "Dear Kishore -- I am fine with the administrative
6 action you have suggested and look for a replacement for
7 Raj. We do understand you well, hence you have our
8 required support to certain decisions you want to make."

9 That's cc'd to Mr Lim. So that was your reaction to
10 Mr Kishore Dash's proposal.

11 Then could we scroll up to the next email in the
12 chain, which is at the bottom of page 1. This is an
13 email from Mr Lim to you, so not to Mr Kishore Dash,
14 just to you, "Re: Urgent please reply."

15 So we can see from the subject line that it's still
16 part of the chain, but that Mr Lim has excluded
17 Mr Kishore Dash from his reply, hasn't he? That's how
18 it appears?

19 A. Mr Kishore had joined the company maybe two months back
20 and that is the reason why he would have kind of delete.
21 I have no answer why he deleted Kishore from this email
22 chain.

23 Q. Let's look at what he says:

24 "There is a risk of Raj taking our annual reports
25 and 'edited' financials to EY so I want to manage this

1 15:35 process well to minimize any possibility of that etc."

2 You must have understood, mustn't you, what he meant
3 by the words "'edited' financials"?

4 A. I did read this email and my understanding was that why
5 Don is concerned, so that was my understanding when
6 I read this email.

7 Q. Let's look at your reply, the last email in the chain,
8 top of page 1. Again, you've replied only to Mr Lim,
9 not Mr Kishore Dash, so this is just between the two
10 of you:

11 "Hi Don -- don't worry on that front. Annual
12 reports are not statutory documents, hence I am not too
13 worried."

14 So what that means is annual reports are not
15 required to be produced by ANEL. That's what you mean,
16 isn't it?

17 A. See, if you look into the timeline, because we just
18 discussed the 2014 audit also, and the date around when
19 the audit got over was 27 April 2014, that was the
20 discussion which happened in view of the earlier
21 exhibits. This was August 2015, we are discussing.
22 Around May, probably the annual report would have got
23 published and the board had taken or had asked the
24 Al Najah team to prepare a summarised financials to be
25 part of the annual report.

1 15:37 So I do understand that what exactly Don is meaning,
2 if he is thinking that, fine, whether the right version
3 has gone or not gone, that, because the board had
4 already kind of given a decision to include the
5 summarised financials. And on this particular day,
6 since I was on vacation, and that is the reason I'm
7 replying on my Blackberry, I was not privy to the
8 discussion what happened between Raj and Don, when Raj
9 was fired by Kishore.

10 Q. Let's look at the rest of what you say:

11 "If Raj thinks, he can take advantage of the
12 accounting presentation he has prepared, he is living in
13 a fool's paradise."

14 Right?

15 A. That's correct.

16 Q. What that is clearly a reference to is the doctored
17 financial statements that went into the annual reports?

18 A. That is incorrect. Because, as I said, the board had
19 taken a decision to present a summarised financials and
20 in my mind, I was 100 per cent confident that
21 a summarised financials forms part of the annual report.

22 So if a summarised financials is part of the annual
23 report, why Don is worried? That was the reason why
24 probably the language is slightly strong in this email.

25 I have been not in Dubai in those days, so since Don has

1 15:38 been kind of -- has written a particular email, I wanted
2 to reassure Don that, "Fine, the annual report anyway
3 has a summarised financial statement, so what exactly is
4 Raj trying to message you?" That have we done anything
5 wrong, when we haven't done anything wrong. We, as
6 a board, had asked to include a summarised financial
7 statement. And so, in case he has done anything wrong,
8 as a process owner, he is the one who is responsible.

9 So that is the normal flow of work or responsibility
10 which happens in any corporate. If he's the CFO or the
11 finance manager of Al Najah, he is ultimately
12 responsible for all the output which is related to the
13 finance function of Al Najah. And maybe that is the
14 messaging, what I'm trying to do to Don, by putting the
15 way the email has been drafted.

16 Q. Surely at that point at least, you would have looked at
17 the annual reports yourself, wouldn't you, to check what
18 information, financial information, was in them?

19 A. Unfortunately, as I explained, I was not even in Dubai.
20 I was away for my vacation, when Raj got fired. So
21 I had no kind of -- I never checked or even after I came
22 back from my vacation, I didn't check, because I was
23 confident that the annual report would be having
24 a summarised financials. And if there are any issues,
25 it is between Al Najah and E&Y. Why I should be kind of

1 15:40 getting too bothered?

2 And it was an administrative action. Raj, for
3 reasons that he was not competent for a particular
4 position, so we were kind of -- we are not happy with
5 his performance and that was the reason why he had been
6 removed. So on that particular day, if he is creating
7 certain HR or administrative issue, I wanted to calm
8 down Don, saying that, "Fine, why you are getting
9 worried?"

10 Q. I suggest that this email exchange between you and
11 Mr Lim is another piece of clear evidence that both of
12 you know full well that those annual reports contain
13 false financial information.

14 A. No, I don't agree with your statement.

15 Q. And that's why you don't query the word "edited", and
16 that's why you reply in the way that you did?

17 A. No, I have explained my position, that I was
18 100 per cent confident that the annual report contains
19 the summarised financial information and I have
20 explained the timeline, the audit got over around
21 27 April. So these are not months or there's not a big
22 time gap between the completion of the audit and the
23 exchange of this email. So I had clear recollection,
24 what the instruction has been given, so why Don is
25 getting worried? So that was the messaging, what I was

1 15:42 giving to Don, when I read the email from Don.

2 Q. I suggest that you and Don Lim would presumably also
3 have briefed Mr Dash about the problem that had arisen
4 with Mr Agarwalla and the risk of him revealing the
5 forgeries, deletions in the financial statements in the
6 annual reports, to other bodies, external bodies.

7 A. That is incorrect. I had already explained, I was away
8 for my vacation and there was no conversation with
9 Mr Dash on this particular incidence.

10 Q. Can we go to how the ANEL reports for 2013 and 2014 came
11 to be withdrawn. That's the topic we're dealing with
12 now.

13 To set the scene, what we know, but I accept you
14 didn't know, was that in November 2015, the DFSA
15 notified Ernst & Young of the discrepancies between the
16 annual reports and the audited financial statements.

17 On 23 November 2015, Mr Sikander and Mr Murphy of
18 Ernst & Young met you and Mr Lim in Emirates Towers in
19 the DIFC, didn't you?

20 A. That's correct.

21 Q. The discrepancies, the differences between the audited
22 financial statements and the false financial statements
23 in the annual reports, was pointed out to you by them,
24 wasn't it?

25 A. Yeah, they came and they mentioned at that point the

1 15:43 annual report doesn't contain the full version of the
2 audited financial statements. And I do recollect that
3 discussion. I did mention to Mr Murphy, at that time,
4 that, fine, the annual report -- I did mention to
5 Mr Murphy, at that time, that, "The annual report
6 contains the reviewed financial statements, so why is
7 there an issue?" So he said that, "No, but since it
8 uses our logo, it gives the impression that the
9 financial statements are audited." So I do kind of
10 recognise the point what he wanted to make and we took
11 steps to withdraw the annual report.

12 Q. Focusing on the meeting first, you were shown the
13 different documents, weren't you, and the deletions to
14 notes 7 and 10 were pointed out to you? You were shown
15 those specifically, weren't you?

16 A. That's correct.

17 Q. Both you and Mr Lim tried to suggest to Ernst & Young
18 that the deletions were the result of printing errors,
19 didn't you?

20 A. No, that is not correct. We did a discussion and I have
21 explained my discussion with you, what we discussed.

22 Q. Mr Sikander and Mr Murphy made it clear to you, at that
23 meeting, that they did not consider that printing errors
24 was a credible explanation, didn't they?

25 A. In that meeting, there was no discussion on printing

1 15:45 errors.

2 Q. Mr Sikander and Mr Murphy made it clear to you that they
3 regarded these deletions as material omissions, didn't
4 they?

5 A. I don't recollect the discussion in the meeting, but
6 they followed up after the meeting with an email, which
7 is there on record.

8 Q. Just focus on the meeting first. They told you that
9 they regarded the deletions as material omissions,
10 didn't they, not printing errors?

11 A. I have said that I don't recall the discussion of the
12 meeting.

13 Q. You, as a chartered accountant, would know what the
14 words "material omissions" mean, wouldn't you?

15 A. It's not necessary I would be knowing, because audit
16 itself is quite a specialised area, and terms and
17 terminology, it changes over time. So when I was doing
18 audit, maybe my skill set would have been significantly
19 changed by the time when I'm doing a discussion with
20 Mr Sharif Sikander or Mr Murphy. These are quite
21 technical aspects of how things are handled, so it's not
22 necessary that I would understand the terms and
23 terminology, what we're getting discussed, at that
24 particular time.

25 Q. You don't think you would have understood what the term

1 15:46 "material omissions" meant in 2015?

2 A. That's correct.

3 Q. Even though you're a chartered accountant with all your
4 roles at the time of the audit?

5 A. That's quite possible. And I would not have -- and
6 there was no discussion which happened on material
7 omission or otherwise. It was more where they pointed
8 out and they expressed that, fine, the annual report
9 should be withdrawn and if we would like to issue the
10 annual report again, then their adequate consent should
11 be taken, if we wanted to include the audited financials
12 in the annual report.

13 Q. I don't accept that you didn't know what the term
14 "material omissions" meant. I suggest you did know, you
15 knew perfectly well what it meant.

16 A. I again mention that there was no discussion or I don't
17 recollect the discussion, the way you're putting the
18 question to me.

19 Q. Answer this. I suggest you did know what the term
20 "material omissions" meant?

21 A. I would have not known. I would have gone and read the
22 standard, if that particular language would have got
23 used.

24 Q. If you went and read the standard, it would tell you,
25 wouldn't it, that information is material if omitting it

1 15:48 or misstating it could influence decisions that
2 investors make, based on financial information presented
3 to them? That's what you would have read if you had
4 looked it up.

5 A. I can't comment, because that was not the discussion
6 which happened with Mr Murphy.

7 Q. I'm not going to pursue that any further.

8 On any view, you knew that this was a very serious
9 situation, didn't you?

10 A. I would say this is certainly something which you would
11 like to address and it is not a situation to your
12 liking.

13 Q. I suggest that, at the meeting, Mr Sikander and
14 Mr Murphy made it clear to you that you were required to
15 write -- or that ANEL was required to write to
16 shareholders, advising them that the annual reports were
17 being withdrawn due to material omissions. So they told
18 you that at the meeting, I suggest.

19 A. No, that is not correct.

20 Q. And that the shareholders should respond to Ernst
21 & Young that they had received the retraction letter.
22 They told you that too, didn't they?

23 A. I don't recollect the discussion of the meeting with
24 either Sharif Sikander or Mr Joe Murphy.

25 Q. Furthermore, that you were to provide Ernst & Young with

1 15:49 any amended annual reports you intended to issue, so
2 that Ernst & Young could check that it was accurate, but
3 you say you don't recall?

4 A. I have explained to you what I do remember of that
5 meeting. Certain things, what you're asking me as
6 questions, I don't recall having done those discussions.

7 Q. And that ANEL was required to take the action by no
8 later than 26 November; do you recall that?

9 A. Yeah, they had put it in an email, so certainly I recall
10 that.

11 Q. You refer to an email because, in fact, it was all
12 recorded in a subsequent email that was sent the evening
13 of 23 November, which is exhibit F307, so if we could
14 look at that. Have you got that?

15 A. Yeah, I can see the email. I'm just requesting the hard
16 copy so I can read it myself.

17 Q. Yes, of course. You tell me when you've got it.

18 A. Yes, I have it in front of me.

19 Q. This email summarises the discussion and action points
20 and you can see point 1:

21 "We require you to write to the shareholders of
22 [ANEL] ... withdraw the annual reports ... which were
23 distributed to them due to material omissions in the
24 financial statements included in the annual reports and
25 as such those financial statements should be considered

1 15:52 erroneous."

2 Yeah? It says:

3 "We would be happy to review the draft wording if
4 you require assistance."

5 But it's clear that that's what the letter had
6 to say:

7 "... material omissions in the financial
8 statements ... as such those financial statements should
9 be considered erroneous."

10 That reflects what you were told you had to do at
11 the meeting, doesn't it?

12 A. This is the email what we received from them, yes.

13 Q. You knew clearly what you were required to do, as set
14 out in this email. And, in particular, what the letter
15 to the shareholders had to say, because the wording is
16 given to you in paragraph 1, isn't it?

17 A. Yeah, but in summary, what it required was
18 a communication to go out, required that we share
19 a draft where they can comment, and it should get over
20 by or before the end of the week, which is 26th, or else
21 they will go ahead and report the matter to the economic
22 department.

23 And which they have not written the email, but they
24 mentioned it, that they will also -- there is
25 a possibility of kind of reporting to the police. So

1 15:53 there was a big threat, what they gave us, when they did
2 the meeting with us.

3 Q. Following this meeting that you had with Ernst
4 & Young -- and obviously then you've also got this email
5 as well -- you and Mr Lim briefed the rest of the ANEL
6 board, didn't you?

7 A. We did contact them, if that's something which has to do
8 with Al Najah, so the Al Najah board were briefed or
9 were contacted and told that E&Y, they have taken
10 objection, as to the way the annual report has got
11 printed, because it contained the audited financials or
12 it at least conveyed to contain the audited financials,
13 when it should have had the summarised financial
14 statement.

15 Q. You would no doubt have pointed out to the board the
16 deletions that were in notes 7 and 10 in the annual
17 reports?

18 A. That is correct --
19 -- (overspeaking) --

20 Q. -- wouldn't you?

21 A. I didn't follow the last part of the question.

22 Q. You had to tell the board what was wrong with the
23 statements that were in the annual reports,
24 wouldn't you?

25 A. Yeah. We explained that, that they have taken objection

1 15:55 to have used the word "audited", when it was not
2 audited. They were not happy that we have used their
3 logo. That was one of the kind of complaints they had.
4 So these were -- we may have explained them, that this
5 is what E&Y has requested, in terms of the withdrawal
6 process of the annual report.

7 Q. But you must surely have also told the board that it
8 wasn't just that audited financial statements had
9 pretended to be included in the annual report, but also
10 that there had been deliberate deletions to notes 7 and
11 10. You must have told the board about the deletions,
12 mustn't you?

13 A. No, I don't agree, because the board itself had decided
14 to have a summarised financial statement. So the board
15 were aware as to what should have been part of the
16 annual report, which should have been a summarised
17 financial statement. Given that it's a private company,
18 they had all rights to kind of take decisions which is
19 beneficial to the company. So to that extent, when you
20 say that these were for the first time the board is
21 coming to know, that would be slightly incorrect.

22 Q. Mr Dash is the chairman of the ANEL board, so he would
23 have been a recipient of whatever briefing you gave,
24 wouldn't he?

25 A. I don't remember, but possibly, yes, that, fine, the

1 15:56 audited -- the annual report has been reflected to have
2 the audited financials, instead of summarised
3 financials. That would have been certainly conveyed
4 to him.

5 Q. In your witness statement, I think it's your third
6 witness statement, paragraph 62 -- I don't think we have
7 to look at it. But what you say is you also had to
8 consult with the other directors and prepare a draft
9 letter. So you're referring there to the directors of
10 ANEL, are you?

11 A. That's correct.

12 Q. Of which Mr Dash was a director, wasn't he?

13 A. He was also a director, that's correct.

14 Q. In consultation with the directors, a draft letter was
15 prepared; is that the position?

16 A. I don't kind of recollect the entire sequence, but it
17 was -- I remember Don prepared and he -- because it is
18 not that it's, end of the day, a letter which has to be
19 prepared, and it is request which has come from the
20 auditor, who has done the audit. So, fine, it doesn't
21 require -- and they have set out a process as to what
22 has to be done, where they have said that, fine, you
23 share a draft with us, and if we either can assist or we
24 will comment.

25 If I can read their kind of email again, probably

1 15:58 I can recollect the sequence better but, in summary,
2 this is what would have been the situation, so it was
3 not something where you require all the seven or eight
4 board members to assemble and kind of prepare a letter
5 which has to be shared with E&Y.

6 So I don't recollect, but certainly I would have
7 looked into the draft. And since myself and Don were
8 involved in the discussion, we would have looked into
9 the draft which would have gone to E&Y.

10 Q. What you're saying is the other board members and the
11 directors wouldn't necessarily have all sat down around
12 the table and come up with a draft, but a draft of the
13 letter would have been shared with them, wouldn't it,
14 before it was sent off to Ernst & Young?

15 A. Not necessarily that would have happened, because end of
16 the day, it is a letter which is going out and the
17 messaging is that, fine, if E&Y is not happy with the
18 draft what we have shared, because between 23rd to 26th,
19 there is three or four clear days.

20 So end of the day, how much time it takes to come
21 back on a draft, they will give their comments on
22 a draft and then a discussion can happen. But it's not
23 necessary that the first draft itself would be
24 circulated between, because there is a timeline, what
25 they have given, in terms of by when they would like the

1 15:59 process to get over. So the actions would have been
2 that, fine, kind of do whatever is required, so that we
3 can close the process before the deadline time.

4 MS CLARKE: Sir, I'm about to move on to a different email
5 and I note the time. Is that a convenient moment?

6 PRESIDENT: Yes, it certainly is. We'll break now for
7 an hour.

8 I just wanted to ask Mr Hill something, which is
9 this. The evidential implications of Mr Lim not giving
10 evidence really don't matter for the moment, but one
11 thing that we obviously are concerned about is whether
12 or not Mr Lim is actually still being represented by you
13 and your team. There is no reason why he shouldn't be,
14 even though he's not giving evidence, but I think we do
15 need to get that sorted out pretty fast.

16 My colleagues have noticed Mr Lim has not been on
17 the list of people who have been attending this hearing
18 remotely, so we just have a little concern for him at
19 the moment. I don't know if you can assist us now or
20 whether it's something you prefer to do after the break?

21 MR HILL: To make sure I'm absolutely accurate, I will
22 confirm it after the break. I can assist you now, but
23 I'll just double-check, so I confirm it after.

24 PRESIDENT: As we'll be having a meeting, could you give us
25 some interim assistance, subject to change, after

1 16:01 clarification.

2 MR HILL: As far as I understand -- and this obviously has
3 come up. It's not the first time this has arisen. As
4 far as I understand, I am instructed on behalf of Mr Lim
5 and I continue to represent him, but I will take further
6 instructions.

7 PRESIDENT: Thank you very much.

8 (4.01 pm)

9 (Lunch break)

10 (5.00 pm)

11 MR HILL: Can I just confirm to the tribunal that I am still
12 instructed on behalf of Mr Lim.

13 PRESIDENT: Thank you very much.

14 MS CLARKE: Mr Singhdeo, I want to ask you now about the
15 email at exhibit 722. This is an email from Mr Lim to
16 Mr Sikander, cc'd to you, dated 24 November:

17 "After consultation with the management here, please
18 find attached the wordings for the letter to
19 shareholders which we would propose to send to
20 investors. It's attached for your review and
21 consent ..."

22 Then if we go to page 4, we have the text of the
23 letter. You will see that the first line of the letter
24 says:

25 "It has been brought to our attention that there

1 17:01 were erroneous printing in parts of the Annual Report
2 for Al Najah Education Limited for the financial years
3 ended 31st August 2013 and 31st August 2014."

4 Then it says an extract is included below,
5 et cetera.

6 The wording of the covering email, "After
7 consultation with the management here ..." reflects the
8 fact that there had been discussion with the management,
9 including Mr Dash and the directors, about the wording
10 of the draft letter, doesn't it?

11 A. I don't recollect, but, fine, because I would have read
12 the body of the letter, rather than the body of the
13 email, when that email would have gone.

14 Q. The words "erroneous printing" were the agreed words
15 that ANEL, as a body, including the management team,
16 wanted to use; is that right?

17 A. This is a draft, what is getting shared with E&Y.

18 Q. That's the wording that everyone agreed that ANEL, as
19 a company, wanted to use, "erroneous printing"?

20 A. This is a draft from ANEL's board.

21 Q. You knew, didn't you, that that was not a credible
22 description of what had happened?

23 A. This is a draft, what is being shared.

24 Q. Mr Sikander had made it clear to you at the meeting that
25 you had with him, that printing errors was not

1 17:03 a credible description. You knew that?

2 A. I disagree with what you have just said.

3 Q. What are you saying? That you consider that printing
4 errors is a credible description of what went on here?

5 A. No, I don't agree to that word also. But what I say is
6 that Mr Sharif Sikander never kind of suggested that if
7 there is any agreement or disagreement and there was no
8 discussion on printing error and what kind of language
9 he required in the draft to be issued.

10 Q. Just to be clear, regardless of what discussions there
11 may have been, in your opinion, erroneous printing or
12 printing errors was not a credible description to
13 describe what had happened?

14 A. I would say that, fine, as E&Y had suggested, to share
15 a draft, this had gone and we were expecting comments on
16 this particular draft from them.

17 Q. Do you consider that "printing errors" is a credible
18 description for what happened?

19 A. Today, when I look into in terms of the views taken by
20 people, as to whether the word would have been "printing
21 error" or something else, I may have a different view
22 today. But on that particular day, I would have gone
23 with the word what was sent into the draft.

24 Q. Then we know from some further evidence that was
25 provided by you, attached to your third witness

1 17:04 statement, that on 26 November, so this is two days
2 after the draft that we just looked at has been sent to
3 Ernst & Young, there was some consultation with
4 a company called Protiviti; do you recall that?

5 A. Yes, I do recall that.

6 Q. If we could have exhibit C011, NS 3-5 up.

7 A few questions before we actually look at this
8 document. Were you personally involved in the
9 discussions with Manoj Kabra of Protiviti about this
10 issue ?

11 A. It's long time back, but maybe I would have discussed.
12 I don't remember, because obviously, there was
13 investigation which had already started, which was
14 a week, 10 days back. So certainly, it was a different
15 time, in terms of what was happening. But, at some
16 stage, maybe I would have also engaged with Mr Kabra.

17 Q. Was Mr Dash also involved in discussions with Mr Kabra
18 about this issue?

19 A. I don't recollect whether he was involved or not,
20 because, fine, he -- I can't comment today at least.

21 Q. What we can see from that email, at the top, that we've
22 got on the screen, Mr Kabra is sending an email to
23 Mr Ghosal, cc'd to you and Mr Dash.

24 A. I can see that.

25 Q. That would suggest, wouldn't it, that both you and

1 17:06 Mr Dash were involved in the discussions with Mr Kabra
2 of Protiviti, wouldn't it?

3 A. I would see the first email, then maybe it is reply to
4 all, that would have been the protocol he would have
5 followed.

6 Q. When we look at the email, if we can look, first of all,
7 we'll look down the chain, so that we can get the chain
8 of events. If we look at the bottom of page 1, we have
9 an email from Amitava Ghosal to Mr Kabra, cc'd to you
10 and Mr Dash on November 26. This is 8.28 in the
11 morning; do you see that?

12 A. Yes.

13 Q. "Dear Manoj,

14 We were thinking to send the below wordings.

15 Please let us know your thoughts."

16 Then if we go on to page 2, what we have there is
17 a draft letter, which appears to be page 2 of the email:

18 "Dear Shareholder

19 Please find attached herewith the audited financial
20 reports ... We would like to draw your attention to Note
21 7 and Note 10 which were erroneously omitted in the
22 annual reports distributed earlier."

23 The wording that's now being proposed to Protiviti
24 has changed from the wording that was proposed to Ernst
25 & Young and it has become from "erroneous printing" to

1 17:08 "erroneously omitted". Are you able to explain that
2 change?

3 A. I don't recollect having drafted this letter, but, fine,
4 I'm looking into the timeline now, because there was
5 a deadline given by E&Y, which was close of business
6 26 November. There was a draft which got shared with
7 them on 24 November. No response has come. There has
8 been separate follow-up happening with E&Y, which
9 I recollect, which I had mentioned during my interview
10 with the DFSA also.

11 So in the interest of resolving the issue, and to
12 understand that whether -- what is exactly required by
13 the auditing standards in case you come and are having
14 a situation like what we have faced.

15 So with that, we had approached Mr Kabra and the
16 draft of this letter, whether it is correct, not
17 correct, at this point of time, I can't comment, but
18 a particular draft got shared, so that we can get his
19 feedback and understand what, as per standards, is the
20 communication protocol to be followed.

21 Q. You're saying you can't explain why the wording has
22 changed from "erroneous printing" to "erroneously
23 omitted"?

24 A. What I can understand and say is that there were
25 probably different streams of work happening, because

1 17:09 this certainly is something which is not just relating
2 to Al Masah. It relates to a company which is not part
3 of Al Masah and it has impacted that particular company.
4 So anything which has to be done, so that you don't kind
5 of violate the deadline, as to what E&Y has given, so if
6 E&Y is not responding and something has to be done in
7 accordance with the standards, then we wanted a second
8 view on this particular subject.

9 Q. This email, though, doesn't inform Mr Kabra that
10 a different draft had already been shared with Ernst
11 & Young, does it?

12 A. It would have certainly been shared, the draft what has
13 gone to E&Y.

14 Q. That's not what --

15 A. I --

16 -- (overspeaking) --

17 Q. -- from this chain, is it?

18 A. Yeah, correct. I don't -- the reason being that
19 I couldn't have had access to all of my emails, because
20 there is almost a five-year timeline and maybe that is
21 the reason why I may not have been able to produce. But
22 whatever communication had gone to E&Y were also shared
23 with Manoj, if I recollect well.

24 Q. If we could look at Mr Kabra's response at page 1, the
25 top of page 1, it's the central -- the three lines in

1 17:11 the middle that I'm interested in:

2 "Although your draft of the email states that Note 7
3 and Note 10 were erroneously omitted, my understanding
4 is that the notes were not omitted, instead certain
5 disclosure was different and/not made. I have amended
6 the text of the email/letter accordingly.

7 Please review and call me ..."

8 Do you recall precisely what you said or what was
9 said to Mr Kabra to cause him to make the statement that
10 he has in the middle of that email?

11 A. No, it looks to me the whole financial annual report
12 would have got shared with him and that being the
13 background, because obviously, we haven't produced
14 probably another chain of email. So, on looking the
15 annual report, he would have come to the -- or he would
16 have put the comment what he has put in his email.

17 Q. But you personally cannot explain what discussions were
18 had with Mr Kabra to cause him to write what he did in
19 that email?

20 A. No, I don't recall now.

21 Q. Then what we have, of course, we've already looked at
22 page 2 letter. Then there's another letter, at page 3.
23 If we could look at page 3, please. This is another
24 version of the letter:

25 "Dear Shareholder,

1 17:13 It has been brought to our attention that there were
2 certain printing errors in note 7 and note 10 ..."

3 Then it goes on -- we can read that bit for
4 ourselves. Then there's another paragraph:

5 "Our annual audit for 2015 is underway and we will
6 share the financial statements ..."

7 Then it says:

8 "... we are pleased to notify you that the Board of
9 Directors of the company have recommended an interim
10 distribution of 9% on your investment and we are
11 targeting to make this distribution around
12 24th December 2015."

13 My question is this: if Mr Kabra's view was that
14 "certain disclosure was different and/not made", are you
15 able to explain why it is that the letter, that it is
16 being suggested that he drafted for ANEL, refers to
17 "printing errors"?

18 A. This is the language what he did suggest at that time.

19 Q. But it doesn't appear, does it, to be consistent with
20 what he has written in his email at page 1.? Are you
21 able to explain that?

22 A. No, I don't have any comment.

23 Q. Are you able to explain why this draft also now includes
24 reference to a dividend of 9 per cent?

25 A. This is communication where he's helping the board of

1 17:14 Al Najah to communicate to the shareholders as required
2 by their auditors. A certain set of information would
3 have got shared with him, the background would have got
4 explained to him, and then he has given the draft, which
5 was the draft which got shared with the shareholders of
6 Al Najah.

7 MR HILL: I'm sure my learned friend is aware, that second
8 paragraph is in the previous version of the draft that
9 Mr Kabra has commented on.

10 MS CLARKE: Which is one of the ones further down the page.

11 MR HILL: Yes. So, in other words, he leaves that paragraph
12 as it is.

13 MS CLARKE: No, I follow that.

14 MR HILL: Yes, I'm sorry.

15 MS CLARKE: No, thank you. That's helpful.

16 My question is this, Mr Singhdeo: is this draft
17 letter that's here, is this really the one that Mr Kabra
18 sent?

19 A. We have shared the email with the attachment and this is
20 the draft, what came from them. At least with the
21 lawyers, we have shared the email with all the
22 attachments. And that's how -- if required, those can
23 again be shared.

24 Q. You say "Yes, that is really the one that he drafted for
25 us"?

1 17:16 A. Yes.

2 Q. Can we look at what happened next. Just to be clear,
3 the remainder of the email deals with writing stiff
4 letters to Ernst & Young, doesn't it, on behalf of the
5 company, as opposed to what was going to be said to the
6 shareholders --

7 A. No, there was no communication --

8 -- (overspeaking) --

9 Q. -- any of that?

10 A. No, he proposed a communication draft with auditors, but
11 when you say "stiff communication", I'm aware what
12 letter you are referring to, but that letter was never
13 sent to E&Y.

14 Q. No, sure. Anyway, that's why I'm not referring you to
15 the rest of that document and I'm sure if Mr Hill thinks
16 it's necessary, he can pick it up with you in
17 re-examination.

18 Can we carry on with the chronology, because what
19 then happened is that -- if we could look at exhibit
20 F207. If we could look at the email at the top, at
21 page 1. Bear in mind the timing of all of this,
22 4.35 pm, so this is the afternoon of 26 November.

23 Mr Lim emailing Ilona Zudikova, cc'ing you and
24 Mr Dash:

25 "This letter to be printed and included in every

1 17:17 courier to AN investors. The courier should include this
2 letter and copies of the 2 audited financials."

3 Then we go to the draft letter, which is at page 2.
4 The draft that we now have is "certain printing errors".
5 Do you see that?

6 A. Yes.

7 Q. That's what Ms Zudikova was told needed to be printed
8 and included in every courier pack.

9 Then at exhibit F209, we have page 2, email from
10 Mr Lim, cc'd to you and Mr Dash and lots of others:

11 "We need to send the following email with the 2
12 attachments to each investor of Al Najah Education and
13 we should send it individually ..."

14 Then if we go up the page, to page 1, we have Mr Lim
15 again, 6.12 in the evening:

16 "After the email below has been sent to all
17 investors, it would be good to inform the sales team
18 who's tagged to the investors of this email about the
19 content as the investor might go to them for any
20 clarifications."

21 Then the attachment to that email is at F210,
22 I believe. The actual email that was sent is at F210.
23 That's the email that was actually sent out at 6.26 that
24 evening and we can see that the text says, "Certain
25 printing errors". It's still got reference to the 9 per

1 17:21 cent dividend.

2 Were you aware this was what was actually sent out
3 to investors? Mr Singhdeo?

4 A. No, I can't comment. It's administrative kind of
5 action, what the investor relations team would have
6 taken. And what I recollect is that the draft, what we
7 got from Protiviti, that was put in the courier pack and
8 it looks to me that that is what would have gone to
9 them, to the investors, through the email also.

10 Q. Is the reference to the 9 per cent dividend, in
11 paragraph 2, an attempt to draw the reader's attention
12 away from paragraph 1, ie give them some good news in
13 paragraph 2 and they will focus on that? Is that the
14 intention behind the draft?

15 A. I can't comment on that, but we were advised that in
16 case the board, they are faced with a situation like
17 what they have currently faced, where the auditors have
18 asked them to withdraw, it is the board's responsibility
19 to take immediate action.

20 The content of the communication is to the decision
21 and judgment of the board and maybe that is the reason
22 it included both the messages in the email. But I don't
23 have a view or a comment, when you say that whether it
24 was with an intention to negate the message what was
25 going out in paragraph 1.

1 17:22 Q. You're, of course, a member of the ANEL board, as we
2 have established a number of times, aren't you?

3 A. That's correct.

4 Q. Your description of events, as you provide it in your
5 witness statement 3, at paragraphs 63 and 64 -- again,
6 I don't think we need to bring it up on the screen, but
7 what you say is that the board of ANEL were extremely
8 concerned that if a letter didn't go out, Ernst & Young
9 would act on its threats and therefore the letter had to
10 be communicated to shareholders without delay.

11 A. That's correct.

12 Q. And that the -- (overspeaking) -- reflected the draft
13 provided by Protiviti, which referred to "printing
14 errors"?

15 A. We shared the draft, what was provided by Protiviti.

16 Q. You shared the draft that was provided by Protiviti with
17 the board and the board said, "We need to send something
18 out, so we need to send this". Yes? Is that what
19 happened?

20 A. There was no formal board meeting. Obviously, there
21 were discussions which had happened, and there were the
22 decision was that, fine, if E&Y is not coming back and
23 there's a deadline to be met, and on a personal level,
24 fine, Mr Murphy had given a threat that not only he will
25 publish, but he will report to police also. So the

1 17:24 personal threat was on me, because I had signed the
2 engagement letter with E&Y. So obviously, I -- there
3 would have been discussion that we kind of complete the
4 request, what E&Y has suggested, before the close of
5 business.

6 Q. The board, though, were aware that this was the draft
7 that was going to be sent out, the "printing errors"
8 draft?

9 A. The board was aware that Protiviti --
10 -- (overspeaking) --

11 Q. -- weren't they?

12 A. The board was aware that Protiviti has helped us to
13 draft something, which will go out to the shareholders.

14 Q. The board were shown this draft, weren't they, before it
15 was sent out?

16 A. I don't recollect if the email -- because this is after
17 the investigation date, otherwise all the emails are
18 with the DFSA. They could have checked it. But they
19 had checked Ilona's email post their visit to our
20 office. I'm not too sure if there is any email which
21 has gone out to all the board members on this particular
22 subject.

23 Q. I'm asking you for your recollection. You're a member
24 of the board. You're the one, as you say, at the
25 forefront with the relationship with Ernst & Young. The

1 17:25 board were shown this draft and approved this draft
2 being sent out, didn't they?

3 A. I don't recollect. This is what I'm saying.

4 Q. Mr Dash, of course, was part of the board, I suggest,
5 and therefore would also have been shown this draft.
6 Again, would you say that you don't recollect?

7 A. Yeah, I don't recollect.

8 Q. You told us earlier that prior to that email going out
9 to the investors, you had, in fact, contacted Ernst
10 & Young to try and follow up with them, as to what was
11 happening?

12 A. Yes, I told that when I was interviewed by the DFSA.

13 Q. I recall that -- sorry, your interview by the DFSA, and
14 I can give the reference, but we probably don't need to
15 bring it up, unless you particularly want us to. It's
16 exhibit 120, page 104. What you said was that Sharif
17 probably said:

18 "I am speaking to my Legal. 'Til Legal gives
19 clearance I can't come back'..."

20 Do you remember saying that?

21 A. I do recall what I mentioned in the interview, but at
22 the same time, there was an email from them which had
23 put certain conditions and there were clear timelines
24 which were given by when this has to be completed. And
25 it kind of concerned an entity, which was not Al Masah

1 17:27 or the regulated entity. It concerned another entity
2 which is outside and which is Al Najah.

3 So obviously, there is a due care for the work, what
4 you're doing. And at that point of time, if it was felt
5 that a particular deadline has to be met, otherwise it
6 will not just have an impact on Al Masah, it will have
7 a more damaging impact on Al Najah.

8 So looking into the entirety of the situation of
9 that particular day, including the email what E&Y had
10 written, a particular decision was made to send out the
11 given email and the letter through the courier pack
12 before the expiry of the deadline.

13 Q. Before sending out that email, the obvious thing to do
14 would have been to follow up, for you to follow up with
15 Mr Sikander again and ask him whether he could please
16 respond on your draft, given the deadline that they had
17 set. Did you do that?

18 A. There were certainly phone calls made and if somebody
19 doesn't respond to phone calls, obviously there is
20 limited kind of options you have. At that point of
21 time, the idea was to meet what E&Y had asked for, so
22 that we don't expose Al Najah for some other thing.

23 There was already a DFSA investigation or at least
24 a visit which had happened 10 days back. This event is
25 around the same timeline, so we didn't want another kind

1 17:28 of a subject to be opened up with E&Y and with any other
2 authorities here, which would have exposed any of the
3 board members or Al Najah. So, in the interests of
4 completing a particular process, certain decisions were
5 made.

6 Q. There's no evidence that has been produced in this
7 hearing that you did, in fact, follow up further with
8 Mr Sikander, is there? There's no emails or anything
9 like that to show that you did any further follow-up
10 before emailing out this letter, is there?

11 A. No, the deadline had been given by then. The draft was
12 shared the very next day after they visited our office.
13 When you look into the entirety of the situation, and
14 the edits, what came from them, I would have expected it
15 to have come the same day from E&Y.

16 So I couldn't fully understand what is the reason
17 why E&Y is holding up to send response to a draft on
18 which they had voluntarily kind of conveyed that they
19 will be happy to assist us.

20 So if the matter is so important and urgent, which
21 I feel was urgent and important, and they had given
22 a particular timeline, we would have expected them to
23 also come back with their edits and comments.

24 Q. What we know, and I'm not sure -- no, let's look at the
25 exhibit 703. This is when Ernst & Young did come back

1 17:30 to you.

2 A. Late in the day, they came back, yes.

3 Q. 7.43 pm, exhibit 703:

4 "Please see the attached letter to be sent out ...

5 Please resend the this letter with a copy to EY."

6 Then some further instructions. Do you see? It

7 says:

8 "If we cannot satisfy ourselves in this regard, we

9 will have no option but to making a public

10 announcement."

11 Ernst & Young's attachment is exhibit 702. What we

12 can see is that Ernst & Young have edited your draft

13 letter and has removed the words "erroneous printing"

14 and inserted the words "contain material errors of

15 omission", and then there's other wording and editing

16 proposed throughout the rest of the document.

17 That cannot have surprised you, can it, given that

18 it was made clear to you from the very beginning by

19 Ernst & Young, that they considered that it was

20 a material omission that had occurred, not a printing

21 error?

22 A. The draft was shared with them two days back, and as

23 I said, there was no oral communication or oral

24 discussion on the terminology to be used. The spirit

25 was that, fine, we can assist you or you share a draft

1 17:32 if you want. So we would have expected them to come
2 back with the draft with their edits, either the same
3 day or maybe the next day morning. When they didn't
4 come back the next day morning, that was the time when
5 we started kind of looking at options as to what is the
6 best way to address the issue, what has been at least
7 flagged by E&Y on that particular day.

8 In terms of the sequence and timing, because after
9 the emails and courier packs were sent, there was a
10 notification or an email, which was made to E&Y, before
11 the 7.43 email, that we have kind of completed the
12 process as requested.

13 Probably that -- I'm not sure whether it is part of
14 the attachment or not part of the attachment, but
15 a communication was made before receiving this
16 communication, and the completion of the task of having
17 sent the courier pack with the letter and also the email
18 to investors.

19 Q. But at the point at which you received this email and
20 this edited attachment from Ernst & Young, the board of
21 ANEL were in no doubt about what had to be done, were
22 they? It was this version of the letter that had to be
23 sent out to the investors, wasn't it?

24 A. When they received this communication, there was
25 a discussion whether to send or not to send and the

1 17:34 decision was made that we should send out this
2 communication to the shareholders.

3 Q. We know that what in fact happened, as set out in
4 Mr Hammond's fifth witness statement, is that on or
5 about 29 November 2015, the ANEL board of directors
6 caused a pack of documents to be couriered to the
7 shareholders of ANEL, didn't they?

8 A. Yes.

9 Q. You were part of the decision to do that, weren't you?

10 A. Well, yes, I would like to add here that I had invited
11 Sharif to come to our office or send someone into our
12 office to kind of look into the process, because there
13 has already been a disagreement as to what should be the
14 content of the letter. And we said that, "Fine, we
15 don't want to be in a situation that you're still not
16 happy with the process, so why don't you send something
17 to our office, let them see that what we are physically
18 putting inside the courier pack, what is the letter
19 which is going. And once the process is over, you can
20 yourself take comfort that what you have advised us and
21 what you have wanted us, we have confirmed in totality."
22 So that was the communication which I sent to him. He
23 responded back that, "No, that is not required. You
24 just share us with copies of the courier receipt,
25 confirming that you have completed the process."

1 17:35 Q. There is no evidence of any of that communication in the
2 documents that you've supplied to this hearing,
3 is there?

4 A. I do agree, but the DFSA has also looked into the
5 communication, what E&Y has made, with Al Najah and with
6 Al Masah, which obviously since they did look into the
7 audit file, so I would expect that they would have
8 looked into the communication of that particular date,
9 because those emails will be certainly in E&Y's server
10 and our server or in our email system at that point of
11 time.

12 MR HILL: If I could just remind my learned friend, there is
13 indeed evidence of that, it is at C015, NS 4-6.

14 MS CLARKE: Thank you.

15 MR HILL: Second email from Mr Singhdeo to Mr Sikander,
16 starts at the bottom of the page, "Dear Sharif".

17 MS CLARKE: Yes, okay.

18 MR HILL: If you look at the end of the main large
19 paragraph.

20 MS CLARKE: You mean the last paragraph:

21 "We believe the above action --

22 MR HILL: No, just above that:

23 "We will be maintaining records of the sent emails,
24 delivery receipts, and other courier delivery
25 confirmations sent to the shareholders and you are free

1 17:37 to visit our office to verify this, should you wish to
2 do so."

3 MS CLARKE: Yes, all right. Yes, of course, but that's
4 a different point, though, isn't it?

5 Mr Singhdeo, as I understood you, what you're saying
6 is you wanted Ernst & Young to come into your office to
7 verify that what you were intending to send out by
8 courier was what they expected?

9 A. That's correct.

10 Q. That's not what this email that your counsel has
11 referred us to says. There's no document, no email that
12 evidences you saying, "Please come in and check that
13 what we're about to send out is correct", is there?
14 Nothing in any of the bundles for this hearing?

15 A. No problem, I'm making that statement now, and I have at
16 least shared with my lawyers that particular
17 communication, and it will be there with E&Y also. This
18 is what I feel.

19 Q. In addition to that, there's nothing to that effect in
20 any of your interviews with the DFSA, is there? You
21 didn't say that in your interviews?

22 A. I don't recollect, but if a question is put to me,
23 I would answer them.

24 Q. And, of course, you've made several witness statements
25 in connection with this case and I have not seen

1 17:38 a reference to that in any of your witness statements
2 either.

3 A. Okay.

4 Q. So the first time we're hearing about this from you is
5 now, isn't it?

6 A. Fine, okay.

7 Q. Is that because this is not true, Mr Singhdeo?

8 A. No, this is true. Because obviously, there is an email
9 in my system and there is an email in E&Y's system and
10 I'm sure if it needs to be verified, it can be verified.

11 Q. What I'm going to suggest is this. You knew all along
12 what had gone wrong with what was in those annual
13 reports, because you were part of the deletion process.
14 I've already put that to you. That's the first thing.

15 A. We have made a representation that annual reports
16 shouldn't have contained the audited financial
17 statements.

18 Q. I don't want to cut you off, but I know you disagree
19 with me on that.

20 A. And we are completing the process as requested by the
21 auditors, so that the withdrawal of annual report can
22 happen.

23 Q. What I'm suggesting is happening now is that when Ernst
24 & Young come to you and say, "This is the problem and
25 you must sort it out and tell everybody that there have

1 17:40 been material omissions", that instead you are trying to
2 minimise the situation to the shareholders by using
3 terminology such as "printing errors", which ultimately,
4 of course, Ernst & Young disagree is appropriate.

5 A. That is not correct, because we have explained the
6 process and the timeline and the risks at that point of
7 time was thought through. And we have explained the
8 process that Al Najah, as a board, they certainly have
9 a right to take outside advice, what is correct and not
10 correct. And these are in accordance with the auditing
11 standards.

12 So what I would say is that a decision, what
13 Al Najah is taking, I personally would have kind of
14 a limited control over that decision, if certain
15 decisions are being taken in the interest of Al Najah,
16 and its shareholders, and its reputation, so that was
17 what was done when the communication was sent to the
18 shareholders.

19 Q. When it came to the documents that were actually
20 couriered to the investors, as I said, there were five
21 documents, of which one of them was the printing errors
22 letter, exhibit F702.

23 A. I can't comment on that, because I have not supervised
24 the process, but offer was made to E&Y to come and
25 supervise the process that the correct letter and the

1 17:41 correct pack is going into each individual investor's
2 courier pack.

3 Q. You knew, I suggest, perfectly well that the couriered
4 documents were also going to contain the "printing
5 errors" letter, as well as the "material errors of
6 omission" letters that have been drafted by Ernst &
7 Young.

8 A. I deny that. I've already made my statement, that E&Y
9 was invited to come and supervise the process and there
10 was an email from Sharif saying that, "Fine, that is not
11 required. You just send us confirmation that couriers
12 have been sent to each of the investors."

13 Q. I'm going to move now to a different topic and this is
14 Investor A, so the information that was given to
15 Investor A, who are [redacted].

16 A. Okay.

17 Q. That's what I'm going to ask you about now. Just by way
18 of background, there was some communications which you
19 were not involved in, in 2014, but involved Mr Dash,
20 Mr Lim and Ms Danila, and possibly others, with
21 [Investor A], regarding potential investments by them
22 into funds, which are not the four platforms that are
23 the subject of this case. All right? That's the
24 background.

25 But there did come a point when you did become

1 17:43 involved, because at exhibit A046, we have an email from
2 Mr Lim, cc'd to you. If we can go down to page 2 --
3 sorry, I've got that wrong. That's a wrong reference.

4 What then happened is this. In July, [Investor A]
5 were sent the HML annual report and the ANEL 2013 annual
6 report. All right? That happened in July 2014.

7 Then what happened is that in September 2014,
8 [Investor A] undertook site visits to an asset for each
9 of the three platforms, DLL, HML and ANEL. Then after
10 that, there was some further follow-up, following on
11 from the site visits.

12 Just to make it clear, in case I've confused you,
13 you don't appear to have been cc'd on any of the emails
14 that demonstrate that that's the background.

15 But the email that you are cc'd on we find at
16 exhibit 769. It's page 3. This is the email you are
17 cc'd on, in September 2014, from Mr Lim to you and
18 Ms Danila, cc'd Shailesh Dash and Eyad -- must be Eyad
19 Kuwait, mustn't it? It says:

20 "Please arrange a follow-up call with
21 [redacted] ..."

22 That's the chap from [Investor A], isn't it? You're
23 aware of that, aren't you?

24 A. I don't know any of them. I was not involved in any
25 discussions with [Investor A], but I can see it's an

1 17:46 internal email between people who were working within
2 Al Masah at that point of time.

3 Q. It says:

4 "... to discuss specifically about Diamond
5 Lifestyle ..."

6 Then it says:

7 "Nrupaditya ..."

8 So this is a paragraph where this is being directed
9 to you:

10 "The only query which [Investor A] had on AMCL's
11 annual report was for more clarity on the 'fee income
12 from assets under management' of [USD14 plus million].
13 We had told them it's an amalgamation of income from our
14 fund products across asset classes [and he lists
15 them] ... and not just PE."

16 Private equity, meaning a reference to the four
17 platforms; agreed?

18 A. Yes.

19 Q. "I think what [Investor A's] interested in is just to
20 see whether they can derive our actual AUM from our fee
21 income. Can you provide a breakdown of this [USD14 plus
22 million] and we then package it nicely together in a
23 response to [Investor A]?"

24 That's what you're being asked to do is to provide
25 a breakdown of the 14 plus million fee income figure

1 17:47 that's been given to them, aren't you?

2 A. Yes.

3 Q. "SD [that's Mr Dash] mentioned that if we haven't told
4 them about placement fees, then we can say 3% placement
5 fee income is inside that total fee income (but let me
6 confirm with Andreea if placement fee was mentioned in
7 any discussions but I recall none)."

8 Do you remember reading that part of this email?

9 A. I don't recollect now, if I had kind of focused and have
10 picked up those lines of the email.

11 Q. You do not recall what you took her to mean -- well,
12 what you took Mr Lim to mean by this reference to "if we
13 haven't told them about placement fees", et cetera? You
14 can't help?

15 A. The point, what I could see from the email is he's
16 making a request. Then there is another messaging, that
17 they want to calculate our AUM, and they want our fee
18 income. So these are the two messaging I can see from
19 the email, which is there and for which a request has
20 come from [Investor A].

21 It will be wrong for me to say that whether
22 I focused on all the aspects of the email on that
23 particular day. But, fine, there is a request to share
24 a particular income, what is there in our annual report.
25 This is what I can get from the email.

1 17:49 Q. If we go up to page 2 of this email, we have your
2 response:

3 Don -- Please find below the break up of income."

4 We can see there that you have split out the numbers
5 into various categories, haven't you?

6 A. Yeah, I got this table from the accountant who used to
7 look after Al Masah's accounts. And just to add to what
8 you have said, had I understood the messaging well,
9 that, fine, it has to be 3 per cent, I would have given
10 him a table with the 3 per cent number equally, but
11 that's not what I'm doing.

12 I have forwarded the table, what came from the
13 accountant, who was handling the accounts of Al Masah.
14 So, as a protocol, they've asked me, I have checked with
15 the person who used to look after the accounts and
16 I have provided it to Don in terms of what came to me.

17 Q. But you would have checked through this table first,
18 wouldn't you, to ensure that the figures looked accurate
19 and the categorisation?

20 A. No, it was a forward email. It came in my inbox, it was
21 forwarded to Don, because I would have expected the
22 accounts team, because in the annual report or for audit
23 purpose, this break-up was not required. There was one
24 number which used to appear in the annual report and
25 they wanted a particular break-up.

1 17:50 So for disclosure or presentation purpose also,
2 Al Masah auditors had never wanted us to give this
3 particular break-up. So whatever the team below, they
4 gave me, and that would have been based on the records
5 which were or are with them. So based on this Excel
6 table, what would have been with him, he forwarded it to
7 me and I in turn forwarded it to Don.

8 Q. But you must at least have looked at it and looked at
9 the numberings. You must have done. You're the CFO of
10 Al Masah Cayman --

11 A. I take your point, but Al Masah Cayman had a very simple
12 operations in terms of the expenses and revenue. It
13 didn't require CFO to be involved on basic accounting.
14 It was the accountant who had prepared this table and
15 I had asked him to give me the information. When the
16 request came, when the information came, I forwarded it
17 to Don.

18 And at the end of the day, I do understand that it
19 is a due diligence process which [Investor A] is going
20 on and as part of the due diligence, if they have asked
21 certain information, and with that in mind, these
22 informations are being exchanged and shared.

23 Q. In terms of the number there given for placement fee
24 income, which is just under US\$10 million, given that as
25 you have told us earlier on, that it was a part of your

1 17:52 role as CFO of Al Masah Cayman, to deal with the proper
2 accounting of placement fees to ensure that they were
3 paid to Al Masah Cayman and then properly -- records
4 were kept as regards receipts, you would have known,
5 wouldn't you, that that 9 million plus figure was
6 broadly accurate?

7 A. That may not be correct, because, as I said, Al Masah
8 had a very simple revenue and expense model. If there
9 is a particular -- and it didn't require a heavy
10 involvement of the CFO in terms of managing accounts.
11 So the accounts team had certainly had this information
12 and since it relates to our audit period, which is
13 already complete, so this is what the information
14 I asked him and I forwarded it to Don, when the
15 information came to me.

16 Q. Let's go up the chain. We get a response from Mr Dash:

17 "This will not go out. NS and Eyad speak to me
18 tomorrow morning."

19 To which if we go up to the top of the page,

20 Mr Huwaij replies:

21 "Sure Shailesh, we will do."

22 I think your position is that you had a phone call
23 with Mr Dash and Mr Huwaij, the following day. That's
24 what you've said, haven't you?

25 A. I don't recollect. Maybe we would have met or

1 17:54 something. It's almost six years.

2 Q. What I'm going to suggest happened during that phone
3 call is that Mr Dash told you both that there was no way
4 that a table that contained a 10 million placement
5 figure was going to go out to [Investor A].

6 A. I don't recollect that conversation, but certainly some
7 conversation would have happened.

8 Q. Because as far as investors in the platforms were
9 concerned, they had not been told about placement fees,
10 so this figure in that form could not go out?

11 A. No, I don't recollect.

12 Q. That is --

13 A. As I said, the reason why Shailesh would have written
14 that email and why we would have met is because he would
15 have had certain concerns, also fine, that is the reason
16 why he has written the email. But whether the
17 conversation, what you are saying, I don't recollect
18 that any such conversation has happened with Shailesh,
19 on the lines what you are suggesting.

20 Q. But by now, you know that [Investor A] have been given
21 the annual reports for Al Masah Cayman, haven't they?

22 A. Yeah, from the email, yes. It was. Because obviously
23 from the annual report of Al Masah Cayman, only they
24 have picked up the 14 million figure.

25 Q. You were also told by Mr Dash, when you had this phone

1 17:55 call with him, that the annual reports for ANEL and HML
2 had also been given to [Investor A], weren't you?

3 A. I don't recollect, because it's almost a six years old
4 kind of topic what we are discussing today. So I would
5 say that, fine, it will be wrong for me to comment.
6 What I would say is that the messaging was that, "Please
7 provide the correct information to [Investor A]". And
8 given that they are a large kind of institutional
9 investor, they are a local institution here, and this is
10 in the life of Al Masah, if we are dealing with the
11 local institutions, the correct information should go to
12 them. So that was the message, what probably would have
13 flowed to us, not the kind of message at least what you
14 have just mentioned.

15 Q. Mr Singhdeo, I have taken that from your witness
16 statement 3 at paragraph 72. Could we bring it up.
17 It's C011, which is the witness statement, paragraph 72,
18 which is at page 18. Do you see that the first line
19 says:

20 "On the call, Mr Dash explained that the annual
21 reports for AMCL as well as ANEL and HML had been shared
22 with [Investor A]."

23 Do you see that?

24 A. Yeah.

25 Q. So what is true --

1 17:57 A. I'm not denying --

2 Q. -- what you now say or what you said in your witness
3 statement?

4 A. No, this I'm not denying, that there was a conversation
5 which has happened, which I've also said that there has
6 been a conversation. I didn't kind of change what has
7 been put in the witness statement.

8 Q. Is it the case, then, that what is in the witness
9 statement is true, which is that you were told that they
10 had the annual reports for AMC, ANEL and HML?

11 A. Yes, that's correct.

12 Q. At least from that point on, you knew that whatever
13 figures got sent to [Investor A] had to be consistent
14 with what was in those documents, didn't you?

15 A. That's correct.

16 Q. That, of course, was what would have been in your mind?

17 A. There's another team member who is also part of this
18 process. And I do see, because I have looked into the
19 email chain, and it was kind of asked that, fine, let
20 them look into the annual report, let them look into the
21 financials of Al Masah, let them look into in what way
22 the placement fee has been presented across the
23 different annual reports and so that the correct
24 information can go to [Investor A].

25 Q. Then can we look at what happened after the meeting.

1 17:59 This is exhibit 723A. This is an email from Mr Huwaij
2 to you and cc'd to Mr Dash:

3 "Does it look ok now?"

4 Do you see that?

5 A. Yes, I see that.

6 Q. This is the second version of the table. You and
7 Mr Dash are being specifically asked to comment on the
8 content of this table, aren't you?

9 A. Eyad would have worked, because at the end of the day,
10 [Investor A], they were doing a discussion for the last
11 four or five months for a particular JV. And Eyad would
12 have looked into the different financial statements,
13 which has been shared with [Investor A], which are the
14 healthcare and the education. So with that in mind,
15 they have again tabulated, based on the way the numbers
16 have got reflected in those financial statements and he
17 has come out with this table.

18 But end of the day, the discussion with [Investor A]
19 was more to have a fund and a joint venture with them.
20 They were not an investor of Al Masah or neither they
21 were looking to invest into any of the platform
22 companies at that point of time.

23 So it was a discussion and a due diligence which
24 [Investor A] were carrying out on Al Masah, its team,
25 what activities they have been doing. And in that

1 18:01 context, certain informations had already got shared
2 with them, the annual report of Al Masah was shared with
3 them, the annual reports of the businesses which
4 Al Masah manages have got shared with them.

5 Q. You're being asked for your input into this table, "Does
6 it look ok now?" Did you look at this table and look at
7 the numbers and look at what was being said to satisfy
8 yourself that it was accurate and correct?

9 A. I would have seen that, fine, and I was aware that Eyad
10 did sit with the finance person of my team and they
11 looked into the description which has gone into the
12 annual report of the different holding companies, and
13 they have revised the table.

14 So, to me, yes, I would have looked satisfied, based
15 on the comment what I have made after having received
16 this information.

17 Q. Can we please look at a document that I prepared at the
18 weekend, which has now been added to the bundle --

19 PRESIDENT: If we are going on to another document, we'll
20 have our five-minute break now.

21 (6.02 pm)

22 (Short break)

23 (6.08 pm)

24 MS CLARKE: The document I'd like brought up is a new
25 document that we had added to the bundle today and it's

1 18:08 in bundle B. And then it's the DFSA's documents within
2 bundle B, and it's appendix 5, which is a new document,
3 B001 App is the name.

4 It would be nice if we could see the whole document,
5 but I don't know if that's possible. Perhaps everybody
6 is able to see it themselves on their own screens.

7 Just, Mr Singhdeo, just so that you understand what
8 this document is, it's a document which puts together on
9 one page, the three different versions of the tables
10 that appear in the emails that we have been looking at.
11 All right? The first table on the page is the table
12 that you supplied in response to the original request.
13 Do you understand?

14 A. Yes.

15 Q. The second table is the table that you provided as
16 a revised version, following the meeting with Mr Dash.
17 Do you understand?

18 A. Okay, yeah.

19 Q. The final version is the version that was actually sent
20 to [Investor A]. All right?

21 A. Okay, I can't see the number, but if I'm told the
22 number, that will be good.

23 Q. We're going to blow it up again now. Now that I've
24 explained to you what you're looking at. Now if we can
25 blow it up so we can see the first two tables.

- 1 18:10 Are you able to read that, Mr Singhdeo?
- 2 A. Yeah, I can see, yes.
- 3 Q. What we can see, if we look at both of the first table
4 and then your revised version, is that in terms of
5 changes to terminology, as in wording, the only change
6 is that on the bottom item, the words "advisory and"
7 have been added in front of "transaction fee income".
8 Do you see that?
- 9 A. Yeah, which has the 14,346 number?
- 10 Q. Table 1 and table 2, in terms of the wording, it's the
11 bottom item, which in table 1 reads "transaction fee
12 income".
- 13 A. Okay.
- 14 Q. In table 2, it's been changed to "advisory and
15 transaction fee income". Do you see that?
- 16 A. Yeah, okay, but it has different numbers.
- 17 Q. That's the only change in wording.
- 18 A. It has -- okay. Fine, I got your point.
- 19 Q. In terms of changes to the numbers, the first two items
20 in the table, so fees from hedge fund and fees from the
21 UCIT fund, haven't changed, have they?
- 22 A. Yeah, okay.
- 23 Q. The third item, "Management fee income", has gone up by
24 \$1 million in the second table.
- 25 A. I can see that.

1 18:12 Q. The third item, "Management company fees" has stayed the
2 same, hasn't it?

3 A. Okay.

4 Q. The "placement fee income" has gone down by nearly
5 7.8 million in the second table, hasn't it?

6 A. Yeah, there has already been a discussion around this,
7 so I know why it has got changed and that has been
8 picked up, based on the terminology which were used by
9 different entities in their annual report. So there has
10 been a kind of a rearrangement as to how things would
11 have got described.

12 Q. Just to finish off, the "portfolio management fee
13 income" has gone up by around \$2.2 million.

14 A. Okay.

15 Q. And then the "advisory and transaction fee income" has
16 gone up by about \$4.5 million, hasn't it?

17 A. Yeah, okay.

18 Q. But we still arrive, so it seems, at the same total.

19 Those are stark differences in the numbers,
20 I suggest. In particular, in relation to the placement
21 fee figure?

22 A. There has already been a discussion, but I can repeat it
23 again. The placement fees were kind of referenced by
24 different terminology, in the financials and annual
25 report of different companies, and that has been the

1 18:14 discussion based on which this exercise was carried out.
2 So that [Investor A] can receive a set of information
3 which they can, if required, compare with the documents,
4 what were made available to them.

5 Q. You're telling us, then, that you had been party to
6 a discussion revolving around the placement fee figure,
7 which led to the numbers that we see in table 2. Is
8 that what you're saying?

9 A. I don't recollect whether I was party, because as
10 I said, it was -- it's a small company, small team. We
11 are talking about timelines of 2013 or 2014. And there
12 has been a colleague, who sat with the finance team, and
13 they looked into the way the first table had got
14 prepared and they looked into how the descriptions have
15 been in the different companies' financials. And they
16 have then revised the information which should have gone
17 to [Investor A]. They had management fees, what they
18 used to earn from the private equity holding companies.
19 And then there were other funds, on which they used to
20 earn the management fees.

21 So there would have been a certain kind of exercise
22 carried out, based on which the new information would
23 have got prepared.

24 Q. Could you look then at what your response was to this
25 email that attached this "Does it look okay now?" and

1 18:15 then this table, and that's at exhibit 728.

2 Scroll down so that we can see that it is a response
3 to the table we have just been looking at. "Does it
4 look okay now?" Scroll up to page 1, your response:

5 "Eyad -- Club the management fee income and
6 management company fees together. Let the description
7 remain as management fee income. Rest of the
8 information looks fine to me."

9 That does suggest, doesn't it, that you yourself had
10 actually looked at these figures or had some input into
11 them?

12 A. I would have looked into the email. If I can look into
13 Eyad's email, which came at 13.10 and I'm responding at
14 1.34, four minutes after what Eyad has written the
15 email, so I would have looked into the table and given
16 a comment that, fine, I would have looked back at the
17 original email, what Don had requested for, that, fine,
18 they want to understand the size of the AUM and the
19 management fee, what it earns. So given that has been
20 the key thing, what [Investor A] wanted to understand,
21 so I would have kind of put that comment and said the
22 rest of the information, it looks okay to me.

23 Q. Can we look at the next email that relates to this,
24 which is EXH-A14228, email from Mr Lim to Mr Dash,
25 Danila, Huwaij, you, and Mr Ghosal, "Response to

1 18:18 [Investor A] on valuation ..." He says:

2 "All -- with inputs from NS, SD and Andreea, here's
3 the proposed response to [Investor A's] 2 queries. Do
4 take a look and give your comments pls. If ok then
5 Andreea will need to send it to [redacted], and then
6 arrange for the follow-on discussion/presentation on
7 Diamond Lifestyle Ltd. Eyad -- also pls confirm the
8 USD2.3/share valuation for HML by PwC below."

9 Mr Singhdeo, you would have read that email,
10 wouldn't you, and of course you would then, I'm sure,
11 have gone on as requested to review what was being
12 proposed would be sent to [Investor A], wouldn't you?

13 A. Yeah, but in the interest of timeline, it will be nice
14 if I can be shown the previous email of Eyad, so that
15 I exactly can understand what was the date when there
16 was a communication on which I said that, "Why don't you
17 club the two management fees?"

18 Q. Yes, if you want to go back to that, it's exhibit 728.

19 A. Let me just note it down.

20 Q. That's 10 September at 13.10.

21 A. Yeah, okay.

22 Q. "Does it look okay now?"

23 A. Yes, okay. After four minutes, I responded.

24 Q. Then we have this table at exhibit A14228.

25 A. Okay. This email is of?

1 18:20 Q. 11.05, which is a bit odd, because that's before your
2 second version of the table, but that --

3 A. This one is?

4 Q. So that's 11.05, which is a bit odd, but anyway. This
5 email is clearly sent to you and Mr Dash by Mr Lim. And
6 it says this is the proposed response to [Investor A's]
7 two queries, "Please all look at it and give comments",
8 et cetera, with inputs from you, Mr Dash and Andreea.

9 A. Okay.

10 Q. Do you recall receiving this email?

11 A. Yeah, my name is there, so obviously, I would have
12 received this email.

13 Q. Of course, in that email, there is a third version of
14 the table that we had previously looked at.

15 A. Yes, I can see that, 15,586,789.

16 Q. If we go back to my document at bundle B, B001 App, if
17 we could see now on the screen, the second and third
18 tables. There are some differences between the second
19 and the third tables, so that the first two rows are the
20 same. "Management fee income" has gone up by 36,273,
21 which of course mirrors your suggestion when you said,
22 "Club the management fee incomes and management company
23 fees together", doesn't it?

24 A. Correct.

25 Q. And, of course, it would follow that the words

1 18:22 "management company fees" have been removed. So it does
2 look as if this third version of the table is one that
3 you have had input into it, because your suggestions
4 have been followed, haven't they?

5 A. Yeah, okay, I'm following.

6 Q. The next row is "Placement Fee Income". That hasn't
7 changed.

8 A. Yeah.

9 Q. "Portfolio Management Fee Income" hasn't changed.

10 A. Correct.

11 Q. "Advisory and transaction Fee Income" has gone up by
12 \$1.24 million-odd and that means that the total has gone
13 up again by \$1.24 million to 15.5 million, from
14 14.3 million.

15 A. That's true. I can see that.

16 Q. Again, some fairly stark changes to some of the numbers
17 there. Are you able to explain why there were those
18 further changes?

19 A. Yeah, sure. I can explain.

20 Q. Go on, then.

21 A. When you go into the annual report of Al Masah, for that
22 particular year, I don't remember the exhibit number,
23 but if you go into the annual report, you will find the
24 number 15,586,789 in the annual report.

25 Q. That's true. It is there. That is, in fact, the total

1 18:23 AUM figure and the previous figure of 14 million failed
2 to account for an extra item, I think. But you're
3 right --

4 A. The information, somebody already has checked. Somebody
5 has checked and the right information has gone to
6 [Investor A]. So when you look into the annual report,
7 it has a number of 15,586,789 in the annual report.

8 Q. That explains why the totals have gone up. But why has
9 it been achieved by just adding on an extra 1.24 million
10 to advisory and transaction fees?

11 A. That would have been probably the correct tab in which
12 that classification would have gone, but in the interest
13 of kind of clarity, it will be nice if we can check what
14 was there in the annual report.

15 I would say that, fine, whether it is advisory
16 income being shown in the annual report, that would have
17 been added in that particular row number.

18 Q. We can look at the annual report which is --

19 MR HILL: Exhibit 502.

20 MS CLARKE: Thank you. It's page 95, although it's actually
21 page 48 of the PDF. It's the right-hand side of the
22 page, under item 9, "Transactions and balances with
23 related parties". We can see fee income, 14,346. Then
24 advisory fee income, 1,240.

25 A. Yes, so that explains the difference, why it got added

1 18:26 under the advisory fee.

2 Q. Okay. There's that. But the issue also relates to the
3 email that we were just looking at, which is exhibit
4 A14228, so if we could go back to that. If you can look
5 at the wording there under, "Fee income in AMCL's annual
6 report Note 14, " it says:

7 "A breakdown of the 'Fee Income from Assets Under
8 Management' in AMCL's financials for the period
9 March 2014 is detailed in the table below. As explained
10 on the call, it consists of fee income from various
11 asset classes from the various departments within AMCL.
12 The fee income that pertains to the PE platforms ..."

13 So that's the four platforms that we're concerned
14 with, isn't it, Mr Singhdeo?

15 A. Okay.

16 Q. "... is the Management Fee income of USD4,707,961." Do
17 you see that?

18 A. Okay.

19 Q. That, of course, is untrue, isn't it?

20 A. I can't comment, because these are documents and
21 informations which are almost six years old. And I can
22 see that, fine, they were looking into the overall
23 management fee income. This was the original query,
24 what was put by Don, and this is a description which he
25 is sharing. He's also sharing the financial information

1 18:27 or the annual report of Al Masah. And he has shared in
2 a very fair and transparent way, the information under
3 the different heads, so that they can take a call how
4 big Al Masah is in relation to the total funds or the
5 AUM, which may include private equity or other AUM, if
6 they're having.

7 And so, I don't consider the statement or the point
8 when you say that it is incorrect.

9 This is a due diligence process which they're doing
10 with a business partner. These informations are being
11 exchanged in good faith and for them to understand that,
12 fine, how they would like to understand the size of the
13 company and to decide on the different products and the
14 JV discussions, what they have been having with
15 Al Masah.

16 Q. You know perfectly well, Mr Singhdeo, that placement fee
17 income also relates to the private equity platforms?

18 A. Yes, I know.

19 Q. Therefore, the statement proposed to be made to
20 [Investor A], "The fee income that pertains to the PE
21 platforms is the Management Fee income of USD4,707,961"
22 is not true, because the placement fee income also
23 relates to the PE platforms, doesn't it?

24 A. I don't agree with your statement, because they had
25 specific request. It's due diligence exercise, which is

1 18:29 happening, where they have shown certain interest to
2 become a business partner and they had a query on the
3 management fee of Al Masah. And they had a query to
4 understand how and what is the break-up of the
5 14 million-odd number which is there in the annual
6 report of Al Masah.

7 So when the final table is being shared with them,
8 it has also factored out the additional 1 million-odd
9 advisory fee, which is part of the Al Masah financials.
10 And people who do due diligence for a company like
11 [Investor A], they certainly have the understanding,
12 when they look into a table like this, to come to
13 a conclusion that -- and the information what they are
14 looking to seek from Al Masah.

15 Q. I suggest that the reason why that statement is there is
16 because the annual reports for ANEL had deleted any
17 reference to placement fees, and therefore, whatever was
18 told to [Investor A] had to be consistent with what was
19 in the financial information in the annual report.

20 A. No, ANEL's annual report didn't -- the placement fee
21 terminology was not used --

22 Q. No, it was deleted. Do you remember that? The notes
23 were forged, so that information was removed relating to
24 fees, including placement fees?

25 A. No, this is not the case. The annual reports or there

1 18:31 are different timelines in terms of the way the
2 financial year endings were happening, for the different
3 portfolio companies. And that was the reason why the
4 information had been put and readjusted out here.

5 Q. Let's get to the point. My suggestion is that you knew
6 that this statement, "The fee income that pertains to
7 the PE platforms is the Management Fee income" was
8 untrue. Moreover, that the table that was going to be
9 provided to [Investor A] was, in effect, a complete work
10 of fiction. You knew that?

11 A. No, this matches with the number what has been shared
12 with [Investor A] and this matches with the number what
13 is there in Al Masah's financials. So the information,
14 what is getting shared with [Investor A], are the
15 correct numbers.

16 Q. Well, as I say -- one last question. Why would Al Masah
17 Cayman concern itself with labels about placement fee
18 income if they thought that [Investor A] was only
19 interested in management fees?

20 A. They had looked for the break-up of the entire income
21 which was appearing in the annual report. So that was
22 also the request which came from them, and that was the
23 reason why it was shared. And in any event,
24 [Investor A] was not an investor. They were a joint
25 venture partner, who were doing certain discussions with

1 18:33 Al Masah, at that point of time, whether they should be
2 looking into a future business partnership or not. So
3 with that in mind, the whole information which was there
4 in Al Masah's financials, that has been shared with
5 [Investor A].

6 Q. Last question on this topic and then we're going to move
7 to something else. You have said a number of times that
8 [Investor A] was not a potential investor into the PE
9 platforms, haven't you?

10 A. That was my understanding, yes.

11 Q. Could we go to exhibit 120. This is the second
12 transcript of your second interview which took place in
13 2016.

14 A. Correct.

15 Q. Could we go to page 94. If we could scroll down the
16 page to about a third of the way down. This is just so
17 that you can understand what you're being asked about.

18 A. Okay.

19 Q. You can see here that you're being shown an email and
20 you're reading out parts of it, and it's clearly to do
21 with the request to provide the information that went
22 into the first table. Do you remember?

23 A. Okay.

24 Q. You see that's what you're being asked about. Then
25 Mr Hammond says that the information is forwarded to

1 18:36 you, it goes to Don Lim. Then Mr Hammond says:

2 "Then we have a line from Mr Dash, 'This will not
3 go out'."

4 That helps to orientate you as to what you're being
5 asked about. All right?

6 A. Okay.

7 Q. You're asked:

8 "Then we have a line from Mr Dash, 'This will not go
9 out. Please speak to me tomorrow morning'. Do you
10 recall that meeting at all?

11 Nrupaditya Singhdeo: I don't recall anything about
12 this email."

13 To which Mr Hammond replies, "Okay".

14 Then if we could go over to page 95, you say:

15 "But I just am aware and know that I think they were
16 looking to invest into --

17 Matthew Hammond: But didn't?

18 Nrupaditya Singhdeo: -- some of the PE companies,
19 but not into Al Masah. If it would have been in
20 Al Masah, I would have been more involved but they were
21 looking to invest in some of the PE companies."

22 A. I read that.

23 Q. That being what you said there back in 2016, that is one
24 bit of the truth, isn't it?

25 A. No, that is not the truth --

1 18:37 -- (overspeaking) --

2 Q. -- intending to invest into some of the PE companies,
3 just as you've said?

4 A. No, I have been in this whole three, four months
5 discussion with [Investor A] on a particular piece of
6 email. So I had limited understanding of the situation
7 of what discussion has been happening with [Investor A],
8 because there would have been many such emails, where
9 I may or may not have been marked in internal emails as
10 to what is happening.

11 But I can see that, fine, on occasions when they
12 come for lunches or dinners or wanted to meet the
13 management team, I would have also kind of met with
14 people of [Investor A].

15 So on the day when the interview happened, I would
16 have given an honest answer as to how I would have
17 looked [Investor A] in terms of the discussion, which
18 would have or possibly would have been happening with
19 Al Masah. I was not having the factual position of what
20 the nuts and bolts of the discussion were. So when the
21 investigation report came out, that was the first time
22 I realised that, fine, I am being charged for sending
23 a table out to somebody, who is not even a prospective
24 investor. And that was the time when we went through
25 the emails, we realised that the whole discussion with

1 18:39 [Investor A] has been to engage into a joint venture or
2 a fund, which we can do together with them.

3 So, on both occasions, I have given my honest
4 feedback and views when discussion of [Investor A] has
5 happened, that was in 2016, and when I gave my response
6 to the preliminary investigation report, which the DFSA
7 did submit.

8 Q. Can we move to a slightly different topic, which is the
9 annual reports for ANEL being sent out to other
10 prospective investors. Could we look at exhibit 120
11 still, if we could go back up the page to 43.

12 Mr Hammond says, in the middle of that page:

13 "Sure. So we've established that Al Najah Education
14 Caymans controls the annual report.

15 Nrupaditya Singhdeo: Correct.

16 Matthew Hammond: We know that the placement team
17 routinely email copies of the annual report to potential
18 investors.

19 Nrupaditya Singhdeo: Correct."

20 You were aware that the ANEL report was being
21 emailed to potential investors?

22 A. That should be read as, okay, when you are in an
23 interview, you may say in a flow of the terminology what
24 you have been speaking. When you scroll in this
25 particular page only, little bit up, you will note that

1 18:41 I have said that annual reports were never shared with
2 potential investors.

3 Q. If Mr Hill wants to pick that point up in
4 re-examination, I'm sure he will. But let's go and look
5 at some exhibits that support that statement. The first
6 one is exhibit F203, which is an email from Don Lim to
7 Ilona, cc'd to you and Mr Dash:

8 "Please find attached Al Najah Education's annual
9 report for the year ending 31 August 2013. The sales
10 team can use this for their marketing and for their
11 investors."

12 Do you see that?

13 A. Yes, I read that.

14 Q. Then the top of the page, Ilona forwards it on, cc's
15 you, Mr Dash, Mr Lim:

16 "Dear All

17 Kindly find attached AN's Annual Report for the year
18 ending August 31, 2013, for your reference.

19 Please do not hesitate to let us know if you have
20 any questions."

21 Clearly, Mr Lim is telling Ilona that she can use
22 that annual report for marketing as well as for
23 investors, and you know that because you're cc'd on the
24 email?

25 A. I lost audio, but I understood the context with what

1 18:43 you're saying, so I can respond to it.

2 Q. Please do.

3 A. Don was not part of the placement team or marketing
4 team, so he had no idea or as to what our marketing in
5 terms of that it was -- he's just forwarding the annual
6 report to the investor relations team, so that the
7 investor relations team can themselves understand
8 what -- how these platforms have done. They can, if
9 required, understand for their further marketing of the
10 platform.

11 Q. Then another one, exhibit A055. If we could look at
12 bottom of page 1. Ilona email to various people, cc'd
13 to you and Mr Dash and Mr Lim:

14 "Kindly be advised that the printed copies of the
15 2014 annual report for [ANEL] have been delivered to the
16 EFT office and are available with Don. Please feel free
17 to approach him for the reports for your IR [investor
18 relations] and placement purposes."

19 So there's another example of you being cc'd in on
20 an email, which makes it clear that these annual reports
21 were going to be used and were intended to be used for
22 potential investors as well as current investors?

23 A. They were not for potential investors. They were for
24 referral agents, who can understand the businesses,
25 which they can in turn introduce to their set of

1 18:45 investors. And these were for the shareholders of
2 Al Masah, these annual reports, which were prepared.

3 So it was for the usage of the internal placement
4 team. It was for the usage of the different referral
5 agents or gatekeepers, so that they can themselves
6 understand the business, what these PE companies are all
7 about, and they can themselves kind of then understand
8 what has to be explained to the different investors whom
9 they will introduce to the PE companies.

10 Q. Let's look at another email. This is the last one. I'm
11 only showing you ones that have you in them, if you
12 understand me. There are others, but you're not
13 involved in those.

14 The last one is A050. If we could look at the
15 bottom, so page 3, first of all, bottom of page 2 on to
16 page 3.

17 This is an email from the [redacted] to Charudutta
18 Joshi at Al Masah Capital. It says:

19 "We have reviewed the information provided on
20 Al Najah Education and noticed that it lacks the
21 consolidated financial statements ... for the year
22 ended ... 2014 & ... 2015 ...

23 Therefore, please arrange to provide the above at
24 the earliest."

25 Then if you go up the page, page 2, we have

1 18:47 a response or a forwarding of that. Ms Joshi forwards
2 that to Mr Lim and you:

3 "Dear Don,

4 Please find below Due diligence queries from
5 [redacted]."

6 If we go up the page to the top, we have Mr Lim,
7 responding to him, cc'd to you:

8 Dear Charud,

9 Please find attached the annual report of Al Najah
10 Education Ltd wherein the 2014 audited separate
11 financial statements are found in the last section.
12 Please share this with the potential investor."

13 There's another example of you being involved in
14 emails, which make it clear that these reports were
15 being shared with potential investors?

16 A. Charud was an employee. I can't comment whether this
17 was finally shared or not shared. And we are looking at
18 a situation where this is 2015, where Al Najah was
19 already an \$80 or \$90 million company at that point of
20 time. So the annual reports were always having the
21 summarised financials, which I have explained earlier.

22 So I would say that the information, what Don has
23 shared, it is with an internal employee of Al Masah at
24 that point of time, to whom he has given the annual
25 report. The rest of the information, what Charud has

1 18:49 requested, the consolidated financials and other
2 information, obviously that has not been shared, it
3 looks to me, to this investor. And if they would have
4 asked to view the consolidated financials or other
5 information related to Al Najah, it would have been made
6 available, either by their visiting Al Najah or through
7 an arrangement of a data room, which would have done.
8 But obviously, I can't comment whether that exercise was
9 carried out with the given investor, what Charud has
10 mentioned out here.

11 Q. Of course, the other statement that Mr Lim's email makes
12 is that the annual report of ANEL contains the 2014
13 audited separate financial statements?

14 A. I'm reading it. But maybe I won't have paid attention,
15 because the author of this email is Don. I can't
16 control or comment on the language, what Don has used,
17 when he has been drafting the email. So it was
18 understanding of the language, what he has used out
19 here, so it will be obviously difficult for me to
20 comment.

21 But I can see that the email is going to one of the
22 internal colleagues. And other people within the team,
23 they had a clear knowledge that the annual reports, they
24 contain summarised or the reviewed financials. And this
25 was not only Al Najah. The same is with the case with

1 18:50 Avivo. For Avivo, they had implemented it in the way
2 the board had requested them. Avivo didn't have issue
3 of the annual report, having the audited financials.
4 Neither E&Y had any issues with them, neither DFSA had
5 any issues with them, because they never presented as
6 audited financials.

7 So here, we do admit that the annual report should
8 have had a summarised financials and it is within the
9 rights of Al Najah to have a summarised financials in
10 their annual report, being a private company.

11 So in that context, it should be seen. But coming
12 back to this specific email, my comment would be that
13 maybe I won't have read the full context of the email,
14 what Don has written, when he was communicating to
15 Charud.

16 Q. Is that just a convenient explanation or is the truth
17 that you knew full well that that's what those annual
18 reports purported to contain, but did not?

19 A. No, I'm giving you full truth and I have used quite
20 strong statements across, which we discussed, because
21 I had full belief that the annual report only contained
22 the summarised financial information.

23 Q. I've got two more email chains which relate to a related
24 topic to this one.

25 Sir, I note the time. I don't think I'm going to

1 18:52 finish by 4 o'clock, because I've obviously got to deal
2 with distributor B and then the bank statements issue.
3 I don't know whether you want me to continue past
4 4 o'clock and get everything done, which of course, I'm
5 happy to do if you'd like me to.

6 Alternatively, perhaps the best thing then would be
7 to stop after I've done the next two email chains, which
8 are related to the topic that we're dealing with now.
9 But I'm in your hands.

10 PRESIDENT: There is no purpose in racing to complete,
11 because we've got tomorrow. So, as I understand it,
12 you've got a couple of chains that it's convenient to
13 deal with at this point. Is that right? Then we break
14 after that?

15 MS CLARKE: Certainly, because then I will be moving to
16 distributor B, which is a different topic.

17 PRESIDENT: That would seem to be a sensible place to break,
18 so why don't you do a few chains and then we'll stop?

19 MS CLARKE: Yes, I'll do that.

20 Mr Singhdeo, what I want to ask you now is about
21 a couple of chains of emails where what purports to be
22 being said is financial statements for ANEL. All right?

23 The first one is at exhibit A064. If we go down to
24 the bottom, if we go to page 3 of 4, Maya Malek of
25 something called Amanie Advisors asks an employee of

1 18:54 Al Masah Cayman to provide the latest financial
2 statement for Al Najah, plus management account for last
3 month, if possible.

4 I appreciate you're not cc'd on the email, but I'm
5 just setting the scene.

6 A. Sure.

7 Q. If we go up to page 3:

8 "Dear Maya,
9 I will arrange for these.
10 Any initial feedback you have?"

11 Then we go up the page and Ms Malek is talking about
12 screening the documents for Sharia compliance. Do you
13 see that?

14 A. Yes.

15 Q. Then if we keep going up the page, Mr Arora responds to
16 that. And then there's a further response from Ms Malek
17 and then that leads us to the email at the top of the
18 page, from Mr Lim to Ms Malek, cc'd to Vineet Arora at
19 Gulf Pinnacle, who has been speaking to Ms Malek,
20 various other people and also you. Do you see that?

21 A. Yes.

22 Q. "Dear Maya,
23 I am attaching the audited financials for Al Najah
24 Education Limited (Cayman) for the FY ending Aug 2013."
25 Do you see that?

1 18:55 A. Yes.

2 Q. The attachment to that email we find at exhibit A062.

3 If we just scroll down through it, we can see that it
4 purports to be the audited financial statements for
5 Al Najah, auditor's report, et cetera.

6 Then if we could go to page 15, where we have
7 note 7. What we are interested in, if you could scroll
8 down a bit, so that we can see the share premium
9 figures, what we can see there is that the share premium
10 figure does not show the gross figure of 10 million and
11 then the deduction of 6.5 million and nor does it show
12 that the explanation is transaction fees and other
13 advisory fees, et cetera, does it?

14 A. I can see that.

15 Q. Then just for completeness, just so that you know what
16 we're looking at, if you go to page 17, again, we can
17 see transfer of buildings is there, but what is not
18 there is the part of the note about transaction fees,
19 advisory fees, et cetera, is it?

20 A. I can see that.

21 Q. What has been provided by Mr Lim to the Amanie Advisors
22 are the false financial statements, aren't they?

23 A. I can see that it has -- Don has provided a financial
24 statement, which says "audited", but it looks like the
25 version which was part of the annual report. So

1 18:58 obviously, it is not the audited financials, but just --

2 Q. No, it's the false version, isn't it?

3 A. I don't have a comment out here. And it would have been
4 more appropriate to put the question to the sender, but,
5 fine, I am in the cc of this email. So just to complete
6 the discussion, because Amanie Advisors, they were
7 neither an investor, nor a referral agent, nor
8 a gatekeeper. From the body of the email, you can know
9 that they are a Sharia adviser, and they would have
10 requested the financials of Al Najah, so that they can
11 issue a Sharia Fatwa for Al Najah.

12 So what Don has shared as audited, I won't be able
13 to comment, because I can see that obviously, this is
14 not the audited financial statement.

15 Q. The same thing happens in relation to another email
16 chain. This is A061. Bottom of page 2, on to page 3.
17 This is from Mr Billel Ouafi of RBC:

18 "Dear Mr Shailesh and Mr Nrupaditya,

19 I hope this email finds you well. I have a request
20 from one mutual client who is investing in both
21 Healthcare and Al Najah funds for a total of approx.
22 5MIO USD. The client is asking us questions about the
23 funds (dividends, current performances, strategy and
24 outlook), for this purpose, can we arrange a call during
25 this week?"

1 19:00 Then if we go up the page to the next email, which
2 is on page 2, this is you to Mr Ouafi, cc'd to Mr Lim
3 and Mr Huwaij:

4 "Thanks for arranging the call last week with
5 a prospective investor. As discussed and requested by
6 the client, we will share the audited financials or
7 annual reports of Al Najah and Healthcare MENA Limited.
8 I have copied here my other colleagues, Eyad and Don,
9 who will arrange to send across these documents. Please
10 feel free to contact us in case certain additional
11 information that you may require."

12 You were therefore present at this meeting, weren't
13 you?

14 A. No, it was a call, because I certainly spoke --

15 Q. You were present at the meeting --

16 A. The earlier one, it says, "Thanks for arranging the call
17 last week" or something. So it was a call and there was
18 an agreement that, fine, either we should share the
19 audited financials, or the annual report, because both
20 the options are being discussed. And he, being
21 a referral agent, RBC, so we decided to share the annual
22 report, which eventually should be shared.

23 And, as I said, our belief was that the Al Najah
24 annual report, it contains the summarised financial
25 information. And there's a clear distinction,

1 19:02 therefore, being made between audited financials and
2 annual report.

3 So this itself suggests that we never used to treat
4 the annual report as to be representing the audited
5 financial statements, which is one of the conclusions on
6 which the whole discussion is happening.

7 Q. Can you go to the top of the page, we'll see what was
8 actually sent. Mr Lim, cc'd to Mr Dash and you:

9 "Please find attached the following pertaining to
10 Al Najah Education.

11 1) Audited F/S for the company for the FY 2013.

12 2) Management F/S for the company for FY-2014 ..."

13 We can see that the attachments mirror what is in
14 the body of the email. So it's not the annual report
15 that's being shared, is it, as you well know --

16 A. I correct myself.

17 Q. Thank you. It purports to be the audited financial
18 statements, but we know because of exhibit A062, which
19 is the attachment to the email, in fact we can see that
20 at pages 15 and 17, notes 7 and 10 make it clear that
21 it's in fact the forged version rather than the genuine
22 version?

23 A. I don't have the attachment, but I do take your point
24 what you want to convey.

25 Q. Twice, Mr Lim, with your knowledge, because you're cc'd

1 19:04 on the email, has sent false financial statements
2 purporting to be the audited real version, to third
3 parties and you knew that, didn't you?

4 A. No, I disagree with you. If I am on the cc, because I'm
5 giving the option to Billel that either he will be
6 shared the annual report or the audit financial
7 statements.

8 So my message is quite clear, that, fine, if the
9 audited financial statements has to go, it should be the
10 audited financial statement, the way we understand, or
11 the annual report, which will have the summarised
12 financial statement. So if Don is ending a document
13 saying it to be audited, it should have been the audited
14 financial statement.

15 Q. The alternative explanation, which I suggest is much
16 more likely, based on everything that we have been
17 through, is that you knew that there was the false
18 version in existence, that no doubt was kept between you
19 and Mr Lim and Mr Agarwalla, as per that email that we
20 looked at way back, and that it was the false version
21 that Mr Lim was sending out, because that matched the
22 version that was in the annual reports?

23 A. No, that is not the case.

24 If I can be shown the attachment, the Billel
25 attachment again, it will be good.

1 19:06 I can read it also again.

2 Q. Yes, it's exhibit A062. The pages are 15 and 17.

3 A. Okay, fine. I have understood it now. And --

4 Q. The false document has gone out. The false document
5 matches what's in the annual report. You're party to
6 both of these email chains, as --

7 A. No. I --

8 -- (overspeaking) --

9 Q. -- as well, didn't you?

10 A. Yeah, I have explained my position, that there was an
11 option given to Billel, either to receive the annual
12 report or the audited financial statements.

13 Internally, they would have decided to share either
14 the audited financials. If Don is sharing the audited
15 financials, he should have shared the audited financials
16 with Billel.

17 Q. I suggest that the fact that Mr Dash is on this
18 particular email chain suggests that he knew it too,
19 that there were these false financial statements in
20 existence, which backed up the same information that was
21 in the annual reports?

22 A. I don't have a comment and I disagree with your comment.

23 MS CLARKE: Thank you. That's all I ask on that topic and
24 then I would propose to move to distributor B, sir,
25 perhaps tomorrow morning.

1 19:07 PRESIDENT: Thank you very much. There's a small point
2 arising on A062.

3 Mr Storey has pointed out that it's been used as an
4 attachment both to A064 and to A061, it appears to be.
5 Could you just check that overnight or now?

6 MS CLARKE: I think I know the answer, but I will
7 double-check it overnight and I will report back in the
8 morning.

9 PRESIDENT: Okay. In which case, thank you, everybody, for
10 your assistance and I look forward to seeing you again
11 tomorrow at 10 o'clock.

12 (7.08 pm)

13 (The hearing adjourned until 1 pm on the following day)

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