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

Case: FMT 19006

B E T W E E N:

Dr Mubashir Ahmed Sheikh

Applicant

- and -

The Dubai Financial Services Authority (DFSA)

Respondent

- before -

His Honour Mr David Mackie CBE QC (President)

Mr Ali Al Hashimi

Mr Ali Al Aidarous

Day 1

Sunday, 26 April 2020

Dr Mubashir Ahmed Sheikh appeared in person

Mr Farhaz Khan appeared on behalf of the Respondent

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1 PROCEEDINGS

2 (11.02 am)

3 MR PRESIDENT: As I explained to Dr Sheikh a little earlier,
4 we're going to start with short opening statements from
5 Mr Khan and then from him. Is there anything of an
6 administrative kind we need to sort out before that
7 starts? Perhaps Mr Khan or one of the DFSA lawyers
8 would let me know.

9 MR KHAN: Your Honour, I don't believe there's anything that
10 needs to be dealt with right now. There may be -- for
11 my part, there's some uncertainty as to precisely which
12 witnesses Dr Sheikh is able to call to give oral
13 evidence, but those are matters that will no doubt
14 unfold during the hearing. I don't believe there's
15 anything that needs to be discussed now.

16 MR PRESIDENT: Okay. Do you agree, Dr Sheikh? Do you have
17 any other questions at this stage?

18 DR SHEIKH: No, sir. But as I mentioned to your goodself,
19 in the interests of everyone, may I make a very brief
20 remark before we start, your Honours?

21 MR PRESIDENT: If it's brief, yes.

22 DR SHEIKH: I'd like to state that for me this is a very
23 first time, I'm very nervous, I will probably stutter,
24 and I'll speak slowly, and I request for you to kindly
25 all bear with me on that and if I get a bit emotional,

1 11:03 so I ask for some leniency.

2 MR PRESIDENT: You have told us that several times and you
3 have told us that earlier this morning, so we have taken
4 that on board and please just relax and concentrate. Of
5 course, we will bear with you, so please just try and
6 relax. I know it's difficult, and if you need a break,
7 from time to time, just let us know and we will be
8 pleased to assist you in any way we can.

9 Finally, unless my colleagues want to be called
10 "your Honour", I think it would be best if you just
11 called us "sir" from time to time, if you wish to
12 attract our attention. So let's be as informal as this
13 important meeting permits.

14 So, thank you again and I'll ask Mr Khan to start.

15 Opening submissions by MR KHAN

16 MR KHAN: I'm grateful, sir. In this short opening, I'll
17 take the opportunity to do three things.

18 Firstly, say something about the decision and the
19 reasons for it. I'll keep that very brief.

20 Secondly, make a number of observations about each
21 of the contraventions that are alleged in the decision
22 process, including as to the correct legal approach. As
23 we set out in our written submissions, there are one or
24 two areas which are novel to the extent that the
25 tribunal is yet to determine those matters in any case.

1 11:05 And, so in those circumstances, in particular, we'll
2 take the opportunity to make one or two observations by
3 reference to the relevant case law.

4 I do that in the hope that it will also assist
5 Dr Sheikh given that he's unrepresented.

6 Thirdly, and time permitting, I'll take the tribunal
7 to a number of what we regard are the key documents to
8 set the scene before the witnesses are called. I hope
9 that will do two things, one is provide a chronological
10 backbone to the case, but also identify the most
11 relevant passages from some of the longer documents
12 referred to in each of the parties' submissions, so that
13 we can, before witnesses are called, draw the tribunal's
14 attention to those passages.

15 Starting, then, with the decision and the reason for
16 it. In these regulatory proceedings, Dr Sheikh referred
17 to the authority's decision contained in the decision
18 notice dated 18 July 2019. And if the tribunal would
19 like to turn that up, no doubt it's well thumbed by this
20 stage, you'll find that at bundle B, tab 1, paragraph 1.

21 The outcome of the decision is that the authority
22 seeks a restitution direction requiring Dr Sheikh to
23 effectively pay back the money we say he withdrew and
24 retained during May and June 2015. That's \$512,000 or
25 the equivalent, and interest.

1 11:07 Secondly, we seek a fine of \$400,000 and we say that
2 reflects the seriousness of the misconduct.

3 Thirdly, and taking these things together, and
4 acknowledging an element of overlap, we seek both
5 a prohibition and a restriction in this case. Again, we
6 say reflecting the seriousness of the misconduct and
7 also, the lack of meaningful remorse shown by Dr Sheikh
8 for that misconduct.

9 He has, we say, almost completely failed to
10 recognise the nature and seriousness of his allegation
11 including in the way in which he's presented his defence
12 in this case.

13 For your note, the reasons for the decision are
14 summarised in paragraph 3 of the notice, set out in more
15 detail at paragraph 4 and the relevant contraventions of
16 the regulatory law are set out in paragraph 6/7. That
17 starts at page 23, B1/23.

18 I assume the tribunal is well familiar with that
19 document and in particular paragraph 6/7. I would just
20 like to make a number of high level points, if I may,
21 about that.

22 First of all, the authority arrived at its decision
23 after a very thorough investigation and decision making
24 process before the DMC, during which Dr Sheikh had the
25 opportunity and made a number of detailed written

1 11:08 submissions, including at that stage with the assistance
2 of and through lawyers, oral representations and also
3 took the opportunity to present evidence, notably
4 witness statements in support of his version of events,
5 presented to the DMC in the autumn and winter of 2018.

6 In essence, the authority concluded that Dr Sheikh
7 was knowingly concerned in MAS' breach of capital
8 requirements, misled the authority and failed to act
9 with integrity, including by providing the authority
10 with an entirely incredible alternative history of
11 events to explain his conduct with which he has
12 persisted and further embellished in the course of these
13 regulatory proceedings.

14 We say the case is straightforward, and indeed, the
15 core facts are uncontroversial. And I will, if I may,
16 set those out in a few points. It's uncontroversial
17 that at the end of April 2015, MAS had a little over
18 \$600,000 or equivalent of liquid assets. Almost all of
19 that was contained in its US dollar bank account.

20 MAS' liquid asset requirements, its capital
21 requirements, for want of a better term, was US\$600,000.
22 In short, the authority required MAS to maintain that in
23 its bank account and/or by way of cash as liquid assets.

24 Given its perilous financial state, amongst other
25 things, MAS was required to provide financial reports to

1 11:10 the authority at each month end and that had been the
2 case since around 2013.

3 Dr Sheikh withdrew \$512,000 or the equivalent from
4 MAS' bank account in May and June 2015, the majority of
5 which was withdrawn between 5 and 13 May 2015.

6 Indeed, as at 5 May, when the first set of
7 withdrawals were made, there was an immediate breach of
8 MAS' capital requirements. It's also uncontroversial
9 that Dr Sheikh was aware that unless MAS received money
10 to replenish the amounts he had withdrawn, then MAS
11 would fall into breach.

12 It's also uncontroversial that Dr Sheikh's
13 withdrawals caused the breach. And further, on his own
14 case, notwithstanding the May withdrawals, when directly
15 asked, Dr Sheikh told MAS' finance officer, Mr Kamath,
16 that MAS' bank balance at May end was more or less what
17 it was at the end of April.

18 Now, we say that's inaccurate. It's uncontroversial
19 that that's inaccurate because the money had been
20 withdrawn and not replenished. And, in the event,
21 Mr Kamath reported that amount to the authority in
22 the May end financial report. That was at the beginning
23 of June 2015.

24 There is some controversy as to the precise form of
25 words used by Dr Sheikh in his conversations with

1 11:12 Mr Kamath on 7 June, but even on his own case, he made
2 a misrepresentation. What's controversial is whether or
3 not he did that knowingly, recklessly or entirely
4 innocently.

5 We'll come to that, no doubt, when we hear the
6 witnesses.

7 Finally, Dr Sheikh also admits that he sent an email
8 to MAS director on 26 May 2015, stating that MAS had
9 received \$425,000 by way of receivables from MAS
10 Pakistan, a related entity, and in fact that was
11 incorrect. As a result, the directors were misled by
12 that email.

13 So that is all entirely uncontroversial, even on
14 Dr Sheikh's case, that was the state of affairs. The
15 authority's case is taking those uncontroversial facts
16 as a starting point, it is a relatively short step,
17 although we acknowledge a step is necessary, to conclude
18 that Dr Sheikh, first of all, was knowingly concerned in
19 MAS' breach of capital requirements.

20 His answer to that is we say this concocted story
21 involving the alleged \$600,000 loan that he anticipated
22 receiving from Mr Yer, one of the two investors in
23 Pakistan, with whom he cut a deal at the end of April.
24 So his answer to the question of whether or not MAS had
25 sufficient capital assets in its bank account

1 11:13 during May 2015 is, "Yes, I innocently believed it did,
2 because I anticipated Mr Yer had made a payment of
3 around \$600,000 in early 2015."

4 So that's the relevance of what we say is an untrue
5 story about those investors. We say, at the time, they
6 just simply did not exist. That deal did not exist and
7 therefore, Dr Sheikh did not anticipate that the money
8 he withdrew would be replenished.

9 Secondly, we say it's a short step by inference from
10 surrounding documents, and indeed, from the witness
11 evidence, for the tribunal to conclude that Dr Sheikh
12 acted with a lack of integrity and for the same reason
13 he lacked fitness and propriety to be an authorised
14 person.

15 Why do we say that? Firstly, he effectively took
16 unilateral control of MAS' chequebook and online bank
17 account. Secondly, he concealed the withdrawals from
18 others at MAS. Thirdly, we say he took steps to cover
19 up his conduct, including by misleading Mr Kamath at the
20 end of May and the beginning of June 2015 in the run-up
21 to the production of the month end report and refusing
22 to provide online bank statements which would reveal the
23 true position.

24 We say that Dr Sheikh intentionally misled Mr Kamath
25 by stating that there had not been any transactions

1 11:15 in May, which he knew to be false.

2 Finally, we say Dr Sheikh was at the very least
3 reckless, when he sent the email on 26 May to the
4 director stating that there had been money received from
5 MAS in Pakistan.

6 Finally, having misled Mr Kamath, we say it was
7 likely that the authority would be misled, because
8 Dr Sheikh had concealed information from Mr Kamath,
9 which would have revealed the true position. Having
10 concealed that information, the authority was misled in
11 the way that we set out in the notice.

12 A final observation to make, the reason we say the
13 tribunal should, having heard all the evidence, affirm
14 the authority's decision, is as follows.

15 The inference that the authority has drawn from
16 Dr Sheikh's state of mind, ie whether he was knowingly
17 concerned in MAS' breach, whether he acted without
18 integrity and whether he misled the authority or caused
19 the authority to be misled, is comprehensively supported
20 by the contemporaneous documentary evidence, including
21 emails sent around the material time by Dr Sheikh
22 himself.

23 This is also corroborated by reliable witness
24 evidence. By contrast, and this we say quite a striking
25 feature of the present case, Dr Sheikh's version of

1 11:17 events, his story involving Mr Akbar and Mr Yer and
2 related individuals, is almost entirely unsupported by
3 contemporaneous evidence.

4 I say almost entirely, because there are two
5 agreements, two cheques, which appear to support
6 Dr Sheikh's case, but we say those documents are most
7 likely fabricated after the event.

8 Other than those documents, there is no
9 contemporaneous evidence that supports Dr Sheikh's case.

10 We would also say, and we hope to show this during
11 the hearing, that some of the witness evidence relied
12 upon by Dr Sheikh, the contents of those are also
13 untrue.

14 Finally, I make the observation that while the
15 authority's case, based on those contemporaneous
16 documents and supported by reliable witness evidence, is
17 straightforward and consistent with the version of
18 events one sees in the documents, Dr Sheikh's case, we
19 say, is embellished, but it's also incredibly
20 complicated and inherently implausible. We hope to show
21 that during the course of the tribunal hearing.

22 We say the reason Dr Sheikh has gone to such great
23 lengths to concoct this version of events is precisely
24 because without the overlay of his story involving
25 Mr Akbar and Mr Yer, the only rational conclusion to

1 11:18 draw from the uncontroversial evidence is that, broadly
2 speaking, set out in the decision notice. He's driven
3 to concoct this story because without it, it's obvious
4 what the true state of affairs were and they support the
5 decision arrived at by the authority.

6 Secondly, the correct legal approach, I'll take you,
7 if I may, to one or two authorities or give you
8 references, if you prefer, to identify the correct legal
9 approach in relation to some of the concepts under the
10 regulatory law which come into play.

11 First of all, lack of integrity. I know some
12 members of the tribunal will be familiar with that,
13 having been involved in determining the Waterhouse case.
14 It's uncontroversial that Dr Sheikh owed a duty to act
15 with high standards of integrity as a licensed director.
16 I'll give you the references, but that's enshrined in
17 principle 1 and the DFSA's handbook general rules 4.4.1
18 and the reference for that is bundle F, tab 4, page 154.

19 The first case in the DFSA to deal with that is the
20 Waterhouse case. That should be at tab F --

21 MR PRESIDENT: I don't think it's necessary, Mr Khan. Thank
22 you for this, but I don't think it's necessary, for
23 example, to take us to the Waterhouse case when two of
24 us, the three of us were in it.

25 Similarly, you cited in your skeleton argument some

1 11:20 cases about integrity. For my part, at the very
2 beginning of the English tribunal system, I was involved
3 in some in about 2004. They're quite familiar to me and
4 Mr Al Aidarous, and I think you'll find that my other
5 colleague will pick them up quite quickly. So it may be
6 helpful if you just give us the references.

7 MR KHAN: Yes. I'm very grateful, sir. The first
8 reference, as I say, is Waterhouse, F/24, page 2008.
9 That's paragraphs 226 to 229.

10 The latest case in the UK tribunal is the case of
11 Tinney and we rely upon paragraphs 10 to 14. And that's
12 at bundle F, tab 23, page 1874.

13 In particular, the fact that integrity goes wider
14 than mere dishonesty, that's at paragraph 12. The
15 meaning of recklessness, which we say is important,
16 that's at paragraph 14.

17 Secondly, as to the burden of proof in cases of
18 integrity, we rely upon Re S-B Children, at
19 paragraphs 10 to 15. And that's at F, tab 9, page --
20 -- (Overspeaking) --

21 MR PRESIDENT: -- I've seen referred to there, which is
22 a case of mine. So I think you can just --

23 MR KHAN: Yes, sir.

24 MR PRESIDENT: Thank you.

25 MR KHAN: I'm grateful, sir.

1 11:22 The second legal concept I would like to briefly
2 make submissions about is the concept of being knowingly
3 concerned. And this, I believe, is one of those areas
4 which, while the tribunal has one or two cases in the
5 pipeline, including this one, has yet before to come
6 before the tribunal in a hearing. That comes from
7 article 85 and article 86 taken together. And I will,
8 if I may, take you to that at F1/63:

9 "Does an act or thing that the person is prohibited
10 from doing by or under the Law ..." commits a breach.

11 That's the general contravention provision at
12 article 85.

13 Articles 86(1) and (2) are those which we are
14 concerned with, where a person is knowingly concerned in
15 a contravention also commits a breach.

16 There are two ways that is put. One is where
17 a person is knowingly concerned in a contravention by
18 another person. That's subparagraph (1). Subparagraph
19 (2) is where an officer of a body corporate is knowingly
20 concerned in a contravention by a body corporate. We
21 say both are relevant in this case.

22 If one goes to page F1/64, it's a continuation of
23 article 86. Article 86(6) defines what an officer
24 means. It includes a person purporting to act in such
25 capacity, ie as a director or member of a committee of

1 11:24 management, and an individual who is the controller of
2 the body.

3 So here we say the question of whether or not
4 Dr Sheikh was the acting CEO, effectively acting in the
5 capacity of an executive director, may be relevant.

6 At article 86(7) there is a definition of knowingly
7 concerned.

8 In particular, what's relevant is subparagraph (c),
9 a person is knowingly concerned if he:

10 "Has in any way, by act or omission, directly or
11 indirectly, been knowingly involved in or been party to,
12 the contravention ..."

13 We say that's most pertinent in this case.

14 There are UK cases, old UK cases, involving
15 securities investment board, which also shed some light
16 on the meaning of "knowingly concerned" and you have the
17 references in my skeleton argument.

18 What's particularly relevant, we say, is the case of
19 SIV and Scandex, which says being knowingly concerned
20 means having actual knowledge of the facts upon which
21 the contravention depends. And I'll give you
22 a reference, if I may. That's at F25/2025.

23 The final authority is article 66 and that relates
24 to providing false and misleading information to the
25 authority. The tribunal will be familiar with that, but

1 11:26 I will, if I may, quickly take you to it, because it's
2 relevant, given there are two limbs. That's at F1/49.

3 Article 66 has two limbs. The first limb is:

4 "A person shall not:

5 (a) provide information which is false, misleading
6 or deceptive to the DFSA; or

7 (b) conceal information where the concealment of
8 such information is likely to mislead or deceive the
9 DFSA."

10 We rely upon both limbs, but to the extent that the
11 better analysis in the events is under 66(b), I just
12 draw the tribunal's attention to the fact that in
13 concealing the information, and in this case we say
14 Dr Sheikh concealed the true state of the bank
15 statements and bank affairs from Mr Kamath, we need only
16 show, the authority needs only show that that
17 concealment of information is likely to mislead or
18 deceive the DFSA.

19 So it's a lower hurdle than, for example,
20 recklessness as to someone being misled. It's only that
21 it's likely to mislead.

22 I'm grateful for the tribunal's indulgence in
23 a quick tour of some of the legal principles.

24 Finally, in the time I have remaining, I will, if
25 I may, take you to some of the key documents, as I say,

1 11:28 to provide a chronological backbone and identify the
2 relevant passages that we rely upon in particular.

3 The first document I would like to go to, if I may,
4 is the 1 December 2014 board minutes. And that's at
5 bundle A, tab 1, page 2.

6 One sees there at the top of the document, it's
7 a minutes of the board meeting held on that date. It
8 sets out who's present. At the time, Dr Sheikh was
9 director and chairman, and Mr Anish Bhatia was the SEO,
10 and one can see that he's absent from that meeting.

11 It states there under paragraph 2, that Dr Sheikh
12 mentioned that Mr Bhatia couldn't make it, because he
13 wasn't very well, due to ill health.

14 On page 3, the next page, by reference to Bhatia, at
15 the top of the page, it states:

16 "As part of the restructuring of the business, with
17 mutual consent, Mubashir [that's Dr Sheikh] has asked
18 Anish to consider stepping down in his position as SEO."

19 There's a debate about that. Then in the middle of
20 the page, a paragraph which reads:

21 "Greg [that's Mr Pritchard, one of the non-executive
22 directors] enquired about Mubashir's current role.

23 Mubashir realised that the chairman witnessed a lot of
24 money being utilised, lack of performance and struggle
25 for competency without getting directly involved [that's

1 11:31 without him getting directly involved] ..."

2 And it says:

3 "There is greater realisation that urgent attention
4 is required on financial services business."

5 It seems even, at this stage, Dr Sheikh is turning
6 his mind to the regulated business of the DIFC.

7 Over the page, at page 4, the first reference to MAS
8 Pakistan:

9 "Rizwan enquired if the US\$3 million expected from
10 MAS Pakistan Holdings at the time had been
11 duly received~..."

12 The relevance of that will become clear, but I just
13 flag that passage.

14 Then importantly, under paragraph 5, further down
15 that page, Mubashir presented the SEO update in the
16 absence of Mr Bhatia.

17 Finally, again by way of background, if I can turn
18 quickly to page 8, that's A, tab 1, page 8, there's
19 a finance update. One reading it as a whole, MAS is
20 obviously in some financial difficulty, but in
21 particular, the fourth paragraph down under the finance
22 update states:

23 "On the balance sheet side, cashflow management
24 continues to be challenging in light of the DFSA rules
25 which require us to hold EBCM [that's a liquid asset

1 11:33 requirement metric] of \$600,000. This has been achieved
2 through the year but needs constant monitoring and
3 management. It stood at US\$661,000 for the period."

4 The next document I'd like to take you to is also
5 a board meeting. It's from 26 April 2015. That's at
6 A5, starting at page 156.

7 Again, on the first page, one sees Dr Sheikh is one
8 of those present. Mr Bhatia is again absent. A little
9 further down the page, second paragraph from the bottom,
10 it states:

11 "Mr Bhatia sends his apologies as he's on leave due
12 to personal matters."

13 So he's not at either of those board meetings, which
14 we say are quite relevant to the factual matrix.

15 On the next page, page 157, there's a section which
16 deals with Mr Bhatia and his position, and whether or
17 not he would be continuing as CEO, and it's clear that
18 he would not be.

19 Mr Pritchard, at the top of the page, sought
20 clarification as to the organisational structure and
21 whether or not Mr Bhatia would be stepping down.

22 In the second dash, one sees there Dr Sheikh
23 explains that:

24 "The decision for Mr Bhatia to step down was
25 discussed during the last BOD meeting. However, the

1 11:35 finalisation would be done during this meeting."

2 It would be finalised at this meeting, but we say
3 effectively, the decision has been taken and that
4 Mr Bhatia would be devoting himself to another related
5 part of the business, but not in the regulated business
6 in the DIFC. They're looking for a suitable
7 alternative.

8 Jumping to the bottom of the page, just to explain
9 the chronology, the last dash:

10 "Dr Sheikh explained that few months back he had his
11 attention towards the Agricel business [that's another
12 business part of the MAS empire] as he had to let go of
13 senior management. However, during December, he
14 realised that the DIFC business is stumbling and he
15 hence arranged an active dialogue with Anish whereby he
16 requested him to step down as CEO of the company and
17 assisting the Agricel business [that's the other
18 business] and allowing Dr Sheikh to devote 100 per cent
19 of his time towards regaining the position of the
20 regulated entity."

21 We say that's relevant to the chronology as to when
22 Dr Sheikh was actively involved in running the business,
23 qua CEO, as acting CEO. One sees there at the bottom of
24 that page, he also gives the CEO update.

25 If I can jump on in the same document to page 166,

1 11:37 this is a section that Dr Sheikh relies upon to show
2 that he was authorised by the board to take the steps he
3 did in bringing in new investors, that's Mr Akbar and
4 Mr Yer.

5 Starting at the bottom of page 166, we say this is
6 important. We say this supports our case, but Dr Sheikh
7 also relies upon it. It says:

8 "Mubashir further stated that in the next 30 to 45
9 days [that's after the 26 April board meeting], if he's
10 not able to fund the company, then he has requested the
11 board to give him the empowerment to either downsize the
12 company by way of restructuring, have the ability to
13 bring the majority shareholder by buying out the
14 company~..."

15 And last but not least, if he cannot continue to
16 field the company indefinitely, then he will have to
17 wind up the company.

18 He goes on to say that Dr Sheikh requested the board
19 to give him the power to take those steps if necessary.

20 We say that's important and supports our case,
21 because as at 26 April, during this board meeting,
22 looking into the future, that's prospectively, Dr Sheikh
23 is seeking authorisation to, amongst other things, sell
24 the company to a majority shareholder.

25 We say that's relevant, because he doesn't mention

1 11:38 in this meeting, or indeed, allude to the existence of
2 a shareholder who's already agreed to buy a majority of
3 the company.

4 On his alternative story, involving Mr Akbar and
5 Mr Yer, that agreement has already been entered into and
6 Mr Akbar has agreed to take a 51 per cent shareholding
7 in the company. There's no reference to that in this
8 document. Indeed, he's looking forward to taking steps,
9 if possible, to sell the company.

10 Finally, in this document, over the page at 168,
11 there's a debate about capital adequacy, flagged that to
12 the tribunal:

13 "Mr Pritchard enquired about the duration of
14 reporting that is usually done, which Dr Sheikh
15 confirmed are monthly. Mr Pritchard also enquired about
16 the submitted documents which Ali replied it as the
17 financial profit and loss, balance sheet and capital
18 adequacy for end of each month."

19 That's a report that since around 2013, MAS was
20 required to submit to the DFSA and it's quite clear that
21 everyone knew, including we say Dr Sheikh, that that
22 included not only profit and loss and balance sheet, but
23 also whether or not the capital adequacy requirements
24 had been met that month.

25 The next document I would like to take you to is in

1 11:40 the same bundle behind tab 7 and this is the April month
2 end report submitted to the DFSA at the beginning
3 of May. It's at page 174.

4 One sees there an email from Mr Kamath, the finance
5 officer, to Ms Hackett and others at the DFSA, attaching
6 the April 2015 financials, some high-level figures
7 provided in the cover email. The report starts on the
8 next page, page 175. At page 177, we say are the
9 relevant parts relating to capital adequacy.

10 If one goes to the bottom of 177, one sees there
11 that under "Capital Resources", the EBCM is 600,000.
12 There's a buffer, regulatory minimum requirement, but
13 we're concerned with the EBCM, which is reflected in the
14 available liquid asset. One can see that's primarily
15 satisfied by cash on current account, with some cash in
16 hand as well. The figure there is 628,383. So
17 confirming:

18 "Does Firm have liquid assets in excess of its
19 EBCM?"

20 Answer "Yes"

21 That's accurate, that's uncontroversial.

22 Looking at the time, what I'm going to do, if I may,
23 and for the transcript, is give you some references to
24 other documents we say are important, but then at the
25 end, go to one or two documents I would like you to see

1 11:43 this morning, if I may.

2 The first reference is --

3 MR PRESIDENT: You may do whatever you wish, provided you
4 finish by 9 o'clock.

5 MR KHAN: Moving on in the chronology, after the submission
6 of this April end financial report, there was a transfer
7 of \$600,000 from MAS' US dollar account into its dirham
8 account, that took place on 3 May. And the reference
9 for that in the bank statements is A, tab 12, page 276.

10 That's uncontroversial that Dr Sheikh instructed
11 Mr Salahuddin, a junior finance officer of MAS, to make
12 that transfer.

13 The MAS bank statements which evidence the
14 withdrawals made by Dr Sheikh in May and June start at
15 A177, go to page 285. The May withdrawals were made by
16 Dr Sheikh. The June withdrawals, because Dr Sheikh had
17 by then left the country, were made on his behalf and on
18 his instruction by Mr Ul-Hayee.

19 The 26 May email from Dr Sheikh to Mr Pritchard is
20 at A178, page 6, line 2. That, we say, is one of the
21 incidents of Dr Sheikh misleading the MAS directors by
22 stating that MAS Pakistan had paid \$425,000 when he knew
23 or was reckless as to whether that was true.

24 The next document I would like to take you to is at
25 file A, tab 27, page 685.

1 11:46 This is the May end financial report submitted to
2 the DFSA on 7 June. The document starts at 685. That's
3 a cover email. The report itself, the attached
4 document, starts at 687.

5 The reference to the capital resources and
6 confirmation of the bank account contents are at 689.
7 One sees there at the bottom of that page, the total
8 cash in the bank account is said to be 627,781. That
9 reflects the fact that Dr Sheikh told Dr Kamath that
10 there had been -- we say, he stated there had been no
11 transactions during May, so that amount was the same or
12 broadly the same.

13 There's an exchange of emails on 7 June during which
14 Mr Salahuddin, on Dr Sheikh's instruction, told
15 Mr Kamath that Dr Sheikh had confirmed there had been no
16 transaction during May from which Mr Kamath took some
17 comfort to then present the figures I have just shown
18 you to the DFSA. There are also telephone conversations
19 involving, amongst others, Dr Sheikh and Mr Kamath,
20 where Dr Sheikh confirmed the same state of affairs,
21 ie that there had been no transactions. And you'll see
22 that in the witness evidence when we come to it.

23 The last couple of documents I would like to take
24 you to are emails sent after the events, shortly after
25 the events, which reflect what Dr Sheikh at the time

1 11:48 said was the reason for the transactions and what he had
2 done with the money.

3 That's relevant, we say, because what he said in
4 those early days, probably closer to the truth, and
5 certainly very different from what he now says as part
6 of his case before this tribunal. We say that
7 discrepancy -- we'll ask the tribunal to draw an
8 inference against Dr Sheikh's case from that
9 discrepancy.

10 The first email is dated 22 June 2015 and that's in
11 bundle C, tab 48, page 306.

12 It's an email from Dr Sheikh to Mr Kamath. The
13 background to this email is that Mr Pritchard, the fact
14 that there was no money in the account had now become
15 widespread knowledge. It had been reported to the DFSA.
16 Mr Pritchard, amongst others, as the non-executive
17 director, was making some quite pointed enquiries as to
18 what was going on.

19 This was Dr Sheikh's answer. He sets out on the
20 first page, payments that he has made, he says, on his
21 personal account to some employees and creditors. He
22 sets out some salaries that he's paid. Over the page,
23 he also identifies some further payments he's made. I'd
24 like to draw your attention to the third paragraph down,
25 starting:

1 11:52 "Adding the two my loan as of End of April and
2 payments I have made from personal accounts amounts to
3 USO 647,000/- versus the capital which I withdrew in May
4 600k (due to me as detailed above)."

5 We say that is probably the reason why the money was
6 withdrawn, because Dr Sheikh felt that he was owed it,
7 having used his personal fund to meet some of MAS'
8 outgoing, so he says. He then says:

9 "I had arranged for additional funds of 600,000
10 which I had hoped to receive as additional loan from me
11 to the MAS ClearSight which I had borrowed on my
12 personal account so under that assumption, I spoke to
13 you on the phone in early June not knowing the update
14 balance making assumptions that the funds would have
15 come."

16 It seems here what Dr Sheikh is saying is that he
17 had hoped to borrow personally \$600,000, which he would
18 then loan to MAS. No mention here of MAS having been
19 sold or borrowed money directly from new investors or
20 potential investors.

21 Finally, on page 758, second paragraph, we say this
22 philosophy really permeates Dr Sheikh's true state of
23 affairs and his own justification for why he took the
24 money. Second paragraph:

25 "... I am authorised to direct payments or withdraw

1 11:53 funds for the greater interest of the company as I have
2 detailed above. Last but not least don't forget that I
3 am to best of my knowledge have ownership of more than
4 80% of this company to say the least."

5 The next document is an email sent to employees of
6 MAS by Dr Sheikh, when it transpired that the company
7 was going under. That was sent on 2 July. That's in
8 a number of places, but I'm going to take you, if I may,
9 to C, tab 84, page 769.

10 The email on the first page confirms the company is
11 insolvent and Dr Sheikh is sad to hear that people are
12 making up stories about him. The part that I'd like to
13 draw your attention to at the bottom of page 1519:

14 "There seems to be lot of noise about me removing
15 the capital of the company. I did that not to conduct
16 any evil act but to use the capital to pay salaries,
17 vendor payments and creditors loan principal/interests
18 all for the greater good of the company."

19 Again, no reference to any investors or any money
20 coming in or withdrawing the cash to pay Mr Akbar
21 upfront interest, all part of the new case. Here,
22 shortly after the event, he's defending himself by
23 saying he withdrew the money to pay salaries and
24 vendors.

25 On the next page, that's set out. Top of the page,

1 11:56 he says that:

2 "As of end of April 2015, MAS ... owed me personally
3 a loan amount of USD 397,000 [payment of salary] ..."

4 Then importantly, on the next page, page 1521,
5 second paragraph:

6 "Balance funds were directed towards loans I had
7 borrowed to finance previous months salaries ... and to
8 service debt which I had taken to finance salaries rent
9 and vendors payments last year."

10 Then he sets out the money that was due to him.
11 Again, the story is, "I have taken money out, I have
12 taken it for myself, but the justification is that
13 I previously borrowed money to pay salaries and vendors
14 on behalf of MAS."

15 In the next paragraph, reference to a possible wire,
16 and it's important to draw your attention to that,
17 because it might be said it's maybe an allusion to
18 Mr Akbar and Mr Yer, but as you will see, it's not:

19 "Few senior members of the team are trying their
20 best for last few weeks to find a possible buyer.
21 Unfortunately they have not been able to secure firm
22 equipment ... It has not happened as yet and any prudent
23 investor has to commit at least USD2MM immediately ..."

24 There are all sorts of issues, change of control,
25 capital commitments, et cetera.

1 11:58 He's identifying some of the problems with seeking
2 a quick sale of the company to a new owner, including
3 regulatory issues. As we'll see, none of this seems to
4 be an obstacle when one gets to the story involving
5 Mr Akbar and Mr Yer.

6 The final paragraph, he asked people not to speak
7 unkindly of him and if they don't, then he will contact
8 them one to one and discuss their compensation.

9 In the two minutes I have, I'm going to take you to
10 one more document, if I may. It's file C, tab 62,
11 page 425.

12 This just completes the picture of the story
13 presented by Dr Sheikh, both to people in MAS, but also
14 to the DFSA in the early days as to why he withdrew the
15 money. This is an email dated 25 August sent to
16 Mr Jensen, the DFSA had started its investigation and
17 had, at that stage, simply asked Dr Sheikh to provide
18 some administrative information about his address,
19 et cetera.

20 Dr Sheikh volunteered an explanation for what had
21 occurred. Towards the bottom, the paragraph from the
22 bottom, starting "the company had capital breach":

23 "The company had capital breach due to the fact that
24 payment had to be made for salaries for some staff and
25 the company loans installments installment was to be

1 11:59 made.

2 To best of my knowledge the breach was reported ..."

3 Again, consistent with what he had told MAS
4 directors, MAS employees, he took the money to pay
5 salaries and vendors. Nothing to do with an investment
6 deal involving Mr Akbar or Mr Yer, which is now part of
7 his present case. We say, not only does that undermine
8 what he says now about Mr Akbar and Mr Yer, it also
9 probably presents the closest picture to the true
10 reasons why Dr Sheikh at the time felt he was able to
11 withdraw those monies.

12 I'm grateful for your indulgence. That is our
13 opening. Unless I can assist any further, I'll stop
14 there.

15 MR PRESIDENT: Thank you very much, Mr Khan.

16 Dr Sheikh, it's your turn, if you'd like to ...

17 DR SHEIKH: Yes, sir, I'm ready to start, sir.

18 MR PRESIDENT: Thank you.

19 Opening submissions by DR SHEIKH

20 DR SHEIKH: I would like to start by thanking your Honours
21 for your time and attention during --

22 MR AL AIDAROUS: Excuse me, sir, may I ask Dr Sheikh when
23 he's presenting any document, try to zoom in a little
24 bit, so I can see better the documents.

25 DR SHEIKH: Thank you, sir, your Honour. I'm just reading

1 12:01 my opening statement --

2 MR AL AIDAROUS: No, I'm not talking of that. If you're
3 intending to present any document, so please zoom in.
4 That's all my remark. Thank you, sir.

5 DR SHEIKH: Yes, sir. I will, but I have no intentions of
6 presenting any document at this stage, sir.

7 MR AL AIDAROUS: Perfect. Noted.

8 DR SHEIKH: I would like to start by thanking your Honours
9 for your time and attention during these proceedings.

10 In my skeleton argument, dated 7 April 2020, I have
11 addressed the following accusations in answer to DFSA's
12 decision notice dated 18 July 2019.

13 (1), that Mr Akbar and Mr Yer were not genuine
14 investors.

15 (2), that I was the SEO during the month of breach
16 in May 2015.

17 (3), that I instructed Hassan Salahuddin not to
18 access the online banking system for MAS bank accounts.

19 (4), that I concealed withdrawals from members at
20 MAS.

21 (5), that I knowingly misreported MAS financial
22 position to the finance officer.

23 (6), that I presented MAS accounts as having no
24 transactions in the month of May 2015.

25 (7), I misrepresented to MAS senior management

1 12:02 in May 2015 regarding payments and revenues.

2 (8), that I presented information three years later
3 during the investigation and that it is not supported by
4 evidence.

5 I hope that after reading my submission your
6 Honours, sirs, would have a clear understanding of my
7 position and why the DFSA's accusations are baseless.

8 Your Honours, sirs, I feel the need to say that the
9 decision I have made in 2015 were driven under most
10 extremist circumstances of stress. They weren't always
11 the most logical, but that does not mean that they were
12 carried out with ill intent or that my truth is flawed
13 or that my decisions were unlawful.

14 I am sure that we can agree that high levels of
15 stress can cause a person to make decisions hastily.
16 Unfortunately, that is what happened to me in the late
17 spring/early summer months of 2015.

18 I would like to state for all present here that
19 there has been no crime. There was no crime five years
20 ago when DFSA allegedly accused me to have taken money
21 from MAS' accounts for personal gain, nor there was
22 a crime recently when the DFSA accused me allegedly to
23 falsify documents.

24 There has never been a crime of fraud, only
25 miscommunication.

1 12:04 Most importantly, I would like to state that I am
2 not guilty of any of the misconducts that DFSA has
3 accused me of. I have only ever tried to save the
4 company which I founded and now to be told that I did
5 wrong for MAS and its employees, it is devastating for
6 me.

7 The DFSA has jumped to conclusions about me without
8 proper context and used unreliable witnesses to create
9 a ridiculous story that has no validity. The DFSA had
10 conducted an incomplete investigation and have relied on
11 their assumptions instead of validating the information
12 I gave them.

13 The DFSA believes that I caused the breach
14 in May 2015, because I wanted to take back money I felt
15 was owed to me. If this accusation is true, how does
16 DFSA explain the fact that in the same month, May 2015,
17 I took money from my own personal account to pay MAS
18 staff salaries? Would I put my money into MAS if I was
19 trying to steal money from it in the same month? This
20 does not make any sense, your Honours, sirs.

21 Even if I was trying to secretly withdraw money from
22 MAS, which I was not, why did I personally inform my
23 team and immediately instructed them to inform DFSA that
24 a company had unfortunately breached as soon as I found
25 out that Mr Yer's investment had not come through?

1 12:06 I was trying to save the company by securing an investor
2 to strengthen the capital structure of MAS.

3 All the cash withdrawals could be traced back to me,
4 because my signatures was on the cheques. I had no
5 reason to hide the withdrawals, nor I was engaged in any
6 self-serving activity, nor I told anyone to stop from
7 accessing the company's account. It was on my
8 instruction that MAS management on the ground advised
9 DFSA that the company had breached its capital adequacy
10 requirement in June of 2015.

11 Your Honours, sir, DFSA upon learning this reality
12 should have fined the company as per their regulations,
13 but to best of my information, DFSA never fined the
14 company. I make the statement cautiously, because
15 in June 2015, I was indeed the acting CEO and I can
16 confirm that I did not see any invoice of such nature.

17 As a result of this breach of MAS, DFSA launched an
18 investigation into me personally. While DFSA has relied
19 on circumstantial evidence, I on the other hand have
20 provided physical evidence in the shape of documents,
21 collaborating witnesses, and logical and reasonable
22 explanations, but they keep insisting that my proofs are
23 a lie without any hard evidence.

24 Your Honours, sirs, in my humble opinion, DFSA
25 should have been more responsible in evaluating the

1 12:08 information I have provided, unless they have hard
2 evidence to support their allegations against me.

3 I will admit at times mistakes were made due to
4 incredible amount of stress affecting my memory and due
5 to lack of information, which resulted in me not being
6 able to communicate properly or be able to recall
7 correct dates, but it does not mean that there is
8 anything more to it, especially when these mistakes were
9 not illegal activities. Sometimes a human error is
10 simply just that; an innocent mistake.

11 Your Honours, sirs, it was within my unilateral
12 authority given to me by the board of directors to sell
13 the company and to use the capital sitting in the
14 account. This much was established in the board of
15 directors meeting on 26 April 2015 and the board
16 resolution passed in May 2015.

17 I was also granted unilateral signatory rights by
18 becoming the sole signatory authority of MAS' accounts
19 on 17 May 2015, by no other than the board of directors
20 unanimously. There has been no illegal activity here.

21 The only thing I will agree to that the company
22 breached and the company should have paid the fine for
23 it. I would have paid it, but I was not informed of any
24 DFSA invoice.

25 Before I go any further, I will account for the

1 12:09 company's capital of US\$600,000. DFSA believed that
2 I took the money for my own selfish gain and yet they
3 have not provided a shred of evidence for this absurd
4 allegation.

5 Your Honours, sirs, I would like to state that
6 I directed the MAS capital to pay MAS creditors. The
7 first was Mr Peter Zeman. I directed for him to be
8 paid US\$350,000 in August 2015. This was a payment for
9 his consulting contract with MAS. This was a company
10 liability. I have submitted the receipt of this payment
11 as hard evidence as well as the original contract and
12 the sworn statement of Mr Peter Zeman confirming to this
13 reality.

14 I was in my legal right to honour this company's
15 liability with the added benefit to the company for
16 creating an opportunity to rescue the company from
17 becoming illiquid. Mr Zeman has proven to be a very
18 resourceful man historically and he was motivated and
19 ready, willing and able to secure an investor for MAS
20 through his network of investors from Eastern Europe.

21 The second person was Mr Khalil Ahmed. I paid him
22 \$250,000 in July 2015. This was a repayment for a loan
23 he had given to MAS earlier in 2015. This was MAS
24 liability. I was in my legal right to honour this
25 liability. My motivation was to do right by this MAS

1 12:11 creditor, who stepped up and lent money to the company,
2 or MAS may have collapsed earlier on.

3 Your Honours, sirs, if you notice the month in which
4 I paid these two individuals was in July and August.
5 The money was pulled out of MAS for the purpose of
6 paying Mr Akbar the upfront interest to secure
7 \$2 million for MAS liquidity, which he had demanded as
8 precondition to his investment.

9 But when he and Mr Yer reneged on the investment in
10 early June, the MAS capital was sitting untouched in the
11 hands of Mr Atta Ul-Hayee, a trusted colleague and an
12 employee of MAS aviation business. I asked him to keep
13 the money before I left for UK and told him that I would
14 tell him where and when to deploy this money.

15 In June, Mr Khalid Ahmed called me and told me that
16 he wanted his loan to be repaid with the interest.
17 I paid the interest in June from my personal financial
18 resources for US\$30,000 equivalent in Dubai currency and
19 then \$250,000 equivalent partial loan repayment for MAS
20 capital in July 2015.

21 When I was in London and I found out that Mr Akbar
22 and Mr Yer had reneged, I started to look at other
23 options to revive the company. I was thinking of
24 selling a family-owned property in Pakistan. I had also
25 engaged conversations with Mr Peter Zeman.

1 12:13 Mr Zeman had told me that he would help me find an
2 investor, but he also reminded me of the contract he had
3 signed with MAS in 2011. He told me that between the
4 two options, one, getting equity in the company, two,
5 receiving the fees of \$450,000, he wanted the fees.

6 I told him that I could only pay him \$350,000. He
7 agreed to these terms and told me that he would try to
8 help me find an investor to revive the company.

9 Your Honours, sirs, I want it to be clear that even
10 in the summer of 2015, I was making every effort to
11 secure investment so that I could save the company.
12 I had been given authority by the board to do what
13 I thought was necessary for the greater interest of the
14 company.

15 Unfortunately, what ended up happening is that the
16 company was fined \$3.2 million in August 2015, which
17 made it impossible to raise any kind of investment.
18 These allegations resulting in a \$3.2 million fine,
19 which was unfounded, was presented to the tribunal, but
20 MAS never reached its conclusion in the tribunal,
21 because DIFC court appointed liquidator
22 in December 2015, exercised his authority to interrupt
23 the appeal in the tribunal and your Honours dismissed
24 the appeal understandably.

25 Your Honours know one would invest in the company

1 12:15 that had been fined so much money. Even if the fine was
2 baseless, the reason I bring up this DFSA notice
3 from August 2015 is because it was the final occurrence
4 that sealed the fate of MAS.

5 From that point onwards, we lost all hopes to revive
6 the company. The company I had founded and helped build
7 had gone under forever. It might be easy to say that
8 the capital should have been out back into the company
9 to give to the employees once the investment efforts
10 with Mr Akbar and Mr Yer fell through.

11 However, paying MAS liability with the hope of
12 reviving the company took priority in my mind and was in
13 line with the authority entrusted to me by the board of
14 directors of MAS.

15 I will now briefly talk about the investors Mr Akbar
16 and Mr Yer.

17 I understand that the DFSA believes that if they
18 were not able to find something in the MAS server and
19 email directly related to Mr Akbar and Mr Yer, that must
20 mean that they did not exist.

21 Your Honours, since then, I have supplied the
22 investment agreement, witness statements and multiple
23 individuals have come forward to corroborate this truth.
24 This should have erased any and all doubts in DFSA's
25 minds.

1 12:16 In my skeleton argument, I presented incredibly
2 detailed accounts of all the reasons why the DFSA
3 allegations were and are incorrect. They believe that
4 both Mr Akbar and Mr Yer, as well as their lawyer, are
5 a cover up to act as smoke and mirrors in the grand
6 theft of MAS capital.

7 This is wrong. DFSA would rather believe that four
8 of my witnesses are lying than to accept that they may
9 be mistaken in their judgment. This in its own right is
10 quite ridiculous. For the DFSA to say that these
11 evidence did not exist at the relevant time is false.

12 There is evidence in the month of May 2015 that
13 align with the contracts and statement of Mr Akbar and
14 Mr Yer. The evidence is in the payments I attempted to
15 make to India Focus Cardinal FZE, which DFSA has
16 conveniently glossed over.

17 Since the DFSA believes everything I have said with
18 regards to this investor is false, I will now summarise
19 what the DFSA believe is plausible.

20 1. That I invented the investment contract for
21 Mr Akbar and Mr Yer.

22 2. That I fabricated Mr Akbar and Mr Yer witness
23 statements.

24 3. That I asked Mr Akbar and Mr Yer to forge their
25 signatures on fabricated and backdated contracts which

1 12:18 put them at risk since this is an offence.

2 4. That I assigned a false lawyer to represent
3 Mr Akbar and Mr Yer.

4 5. That I made payments of AED 170,000 to India
5 Focus Cardinal FZE for no reason.

6 6. That I further attempted to make a payment of
7 2.2 million dirhams to India Focus Cardinal once more
8 for no reason.

9 They believe that I did all those things in order to
10 cover up the fact that I pocketed the MAS capital.

11 Any logical individual who heard these points can
12 see how ridiculous they sound. When spoken in this way,
13 it is very clear that the listed accusations are
14 ludicrous. I did not go out of my way to fabricate
15 information. I have struggled deeply with procuring the
16 real facts related to the case. This is why it has
17 taken me time to present them. I have not spent the
18 last few years creating an elaborate scheme to get away
19 with removing capital from the MAS accounts and
20 personally benefited from it.

21 I cannot be blamed for DFSA's incomplete
22 investigation, their scepticism or their lack of
23 understanding of contracts that are very clear drafted
24 in English.

25 I will now move away from the investors topic and

1 12:20 towards the leadership of the company at the time of the
2 breach in early days of May 2015.

3 The DFSA believes that I was the acting SEO. This
4 is not supported by any hard evidence. I, on the other
5 hand, provided to the DFSA with Mr Anish Bhatia's
6 resignation email dated 27 April 2015, as well as his
7 farewell email dated 28 May 2015. The DFSA believes
8 that this is a disputed matter, but that is only because
9 they have not done their research correctly.

10 I only took over the interim SEO from 29 May
11 onwards. I have tried to clarify this on multiple
12 occasions. But unfortunately, the DFSA is set on their
13 sceptical assumptions. The DFSA might want to point out
14 that they were misled during the investigation process
15 by me about the exact dates of when I stepped up after
16 Mr Bhatia.

17 Unfortunately, I do not believe that their arguments
18 stand on its own legs. As I have just mentioned, they
19 have access to MAS emails, so they could have checked up
20 Mr Bhatia's email.

21 I was relaying events based purely on memory and
22 unfortunately, under tremendous stress, I do not have
23 the most reliable memory. I am sure none of us remember
24 the exact dates of things that occurred a few months
25 ago, let alone entire years. It is not reasonable to

1 12:22 expect such accuracy from a person's memory.

2 The DFSA used the date of 27 April as Mr Bhatia's
3 last day in the company as CEO in their questionnaire
4 answering to DMC. They conducted an incomplete
5 investigation and relied on it. Their incompetence of
6 unearthing the facts should not bear any weight on me.

7 A very prominent argument that DFSA likes to use
8 against me is that I took too long to present relevant
9 information during this investigation process. I have
10 now submitted on multiple occasions that it was
11 challenging for me to acquire the documentations and
12 witnesses I needed to make my case.

13 The DFSA believes all the information I presented is
14 false, but do not realise that if they were fabricated,
15 I could have submitted them at more appropriate time.
16 I have been supplying information at awkward times
17 because I could only share when I found things.

18 If I were savvy enough to create such false
19 documentation, then the impression it would leave is
20 that I am also smart enough to know when to submit
21 things in a timely manner, so that I can strengthen my
22 case.

23 Furthermore, recently, I was able to get into
24 contact with Mr Khalil Amit, one of the two individuals
25 who received the capital from MAS as repayment of his

1 12:24 debt to MAS.

2 When speaking to him, I asked him if he had access
3 to the investment contract that he had signed. Despite
4 his best efforts to search for it, he was not able to
5 find it.

6 If DFSA is so adamant that I am fabricating
7 documentations, do they not wonder why I did not submit
8 an investment contract for Mr Amit. The fact of the
9 matter is that I had to enter Mr Amit as a witness,
10 because he could not find investment contract.

11 Mr Amit had found that document -- if Mr Amit had
12 found that document, it would have been very beneficial
13 for my case, but unfortunately, I wasn't able to procure
14 it.

15 If the DFSA says that I am guilty of fabricating
16 documents, they must now be very confused about why
17 I have entered a witness to attest to the existence of
18 a document instead of falsifying the document in
19 question.

20 The reason for this is simple. I have never
21 falsified documentation. I am truthful in my endeavour
22 and that is the fact which DFSA cannot seem to accept.

23 That brings me to the most hurtful, most cruel
24 allegation that the DFSA has laid out against me. They
25 have used strong language against me by calling me

1 12:25 a liar. I will not accept this charge. I have only
2 ever told the truth to the best of my recollection.

3 When I had made a mistake due to being under
4 pressure and stress, I went back and remedied it. I
5 never once tried to be misleading.

6 I have submitted everything that I could have now
7 hope that your Honours will see this investigation for
8 what it is. The tragic story of a man who did
9 everything he could to save the company and that he
10 nurtured from its conception.

11 The accusation that the DFSA is basing their entire
12 case off is the one that simply does not exist. I gave
13 everything that I could to pull the company out from its
14 troubles. I may not have made the best decisions under
15 extreme stressful situations. However, the decisions
16 that I made were well within my authority and not
17 illegal or immoral or nor they contravene any of the
18 DFSA rules, which DFSA is claiming against me.

19 If the DFSA claims that a fraudulent activity has
20 taken place, I must dare them to present proof for why
21 they believe such a thing.

22 So far the only proof they have been able to present
23 for their belief is that of circumstances and unreliable
24 witnesses. In fact, it is quite ironic that the DFSA is
25 pointing me to be a liar when their key witness

1 12:27 Mr Salahuddin has proven to be unreliable, not once, but
2 multiple times.

3 This matter I will leave for the questioning part of
4 the hearing, as I have already presented all written
5 proofs against Mr Salahuddin.

6 I will now bring about my opening statement to an
7 end. Throughout the last five years, DFSA has conducted
8 an incomplete investigation, misled the DMC and always
9 kept the motto of guilty until proven innocent as their
10 anthem. They refuse to acknowledge the suffering and
11 pain they have inflicted on me and my family through
12 their reckless actions.

13 Instead, they tried to pin the blame of recklessness
14 on me. I may have been driven by stress, but my
15 intentions were always clear and I submit that I did not
16 breach any of the DFSA's rules which they accused me of.
17 They have had access to all the resources possible and
18 yet as one man, I have had to stand my grounds against
19 their bullying me for five years.

20 I am sure that they have a job and responsibility to
21 report when unethical activity take place in the
22 company. But in this case, their actions and stance
23 against me has violated their own core values and
24 ethics.

25 If they want me to accept that I am guilty of the

1 12:28 crimes they have laid at my feet, I simply cannot.

2 I never did what they are accusing me of.

3 A long list of misunderstanding has brought us here
4 today, but none of what happened was carried out with
5 cunning, cruelty or vengeance. My intentions were
6 clear. My hope to salvage the company were genuine.

7 To make the matter even worse, after they took the
8 case in front of decision making committee, they thought
9 they could make an example out of me for future
10 perpetrators. Not only has this investigation been
11 carried out without sufficient responsibility and
12 efforts, but the DFSA thought it appropriate to increase
13 the fine they placed on me by 134 per cent amounting to
14 a total of \$401,000.

15 I still do not see what justification they could
16 possibly have for this, especially since their entire
17 case is built upon assumptions and opposed to concrete
18 proof. They have also found it appropriate to ask me to
19 pay back US\$600,000 that they believe that I took from
20 MAS. But I have already mentioned there has been no
21 theft and they have no reason to believe otherwise.

22 To fine an individual for US\$1 million and rip off
23 my ability to professionally work in my field is not
24 a small matter. To unjustifiably do so is cruelty of
25 the highest regard. I have shared my Swiss accounts

1 12:30 from 2015 in these bundles, which demonstrate exactly
2 what I have been saying for years now. There is
3 no US\$600,000 in my accounts at or around the time that
4 DFSA suggest this theft took place.

5 They are placing all of their hopes on witnesses'
6 testimony and their gut instincts. I have come to
7 realise that I cannot expect the DFSA to play this case
8 with fairness because their motivations are unlike mine.

9 My only hope is to establish the truth. I don't
10 know what more I can say to your Honours and all present
11 here today to clarify things any further.

12 So I will now leave it to my witnesses to relay
13 their version of events, which all of them will confirm
14 that their sworn statement they have given is true.

15 If DFSA believes that Mr Akbar and Mr Yer never
16 existed, I hope that speaking to them directly will
17 prove DFSA wrong.

18 If they believe that Mr Amit never existed and that
19 I never repaid his loan, I hope that speaking to him
20 directly will prove DFSA wrong.

21 If they believe that Mr Shahzad is confused about
22 overhearing a conversation between myself and
23 Mr Salahuddin, I hope that speaking to him directly will
24 prove DFSA wrong.

25 If they believe that Mr Ali Awais in this proceeding

1 12:32 is limited, because he holds me in good esteem, I hope
2 that his words will inspire them to acknowledge the
3 position he held in the company and the respect that he
4 deserves. I hope that speaking to him directly will
5 prove DFSA wrong.

6 If they believe that Mr Zeman never existed, I hope
7 that speaking to Mr Wasif and Mr Awais directly can
8 confirm his existence and prove DFSA wrong.

9 If they believe that Mr Haider did not make payments
10 to Mr Amit and Mr Zeman's people, I hope that speaking
11 to Mr Haider directly will prove DFSA wrong.

12 In the end, I hope that the truth will finally be
13 given the attention it deserves. I thank you, your
14 Honours, for the kind attention.

15 With this, your Honours, I have concluded my written
16 statement. I still have a few minutes on the clock.
17 I take your permission to address some of the
18 allegations that Mr Khan has brought forward in his
19 opening remarks. Am I allowed to make those comments
20 and still remain within my allocated time, your Honours?

21 MR PRESIDENT: Yes, as I reckon, you have only taken just
22 over half an hour of your allotted time, so if you wish
23 to take a few minutes, if that's alright with my
24 colleagues, we'll let you go on for a few more minutes.

25 What do my colleagues think? Is that okay?

1 12:33 MR AL AIDAROUS: I have no issue. Please go ahead.

2 MR AL HASHIMI: I'm fine with this as well.

3 MR PRESIDENT: Thank you.

4 DR SHEIKH: Thank you, sirs.

5 Mr Khan has pointed to the board meeting minutes of
6 2014 in December. I'd like to state for the record that
7 in that board meeting, indeed it was discussed that we
8 are going to consider doing the restructuring of the
9 company. And indeed, it was discussed that I will ask
10 Mr Anish Bhatia to consider stepping down from his
11 position.

12 I want to re-highlight that it is what it said in
13 the minutes, that I will ask and we will discuss this
14 with Mr Bhatia. But there were no decisions. Mr Bhatia
15 had not tendered his resignation, so to feel or think
16 any differently stating that Mr Bhatia, who was not
17 present in the board meeting, reflects that he has
18 already resigned and that I have assumed the SEO
19 position, in my humble professional opinion, is
20 a mis-characterisation of the interpretation of Mr Khan.

21 I go to the second point Mr Khan made in the board
22 meeting minutes for 26 April 2015. He once again
23 alluded to the fact that when in the board meeting
24 minutes, it was categorically presented that Mr Bhatia
25 is the SEO, and for his personal reasons, he was not

1 12:35 attending the meeting, that does not by any way reflect
2 that he has resigned and I have assumed the acting SEO
3 position.

4 I want to restate that in the same board meeting,
5 which Mr Khan had pointed out, that your Honours will
6 see that there is a paragraph which represents the fact
7 that I went on stating that anybody resigning from MAS
8 ClearSight will have to serve 30-day notice period.

9 I asked Mr Khan in that spirit that does he have or
10 DFSA have any proof whatsoever to demonstrate that
11 Mr Bhatia's 30 days' notice period were rigged? The
12 answer is no. Mr Bhatia served as the SEO of the
13 company of 30 days, which are documented in the same
14 board minutes of the meeting from 27 April till
15 27 May 2015.

16 So, your Honours, with a lot of humility and with
17 factual events, Mr Bhatia was the SEO of the company at
18 the time of breach and I had not taken on the position,
19 not even the acting SEO position. Indeed, I took the
20 acting SEO position after Mr Bhatia has stepped away
21 from his position serving the 30 days' notice period,
22 effectively from 29 May 2015.

23 So during the course of the month of May, my
24 position in the company was and remained as the chairman
25 of the board, a man who has been entrusted by the board

1 12:37 of directors to unilaterally exercise my best judgment
2 to be able to achieve a solution for MAS ongoing
3 survival.

4 I'd like to also further state that during this
5 time, until the time that I assumed the acting SEO
6 position on 29 May, I was also a non-executive director.
7 Because I have demonstrated in my skeleton arguments
8 that that role I assumed in the summer of 2013 when
9 I stepped away from being the SEO of the company.

10 I'd like to draw your kind attention to another
11 point that Mr Khan mentioned that in the board meeting
12 of 26 April, there was no mention of Mr Akbar and
13 Mr Yer. I would like to state for the record that
14 Mr Akbar's agreement indeed was signed before the board
15 meeting. But I draw your attention to the fact that the
16 contracts relays that there is a precondition that
17 I have to be able to give \$600,000 advance in order for
18 that contract to be executed.

19 I had no visibility of the \$600,000 and for me to
20 bring the notion of such a contract in the board meeting
21 would not only be premature, but irresponsible.

22 Mr Yer who indeed had signed the investment
23 agreement of \$600,000 was a day after the board meeting.
24 Equally importantly, I would like to draw your kind
25 attention that when Mr Akbar and I were negotiating the

1 12:38 \$2 million investment contract, there was a clear
2 categorical demand from Mr Akbar to keep this
3 conversation confidential between him and I, in order to
4 ensure until such time the transaction was executed.

5 So obviously, I had to respect the wishes of
6 a person who is committing to make investment in the
7 company. And I was not tongue-tied, but I made
8 a sensible judgment call abiding by the laws of the
9 confidentiality and withheld the name specifically
10 talking about Mr Akbar and Mr Yer in the board meeting.

11 Also, I draw your kind attention to the fact that
12 Mr Khan highlighted that there was an assertion on
13 25 August, an email that I voluntarily provided to DFSA
14 stating some of the facts.

15 I want to draw your kind attention to the three
16 incidents that Mr Khan has highlighted. The email that
17 I had sent right in the very beginning of the days from
18 London, when I was there, to Mr Kamath, which he has
19 presented to your Honours. And the second email that
20 I had written around 2 July to the employees of MAS,
21 which Mr Khan has presented to your goodself. And the
22 email that I had written to Mr Jensen around 25 August.

23 I would like to state the following. You know when
24 the company went under in the beginning of June, which
25 was around 11 June, my world turned upside down. The

1 12:40 company that I had nurtured, the company that I had at
2 times gone way out of my realm of responsibilities to
3 support the company, just went under. I was focused on
4 trying to revive the company.

5 While I was writing the emails, I want for your
6 Honours to kindly be mindful of my state of mind. My
7 state of mind was not talking about thinking of having
8 that I will be confronted with an investigation of DFSA.
9 My state of mind was to communicate in the layman's term
10 to the people who were talking utmost nonsense and
11 rubbish about my character in my absence and they were
12 all busy in my character's assassination.

13 And therefore, when I represented the elements of my
14 personal loan, that was not to demonstrate what I did
15 with the capital. That was to demonstrate to the people
16 that I am not a thief and I haven't run away with the
17 money.

18 So DSFA insists that since I wrote that and that
19 became for me that they draw the line in the sand, that
20 that was an email that was positioned to deal with the
21 circumstances that I was confronted with, with people
22 were spreading rumours about me, that "Dr Sheikh has
23 taken our money and ran away to UK". That is absolute
24 wrong notion.

25 I want to go on record by stating that if I had even

1 12:42 a whim of a fact that I would be scrutinised to this
2 degree of the way in last five years, DFSA has made my
3 life a living hell, I would have been a lot more
4 careful.

5 But the point of the matter is that when someone as
6 me, who has been tremendously under stress, who has lost
7 his company for which he has given and nurtured like
8 a child, how does DFSA explain that I can be in my
9 normal reasonable way, as a prudent person, to address
10 every single email with a lot of thinking and
11 calculation? No. I was an emotional wreck and being an
12 emotional wreck, I still did not ever breach any
13 contraventions, nor I ever lied or misled.

14 The fact remains that DFSA took my emotional emails,
15 addressed specifically to the issue of trying to tell
16 people that I am not a bad guy, I have done all what
17 I could and just to demonstrate to them in a layman's,
18 that I have loaned a lot more money than this.

19 Your Honours, during the course of this
20 investigation, you will see that I have highlighted in
21 my skeleton argument, the loan that I have given to MAS
22 is not few hundred thousand, it runs in millions of
23 dollars. And I have demonstrated and I have given
24 a proof of that. I have also demonstrated that even
25 after the company had fallen, I still went into my

1 12:43 pocket and tried to pay the invoices of the liquidator,
2 trying to pay invoices on behalf of the company beyond
3 and outside the scope of the capital.

4 So I say this with a lot of humility that Mr Khan
5 and DFSA's assumption on my thinking, that what I said
6 in the beginning of the events is true and everything
7 else that I have said, is wrong. It is the total
8 opposite of that.

9 With a couple more indulgence, I would like to
10 highlight -- and I apologise if my voice is being raised
11 because I'm being emotional, so I apologise to your
12 Honours for this behaviour, for lack of better
13 expression. And I mean no disrespect, it's just that
14 somebody is calling you a liar, it is normal for someone
15 to take it to the heart.

16 Anyway, I also want to draw your kind attention to
17 the fact, your Honours, that there was a statement made
18 in terms of reckless behaviour. I'd like to be able to
19 highlight, which I have already offered substantial
20 evidence in my skeleton argument, that I was not
21 reckless, but instead what I was, was selfless, that
22 I have sacrificed time and time again in order to
23 protect the company and to save the company.

24 There are a couple more things that I would like to
25 draw your attention, with your indulgence. I have a few

1 12:44 more minutes. I'm just going to quickly glance to my
2 notes if it's okay with your Honours.

3 It was alluded in Mr Khan's remarks regarding my
4 misleading MAS board of directors for the \$425,000 and
5 the revenues of 500 and something thousand. I have made
6 very detailed explanation in my skeleton argument and
7 just to highlight that, once again, there was
8 a misconception whereby when Mr Hassan Salahuddin asked,
9 "Dr Sheikh, could you please tell us how much money MAS
10 ClearSight Pakistan has given in terms of reducing its
11 accounts receivable?" And I have gone and highlighted
12 that I know that there was \$300,000 and 25,000 times --
13 three times, which was my salary that I have waived.

14 So the money was \$425,000, and the calculation came
15 by 350,000 and 25,000 times three. So 350,000 plus
16 75,000 amounts to 425,000. The mistake what happened
17 was that that money was absolutely offset against the
18 receivables because the money that MAS owed me, I had
19 waived it in favour of this.

20 The money that I had raised personally and I had
21 invested in giving the company, that money was also
22 accounted for. So there was no physical \$425,000, but
23 the reduction of receivables of \$425,000 is a factual
24 reality. The mistake or miscommunication was that when
25 Mr Hassan Salahuddin asked the question, I thought that

1 12:46 he's talking about the board meeting of the end of the
2 year, which was 2014, and not the one which just ended
3 less than three weeks ago.

4 So that's one misconception.

5 I have addressed in great detail in the skeleton
6 arguments, which I'm sure your Honours have gone through
7 the document, and hence, I would not waste your valuable
8 time at this point, but to draw your kind attention that
9 everything that I have highlighted in my skeleton
10 arguments with evidences, with references to the
11 necessary bundles, is a demonstration of my submission
12 to you.

13 And everything else which has to do with the
14 allegations of he said/she said, your Honours will
15 witness the hearing of the people whom I have presented
16 and then I leave your Honours' good judgment in terms of
17 making a decision in terms of what's right and wrong.

18 With that, I would like to thank you, your Honours,
19 for giving me the time to present my arguments and to
20 address some of the things that I was able to pick
21 whilst during the initial remarks or opening remarks of
22 Mr Khan.

23 So with that, I conclude my opening comments, your
24 Honours.

25 MR PRESIDENT: Dr Sheikh, thank you very much indeed for

1 12:47 your help. I am most grateful for that. The next step
2 will be to start calling witnesses, the DFSA witnesses.

3 I would suggest we have a brief break at this point
4 for perhaps 15 minutes and to enable counsel and
5 Dr Sheikh to prepare. In the UK, it is now 9.48. In
6 the UAE, I take it, it is 12.48. So if we begin again
7 at 10 past, if we begin promptly at 10 past 10, UK time,
8 which is 10 past 1, would that be acceptable?

9 MR KHAN: Yes, your Honour.

10 MR PRESIDENT: Could I also say to my two colleagues that
11 I suggest that when we break in the middle of the day,
12 we try out our instant messaging. Because we have --
13 but I think it takes a few minutes to get organised, so
14 if we carry on for, say, two hours after -- if after 10
15 past 10, we carry on for two hours, we could perhaps
16 then briefly try out our instant messaging. I mention
17 that now because it took me a few minutes to understand
18 how to work it.

19 Thank you very much.

20 MR AL AIDAROUS: Mr President, before we break, I understand
21 that Dr Sheikh is not represented by a lawyer and he's
22 presenting his own opening. But at the same time, he is
23 also presenting his own account, his statement, so just
24 for to understand when will we have an opportunity to
25 discuss or to have some clarification on his statement,

1 12:49 just keep in mind.

2 MR PRESIDENT: Yes, what will happen is that he will become
3 a witness on the last day, I think, or when we reach
4 that stage, he will become a witness, and he'll then be
5 cross-examined by Mr Khan and we will then, the three of
6 us, have an opportunity to ask him any questions we
7 wish.

8 So let's break now. We'll break now and start again
9 at 10 minutes past the hour. Thank you.

10 (12.50 pm)

11 (Short break)

12 (1.08 pm)

13 MR GREGORY PRITCHARD

14 Examination-in-chief by MR KHAN

15 MR KHAN: Good morning, Mr Pritchard. You will be giving
16 your evidence this morning.

17 First of all, I'm going to take you to your witness
18 statement, which will come up on your screen.

19 Can I ask for Mr Pritchard's statement to be brought
20 up. It's at C, tab 47, starting at page 284.

21 If you can just scroll through that document to
22 page 287, Mr Pritchard, is that your witness statement?

23 A. It would appear to be on the face of it, yes.

24 Q. Is that your signature under the statement of truth?

25 A. It's an electronic signature, yeah, of mine.

1 13:10 Q. Are its contents true, to the best of your knowledge and
2 belief?

3 A. They are indeed.

4 Q. Thank you. What I ought to have done is taken an oath
5 or affirmation from you before taking you to that.

6 A. I did wonder about that.

7 Q. I'll do that now, if I may.

8 Would you like to take the oath or affirm?

9 A. I'll just do the one without the holy book.

10 Q. If you just repeat after me. I do solemnly, sincerely
11 and truly declare.

12 A. I do solemnly, sincerely and truly declare.

13 Q. And affirm.

14 A. And affirm.

15 Q. That the evidence I am about to give is the truth.

16 A. That the evidence I am about to give is the truth.

17 Q. The whole truth.

18 A. The whole truth.

19 Q. And nothing but the truth.

20 A. And nothing but the truth.

21 MR KHAN: Thank you, Mr Pritchard.

22 If you wait there, Dr Sheikh may have some questions
23 for you.

24 A. Thank you.

25 MR PRESIDENT: Dr Sheikh, it's your turn now, you can ask

1 13:11 questions of Mr Pritchard.

2 Cross-examination by DR SHEIKH

3 DR SHEIKH: Greg, good morning.

4 A. Good morning.

5 Q. I hope you and your family are well under these
6 circumstances of the virus --

7 MR PRESIDENT: Dr Sheikh, it's very kind of you to exchange
8 polite courtesies with the witness, but it's probably
9 more helpful if you keep a sort of distance and kindly
10 just turn to his statement and think about the things
11 you want to ask, then simply ask Mr Pritchard the
12 questions.

13 DR SHEIKH: Yes, sir.

14 Greg, with your kind indulgence, I'm going to take
15 the liberty to ask a few questions.

16 First question, Greg, could you kindly introduce
17 yourself, please.

18 A. Well, my name is Gregory Pritchard. Sorry, I'm not
19 really quite sure what it is you're wanting me to
20 introduce.

21 MR PRESIDENT: Just one moment, Mr Pritchard. First of all,
22 thank you for being with us. If you'll bear with us,
23 because obviously at the moment it's rather an
24 unorthodox proceeding compared with sitting in court.
25 If you just bear with us.

1 13:12 A. Okay.

2 MR PRESIDENT: Dr Sheikh, you have seen Mr Pritchard's
3 statement. You have heard what he has to say, which he
4 said it's a true statement. He has made an affirmation,
5 that is he's accepting that he's liable to prosecution
6 if he's deliberately not telling the truth. So that's
7 all been set out. So really, what you need to do is
8 think about the things, as it were, you disagree with or
9 want to correct or put into context. Just think what
10 questions you want to ask him. Okay?

11 DR SHEIKH: Yes, sir. Thank you for the guidance, sir.

12 Greg, I take the liberty to continue my questions.

13 A. Okay.

14 DR SHEIKH: I'm taking in view the remarks from your Honour
15 and therefore I'm skipping a few questions in order to
16 save time under the guidance that was just provided to
17 me. Please bear with me for a quick second.

18 MR PRESIDENT: Take your time, Dr Sheikh.

19 DR SHEIKH: Would you kindly be kind enough to share what
20 was the nature of your role as a director of MAS?

21 A. In fact, I was a non-executive director, not an
22 executive director of MAS ClearSight in Dubai. My role
23 as a non-executive director essentially involved
24 providing a degree of oversight in terms of strategy and
25 issues of that ilk, not to get involved particularly --

1 13:14 well, at all, in fact, in the implementation of
2 decisions taken at the board.

3 Obviously, this was executed by periodic attendances
4 at the board meetings which were generally held in
5 Dubai. The original intention I think was, when I was
6 first appointed, that there will be four board meetings
7 a year. I think the frequency of these was less than
8 that, over the period of my tenure. And at least one,
9 from memory, meeting was held by telephone rather than
10 in person in Dubai.

11 Q. Thank you very much. How frequently did you visit MAS
12 office from December 2014 to June 2015?

13 A. To be honest, I couldn't give you a precise chronology.
14 As I have intimated, it would certainly be less than the
15 originally anticipated board meetings per year. It
16 would probably be, if I was to guess and it is
17 absolutely nothing more than a guess at this stage,
18 I would maybe say twice, once or twice. I couldn't
19 really be exact, I'm afraid.

20 Q. What type of information did you receive from MAS on
21 routine basis, Greg?

22 A. Well, the information really was restricted to a board
23 pack that will be -- if I was visiting Dubai, will be
24 typically the format -- incidentally, so everyone is
25 aware, the format was normally board meeting on a Monday

1 13:16 morning. So if I was travelling to Dubai, I would
2 arrive on the Sunday and I would be given a board pack
3 consisting of physical documents for me to peruse and
4 read during the course of the Sunday in preparation for
5 a board meeting the following morning.

6 Information was obviously reports from the various
7 executives, a report from yourself as the chief
8 executive, normally a balance sheet and a profit and
9 loss account and also ordinarily a compliance report.

10 Q. Could you kindly tell me how long the board meeting
11 usually lasted, specially the ones in December 2014 and
12 the one in April 2015?

13 A. They would ordinarily just be in the morning, just the
14 morning duration. So they will probably be, again, it's
15 a sort of generalisation, I would say, about three
16 hours, three hours long.

17 Q. Thank you, Greg. Which committee did you serve on, if
18 any, on the board of MAS?

19 A. I wasn't on any board committees. In fact, I wasn't
20 aware that there were any board committees.

21 Q. Thank you, Greg. Do you remember how long was the board
22 meeting on 26 April precisely, if that's possible?
23 Specifically on 26 April 2015.

24 A. I don't have a recollection of the specific duration.
25 I don't particularly have a recollection that it was any

1 13:18 longer or any shorter than any previous meeting.

2 Q. Were you in the physical attendance to the December 2014
3 board of directors meeting in Dubai?

4 A. I think I probably was. As I say, there was during the
5 time that I was a non-executive director, my
6 recollection is that there was only one meeting which
7 would have been before that, I think, that was held by
8 telephone.

9 Q. In the transcript of your interview with DFSA on
10 8 July 2015, it states:

11 "... Dr Mubashir had asked them not to fly in for
12 the meeting as most of the other directors were away --
13 this in fact was not true as they were present at the
14 meeting."

15 Do you recall this, Greg, comment?

16 A. I do indeed, yes.

17 Q. Thank you. Do you remember that Mr Bhojwani emailed you
18 and all the other directors on 16 November 2014 to
19 confirm that it was convenient for you to fly in and
20 that he would make the travel arrangements accordingly?

21 A. I'm sorry. Would you mind repeating that?

22 Q. Sure, Greg. Do you remember that Mr Bhojwani, Amit, if
23 you remember, emailed you and all the other directors on
24 16 November 2014 to confirm it was convenient for you to
25 fly in and that he would make the travel arrangements

1 13:20 accordingly?

2 A. I don't have a specific recollection, I'm afraid, of
3 that.

4 Q. Thank you, Greg.

5 A. It is a little bit difficult for me after the passage of
6 time to identify specific events, shall we say, with
7 particular board meetings on a particular date. I don't
8 have a clear recollection or indeed a note in front of
9 me of when the board meetings were, and where we were,
10 and where I was on each occasion.

11 Q. Completely understandable and I thank you for your kind
12 and much appreciated candour, Greg.

13 Do you recall discussions about Anish stepping down
14 during the board meetings in December 2014?

15 A. I do have a recollection of discussions about the
16 possibility of Anish stepping down. Precisely which
17 board meeting it was, I'm afraid I couldn't really
18 confirm.

19 Actually, I think -- when you refer to a discussion
20 at the board meeting about Anish stepping down, I have
21 a recollection of a slightly different slant on that,
22 actually. I think we did or there was a particular
23 board meeting where at the outset, you actually told us
24 that he had stepped down. I do have a recollection as
25 well that he subsequently appeared at the subsequent

1 13:22 board meeting or he was still listed as a director
2 although not necessarily present at the meeting, which
3 was something that I questioned at the time.

4 Q. May I request Fatima, if you're there, to please help me
5 pull up the screen, which is reference A001, page 3,
6 kindly.

7 MR KHAN: Dr Sheikh, which bundle are you referring to?

8 DR SHEIKH: Bundle A001, essentially it is the board minutes
9 meeting.

10 MR KHAN: Thank you.

11 DR SHEIKH: Greg, may I kindly draw your attention to your
12 screen where you see that it says:

13 "Staff has initiated us to take a stricter stance
14 towards business, including termination."

15 That paragraph. Then it goes further stating:

16 "As part of the restructuring of the business with
17 mutual consent Mubashir has asked Anish to consider
18 stepping down in his position as SEO. Once Anish
19 resigns ..."

20 Are you able to recollect that, Greg?

21 Sorry, forgive me, Greg, I was drawing your kind
22 attention. If you were able to read this short
23 paragraph.

24 A. Yeah.

25 Q. Can I request if you remember reading this statement,

1 13:24 the comments which I have just highlighted?

2 A. Sorry, what is it you're wanting me to confirm?

3 Q. Real quickly, the fact that:

4 "As part of the restructuring of the business with
5 mutual consent Mubashir has asked Anish to consider
6 stepping down in his position as SEO. Once Anish
7 resigns the board would then actively search for the
8 candidates to take over the position of SEO."

9 Just that part, I just wanted to ask if you kindly
10 recollect having read that in the minutes of the board
11 meeting?

12 A. Sorry, if I recollect having read it in the minutes?

13 Q. Yes, I mean, you know, these are the minutes that were
14 approved, Greg, in the 2015 April meeting, so I'm just
15 kindly asking for you to confirm whether you had the
16 opportunity to read these two sentences.

17 A. Well, I would have had the minutes made available to me,
18 yes. My understanding, I have to confess, is that it
19 was a bit more of a fait accompli and Anish was actually
20 leaving the company.

21 Q. I'm sorry, but I don't understand the expression "fait
22 accompli". Could you help me understand this better,
23 please?

24 A. Slightly semantic, the presentation here, with this
25 concept of asking Anish to consider stepping down. My

1 13:25 understanding was that you had actually essentially
2 forced him or for whatever -- whatever the background
3 and the process was, that he had actually stepped down
4 at some point in time.

5 Q. I understand. Thank you for answering, Greg.

6 I take the liberty to ask the next question. Do you
7 remember if this was fully executed in December 2014,
8 that is to say that had we asked Anish to hand in his
9 resignation letter?

10 A. I don't have any recollection of a discussion about
11 a specific letter.

12 Q. Thank you, Greg.

13 Can you please tell me if you remember when Anish
14 handed his resignation from the position of SEO at MAS?

15 A. I really can't remember which meeting it was. It will
16 probably be two or three board meetings prior to the
17 last one.

18 Q. Thank you, Greg.

19 A. But to be honest, I don't have a precise recollection of
20 exactly when.

21 Q. I totally understand. Thank you for your candour, Greg.

22 The next question, in your interview with DFSA on
23 8 July 2015, the following notes were made and I am
24 quoting:

25 "[Gregory Pritchard] was told in December that Anish

1 13:27 was effectively let go however, he continued to remain
2 on the org[anisation] charts. [Gregory Pritchard]'s
3 understanding is that Dr Mubashir was the SEO since
4 December as he called all the shots."

5 Do you remember -- or can I ask Fatima if she can
6 please pull up bundle C49, page 4, kindly. I was
7 referring to C49. The context of the paragraph I'd like
8 to kindly request you to go where it states, "[Gregory
9 Pritchard] was told in December ..."

10 Greg, may I kindly draw your attention to the
11 paragraph where it reads, "GP was told in December ..."

12 Do you recollect?

13 A. Sorry, do I recollect having seen it?

14 Q. Yes, or reading it, because it refers to your goodself.

15 A. Sorry, this is my witness statement given to DFSA.

16 Q. Indeed, Greg.

17 A. That's not a question of me seeing it. It's something
18 that I said.

19 Q. I just wanted to confirm this from your goodself.

20 That's all.

21 A. Yeah.

22 Q. Thank you, Greg.

23 Would you kindly tell me what email or phone calls
24 you were referring to when you say that you were told
25 that Anish was let go. Since you live in the UK,

1 13:31 I assume you were told remotely?

2 A. This was a small point that I raised or that I alluded
3 to a few moments ago in an earlier discussion. We were
4 led to believe, in my recollection, that Anish had been
5 let go and notwithstanding that continued to remain on
6 the organisation charts and this was the point that
7 I queried with you as at a board meeting in Dubai.

8 Q. Thank you. Just a quick follow-up. Do you remember who
9 told you this, Greg?

10 A. Well, it was yourself at a board meeting. You told us
11 that, in my recollection, Anish had stepped down or had
12 let go. Either way, he was no longer there, no longer
13 acting in an executive capacity.

14 Q. In the minutes of the board of directors meeting on
15 26 April 2015, you asked for an update on Anish's
16 position in the company since he was still listed as
17 a director. Do you remember this?

18 A. This is the point I keep referring to.

19 Q. Thank you. I take that as you indeed remember. Thank
20 you, Greg.

21 The minutes state:

22 "Mubashir explained that the decision for Anish to
23 step down was discussed during the last [board] meeting
24 [which is the one that we just talked about in
25 December 2014] however the finalisation would be done

1 13:32 during this meeting."

2 This is, Fatima, bundle A005, page 3. May I kindly
3 request you to bring this page up for ease of reading.

4 Greg, may I draw your kind attention to the minutes.
5 It reads:

6 "Mubashir explained that the decision for Anish to
7 step down ..."

8 Could you kindly read this? If you recollect that
9 I mentioned this during the board meeting?

10 A. I'm sorry. Could you just clarify the question again.

11 Q. Of course, Greg. Sorry, my apologies.

12 Greg, I want to request you if you can kindly read
13 the paragraph, which is displayed on the screen,
14 referring to:

15 "Greg wanted clarifications in the current
16 organisation structure ..."

17 Then the paragraph underneath is the one that I want
18 to request you to kindly consider, where it reads:

19 "Mubashir explained that the decision for Anish to
20 step down was discussed during the last BOD meeting
21 however the finalisation would be done during this
22 meeting."

23 A. I think my comment here is that, in my recollection, the
24 board had been given the understanding that Anish would
25 no longer be participating in an executive capacity, yet

1 13:35 he was still shown on the organisation chart, hence why
2 I was querying that.

3 Q. Thank you, Greg.

4 Follow-up question, can you agree that this means
5 that Anish has not yet stepped down based on the comment
6 that you just kindly read?

7 A. Well, it would appear to be the case, which is why I was
8 surprised at the time.

9 Q. In the minutes of the board meeting that were
10 circulated, it states -- I'm referring to the same board
11 meeting:

12 "... there is a 30 days' notice which needs to be
13 served for whoever is asked to resign."

14 Fatima, this is the same file, which is A005. Could
15 you kindly scroll down to page 13 for me, please.

16 I'm trying to find the comment which reads "30 days
17 notice".

18 Greg, may I kindly draw your attention to the screen
19 and it reads:

20 "These implementations are effective immediately to
21 reduce costs. The necessary impact of the cost would be
22 effective only after 30 days since there is a 30 days'
23 notice which needs to be served for whoever is asked to
24 resign."

25 A. I'm not quite sure, really, where we're going here, but

1 13:38 let me say again, my understanding was that Anish had
2 been relieved of duty, let go, resigned, or whatever you
3 want to call it, much earlier. To the extent that he
4 was still legally employed by the company, then
5 obviously, yes, a contract of employment and that will
6 stipulate a notice period. I presume on the basis of
7 this minute, it's 30 days.

8 Q. Thank you, Greg. Are you aware that Anish had submitted
9 his resignation letter on 27 April 2015?

10 A. I don't particularly have a recollection of that.

11 Q. I appreciate that. Thank you.

12 A follow-up question was if Anish submitted -- to be
13 confirmed that indeed it was true that Anish had
14 tendered his resignation on 27 April 2015, just a follow
15 up to that, if Anish submitted his resignation letter on
16 27 April 2015, when would his 30 days' notice period
17 would expire, based on this expression?

18 A. His notice would take effect 30 days later. Obviously,
19 I'm not familiar with his contract of employment.

20 Q. Of course, and I totally understand that.

21 In the same board minutes, it says:

22 "Mubashir said till such time they are able to find
23 a suitable candidate for the post of the SEO he would be
24 taking over the role of SEO for the licenced entity."

25 Do you remember -- Fatima, it's further down.

1 13:41 A. Could I just enquire, are these the board minutes of the
2 very last board meeting of MAS ClearSight?

3 Q. Greg, these are the minutes of the board meeting which
4 was held in Dubai on 26 April 2015, which you had kindly
5 participated in.

6 A. Just so I can understand the chronology, is this the
7 last board meeting that was held for MAS ClearSight
8 before the licence was withdrawn?

9 Q. Indeed, physically, that is indeed correct.

10 A. I think my statement, I'm not sure if this is relevant
11 to your question, but I think my statement subsequently
12 to DFSA indicated that I was not particularly of a mind
13 that these particular minutes reflected the content of
14 the discussion at the board meeting. I think
15 I particularly mentioned that there were matters
16 discussed not in the board minutes and also there were
17 matters in the board minutes that were not discussed.
18 That was my recollection at the time.

19 Q. I understand. Thank you, Greg.

20 If Anish was leaving the company on 27 and
21 28 May 2015, only after he was gone would I assume the
22 role of CEO in this logical inference. Would you agree
23 to this logic?

24 A. We were led to believe that Anish was no longer
25 operating, acting in the company and hadn't been for

1 13:43 some time. So I think the practical reality differs
2 from what you're suggesting at the moment.

3 Q. Quick follow-up. In that line of logic, so then you
4 would believe MAS is running with two CEOs at the same
5 time?

6 A. I guess we're contemplating a situation where we have an
7 CEO in the form of or in the persona of Anish, who has
8 the title but is not acting, and yourself, who doesn't
9 have the title, but is actually acting for all intents
10 and purposes in that capacity.

11 Q. I understand. Thank you, Greg. Next follow-up
12 question. Were you in the MAS office during the month
13 of May 2015?

14 A. I really couldn't say.

15 Q. Follow-up question I have is how can you know who was in
16 and out of the office from all the way in UK, if you
17 were physically not in MAS office during the month
18 of May?

19 A. Well, quite obviously, I'm not able to take a roll call.
20 All we have as non-executive directors, of course, are
21 the representations made to us by the executives and if
22 we are told that people are not there, then we assume
23 that they are not there, or at least not acting, if
24 that's what we've been led to believe.

25 Q. I take the liberty to ask the next question. Did I make

1 13:45 the request to be given unilateral authority to do
2 whatever was necessary for the company, because MAS was
3 in serious trouble, during the April board meetings?

4 A. My memory on this is a little sketchy, really, to be
5 honest.

6 Q. I understand that. Can I take the liberty to ask the
7 next question. On 7 May 2015, you signed a document
8 which allowed me to be able to be the sole signatory in
9 pool one with a limit of 183,500 dirhams. Is that
10 correct?

11 I'll request, Fatima, if you can please bring from
12 bundle A039, kindly bring up on the screen, for ease of
13 Greg's recollection. This is indeed the one.

14 Could you stay here and then very slowly, scroll, so
15 that Greg can have the comfort of reading it, if you
16 don't mind.

17 May I kindly request you to visualise this and if
18 you can confirm. Further scroll down, Fatima, to the
19 place where the signatures are.

20 Greg, may I ask if you remember this board
21 resolution?

22 A. Yes, I do.

23 Q. On 14 May 2015, there is another document which gave me
24 unilateral signatory rights to the MAS account. Isn't
25 this correct?

1 13:47 For your ease of comfort, Fatima, can you scroll
2 down to the next page.

3 Scroll down slowly.

4 Greg, do you remember this resolution?

5 A. Yes, I do.

6 Q. I'm going to ask, Greg, you a hypothetical question now,
7 so kindly bear with me. If someone asked to be granted
8 the ability to draw large sums from an account, is it
9 logical assumption that a larger sum of money is to be
10 withdrawn from the account?

11 A. I don't particularly see the relevance of answering
12 a hypothetical question. Could I ask for guidance from
13 learned members of the judiciary there as to whether
14 I should answer this question?

15 MR PRESIDENT: Dr Sheikh, it's fine for you to put documents
16 to the witness and to ask him questions, but we're
17 really only interested in his knowledge.

18 DR SHEIKH: Understood.

19 MR PRESIDENT: Ask him whether something is logical or not
20 doesn't really help us, because we can probably work
21 that out for ourselves. So please concentrate on things
22 where -- if there are documents you want to have to test
23 the memory of the witness, that is fine. But we do need
24 to hear what he has to say from his memory. If you
25 disagree with him, you might want to show him

1 13:49 a document, but just giving documents to him and asking
2 him questions which are hypothetical, because he doesn't
3 know one way or the other, probably isn't going to help
4 you very much. Okay.

5 DR SHEIKH: Thank you, sir. I apologise, Greg, I take the
6 liberty to conclude the next question.

7 I'm just reading the list of questions to eliminate
8 some questions as per the guidance from your Honour.
9 Just bear with me for a second.

10 MR PRESIDENT: Take your time. There's no rush.

11 DR SHEIKH: Thank you, sir.

12 Greg, may I take the liberty to ask that when
13 I asked the board of directors to give me the signatory
14 authority on the account or I should add sole signatory
15 authority of the account, is it reasonable to assume
16 that I might need to withdraw money?

17 A. Well, I think it's reasonable to assume that you are
18 executing transactions only for the benefit of the
19 company in the normal sequence of commercial affairs.

20 Q. When I asked the board to remove all signatories from
21 the account, as per the board resolution you just kindly
22 saw, what did this mean to you?

23 A. I think the indication was that there was a practical
24 situation to enable the transactions of the company to
25 be effected in a more efficient fashion. Obviously, the

1 13:51 expectation was that as the majority shareholder of the
2 company, its founder and chief executive, would of
3 course always act in the best interests of the company.

4 Q. Thank you, Greg.

5 According to your comment, which I appreciate, I'm
6 now referring again to the same board resolution. Then
7 they must be able to understand -- so I'm now referring
8 to the board of directors. The board of directors must
9 be able to understand that me asking for a signatory
10 right means that I was doing something important with
11 these rights; correct?

12 A. I don't think there was any expectation that there will
13 be any abnormal transactions outside what is customary
14 for the business. Certainly -- I'm not quite sure what
15 you mean by "important". Something important, I guess,
16 would be, you would have expected to have been consulted
17 on.

18 Q. When I use the word "important" referring to the
19 authority that the board has kindly unilaterally
20 entrusted in me to find the investor and to take the
21 necessary steps in order to get the company funded.

22 A. Sorry, could you just give me a very specific question?

23 Q. With pleasure. I beg your pardon.

24 You know when I just asked the question that when
25 I requested from the --

1 13:53 A. Perhaps if I could interject, if it's helpful. I don't
2 necessarily know that there was any correlation between
3 the resolution and the approvals given and the concept,
4 if I can refer to it as that, of finding investors for
5 the business or to do anything along those lines, which
6 would again not necessarily be the normal sequence of
7 transactions in the business.

8 Q. I understand. Thank you for that.

9 In your interview with DFSA, on 8 July 2015, it
10 says:

11 "GP's [which is your goodself] thought process was
12 that Dr Mubashir would never defraud his own company as
13 he is the main shareholder so GP was comfortable giving
14 him the sole authority."

15 Is this correct?

16 A. That was my thought process at the time, yes.

17 Q. This quote suggests that you had a certain degree of
18 trust in me. In the month of May, you have suggested
19 that you tried to get updates about the commitments made
20 by me in the board of directors meeting. Is that
21 correct, Greg?

22 A. Sorry, are you referring to some email correspondence?

23 Q. No, I beg your pardon. I'm referring to your interview
24 with DFSA on 8 July 2015. In that interview, this
25 quote -- the question I'm asking is the quote, which is

1 13:55 just above, which just kindly confirmed, suggests that
2 you had certain degree of trust in me. In the month
3 of May, you have suggested that you tried to get updates
4 about the commitments made by me in the board of
5 directors meeting.

6 Is that correct?

7 A. If that's what it says in the transcript of the
8 interview with DFSA, then it will be correct.

9 Q. Thank you, Greg.

10 Was this on 25 May when you wrote an email
11 concerning the financial situation of the company with
12 the questionnaires?

13 A. Sorry, are you asking is this how I sought to receive
14 these assurances or further information?

15 Q. There was an email from your goodself on 25 May when you
16 wrote an email asking about the company financial
17 situations and that email was addressed to me.

18 A. Sorry, what's the question?

19 Q. I beg your pardon. I suppose the question I wanted to
20 kindly draw your attention is that on 25 May, there was
21 an email from your goodself, addressed to me, where you
22 had a whole host of financial questions. Do you
23 recollect that email, Greg?

24 A. I have a recollection of sending one or more emails to
25 you asking some very specific questions and also asking

1 13:57 you to respond in certain ways, so as to avoid
2 ambiguity.

3 Q. Thank you, Greg. In your interview transcript, it says
4 that you told DFSA, and I quote:

5 "GP then reached out to Faheem (Kinetrrix) informing
6 him about the concerns he had regarding the regulatory
7 capital."

8 Is this true? This is C049, page 6 of the
9 transcript.

10 A. Sorry, what is your question?

11 Q. I beg your pardon. I'll restate. In your interview
12 transcript, it says that you told DFSA, and I quote:

13 "GP then reached out to Faheem (Kinetrrix) informing
14 him about the concerns he had regarding the regulatory
15 capital."

16 Is this true, Greg?

17 A. It is indeed, yeah.

18 Q. Who raised your concerns, the regulatory capital? That
19 is a very specific concern. Could you kindly address
20 that for me?

21 A. Sorry, who raised the concern?

22 Q. About the regulatory capital.

23 A. I'm afraid I don't follow the question. This is
24 a concern that I had, that I raised with Faheem Aziz of
25 Kinetrrix?

1 13:59 Q. This is your concern. Thank you. I understand.

2 Could you please tell me why you reached out to
3 Faheem instead of Salman Haider, the legal compliance
4 officer of MAS?

5 A. First of all, I never met the chap, the actual
6 compliance officer, and he was an outsourced resource
7 provided by Kinetrix, and Faheem Aziz was the owner and
8 chief executive of Kinetrix. So, to be honest, it was
9 sort of de facto looking after the compliance matters at
10 MAS ClearSight.

11 Q. Thank you. Follow-up question. Is it in your opinion
12 that Faheem Aziz, the owner of Kinetrix, who was not the
13 authorised individual as the compliance officer for MAS,
14 had any role in the functioning of MAS?

15 A. Did he have a role in the functioning of MAS?

16 Q. Yes, Greg.

17 A. Well, my understanding was that he was providing an
18 element of oversight and perhaps also working with the
19 compliance officer on compliance matters at MAS. I'm
20 also of a view that you liaised with him as well. In
21 fact, he was, I think, present at the offices of MAS or
22 possibly this last full meeting, I think you were --
23 I think he had been invited to come along. But to be
24 honest, I'm not absolutely sure, really.

25 Q. Thank you, Greg. I appreciate that.

1 14:01 Follow-up question was: was he legally appointed as
2 the compliance officer of MAS in your recollection? I'm
3 referring to "he" as Faheem.

4 A. No, not at all. I think you were accustomed to deal
5 with Faheem on matters to do with compliance at MAS.

6 Q. I appreciate that. Follow-up question to that is, how
7 long did you know Faheem for?

8 A. Look, I couldn't really give you an exact timeframe.
9 I think I -- to be honest, I just couldn't give you
10 a very specific date as to when I first met him, but
11 Faheem, as of now, is somebody I have known for quite
12 some time, albeit I don't have any dealings with him.

13 Q. Thank you, Greg. I appreciate your candour.

14 Did you feel more comfortable talking to Faheem than
15 Salman, because you had known him longer?

16 A. Well, as I say, I have never met Salman, so I wasn't
17 particularly familiar with how I might contact him. He
18 had never attended any of the board meetings. I suppose
19 my sense was that Faheem was probably, albeit not the
20 actual licenced compliance officer, was probably
21 instrumental in much of the compliance work that was
22 carried out.

23 Q. In your interview transcript, it states:

24 "Dr Mubashir informed Faheem that salaries and
25 gratuity are not actually being put aside. GP had no

1 14:04 idea that staff salaries were not being paid."

2 Can you confirm that?

3 Fatima, C49, page 5.

4 Greg, this is part of your interview with DFSA. Can
5 you kindly confirm that the first point states,
6 "Dr Mubashir informed Faheem ..."

7 A. Well, I can only confirm what I was told by Faheem.

8 I can't confirm what you told him.

9 Q. I appreciate that. Thank you.

10 However, in the next sentence, it states that you
11 used to visit the office regularly and that no one ever
12 mentioned this to you. You commented, "Staff in fact
13 indicated that everything was fine."

14 Is that correct? The continuation of the same
15 sentence, paragraph.

16 A. I remember having a very strong sense of astonishment
17 after this particular board meeting, when it came to
18 light that the staff salaries were not being paid and
19 nobody had sought to mention that at the board meeting
20 and none of the staff who were present at the board
21 meeting actually alluded to it. It's a fairly critical
22 issue, really, fairly important point that one would
23 have anticipated that the board would have been made
24 aware of.

25 Q. The follow-up question is, why do you think MAS

1 14:06 employees would indicate that everything was fine?

2 A. Well, I think the point here is that the staff carried
3 on their day-to-day business, certainly for the time
4 that I was there, without giving any obvious or visual
5 impression that things were not fine.

6 Q. Is it natural to be frustrated when the salaries are not
7 paid?

8 A. Sorry, is that a statement?

9 Q. Yes, I beg your pardon. Is it natural to be frustrated
10 when the salaries are not paid?

11 A. Well, that's a subjective assessment.

12 Q. I appreciate that.

13 Were you aware that during those last months, the
14 salaries of MAS employees were being paid, but it was
15 not paid from MAS account, it was paid from my personal
16 account?

17 A. No, I wasn't aware of that.

18 Q. The only people who were paid regularly were senior
19 level management employees and even they were paid in
20 the month of May from my own personal cheques. Do you
21 think that this might have been the reason why the staff
22 did not complain to you?

23 A. I really couldn't say one way or the other, really. You
24 know, I can't put myself in the mind of the staff.

25 Q. Sure, I appreciate that. Thank you for your candour.

1 14:08 You sent me an email on 21 June 2015. In it you
2 have written:

3 "As detailed earlier, I am waiting on the outcome of
4 the potential investor for the loans of business today."

5 That's A041 reference. Do you remember that, Greg?

6 Help Mr Pritchard to see that. Scroll down to the
7 comment, which says, "As detailed earlier ..."

8 Greg, do you recall reading this email?

9 A. I think so, yes. Is there any doubt as to whether
10 I would have received it or not?

11 Q. No, I just wanted to check if you had a chance to read
12 this email before. That's all.

13 Can you please confirm that in the month
14 of June 2015, we were still actively looking for the
15 investors to turn things around for MAS?

16 A. As I mentioned before, these events took place six years
17 ago and the precise chronology of months and dates, I'm
18 really just not familiar with.

19 Q. I appreciate that. Thank you for your candour.

20 You told the DFSA that you wrote an email to me to
21 come back immediately to Dubai to liaise with the
22 auditors and submit SUP6. Do you remember this email,
23 Greg?

24 A. Not offhand, no.

25 Q. It's, by the way, quoted in one of your interviews with

1 14:10 DFSA. But that's fine. I understand that. It's fine.

2 Next question, the transcript states that you were
3 the one insisting on reaching out to DFSA; is that
4 correct?

5 A. Yes.

6 Q. I beg your pardon?

7 A. Yes.

8 Q. Do you remember what day you sent your email, which
9 was -- email was dated 2 July 2015? Do you remember?

10 A. Sorry, which email are we talking about now?

11 Q. The email, the one that you just said that the
12 transcript states that you were the one insisting on
13 reaching out to the DFSA. Is that correct? Could you
14 kindly confirm? I was just wondering, do you remember
15 the date of that email, by chance?

16 A. It wasn't an email. It was a telephone conversation
17 between myself and Faheem.

18 Q. I understand. Thank you.

19 Do you remember when I instructed Ali to reach out
20 to DFSA to let them know that the company had breached
21 capital requirement?

22 A. I don't remember when you did that, no.

23 Q. Who told you that the company had breached the capital
24 requirements?

25 A. Sorry, who told me the company had capital requirements?

1 14:12 Q. No, no. I beg your pardon. The question was, who told
2 you that the company had breached its capital
3 requirements?

4 A. The sequence of events here is that you had led the
5 board to believe or certainly led me to believe that
6 there was a certain amount of income, quite
7 a substantial amount of income, US\$500,000, that had
8 been earned in a particular month, which of course if
9 that was the case, would be reflected in the accounts of
10 the company.

11 And during the course of the telephone conversation
12 that I had with Faheem, that I've just alluded to, he
13 was able to email me, sent by email, a copy of the
14 accounts, which did not show the US\$500,000.

15 So taking this and other issues into consideration,
16 and other matters that Faheem mentioned, it became
17 evident that a notification to the DFSA was required,
18 with some degree of urgency.

19 Q. If I understand you well, then it is Faheem who had
20 informed you that MAS ClearSight has breached capital
21 requirement. Would that be a safe assumption to make?

22 A. Faheem was able to send me the management accounts,
23 which I'm assuming, I don't have them in front of me,
24 I have no recollection of what was particularly in
25 there. It was -- Faheem didn't tell me, I don't think,

1 14:14 that the company had breached its capital requirements.
2 It was a conclusion drawn from the information that we
3 had before us at the time.

4 Q. Thank you for that.

5 On 12 June, I had a conference call with Ali and
6 Faheem and told them what had happened with the company.
7 I instructed for paperwork to be initiated for the
8 voluntary withdrawal of our licence."

9 Do you have a recollection of knowing this
10 information, Greg?

11 A. Sorry, "this information" being a discussion you had
12 with Faheem?

13 Q. And Ali, on 12 June, where I directed them to initiate
14 the voluntary withdrawal of our licence. Do you have
15 knowledge of this information?

16 A. Do I have knowledge of it?

17 Q. That's a question I took the liberty to ask.

18 A. What I'm saying here in my witness statement is during
19 the course of my telephone conversation with Faheem, he
20 told me that he had spoken to you by telephone and you
21 had informed him that there was no money in the bank
22 accounts, that all the money in the company's bank
23 accounts had been withdrawn.

24 Q. Next question. Obviously, you didn't see that email,
25 I understand that, but the email that I was referring to

1 14:16 was the one that I sent on 12 June and the one that you
2 had sent was on 2 July. That's all right. Please
3 ignore my comment, because that may not be very relevant
4 here.

5 I wanted to highlight the fact, based on your
6 comment, when you had earlier confirmed -- just give me
7 a second. I'm trying to find the question which you had
8 affirmed a minute ago for me.

9 The transcript states, the question I just asked,
10 maybe a couple of minutes ago, that you were the one
11 insisting on reaching out to DFSA; is that correct? You
12 said "yes". Is that right? Did I say that correctly,
13 Greg?

14 A. Well, in the spirit that I have referred to already,
15 that Faheem was essentially the de facto compliance
16 officer, notwithstanding the fact that he was not the
17 actual compliance officer designated on the register
18 with DFSA, I instructed him to inform DFSA of the state
19 of affairs at the company. Had he not done so, I would
20 have done it myself.

21 Q. I appreciate that. I suppose the point I wanted to make
22 was that on 12 June 2015, I had sent -- I had
23 a conference call with Ali and Faheem and I had
24 instructed them to do exactly just that, what you have
25 kindly highlighted, and in your email, which was

1 14:17 actually written on 2 July, so I just wanted to get the
2 record straight.

3 I had instructed the chief operating officer Ali,
4 and Faheem happened to be on that call, was done on
5 12 June and your email addressing that point was done on
6 2 July. Just to get the chronological order of the
7 dates when I had given instruction and when you had also
8 kindly given the same instruction. Just wanted to bring
9 it on the record.

10 Greg, I can't thank you enough for the time that you
11 have taken on the holiday to be with us and I for one am
12 very grateful and I appreciate your candour. So,
13 I thank you. And, your Honour, I conclude my questions
14 for Mr Pritchard.

15 MR PRESIDENT: Thank you very much. It may be that Mr Khan
16 has some more questions. I don't know.

17 MR KHAN: Yes, thank you, sir.

18 Re-examination by MR KHAN

19 MR KHAN: I just have one point of clarification.

20 I apologise if this turns out to be unnecessary from the
21 transcript.

22 But Mr Pritchard, you said that, to use your
23 language, the fact that Mr Bhatia had stepped down was
24 presented as a fait accompli and that he had already
25 stepped down at a board meeting.

1 14:19 Now you were taken to the minutes of two board
2 meetings, one in December 2014 and one in April 2015.
3 I can take you to those minutes if it would assist. But
4 what I'd like to know is which of those meetings, the
5 fact that Mr Bhatia had stepped down, was presented as
6 a fait accompli, as you said?

7 MR PRESIDENT: I'm sorry, before you continue, Mr Pritchard
8 has disappeared from my screen, possibly because of the
9 document still being up. Could the document be removed
10 so that we can -- that's better. Thank you very much.

11 A. Yes, I think I've already intimated that having certain
12 number of years passed between events and now, I'm
13 afraid I'm not really able to tell you which board
14 meeting it was intimated to the board that Anish had
15 stepped down and was no longer acting as chief executive
16 officer.

17 But I keep saying, I said it several times now, that
18 he was still shown as the chief executive officer or
19 a director of the company in the organisation structure
20 and I did query that. Because, as I say, we had been
21 led to believe or certainly my impression was that I had
22 been led to believe that he was no longer acting in an
23 executive capacity.

24 MR KHAN: Just a follow-up question, that clarification that
25 you sought in relation to the organisation chart, was

1 14:21 that at a subsequent meeting?

2 A. Yes, yes, that's correct.

3 MR KHAN: Thank you, I think that probably takes us as far
4 as we can go. Thank you very much, Mr Pritchard. Thank
5 you for that.

6 A. It's my pleasure. Thank you.

7 MR PRESIDENT: Mr Pritchard, thank you very much indeed for
8 your evidence. We're most grateful to you for taking
9 the trouble to assist us. Thank you.

10 A. It's my pleasure.

11 (Witness withdrew)

12 MR PRESIDENT: Mr Khan, next witness.

13 MR KHAN: Yes, our next witness is Ms Hackett. I'll need to
14 check very quickly, if I may, to see whether she's
15 already online.

16 Sir, I understand she's not yet with us, but should
17 be in a minute or so.

18 MR PRESIDENT: We'll have to wait, then.

19 MR KHAN: Yes.

20 While we wait for Ms Hackett, I note that she is the
21 last witness due to give evidence today, so it may be
22 that we can, if appropriate, start with the next witness
23 early. That would be Mr Jensen, but it depends on how
24 long.

25 MR PRESIDENT: You've set out your own running order, but we

1 14:24 need to use the time efficiently, so you've got to keep
2 your witnesses coming while we have got the time
3 available. So, as far as possible, we will continue and
4 sit a usual day, as it were, today, and if there are
5 witnesses who are not ready, please could someone at the
6 DFSA go and get them ready. Thank you.

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

8 MR PRESIDENT: Yes.

9 DR SHEIKH: As I'm taking the liberty with your kind
10 permission to ask the questions to the witnesses
11 presented by the DFSA, I had only prepared the questions
12 for the two witnesses that I was aware of to be done.
13 I'm not ready with my questions for Mr Jensen should you
14 choose to give the permission. And I apologise for
15 that, because I had expected that there will be just two
16 witnesses today and I would have the remaining of the
17 day to prepare my questions for Mr Jensen, which is
18 scheduled for tomorrow morning, your Honour.

19 MR PRESIDENT: Well, in which case, we may have to -- if
20 you're not prepared, then of course, we will not
21 proceed. However, let us make it clear, the tribunal
22 directs the order of witnesses, not the DFSA or indeed
23 you.

24 So, in making these estimates, you have to try and
25 use the time available, because we can't have a position

1 14:26 where we sit for short periods of a day. If we have not
2 finished by Friday, it may be very many months before
3 the tribunal can reconvene.

4 So the DFSA, in particular, needs to ensure that
5 witnesses are available and make realistic estimates as
6 opposed to an estimate that may today not have been
7 a very accurate one.

8 DR SHEIKH: May I offer a comment with your permission, your
9 Honour?

10 MR PRESIDENT: Yes, we're not doing anything else, so you
11 might as well.

12 DR SHEIKH: I have just six, seven questions for Ms Hackett
13 and in my humble opinion, this should not take more than
14 10 minutes at best.

15 MR PRESIDENT: How is it that the DFSA -- how has this order
16 been decided? Mr Khan, how has this been worked out?
17 It doesn't seem to me to be very satisfactory.

18 MR KHAN: Sir, first of all, I apologise for that, but this
19 running order was agreed between the parties, as
20 I understand it. It was --

21 MR PRESIDENT: Just one second. It might be agreed between
22 the parties, but Dr Sheikh, of course, is a litigant in
23 person and he can't be expected to make accurate
24 assessments of how long people are going to take. So
25 I suggest that you and those instructing you take

1 14:27 a professional look at how long these witnesses are
2 likely to take, so that we don't find ourselves sitting
3 very short days, running out of time and this thing
4 going on for months.

5 MR KHAN: Sir, your point is taken. We'll revisit this and
6 speak to Dr Sheikh as well.

7 MR PRESIDENT: Thank you.

8 Dr Sheikh, I think what you'll have to do is work
9 out roughly, only roughly, how long you think you're
10 going to take with all these various witnesses. You
11 will have some idea from the questions this morning and
12 try and give some guidance to the DFSA. I had assumed
13 that this had taken place already and if it hasn't, it's
14 certainly not your fault. But if you could in dialogue
15 with the DFSA give some idea of how long you're likely
16 to want to take with a witness.

17 DR SHEIKH: Yes, your Honour. I will do that with utmost
18 urgency, after the session for today is concluded, and
19 I will have preparation in place to address, as per your
20 guidance, your Honour.

21 MR PRESIDENT: Okay. Thank you.

22 Since we are still waiting, how long do you think
23 it's going to take you to work out your questions for
24 Mr Jensen? Are there any DFSA witnesses who are likely
25 to be quite short or not? If you could -- you don't

1 14:29 answer now, but if you could just be thinking about it
2 and let me know before we finish.

3 DR SHEIKH: Yes, your Honour. Thank you.

4 With your kind indulgence, your Honour, I can make
5 a reasonable guesstimate, if you allow me.

6 MR PRESIDENT: But it's only rough and there's no hurry,
7 take your time. You don't have to tell us now. But
8 once we have finished, have a word with the DFSA.

9 DR SHEIKH: I certainly will, but as you have kindly
10 instructed me, I'm happy to give a guesstimate, if
11 that's okay for you.

12 MR PRESIDENT: Yes, of course. But you don't have to give
13 it now.

14 DR SHEIKH: Okay. But in my humble opinion, I imagine the
15 questioning with Mr Jensen probably will last minimum
16 two hours, or one and a half hours to two hours.

17 In my humble opinion, the questions with Mr Hassan
18 would last about the same.

19 Mr Aziz, your Honour, the challenge I have, and I do
20 apologise for that, that I have to prepare the set of
21 questions based on the timeline that I had in mind. So
22 I don't think I would be doing justice to speculate,
23 except a couple of ideas that I had. So, as you kindly
24 offered, may I --

25 MR PRESIDENT: Take your time, but we have to have some

1 14:31 idea, because it looks as though for some reason,
2 I don't understand, the DFSA have put in two witnesses
3 today without it seems having considered how long it's
4 going to take. So please have some discussions with
5 them later.

6 DR SHEIKH: I will, sir.

7 MR PRESIDENT: When you give a guesstimate, it's only a
8 guesstimate and no one is going to hold you to it.

9 DR SHEIKH: I'm grateful and I thank you for that, your
10 Honour.

11 MR PRESIDENT: I think now we have our next witness.

12 MS KATRINA HACKETT

13 MR PRESIDENT: Welcome, Ms Hackett.

14 WITNESS: Hello.

15 MR PRESIDENT: Thank you for coming to give evidence. As
16 you're going to be giving evidence, and as you have
17 given a statement, we need you either to take an oath or
18 to affirm. Which would you prefer to do?

19 WITNESS: Could you repeat that, please?

20 MR PRESIDENT: Yes, you either take an oath, in which you
21 swear by almighty God that the evidence you're going to
22 give is the truth, the whole truth or nothing but the
23 truth. Or you can take an affirmation, where you
24 solemnly, sincerely and truly declare and affirm that
25 the evidence you're about to give will be the truth, the

1 14:33 whole truth and nothing but the truth.

2 Which would you prefer?

3 WITNESS: Give me one second. I'll fetch my Bible.

4 Okay, I'll swear.

5 MR PRESIDENT: Okay. Repeat after me. I swear by almighty
6 God.

7 WITNESS: I swear by almighty God.

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

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

10 MR PRESIDENT: Is the truth.

11 WITNESS: Is the truth.

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

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

14 MR PRESIDENT: Thank you very much. If you'd like to wait,
15 Mr Khan may ask you some questions and then Dr Sheikh
16 will.

17 Examination-in-chief by MR KHAN

18 MR KHAN: Hello, Ms Hackett. I'm the barrister for the
19 authority. I'm going to ask for a document to be drawn
20 up. It's bundle C, tab 1, page 1.

21 Can you please scroll through that document for

22 Ms Hackett, stop at page 6. Just pausing there,

23 Ms Hackett, is that your witness statement?

24 A. It is indeed.

25 Q. Is that your signature we see there on page 6?

1 14:35 A. Yes, it is.

2 Q. Are the contents of this statement true, to the best of
3 your knowledge and belief?

4 A. Yes, they are.

5 MR KHAN: Thank you, Ms Hackett. If you wait there,
6 Dr Sheikh and then the tribunal may have some questions
7 for you.

8 Cross-examination by DR SHEIKH

9 DR SHEIKH: Good morning, Ms Hackett.

10 A. Good morning, Dr Sheikh.

11 Q. I'm going to take liberty to ask a few questions, with
12 your kind indulgence. Would you kindly remind me that
13 from approximately which date you had assumed the
14 responsibilities along with Ms Downey Keegan to become
15 the supervisor for MAS ClearSight, ma'am?

16 A. It was some time in summer 2014, halfway through the
17 summer.

18 Q. Is it reasonable for me to imagine that the supervisory
19 authority within DFSA, MAS was, had two professionals,
20 your goodself and Ms Downey Keegan; is that correct?

21 A. I'm sorry, I don't understand the gist of your question.

22 Q. Within the supervision role, were you the only
23 supervisor for MAS ClearSight from the summer of 2014 or
24 was it your goodself and Ms Downey Keegan who was also
25 the supervisor?

1 14:36 A. It is correct, yes. It's always two supervisors for
2 each firm.

3 Q. Thank you, ma'am.

4 I'm going to request you to bring your attention to
5 the point, what was your role in the events of what
6 happened in May and June 2015 with MAS?

7 A. It wasn't my role, it was mainly the firm's role that
8 carried out the events. As a supervisor, I have a set
9 responsibility to oversee the activities of the firm and
10 as I described in the first page of my statement, in the
11 introduction, my duties include monitoring the financial
12 data that emanates from the firm, meeting occasionally
13 staff and management of the firm, to ensure that the
14 firm is in good financial health and also conducting
15 periodic risk assessments. These are my duties.

16 Q. Could you briefly tell me what infractions occurred in
17 the month of May 2015 which resulted in the decision to
18 revoke MAS licence to provide financial services?

19 A. On the basis of the information that became available,
20 the information that I became aware of in June, the firm
21 did not have sufficient capital to meet the threshold
22 conditions, which is the minimum required to continue
23 carrying on financial services in the Dubai
24 International Financial Centre.

25 It is my understanding, as of June 2015, that the

1 14:38 firm did not have sufficient resources, and therefore,
2 to your question, this is the infraction that occurred
3 in May.

4 Q. Thank you, ma'am.

5 In your witness statement, dated 27 January 2020,
6 you mentioned:

7 "We explained that he is aware of his obligations
8 and that this is a very serious breach of the DFSA
9 rules."

10 This statement was made with regards to the breach
11 of capital adequacy. Do you recollect that, ma'am?

12 A. That was not my statement. If you re-read the statement
13 that I have made, I was referring or directly quoting
14 the compliance officer, who reported to us that we had
15 a conversation with your goodself, Dr Sheikh, and he's
16 just rendering a conversation to us. So effectively,
17 I'm rewording what I heard from somebody else.

18 Q. Thank you for the clarity, ma'am.

19 Would you kindly tell me what the penalty is for
20 breaching a company's capital adequacy? What is DFSA
21 penalty for the breach?

22 A. Well, there's no fixed financial penalty, as such. But
23 the understanding is that the firm that is no longer in
24 good financial health, does not have minimum capital
25 required, cannot carry on financial activities in the

1 14:39 centre. You're not engaging your clients, cannot open
2 and close accounts, it's basically not viable any more.
3 There's no penalty as such, but the firm in such
4 situation cannot be allowed to continue its activities.
5 Therefore, as you recall, the firm needed to be
6 suspended.

7 Q. It is my understanding from your comment that if a firm
8 breaches its capital adequacy, then there is no
9 regulatory fine or a penalty that is imposed by DFSA on
10 the firm. Is that correct, ma'am?

11 A. To my understanding, yes.

12 Q. Thank you, ma'am.

13 I beg your pardon, I'm reading a few questions which
14 were related to the fine, so I'm skipping that, because
15 of your kind answer.

16 A. Take your time.

17 Q. Ma'am, the next question is, could you kindly tell me if
18 you shared all correspondence between MAS and DFSA
19 supervision, ie your goodselves, in 2015, with your
20 colleagues in enforcement?

21 A. I believe so. As you know, I'm no longer working at the
22 DFSA, so some of the correspondence may have been
23 archived from the share drive. I'm no longer an
24 employee, so I cannot vouch for the fact that the entire
25 correspondence has been brought. But my understanding

1 14:41 is that all the relevant documents have been highlighted
2 for the purposes of this hearing.

3 Q. Thank you, ma'am.

4 Would you kindly advise me that when did you leave
5 DFSA employment, ma'am?

6 A. In 2018.

7 Q. Is it safe to imagine that during the course
8 between June 2015 through the time that you were still
9 with DFSA, as you kindly alluded to, if there was
10 questions asked by the enforcement, you would have
11 assisted them with that information?

12 A. It is my duty to assist the investigation with the
13 information and I believe I did it to the fullness of my
14 knowledge and ability.

15 Q. I thank you for that candour, ma'am.

16 I guess the question I'm trying to say is that is
17 there a process within the DFSA sharing information
18 between supervision and enforcement, where when
19 a company falls under the investigation of enforcement,
20 that any and all correspondence during the time of the
21 concerned from enforcement, is shared with enforcement
22 by default or is it based on ad hoc enforcement asking
23 specifically for a directed document, if I can ask that
24 question, ma'am?

25 A. I'm not entirely sure of the basis for your question,

1 14:43 but if you're trying to allude that some documents are
2 inadvertently or deliberately covered up or not
3 disclosed, that's certainly not the case. I have made
4 the information available to enforcement, all that was
5 relevant to the investigation that they were carrying
6 out.

7 Q. Thank you for that. I was not alluding to that. What
8 I was trying to allude was to say that is it safe for me
9 to make an assumption that any relevant conversation
10 between the company, MAS, and the supervision, ie your
11 goodself, is by default enforcement should have it or
12 they had it?

13 A. I believe they did have it, yes.

14 Q. Thank you for your answer, ma'am.

15 Did Mr Jensen, as a member of the enforcement team
16 during this investigation, at least while you were still
17 employed at the DFSA, had meetings with your goodself
18 and with Mrs Downey in order to have a better, clear,
19 deeper understanding of the firm's functioning and your
20 feedback, if I can ask this question, ma'am?

21 A. As I recall, we had two or three meetings at least, but
22 I can't remember the exact number.

23 Q. Thank you, ma'am.

24 Do you remember that sometimes, in 2014, when you
25 may have been appointed as the co-supervisor for the

1 14:45 company, that the MAS legal team -- when I use the word
2 "legal team", which means MAS compliance and MAS chief
3 operating officer -- approached the supervision
4 specifically asking questions, as directed by the board
5 of directors, to find out what is happening with the
6 investigation related to opus matters and the feedback
7 that we had received was that the DFSA supervision has
8 said that, "If you have not heard from us in a year,
9 then you should -- it is safe to assume that that
10 investigation has been concluded"? Do you remember
11 having that conversation, ma'am?

12 A. No, I do not remember having this conversation. As far
13 as I can tell, this is completely impossible. It's not
14 safe to imagine in any planet that this conversation
15 could have taken place.

16 Q. I understand.

17 A. This is just preposterous.

18 Q. I understand, ma'am. Thank you very much.

19 I do not have any more questions for your goodself.
20 I want to thank you for taking the time to be here
21 today.

22 A. Okay.

23 MR PRESIDENT: First of all, can someone please remove the
24 document that's up on the screen, because it prevents
25 the tribunal seeing the witness.

1 14:46 Mr Khan, do you have any questions for the witness?

2 MR KHAN: No, sir.

3 MR PRESIDENT: Ms Hackett, thank you very much for your help
4 and for coming to be a witness. We're all grateful to
5 you.

6 WITNESS: My pleasure. Thank you, sir.

7 (Witness withdrew)

8 MR PRESIDENT: So, could we now get an idea of where we are.

9 Mr Khan, what's going to happen? I think we have run
10 out of witnesses; is that right?

11 MR KHAN: I believe so, yes. Tomorrow running order,
12 subject to discussion and review with Dr Sheikh, is that
13 Mr Jensen of the DFSA will appear, then Mr Salahuddin
14 and Mr Aziz and if time allows, Mr Kamath. They are all
15 DFSA witnesses.

16 MR PRESIDENT: Right. Dr Sheikh, we have a short day today,
17 so you will no doubt have prepared your case anyway, but
18 you've got quite a good lot of time now to prepare for
19 tomorrow's witnesses.

20 DR SHEIKH: Yes, sir.

21 MR PRESIDENT: What we're going to ask you to do is to make
22 sure that when you start tomorrow, you're ready to deal
23 with the remaining witnesses of the DFSA, as described
24 by Mr Khan. Do you understand that?

25 DR SHEIKH: Yes, sir.

1 14:48 MR PRESIDENT: If we find that -- we want to make sure that
2 tomorrow, if all those witnesses are available, as we
3 understand they are, we want to make sure that we don't
4 lose any more time. Would you please today make sure
5 that you are ready in time for tomorrow with all your
6 questions for those witnesses?

7 DR SHEIKH: Yes, sir. May I take the liberty to ask a small
8 question with your kind permission?

9 MR PRESIDENT: Yes, of course.

10 DR SHEIKH: Is it safe to imagine that the time allocated
11 thankfully by the tribunal for the day, which is
12 tomorrow, as an example, will start from 8 o'clock
13 British Standard time and it will end at what time?

14 MR PRESIDENT: It's supposed to finish no later than 3 pm
15 British time and 6 pm Dubai time. We're not sitting
16 beyond that, even though Mr Khan, I think, was keen that
17 we should sit for eight hours a day at the beginning.

18 So that's what we're going to do. Is that clear?

19 DR SHEIKH: Yes, sir.

20 MR PRESIDENT: Before we part, there's another issue, which
21 is that you indicated that you wanted one of your
22 witnesses to be available, even though the DFSA do not
23 have any questions for that witness?

24 DR SHEIKH: Yes, sir.

25 MR PRESIDENT: Can you tell me what purpose would be served

1 14:49 by that?

2 DR SHEIKH: Your Honour, I had taken the liberty to write
3 a short email to your goodself and to the other fellow
4 your Honours.

5 MR PRESIDENT: Dr Sheikh, I didn't understand it, because
6 the position is that that witness has provided a witness
7 statement. That witness statement is not challenged by
8 the DFSA, so we can take it that it is not disputed and
9 that the evidence is true. That being the case, there
10 is no purpose in having someone come on a screen so we
11 just see his or her face and then go.

12 DR SHEIKH: May I make a quick remark with your permission,
13 your Honour?

14 MR PRESIDENT: Yes, of course. That's why I'm asking.

15 DR SHEIKH: Thank you. The statement that Mr Wasif has
16 given is a statement based on his recollection of the
17 events based on the question that I had asked.

18 And as you kindly have seen, that my witness,
19 Mr Peter Zeman, as I understand from him also, from
20 Mr Wasif, that has been detained, so there is multiple
21 follow-up questions that I have very direct and very
22 relevant to these allegations, specifically for the
23 DFSA's allegations against me of existence of Mr Zeman
24 and the ability for him to be able to confirm certain
25 conversations that he had with Mr Zeman.

1 14:51 Hence, in that request, I requested to kindly ask
2 you to consider him as a crucial witness, because he is
3 helping validate the gaps in the absence of Mr Zeman's
4 presence, sir.

5 MR PRESIDENT: Yes, but we have a witness statement from
6 this gentleman. The witness statement is not
7 challenged. That is his evidence. That is all his
8 evidence. So there is nothing further to be said.
9 I think what you may be saying is that you now want this
10 person to deal with other things as well.

11 DR SHEIKH: Related to Mr Zeman. That's right, your Honour.

12 MR PRESIDENT: But that's not what the rules and the
13 directions provided for. Because if tomorrow morning,
14 the DFSA suddenly produced someone who was going to deal
15 with all sorts of things you've never heard of before,
16 I think you'd be concerned.

17 Do you have a witness statement from this gentleman?

18 DR SHEIKH: Your Honour, I respect your guidance, and I will
19 follow your guidance.

20 As you have kindly advised me, I will remove
21 Mr Wasif Muhammad from the docket under advisement from
22 your goodself, sir.

23 MR PRESIDENT: The only thing you could do, if you had
24 a draft further statement from him, you could prepare
25 that statement and submit it to the DFSA, and then apply

1 14:53 to us to admit it. But I think the DFSA might well
2 object to that. But I think if you want to take it any
3 further, you would need to get a further draft statement
4 from this gentleman and send it to the DFSA and see what
5 they say. Do you understand?

6 DR SHEIKH: Yes, sir.

7 MR PRESIDENT: Mr Khan, do you want to say a few words about
8 that?

9 MR KHAN: I'd put a marker down. We would say Dr Sheikh has
10 had plenty of opportunity, repeated opportunities to put
11 in evidence from whomever he likes, including Mr Wasif,
12 and we have to draw a line somewhere. It would be
13 prejudicial.

14 Without seeing the statement, it's difficult to be
15 precise, but I would expect it to be prejudicial to our
16 position, to have to deal with yet further evidence from
17 another witness.

18 That's my preliminary view, but we have to see
19 a draft and I would take instructions at that stage.

20 MR PRESIDENT: Yes. I think the problem, Dr Sheikh, is that
21 if Mr Zeman had only just this week become unavailable,
22 we might be sympathetic. But Mr Zeman, as I understand
23 it, you have had some concerns about his availability
24 for some time.

25 DR SHEIKH: Indeed, your Honour. Because I'm told -- and

1 14:54 it's not to be confirmed, but I can't substantiate that,
2 but I'm told that he had his own certain legal problems
3 and, therefore, he's not reachable, your Honour.

4 MR PRESIDENT: Thank you.

5 Before I ask my colleagues if they have anything to
6 raise, are there any things that either of you want to
7 raise before we break off and resume tomorrow morning at
8 8 am British time and 11 am Dubai time?

9 DR SHEIKH: No, your Honour.

10 MR KHAN: No, sir.

11 MR PRESIDENT: Thank you all very much for your help, but
12 I'm also going to ask my colleagues.

13 Is there thinking you would like to raise with
14 either lawyer at the moment, gentlemen?

15 MR AL HASHIMI: Not from my side.

16 MR AL AIDAROUS: No also.

17 MR PRESIDENT: So if it's all right with my colleagues,
18 shall we try to go on to our instant messaging?

19 MR AL AIDAROUS: Perfect.

20 MR PRESIDENT: Okay, we'll try this in just a moment.

21 Thank you all very much for your help and I'm sorry
22 if I was over-forceful about the disappearance of
23 witnesses, but we are quite concerned to ensure that we
24 get this finished by the end of Friday. Because to be
25 fair to everybody, we want this case to take no longer

1 14:55 than is really needed.

2 So thank you all very much. We'll talk tomorrow.

3 (2.55 pm)

4 (The hearing adjourned until 11.00 am

5 on the following day)

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