



Neutral Citation Number: [2021] EWHC 3189 (Comm)

Case No: CL-2018-0000815

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS**  
**OF ENGLAND AND WALES**  
**COMMERCIAL COURT (QBD)**

Royal Courts of Justice  
Rolls Building, Fetter Lane  
London, EC4A 1NL

Date: 26 October 2021

**Before :**

**THE HON. MR JUSTICE BRYAN**

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**Between :**

**JD CLASSICS LIMITED (IN ADMINISTRATION)**

**Claimant**

**-and-**

**(1) DEREK HOOD**  
**(2) SARAH HOOD**  
**(3) RICHARD GODDARD**

**Defendants**

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**Mr Adam Al-Attar and Jamal Mustafa** appeared on behalf of the Claimants  
**The First Defendant** appeared as a litigant in person  
**The Second and Third Defendants** did not attend and were not represented.

Hearing Date 26 October 2021  
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**Approved Judgment**

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MR JUSTICE BRYAN:

**A. Introduction**

1. There are two applications for disclosure before the court; one by the claimant, JD Classics Limited (In Administration) (“**JDCL**”), against the first defendant, Derek Hood (“**DH**”), who appears as a litigant in person (the “**JDCL disclosure application**”), and another part heard disclosure application by DH against JDCL (the “**DH application**”), (together, the “**applications**”). This judgment deals with the DH application.

2. There is also an application by JDCL for an “unless order”, in circumstances where DH has not filed and exchanged witness statements of fact in compliance with the consent order of Bryan J dated 14 June 2021 (the “**Bryan Order**”) (the “**unless order application**”, which together with the JDCL disclosure applications, I will refer to as the “**JDCL applications**”). The JDCL applications will be heard tomorrow and I will give a separate judgment in relation to them.

3. The JDCL applications have come on together, along with the part heard DH application, pursuant to the direction of HHJ Pelling QC, (sitting as a High Court Judge) by way of order dated 24 September 2021 (the “**Pelling order**”), following the first hearing of the DH application (the “**first disclosure hearing**”), the balance of which was stood over to this hearing, along with the JDCL disclosure application. An approved transcript of HHJ Pelling QC’s judgment at the first disclosure hearing is before me (the “**Pelling judgment**”).

4. The Pelling judgment itself identified the applicable principles to be applied in relation to paragraphs 17 and 18 of Practice Direction 51U (the “**Disclosure Pilot**”), which I will repeat below in section C for ease of reference, and applied those principles to such of DH’s requests it was possible to deal with within the two and a half hour time slot of that hearing. The current hearings are set down for up to two days, to ensure that all matters are resolved. In circumstances where there are numerous requests, and time is of the essence, I will address each application in turn during the course of the hearing, so that the parties know where they stand in relation to each aspect of disclosure before the end of the hearing and when considering JDCL’s application for an unless order and DH’s order for an extension of time.

5. The urgency of the matter is dictated by the fact a four-week trial of these proceedings is listed for January 2022, with a pre-trial review on 16 December 2021. Unless the outstanding disclosure issues are resolved at this hearing, there will be a potential risk to the trial date, in circumstances where DH has declined to file his evidence, in circumstances where he asserts that JDCL’s disclosure is outstanding. It was in such circumstances that HHJ Pelling QC ordered that the DH and JDCL disclosure applications be heard by the end of October 2021, along with any application by JDCL for an unless order in respect of DH’s failure to comply with the Bryan Order.

6. JDCL’s position is that DH’s assertion that its disclosure is outstanding and required for him to file and exchange his witness statement of fact is totally without merit. In this regard, and as appears from the Pelling judgment on the first disclosure hearing, HHJ Pelling QC rejected DH’s assertion that JDCL’s disclosure had been inadequate. I will have to revisit such assertion in the context of the outstanding disclosure applications of DH.

7. JDCL’s position is that it has complied with its disclosure obligations and that it is DH’s disclosure that is outstanding and his witness statements of fact that have been unjustifiably

withheld. The risk that arises is one of an unfair trial or a postponed trial if incomplete disclosure is given or if there is delay in the service of factual and expert evidence.

## **B. Background**

8. The background to the action and the matters arising for determination is conveniently set out in the case memorandum, and also summarised in JDCL's skeletons for the present hearing.

9. JDCL was, at all material times, engaged in the business of purchasing, restoring, racing and selling classic and prestige cars and racing vehicles. It was a substantial business and its principal revenue and profit was derived from a small number of customers dealing in very high value classic cars, in particular, Jaguars, and later also, Ferraris.

10. DH was the founder of JDCL and was its chief executive officer and director until his dismissal in June 2018. Sarah Hood ("SH") is DH's wife and in or about July 2016, DH and SH held the entire issued share capital in JD Classics Holdings Limited, JDCL's parent company (the "parent").

11. Pursuant to a sale and purchase agreement dated 12 August 2016, Daytona Bidco Limited ("**Bidco**"), acquired a hundred per cent of the issued share capital of the parent, using funds provided by Charme III, an Italian closed end fund, acting by its delegated investment manager, Charme Capital Partners Limited (the "**investor**") (the "**acquisition**") for substantial initial (£32,329,749) and deferred consideration (£5,774,999). JDCL entered an administration proceeding under schedule B1 of the Insolvency Act 1986 on 10 September 2018, following DH's dismissal as CEO in June 2018. On 10 September 2018, Richard Beard, Mark Firmin and Richard Fleming were duly appointed as joint administrators of the company.

12. Following JDCL's entry into administration, the alleged events that gave rise to the claims of JDCL came to light. In summary, and as particularised in the re-amended particulars of claim ("**RAPOC**"):

(1) H is alleged to have engineered fictitious transactions (principally cashless part exchange transactions) to inflate the revenue and profit figures for JDCL prior to the acquisition. These figures were processed into the audited accounts, whose completion was required for the acquisition to take place. Although a company has no interest in its shares, the consequences of the alleged fraudulent creation of the fictitious transactions were that: (i) JDCL undertook liabilities and associated financing costs for the leveraged acquisition (and thereby suffered loss); (ii) JDCL continued to trade for longer than would otherwise have been the case (and therefore suffered further loss); and (iii) DH made a gain as a result of his alleged breaches of fiduciary duty, of which an account is claimed.

(2) DH is alleged to have been dishonestly assisted in his breaches of fiduciary duty by the third defendant, Richard Goddard, ("**RG**"), who it is alleged made false debtor confirmations to JDCL's auditor, PricewaterhouseCoopers ("**PwC**"). Further allegations of dishonest assistance/restitutionary liability are claimed against RG in respect of monies alleged to have been siphoned from JDCL.

(3) DH is also alleged to have executed transactions in fraud of his creditors, which were either a sham or transactions voidable pursuant to section 423 of the Insolvency Act. This allegation relates to two trust deeds in respect of 38 properties in DH's name, of which DH gifted the benefit to his wife, SH, dated 12 November 2018 and 14 January 2019. The deeds were executed at or about the same time as an IVA was proposed by DH. The progress of the IVA was halted by the Insolvency and Companies Court as the proposal was not serious or viable. It purported to release the alleged fraud claims against DH and it proposed to settle all other claims by a retribution by SH to DH of the value of certain of the properties transferred. It was said that the transfers of the properties to SH under the trust deeds was in consideration of the forbearance of divorce proceedings. Although DH and SH have since divorced, the connection between the trust deeds and the IVA is such that it is alleged that the deeds were merely a means to transfer DH's assets beyond the reach of his creditors and to retribute to any of those properties required to pay DH's non-litigation creditors under the IVA.

(4) DH's alleged breaches of duty are said to have caused JDCL to suffer loss, including additional liabilities to repay principal and interest as a result of a refinancing of JDCL's preacquisition borrowing facilities, which is said would not have been incurred but for the acquisition.

13. In short summary, DH's position is that:

(1) the sums claimed are not recoverable by JDCL from DH because they were paid to him, as a shareholder, by Bidco and JDCL is not a victim of the wrongs alleged, because it was not the buyer, but an asset of the company sold (parent).

(2) DH denies that he had control over JDCL's accounts in a way which would have allowed him to carry out the breaches of fiduciary duty which JDCL alleges.

(3) He denies the alleged breaches of fiduciary duty and he denies that JDCL's financial information was false or misleading. He states that the investor and Bidco were made fully aware of the business practices of JDCL prior to the acquisition, and even if JDCL makes out its allegations of fraudulent conduct, which are denied, he contends that the acquisition would have been agreed and executed in any event. He states that JDCL subsequently failed because of the investor's mismanagement.

14. For her part, SH denies that she received any of the funds from the acquisition, as a volunteer and/or as DH's nominee, and that any of the transactions were transactions at an undervalue and in fraud of creditor, within the meaning of section 423 of the Insolvency Act 1986. She contends that the sums that she received were paid to her by Bidco in consideration for her shares in the parent, many of which she had held for a considerable period of time.

15. Amongst other matters, she also denies that any of the asset transfers made to her by DH were a sham or were for the purpose of putting DH's assets beyond the reach of his creditors. In particular, she says she gave valuable consideration for the asset transfers, which she received from DH, her "disproportionate" share of the sale proceeds was paid by Bidco, not DH and the trust deeds were not dishonest, but genuine and executed at a time (a) of real marital strife, in consideration of SH's forbearance from presenting a divorce petition and seeking a property adjustment order by around November 2018; and (b) when she was

unaware of JDCL's claims against DH.

16. For his part, RG denies dishonest assistance and breaching an alleged duty of care to JDCL.

### **C. Disclosure Orders**

17. At the CMC before Jacobs J, the list of issues for disclosure was considered and approved by the court (the "**Disclosure Order**"). It was agreed that JDCL would give extended disclosure model D on all issues. So far as DH was concerned, DH was ordered to give extended disclosure as set out in the Disclosure Order.

18. On 13 August 2020, JDCL's solicitors (Quinn Emanuel Urquhart & Sullivan UK LLP) ("**Quinn Emanuel**"), emailed DH a list of requests for disclosure on behalf of JDCL. Many of the requests are formulated as model C requests, despite, says JDCL, model D being the appropriate form of disclosure in a case such as the present; the reason being that DH was at the time, and remains, a litigant in person and the view was taken that specific model C requests were more likely to result in and assist in adequate disclosure by DH. I understand that that was also the view of Jacobs J. It is said by JDCL that that has not however occurred, hence its disclosure application against DH. That application is supported by the second witness statement of Yasseen Gailani, dated 20 July 2021 ("**Gailani 2**").

19. For his part, and so far as DH's application against JDCL is concerned, DH asserts that JDCL has not complied with its disclosure obligations, and indeed, alleges that JDCL has deliberately withheld documents from him. DH makes various allegations in his witness statement in support of the DH application, that JDCL has misled the court and/or deliberately concealed documents in these proceedings.

20. The DH application is responded to in a third witness statement of Yasseen Gailani, dated 10 August 2021 ("**Gailani 3**"). JDCL's position, as set out in Gailani 2 and 3, is that these allegations are both unsupported and untrue and that JDCL has, at all material times, complied with its disclosure obligations and has taken additional steps to assist DH as a litigant in person with the disclosure person.

21. In this regard, I note that in the Pelling judgment, HHJ Pelling QC rejected DH's assertion that JDCL's disclosure in these proceedings has been inadequate in various parts of that judgment. (See in particular at [59]: "*There has been no failure adequately to comply with the orders made at the CMC for extended disclosure on the part of the claimants*").

### **D. Paragraphs 17 and 18 of the Disclosure Pilot**

22. Paragraph 17 of the Disclosure Pilot deals with any failure adequately to comply with an order for extended disclosure, whilst paragraph 18 deals, amongst other matters, with making an additional order for disclosure of specific documents:

#### **"17. Failure adequately to comply with an order for extended disclosure**

17.1 Where there has been or may have been a failure adequately to comply with an order for extended disclosure, the court may make such orders as may be appropriate, including an order requiring a party to: (1) serve a further or revised disclosure certificate; (2) undertake further steps, including further or more extended searches to ensure compliance with an order for extended disclosure; (3)

provide a further or improved extended disclosure list of documents; (4) produce documents; or (5) make a witness statement explaining any matter relating to disclosure.

17.2 The party applying for an order under paragraph 17.1 must satisfy the court that making an order is reasonable and proportionate (as defined in paragraph 6.4).

17.3 An application for any order under paragraph 17.1 should normally be supported by a witness statement.

### **18. Varying an order for extended disclosure: making an additional order for disclosure of specific documents**

18.1 The court may at any stage make an order that varies an order for extended disclosure. This includes making an additional order for disclosure of specific documents or narrow classes of documents relating to a particular issue for disclosure.

18.2 The party applying for an order under paragraph 18.1 must satisfy the court that varying the original order for extended disclosure is necessary for the just disposal of the proceedings and is reasonable and proportionate (as defined in paragraph 6.4).

18.3 An application for an order under paragraph 18.1 must be supported by a witness statement explaining the circumstances under which the original order for extended disclosure was made and why it is considered that order should be varied.

18.4 The court's powers under this paragraph include, but are not limited to, making an order for disclosure in the form of models A to E, and requiring a party to make a witness statement explaining any matter relating to disclosure."

23. Robin Vos (sitting as a Deputy Judge to the High Court) recently summarised the approach of the Court in relation to applications under paragraph 17.1 of PD 51U in *Berkley Square* [2021] EWHC 849 (C), at [61] to [67] to which I have had regard. In particular, he stated: (i) that some basis must be shown for going "*behind the process which has already been carried out and the certification of that process*", but; (ii) "*what is required from the parties and the court is a pragmatic and flexible approach taking into account all the ... all the circumstances.*" He recognised that, "*The process of disclosure is one of the most powerful tools available for achieving justice*". (See also in this regard, *Ventra Investments Limited -v- Bank of Scotland plc* [2019] EWHC 2058 (Comm)).

24. A certification that the disclosure process has been completed is not a bar to the Court making an order under paragraph 17 of PD 51U, if the disclosure, in fact, provided is inadequate (see *Berkley Square* supra at [25]) and where there is a sufficient likelihood of further relevant documents existing to justify going behind such a process, an order under paragraph 17 can be made (see *Berkely Square* supra at [65]).

25. At this point, it is worth noting that the position in relation to documents within a party's control. The same test of control under CPR 31.8(2) applies under the Pilot Scheme.

A document that is held by a third party will only be within the control of a party to proceedings where: (i) they have a legally enforceable right to access the documents; or (ii) there is an existing agreement or understanding that the third party will search for the relevant documents or make them available to be searched by the relevant party (see *Berkely Square* [2021] EWHC 849 (Ch) at [27] to [28], and [46]).

26. The evidence before me in *Gailani 3* is that JDCL has already disclosed to DH all relevant documents within its control sought by a relevant request and/or addressed the request in correspondence and so complied with its disclosure obligations pursuant to the Disclosure Review Document (“**DRD**”). In this regard, the evidence before me is that JDCL has no right or understanding with any third party relevant to the present proceedings, including Charme or PwC.

### **E. DH’s Disclosure Application**

27. I address in due course below each of the outstanding requests in the DH application that remain for determination. In summary, JDCL rejects that it should be required to disclose the documents sought by the DH Disclosure Application for one or more of the following reasons:

- (1) JDCL has already disclosed to DH all relevant documents within its control sought by the relevant request and/or addressed the requesting correspondence, and so complied with its disclosure obligations pursuant to the DRD (see *Gailani 3*, paragraphs 12, 24, 26, 30, 33 to 34, 37 to 39, 41, 42 to 43, 44, 46 to 47, 49 and 55); and/or
- (2) the documents sought by DH are either not within JDCL’s control or otherwise not within the scope of its disclosure obligations with which JDCL has complied (see *Gailani 3*, paragraphs 17, 20 and 28); and/or
- (3) DH’s request does not relate to its pleaded case or is otherwise for a relevant documents (see *Gailani 3*, paragraphs 27, 29, 31, 41 and 45).

28. DH has provided two witness statements (“**Hood 1**” and “**Hood 2**”) in support of the DH application, as well as a draft order (the “**DH Order**”) filed with Hood 2, which does not entirely marry up with the categories in Hood 1 and Hood 2, and where it does not, that aspect is not evidenced by any evidence.

29. In order to provide some structure, both to the parties’ submissions and to addressing the categories sought, I directed that the parties address me by reference to the table at paragraph 5 of JDCL’s skeleton for this hearing.

30. For completeness, I note that DH has also recently served a further statement on 24 October (“**Hood 3**”), which addresses various matters.

31. The first matter that is identified by Mr Hood that he wishes the court to consider relates to the customer ledger accounts, and in particular, a distinction between activity reports, which he says contains basic information, and the ledgers about what the activities are for. This was item 5 within the table, which was considered by HHJ Pelling QC at the last hearing and was dismissed by HHJ Pelling at [1] of the Order.

32. However, at that hearing, whilst not accepting that there was any failure in relation to disclosure and in order to assist Mr Hood, JDCL indicated that it would disclose this material, and voluntarily undertook a search for the ledgers identified by customer accounts number provided by DH, insofar as the same related to the alleged fictitious transactions. The purpose

being to identify whether, in fact, these were, as Mr Hood says, cancelled transactions, where there was a genuine customer. Some material was produced as a result of that and has been supplied to Mr Hood.

33. During the course of the hearing today, Mr Hood has sought to ask once again in relation to category 5 and the customer ledger accounts, and has said that what has been provided is in the nature of activity reports, whereas what he was really seeking was the ledgers themselves, which have more detail.

34. At first blush, from a legal perspective, I consider that this category has been ruled upon before by HHJ Pelling QC, and as such, in legal terms, there probably is actually an issue estoppel between the parties, it having been determined. However, Mr Al-Attar, acting on behalf of JDCL, takes a practical, pragmatic and constructive approach, which is that it is important that fairness is shown and that Mr Hood feels that he has a fair trial, and once again, JDCL are willing, voluntarily, to undertake further searches in relation to whether or not there are any ledgers in relation to these customer account numbers, which I consider to be constructive. I will not make an order as such, because this is being done voluntarily.

35. But in relation to this, JDCL say that they will need the assistance of Mr Hood, in the form of an explanation as to exactly what it is that he would like them voluntarily to search for. I suggest that Mr Hood does that within a period of seven days and that JDCL will respond within seven days. But as this is, ultimately, voluntarily, I consider that it should not form part of the Order, because I am not ordering any form of disclosure under this head.

36. So the first of the categories under DH's application which it is necessary for me to rule upon today is item 3 of the table, accounts department documents, which relate to paragraph 6 of Mr Hood's draft Order. That is a paragraph which relates to the accounts and runs to some 17 subparagraphs.

- (i) is all Sage backups for various years;
- (ii) is all trial balances;
- (iii) a nominal activity report for the relevant years;
- (iv) is a schedule detailing the sales invoices, credit notes and other journals (Mr Al-Attar points out that is not an original document that is being sought; that is the creation of a schedule);
- (v) a breakdown of trade debtors by customer for each of the relevant years (again that seems to be contemplating generating a document);
- (vi) a breakdown of trade debtors as of 30 April 2016, 30 April 2015, that were impaired and restated;
- (vii) a customer activity report for all customers showing all sales invoices, cash receipts, credit notes and manual journals over specified periods;
- (viii) copies of all sales invoices, which have been provided for as bad debts or cancelled or written off;
- (ix) a breakdown of inventory as at the end of the relevant year, to include the cost price and details of any write down provisions to enable reconciliations between breakdown and the amount disclosed in the financial statements, which is then further broken down;
- (x) fixed asset registers, including details of motor vehicles held on the balance sheet as at the end of the relevant years, to include additions and disposals during the relevant periods;
- (xi) a schedule detailing all transactions post-director's loan account during the period from 30 April 2015 to the date of administration, to include supporting evidence for information disclosed and then specifying various categories;



- (xii) copies of VAT returns for specified periods;
- (xiii) a breakdown by quarter of sales invoices, credit notes and manual adjustments, included in the VAT returns for a specified period;
- (xiv) a breakdown of the purchase invoices, credit notes, manual adjustments included in the VAT returns for a specified period;
- (xv) a reconciliation to disclose turnover and the financial statements of the years from 1 May 2014 until the administrators are appointed;
- (xvi) copies of the bank statements of JDCL for the period of 1 May 2015 to present; and a second (xvi) (so in fact there are 17 subparagraphs), copies of the manual stock books that were held in the records retained by the claimant.

37. Mr Al-Attar, on behalf of JDCL, makes the preliminary point, that so far as this is a request for specific disclosure, it is not focused; it is repetitive; some of the matters sought are, in fact, not for original documents at all, as I have identified, but in fact are for the production, effectively, of documents arising out of the disclosure; and that the material there sought is not necessary for the just disposal of the proceedings and is not reasonable and proportionate.

38. I consider there is considerable substance in those points, if taken as a matter of specific disclosure. However, there is a more fundamental point, which is that JDCL says, that in fact, it has provided all relevant and appropriate accounting department documentation as part of the extended disclosure which was ordered.

39. In that regard, there are agreed issues in the DRD section 2, schedule 1, issues 1, 5 and 6, regarding the full year 2016 and full year 2017 accounts, as addressed by Mr Gailani in his third witness statement, in particular, at paragraphs 23 to 24.

40. In addition, there are extensive key word searches which were proposed by JDCL, following on from the hearing before Jacobs J. It is right that Mr Hood proposed some additional terms, which were, in many cases, not accepted by JDCL. Those themselves, at least on the whole, appear to be general and not specifically focused at the issues in question.

41. In any event, I am satisfied that very substantial key word searches have been undertaken, and based on the evidence before me, JDCL has undertaken all the agreed and ordered searches which are defined in the terms set out in the DRD in relation to issues 1, 5 and 6, regarding the 2016 and 2017 accounts, and in particular, the relevant system which is the Access system, as opposed to Sage, as well as the Focal Point system.

42. There is also evidence which has been served for trial from a Mr Beard, in particular, at paragraphs 18 and following of his witness statement, which also explain what has been done and will assist Mr Hood in that regard.

43. I am satisfied in those circumstances that there has, firstly, not been any failure adequately to comply with the order for extended disclosure in relation to the accounts department documents, nor are the materials which are now sought at paragraph 6 of Mr Hood's draft order necessary for the just disposal of the proceedings or a reasonable and proportionate search. Accordingly, this request, as part of SH's disclosure application, is dismissed.

44. Before leaving this topic, I would say this: Mr Hood said that this detailed information was information that was required by his accountants in order to produce their report. There

is no material before me as to whether or not that is true or not; there is no letter, for example, from any accountants which may be instructed or anything else of that sort.

45. If however Mr Hood has got accountants, and accountants who are going to be producing a report, there is nothing to stop those accountants, and I stress those accountants, as opposed to Mr Hood, writing with any queries that they have or any particular material that they need in fulfilment of their professional obligations, and of course, any such letter would have to be drafted bearing in mind their responsibilities as an expert witness and, no doubt, any such letter from an accountant would be focused and would only identify any matters of clarification which were needed. I would not have thought that they would need any more underlying material, given the fact that the DRD has been agreed in terms of the issues, and there have been the searches that have taken place, but it may be they would have some focused queries or the like, and I would anticipate that JDCL, as a claimant, would respond to any focused enquiries from the accountants. That would not be, as it were, for more disclosure, but it might be to clarify any queries that the accountants had.

46. So subject to that caveat, which is not really a matter of disclosure, but is more a matter of the conduct of the litigation and the furtherance of the expert evidence, I am satisfied that the application in respect of this category of further disclosure sought should be dismissed and I so rule.

47. The next category is invoices relating to alleged fictitious transactions which was identified in Mr Hood's first witness statement at paragraph 42. The response of JDCL, in Mr Galano's third witness statement at paragraph 29 and in Mr Al-Attar's skeleton argument, is that JDCL has disclosed all invoices relevant to the claim. I see no reason to go behind such evidence.

48. Initial disclosure of the invoices was provided twice and uploaded to Relativity and additional invoices were then provided in extended disclosure. If Mr Hood was seeking invoices in the terms of all invoices and not those which were impugned, then I agree with JDCL that that those would not be relevant and it would also be unreasonable and disproportionate to provide the same.

49. JDCL's point is that they have undertaken appropriate key word searches in relation to the various types of vehicle against the overall database and that has produced invoices. They tend to be in the same form and they identify the date of the transaction, the alleged seller, a stock number and/or an invoice number, the make, model, the chassis number or the registration number, and the purchase price. JDCL's evidence is that they have performed those key word searches across the database and any invoices relating to alleged fictitious transactions will have been picked up and disclosed.

50. Very soon before this hearing, Mr Hood sent an email in relation to a particular aspect of this which was that he was interested in a stock analysis undertaken by Deloitte in advance of the overall transaction and he focused in particular upon item 7 in relation to that, which was a Jaguar XK120 with a purchase date in October 2013.

51. Now, the first point is that there a number of XK120s, not all of which are in issue in the Reamended Particulars of Claim. It also appears that the XK120 which is of interest to Mr Hood is neither of the XK120s which feature in the relevant schedule to the Particulars of Claim, including the balance sheet part of that schedule where there are XK120s identified as items 6 and 12. Because of the fact that this very specific enquiry has only recently been

identified by Mr Hood, JDCL has not yet been able to identify the invoice that will have been disclosed and which relates to this aspect of the Deloitte enquiries.

52. However, Mr Al-Attar says the methodology adopted in relation to key word searches across the database will have identified all invoices and that the very subject matter of this latest concern of Mr Hood will have been disclosed. I see no reason to go behind both the evidence of JDCL and also what I have been told by Mr Al-Attar, no doubt on instructions. That deals with that category.

53. The next category relates to Deloitte, PWC and OC&C working papers. It is expressed in these terms in Paragraph 4 of DH's draft order:

“Copies of all communications, attendance notes of any kind from and to anyone at PWC (the Claimant's accountant), Deloitte (the investor's accountants who carried out the due diligence), On And On Consultants (OC&C who carried out investigation and due diligence for the investors).”

54. As drafted at [4] of the draft Order, that is obviously an exceptionally wide category of documents, unfocused to the pleaded issues in relation to which such material would not be necessary for the just disposal of the proceedings nor would it be reasonable and proportionate within Paragraph 18 of the Disclosure Pilot.

55. Dealing with it at that level, JDCL point out that the due diligence reports from Deloitte and OC&C have been disclosed; the latter, in fact, by DH. So far as it is looking towards PWC's working papers, those are PWC's documents, not JDCL's documents, and therefore would not be within the control of JDCL. It is also pointed out that at least part of the premise for DH's application would appear to be on the basis, as expressed in Mr Hood's second witness statement, at [6], that PWC “...prepared the figures in the first place...”

56. JDCL points out that it is the directors in full year 2016, that is DH himself, who prepare the company's accounts which an auditor undertakes the audit of. There is also a category of documentation insofar as the administrators have obtained documents from PWC in the exercises of their powers of compulsion under Section 236 of the Insolvency Act 1986.

57. The first point is that those documents, to the extent that they exist, are the documents of the administrators, not JDCL, and therefore would not be within the control of JDCL. And secondly, those documents were also obtained by legal compulsion and again, on established legal principles, would be confidential to the deponents as addressed by Mr Gailani in his third witness statement at [27].

58. During the course of his oral submissions, Mr Hood was somewhat more focused in terms of the documentation he was seeking, and in particular he was seeking emails and other communications between particular people. Those people in particular were himself, Derek Hood, Charlotte Harper, Chris Fielding and Jason Davis. As has been pointed out, correctly I am satisfied, by Mr Al-Attar on behalf of JDCL, those individuals are identified custodians against which calibrated searches are then made against the pleaded issues.

59. If, therefore, there are relevant documents to the pleaded issues as defined in the DRD, such searches involving those custodians will have produced any relevant documentation. It is also pointed out that in addition to such material undertaken through electronic searches, there are certain hard copy audit working papers which have also been disclosed as identified

in the Section 2 questionnaire.

60. In those circumstances, I am satisfied that JDCL has not failed to comply with the order for extended disclosure in terms of the categories identified in the DRD for the purpose of Paragraph 17 of the Disclosure Pilot nor indeed is there any further specific disclosure that should be ordered under Paragraph 18 either in relation to the wide categories sought in Paragraph 4 of the draft order or as narrowed, or at least elaborated upon, orally by Mr Hood today. Accordingly, that request is dismissed as well.

61. The next category, category 7 in the table, is Mazars and AlixPartners' reports and working papers. In terms of the draft order of DH at paragraph 4, it is expressed in equally wide terms:

“Copies of all communications and attendance notes of any kind from and to anyone at Mazars Accountants and AlixPartners.”

62. There is evidence before this Court in the proceedings for trial from Mr Fielding that Charme instructed Mazars and there is similar evidence from Mr Woulfe. There is also evidence in respect of AlixPartners that they were appointed by Charme. The position of JDCL, set against that backdrop, is that Mazars and AlixPartners were engaged by Charme and not by JDCL, as is also the evidence of Mr Gailani in his third witness statement at paragraph 28.

63. That is not an auspicious start to this category of specific disclosure which is sought because, on the basis of such evidence, such documentation as may exist in relation to that engagement and the consequences of the same will not be within the control, I am satisfied, of JDCL. In fact, some of the material is already in play because Mazars' report was disclosed together with Mr Fielding's statement following its receipt by JDCL in compiling the exhibit to that statement. JDCL have confirmed they do not have any working papers of Mazars or AlixPartners nor any report by AlixPartners, which would of course be consistent with the evidence that the witnesses are giving for trial that they did not appoint Charme.

64. The reality, therefore, is if there are relevant documents within this category, the party that has got that documentation is Charme. There has been a very recent development in that regard, in relation to which Mr Al-Attar tells me on instructions, that that Charme have agreed to provide all correspondence with Mazars and AlixPartners and that is a “carveout”.

65. By “carveout” what I mean by that is that there is an application to be heard on Friday, a third party disclosure application, by Mr Hood against Charme in which, as one would expect prior to the hearing, there has been correspondence between those acting for Charme and Mr Hood in relation to whether or not whatever the breadth of the disclosure sought, Charme would be willing provide certain documentation. They have indicated that they will be willing to do so but only on terms which would involve a deposit in relation to an aspect of their costs. My understanding is that this disclosure is out with that proposal but whatever the position in relation to that, this is, if anything, further corroboration that it is Charme that has this documentary material and if there is any material within that of any relevance to this litigation, it will have to be acquired via Charme.

66. I do not consider that the material that is sought is within the control of JDCL and so in one sense that is the end of the matter. I would only add, that as I have already noted, there

are a variety of custodians set against the issues agreed in the DRD including some of the individuals which it is said could have been involved with involvement with Mazars and with AlixPartners.

67. If there is relevant material, one would anticipate it would be kept between those individuals and as to those two entities, one would expect, based on those people being custodians and the custodians being calibrated against the issues in the DRD, it may well be that some relevant documents have been revealed in relation to that.

68. Be that as it may, I am satisfied that the categories as sought by Mr Hood are not within the control of JDCL and accordingly that application is also dismissed.

69. The next category is manual stock books. Whilst the stance of JDCL was that it did not understand what Mr Hood meant by “manually prepared stock books” or why the same would not have been picked up by its searches, Mr Hood has explained that there were in existence, when he was there manual, i.e., hard copy, stock books prepared based on information of what he had said.

70. Now, the position so far as JDCL is concerned, as dealt with by Mr Beard in his witness statement, when dealing with JDCL’s books and records starting at paragraph 17, including in relation to stock, is that two electronic documents have been identified, the focal point database and also stock lists maintained in Excel format. However, any manual stock books as described by Mr Hood if they existed, have not been located. Mr Al-Attar confirms that there has been what he submits to be a reasonable and proportionate search in relation to any hard copy documentation. And such manual stock books have not been identified.

71. However, it does seem to me in circumstances where JDCL’s position is it did not understand what Mr Hood meant by manually prepared stock books, and it has now had such an explanation from Mr Hood, that it would be appropriate to require JDCL to undertake another search of the hard copy documentation, to make sure that there are, indeed, no manually prepared stock books.

72. In this regard, I am satisfied that if they did exist, and leaving aside the possibility of course that they could simply duplicate that which is electronic, which I accept could be the case, they are of potential relevance to the litigation. So, in the circumstances I have identified, I direct that JDCL conduct a further search to identify whether or not any manual stock books exist.

73. The next category of documents are documents relating to the Jaguar D type and Ferrari 250 MM in relation to which Mr Goddard has admitted giving false debtor confirmations to JDCL’s auditors. There is a difference of evidence between Mr Goddard and Mr Hood in relation to this.

74. Mr Hood’s case, in his recent evidence, is that Mr Goddard did agree to buy the Jaguar D type and the Ferrari 250 MM but subsequently cancelled those transactions. That is in conflict with the evidence of Mr Goddard, who admits having made a false debtor confirmation to JDCL’s auditors at DH’s request. Mr Goddard says that he never agreed to acquire either car.

75. Obviously, those are both issues which are live on the pleadings and it is not at this stage appropriate to adjudicate upon who is telling the truth in relation to such matters. More

importantly, for present purposes, the DRD in section 2 confirms that in relation to issues 7, 12, 16 to 17 and 21 there have been applied appropriate keyword searches in relation to all communications from, to or between DH and Mr Goddard, relevant to either the Jaguar D type and the Ferrari 250 MM. What is more, when one looks at issue 17 and issue 18, one sees that the search terms include Lombard.

76. During his oral submissions, Mr Hood was keen to stress that it was documentation involving Lombard he was particularly interested in; because he said that for larger purchases over £150,000 Mr Goddard would use Lombard and that Lombard would come to value the vehicles. But the very fact that keyword searches include Lombard and indeed the Jaguar D type and the Ferrari 250 MM against custodians including Mr Hood and Mr Goddard, means that on an electronic search any relevant documentation ought to have been captured.

77. There is no evidence before me which would demonstrate that the electronic searches that were carried out were not carried out properly. And in those circumstances, I do not consider that grounds have been made out for further specific disclosure in relation to these document categories.

78. So far as paragraph 17 is concerned of the Disclosure Pilot, I do not consider there is any evidence of a failure to comply with the Order for extended disclosure in relation to that category of material. And equally, it is neither necessary nor is it reasonable and proportionate, to order any further specific disclosure in this area in circumstances where any relevant documentation should have been caught by the extended disclosure which has already been given.

79. Items 12 and 13 in the table are as follows. Item 12 concerns documents relating to the amount of £965,000 DH caused JDCL to pay to the third defendant, that is Mr Goddard. And item 13, documents relating to the amount of £900,000 DH caused JDCL to pay to Mr Goddard. This is dealt with in Mr Hood's first statement at paragraph 55 and 56 and in Mr Hood's draft Order at [11] and [12].

80. These issues are complicated by the fact that the pleaded case, and the case which Mr DH wants to advance, have changed over time. DH's case in relation to item 12 in his recent evidence is that the payment of £965,000 was in respect of a loan that was repaid. However, DH's pleaded case is silent regarding the payment of £965,000 to Mr Goddard. It is also not Mr Goddard's pleaded Defence, which instead is that the payment of £965,000 was a mistake, as can be seen from Mr Goddard's Defence at paragraph 41B.

81. A fundamental preliminary point that JDCL make is that it cannot have failed to comply with its disclosure obligations in relation to an unpleaded case, as the same does not give rise to any pleaded issue. The formal position in relation to that would be that if DH wished to change his case he would have to apply for permission to amend and would also at that stage, and no doubt also at trial, have to contend with the fact that his cases, both the original case and the new case, are at odds with what the Third Defendant says about that.

82. Sticking to pleaded points as it were, at the moment, so far as issue 13 is concerned and the £900,000 that DH caused JDCL to pay to Mr Goddard, DH's case's recent evidence is that the £900,000 was paid for a Ferrari Daytona and he seeks disclosure in relation to that. However, that is not DH's pleaded case either, which is that the payment of £900,000 was a loan to Mr Goddard (see DH's defence at paragraph 43A, subparagraph 2). It is also not Mr Goddard's pleaded Defence which instead is that the payment was for an undefined property

investment.

83. At one level the fact that these categories seek material in relation to unpleaded allegations is fatal to those applications for specific disclosure. However, at another level and fundamentally, JDCL is itself concerned to find out exactly what happened in relation to the subject matter of items 12 and the £965,000, and issue 13, and the £900,000.

84. In that context, there are issues that deal with this including issues 17 and 18. And equally, there are search terms which have been added, as I understand it, by JDCL to get to the bottom of whether these were payments to DH, including the addition of the payment terms Praetura and Aldermore. Equally, in relation to whether or not these were to do with property transactions with what Mr Goddard is saying, there are added terms including property investment, Haybridge Basin, Kelvedon and Westcliff-on-Sea.

85. The position of JDCL is that those keyword searches were then run in relation to all custodians, which would include Mr Goddard and Mr Hood, in relation to the issues in the DRD. And would therefore have captured any relevant documentation, be it on the basis of the pleaded case or for that matter on the basis of any unpleaded case. I am satisfied on the material before me that JDCL have indeed complied with the order for extended disclosure in terms of the pleaded issues.

86. However, secondly, , there is no suggestion that JDCL have not performed appropriate electronic searches (which would not extend to an obligation to search in relation to an unpleaded case). In such circumstances it cannot be said that an order should be made under paragraph 17 of the Disclosure Pilot in relation to a failure adequately to comply with an order for extended disclosure.

87. Nor indeed is this a case where DH has made out a case for specific documents, or a narrow category of documents relating to a particular issue, where specific disclosure should be given. In that context I have to look to the pleaded issues, and in relation to that I am satisfied that JDCL has complied with its obligations in relation to extended disclosure.

88. Category 14 concerns documents relating to the cheques that DH is alleged to have written to himself, and that is the subject matter of issues 13 to 15 of Mr Hood's draft Order, and paragraph 58 of Mr Hood's first statement. The riposte of JDCL is that as regards the cheques which DH says were in respect of payments to Mr Dibble and Mr Christie, the DRD includes appropriate search terms which include Dibble, Christie, OVT 325 and 450,000.

89. Reference is also made to the evidence of Mr East, which refers to documents that show purchase payments directly by JDCL, i.e., which is said to be contrary to DH's case that DH had paid the same and was therefore justified in reimbursing himself via the writing of cheques. And so far as the £175,000 is concerned, JDCL states that it has searched the documents of Eric de Cavaignac (insofar as it has those documents within its control).

90. Category 14, under the table is documents relating to the cheques DH is alleged to have written to himself. There are three. One is for £500,000, one is for £450,000 and one is for £175,000. And issue 19 is did Mr Hood cause/direct cheques from the company for £450,000, £500,000 and £175,000 to be drawn in his favour without any valid basis at the expense of the company?

91. I can cut through the detail in relation to this item by saying that DH's case is that he had paid these monies to a Stewart Dibble in the case of the £450,000 and Mark Christie in the case of the £500,000 and Eric de Cavaignac, he is now saying, in the case of the £175,000. In relation to the last of these the relevant cheque stub in fact reads "Guernsey Classic Cars" and not "Eric de Cavaignac". But Mr Hood stated to me orally, that he was not the person who wrote the words "Guernsey Classic Cars."

92. The keyword searches in the context of issue 19 include Stewart Dibble and £450,000, Mark Christie and £500,000 and Guernsey Classic Cars and £175,000. That does not however mean that there is a lacuna in terms of the disclosure exercise that has been undertaken because Eric de Cavaignac is in fact a custodian and therefore his documents have been searched in any event.

93. Accordingly, I am satisfied that JDCL, has complied with its obligations in relation to extended disclosure and paragraph 17 of the Disclosure Pilot, and that JDCL has undertaken appropriate and reasonable searches by reference to the keywords and the issues concerned which would capture the documentation which Mr Hood is seeking, whether that is on the basis of his pleaded case or on the basis of his case as developed during the course of the proceedings.

94. I am not satisfied that it is an appropriate case for further specific disclosure of the categories which are identified in Mr Hood's draft order in this regard. Those applications for specific disclosure are therefore dismissed.

95. Category 15 is documents said to relate to DH's director's loan account. This is dealt with by Mr Hood in paragraphs 59 to 62 of his first witness statement and his draft Order at paragraph 6(xi).

96. This relates to issue 20 which asks whether Mr Hood inflated the value of the DH loan account for the year ending 30 April 2016 with the inclusion of an entry of £1.9 million, which was later repaid to Mr Hood as part of the transaction. This can be seen from the sale and purchase agreement dated 12 August 2016 which, under the definition of the DH finance agreement, particularises particular hire purchase agreements in respect of particular vehicles, which total some £17,419,000.

97. There is then the definition of the DH loan which is the aggregates of all amounts which shall include the total outstanding principle amount together with all accrued interest by the target group to DH as at completion, which shall be no more than £90,382,487.08. The difference between the figures is the £1.9 million which was paid out of the loan account and which JDCL says was a result of Mr Hood inflating the value of the DH loan account.

98. So far as the particularisation of that loan account is concerned, in correspondence, in particular a letter from Quinn Emanuel to Mr Hood on 24 May 2021 at paragraph 6.27, it was explained that Mr DH's request for printouts of the director's loan and shareholder pledged cars, was in respect of information that was already on Relativity, which is the electronic software being used, and is responsive to a simple search for the phrase "*stock pledged to the director loan account*" which could be searched by Mr Hood.

99. I consider therefore that, at least at first blush, DH has the ability to interrogate Relativity in order to get printouts of what is on the director's loan and shareholder in respect of pledged cars. However, Mr Hood has a specific point, or potential explanation, as to the



£1.9 million figure. That related to a Ferrari 250 short wheel base, which was the subject matter of the litigation in the Manchester District Registry involving Ferrari Financial Services and also involved an entity, Cottingham Blue Chip, per Mr Hood in terms of a payment.

100. Mr Hood's explanation is that the £1.9 million relates to this Ferrari and relates to this entity, Cottingham Blue Chip. Whether or not that is so, the fact is that issue 20 is clearly defined and that the relevant search terms in relation to that include Cottingham Blue Chip, Ferrari 250 short wheel base (although that is linked to certain other terms), or Cottingham or Ferrari Financial Services, which is the subject matter of the Manchester litigation.

101. I am satisfied that if there is any relevant material in relation to that vehicle as an explanation in relation to the £1.9 million or any other figure which should or should not properly be on the DH loan account, that will be caught by that appropriate search and those search terms carried out by JDCL in accordance with its extended disclosure obligations. I have seen no evidence in relation to this item that JDCL have failed to comply with the Order for extended disclosure in relation to this particular issue and category of search, and by the same token, I am not convinced that this is an appropriate case for specific disclosure of specific documents or a narrow class of documents relating to the particular issue, in circumstances where the database can be interrogated for relevant items in relation to the director's loan account, and in circumstances where there have been specific electronic searches already in relation to this particular Ferrari and any potential involvement of Cottingham Blue Chip.

102. Category 16 is directors' questionnaires of JDCL's other directors. It is dealt with by Mr Hood in his first statement at paragraphs 62 to 63 and is the subject matter of paragraph 16 of DH's draft Order which he seeks.

103. There is a short answer to this category of documentation, which is sought, which is that JDCL as a matter of law is not in a position to disclose documents obtained by the administrators from others pursuant to s 236 of the Insolvency Act 1986.

104. JDCL makes two points in relation to such documentation. Firstly, those documents are the documents of the administrators, not JDCL. I am satisfied that is the case. And secondly, and more fundamentally for present purposes, those documents were obtained by legal compulsion and are confidential to the deponents.

105. There were no doubt a number of statements taken, but the same points arise in relation to all of them. That is illustrated by the fact that one disponent, Mr Woulfe, relies upon that questionnaire in his evidence (and there is therefore, an example before the Court). However, that is because the deponent, whose confidential rights they are, has chosen to waive those rights and put that material in issue. Accordingly, and for the reasons given, which I am satisfied cannot be surmounted by Mr Hood, disclosure category 16 is dismissed.

106. During the course of Mr Hood's application for specific disclosure he also identified two potentially narrow additional searches, the first relating to a Jaguar XJ13 and a Mike Driscoll, and the second one relating to a Ford GT40 and a Ronnie Spain. Although the making of further applications, in the course of a hearing, is not to be encouraged, I considered that in fairness to Mr Hood, as a litigant in person, it was appropriate to consider these two further points that he raised during the course of the hearing.

107. In relation to the Jaguar XJ13, I have had further information provided to me which is that “Jaguar XJ13” on its own as a search term produces rather a lot of hits, and this may be why there were attempts made to have additional words attached to it, as part of the search, at the time. However, I am told that a more manageable number of returns would be returned if it was “Jaguar XJ13” and “Mike Driscoll”, or some variation thereof.

108. I do consider that the search as previously undertaken was, at least with hindsight, unduly narrow because of the number of “ands” involved, and that, therefore, it would be appropriate for JDCL to perform another search against a search keywords, “Jaguar XJ13” and “Mike Driscoll”. The parties can liaise as to whether “Mike Driscoll” correctly captures the addition of Mr Driscoll in that regard. In the course of that debate, another vehicle was raised which was the Ford GT40 Mark I, and Mr Hood identified that there was a similar point in relation to that, and an individual called Ronnie Spain, and a report which he believes existed but which has not been thrown up in the disclosure given to date..

109. I have to rule, ultimately, on Mr Hood’s disclosure application as he made it, but as he is a litigant in person, and he has narrowed down and identified a specific point in relation to another vehicle, I am prepared to order a very narrow category of further specific disclosure in the form of a further search of “Ford GT40 Mark I”, in both variations thereof, and “Ronnie Spain” and, again, subject to clarification between the parties as to exactly what that “Ronnie Spain” term should be so that there is not a misspelling or anything like that.

110. Overall, and for the reasons I have given, I am satisfied, based on the evidence that is before me, as supplemented by the oral submissions I have received on behalf of JDCL, that JDCL has complied with the orders made in relation to extended disclosure in terms of the DRD document, the issues, the search terms and the custodians, and that it has complied, therefore, with the orders made at the relevant hearing in relation to that. I also consider that JDCL is correct to submit that the areas where Mr Hood specifically sought particular categories of documentation is addressed and dealt within the preceding categories that I have ruled upon.

111. In the course of making his submissions to me in relation to what were very wide categories of disclosure, Mr Hood gave me two very specific examples in relation to the first two categories, “LaFerrari” and the “Jaguar D Type”, XKD 548, and in relation to the latter he referred to a report of an Ole Sommer. JDCL submit that I should be cautious about matters raised for the first time during a disclosure hearing by Mr Hood it being submitted that Mr Hood has form (as it was put), for raising new matters during the course of disclosure applications which have not been raised beforehand and which place JDCL in difficulty in responding to them.

112. I bear such submission in mind, but I also need to ensure that there is a fair trial, and if there are specific documents which are relevant to the issues in this case, that Mr Hood is able to identify because he has got a recollection that that document did exist, then this might well amount to a narrow and specific document which would be amenable to a request for specific disclosure. Against that, I am not unsympathetic to the considerable cost burden that has been imposed upon JDCL to date, and it has met those applications which have been made, which do not extend to such matters.

113. In the second part of this hearing, that will take place tomorrow, I will have to rule upon, amongst other matters, an application to debar Mr Hood from making further applications. I say nothing more about that application in this judgment. However in the

context of the application made by Mr Hood today, and in circumstances where Mr Hood is a litigant in person, I would simply say that whenever a litigant in person, such as Mr Hood, raises a focused request in relation to an individual item in correspondence, I would expect JDCL, like any litigant in commercial litigation, to provide a response to that.

114. Anything beyond such a request would, of course, be a matter for consideration as to whether or not a further application should be made which would carry with it consequences, including costs consequences and/or adverse findings if the court considered it was inappropriate for any further application to have been made, but I do consider it important that Mr Hood is not shut out from identifying individual documents that he recalls did exist which, for whatever reason, do not appear to have been caught by disclosure.

115. I do not consider category 21 to be an appropriate category for disclosure. It is wholly unsuitable for a specific disclosure order and I am not satisfied that there has been a failure to comply with the order for extended disclosure. I therefore dismiss category 21. I only caveat that by the observations that I have just made which is that, like any litigant, if Mr Hood can remember an individual document, or a very narrow category, that he knows existed and, for whatever reason, would not appear to have been disclosed, he is always at liberty to write a letter in relation to that document which one would expect would be responded to in a proportionate way by a claimant.

116. Category 22 relates to documents on DH's mobile phone, which includes in paragraph 5 of the draft Order, copies of all emails and communications including text messages and WhatsApp messages on the First Defendant's phone in JDCL's possession, and notes to JDCL or from the following persons, whether on the JDCL server or not. So far as the Blackberry is concerned, that Blackberry is in the possession of JDCL, having been passed over via solicitors acting on behalf of DH as long ago as 2018.

117. It appears that there was some correspondence at that time in relation to what the password might be, but that did not bear fruit at that stage. JDCL have not got the password and therefore has not been able to undertake any search in relation to that phone. However, DH has today said that he does know what the password is and is willing to provide it to JDCL. Accordingly, JDCL has indicated, in those circumstances, that if they are provided with the password, and if that is the correct password, they will conduct the searches which are contemplated by the DRD.

118. The most likely material on that Blackberry will, of course, be text messages and WhatsApp messages, but it is also possible there could be email messages on it. The point is made, on behalf of JDCL that one would expect any such email messages to have already been picked up by the various searches in response to the DRD issues, search terms and custodians. That may well be right. There is always, of course, the possibility that there could be material on the Blackberry in the form of email or other electronic material which, for whatever reason, is not on JDCL's servers or has not been retained on JDCL's servers, and I say that in completely neutral terms. I consider that, assuming the password does work, that the search to be undertaken should extend to all forms of medium on the Blackberry, i.e., extending to emails in addition to the like of texts and WhatsApp messages.

119. The final item so far as DH's application is concerned, is what is referred to as "general items". This is more a query in relation to the list of documents that have been disclosed, and there are certain documents which, when DH clicks upon them, he can see the document, but he says that he cannot actually download it. He says that he has asked for assistance in that

regard in the past and it has not been provided. Whether that is the case or not, and I am told by JDCL that they have given an explanation in the past, it seemed to me (and, ultimately, both parties agreed) that the way forward in relation to this item is not judicial intervention at this stage, but interaction between the parties with a view to resolving what would appear to be an IT type issue. In such circumstances, I make no order, at this stage, in relation to that category. It is the sort of point that if it is not resolved, it can be raised in any future hearing at a convenient moment. I would sincerely hope, however, that the parties will be able to address what appears to be an IT issue amongst themselves.