

OPUS 2

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Grenfell Tower Inquiry

Day 73

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1 Wednesday, 18 November 2020
 2 (10.00 am)
 3 SIR MARTIN MOORE-BICK: Good morning, everyone. Welcome to
 4 today's hearing. Today we're going to continue hearing
 5 evidence from Mr Evans, formerly employed by Celotex.
 6 So could we have Mr Evans in, please.
 7 MR PAUL EVANS (continued)
 8 SIR MARTIN MOORE-BICK: Good morning, Mr Evans.
 9 THE WITNESS: Good morning.
 10 SIR MARTIN MOORE-BICK: All right, ready to carry on?
 11 THE WITNESS: I am, thank you.
 12 SIR MARTIN MOORE-BICK: Thank you very much.
 13 Yes, Mr Millet.
 14 Questions from COUNSEL TO THE INQUIRY (continued)
 15 MR MILLETT: Good morning, Mr Chairman. Thank you.
 16 Good morning, Mr Evans.
 17 A. Good morning.
 18 Q. Can I just revisit the topic we were on yesterday about
 19 the 6-millimetre magnesium oxide board.
 20 Can I ask you, please, to go first to Mr Hayes'
 21 witness statement at [CEL00010154/20], and let's look
 22 together at paragraph 61.
 23 Now, I'll show you this, and take it slowly:
 24 "I therefore went to JR, RW and PE [that's
 25 Jon Roper, Rob Warren and you] with a suggestion that we

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1 also include an additional board of material behind the
 2 cladding, just at the point of the fire barriers. This,
 3 in conjunction with the thicker cladding would increase
 4 the time it took for any fire to progress through the
 5 cladding and consequently climb the rig.
 6 "The board I suggested was a 6mm magnesium oxide
 7 board placed behind the cladding (the 'Additional
 8 Material'). This would be used in conjunction with the
 9 now 12mm thick layer of the cladding. JR and PE agreed
 10 to adopt this approach in principle with PE having the
 11 final sign off."
 12 I'm going to pause there and ask you: do you accept
 13 what Mr Hayes is saying in paragraph 61 and in the part
 14 of paragraph 62 I've just put to you?
 15 A. I don't recall having a discussion with Jamie, Jon and
 16 Rob with regards to additional material for the
 17 fire barriers.
 18 Q. No, you don't recall it, but can you deny -- even though
 19 might not recall it, they recall it. Do you deny that
 20 their recollection is correct?
 21 A. As I said, I can't remember having any discussion about
 22 that with those three people.
 23 Q. No, you said that. What I'm really asking is whether
 24 you deny that their recollection is correct, or whether
 25 you're prepared to concede that their recollection might

2

1 be correct and your recollection is faulty?
 2 (Pause)
 3 A. On the basis of what I remember at the time and since,
 4 I would have to say that that meeting and that
 5 discussion didn't happen.
 6 Q. Right.
 7 Now, let's go back to where we were yesterday in the
 8 chronology, which was the 17-slide slideshow that was
 9 presented to the MAG meeting on 13 and 14 May 2014.
 10 Now, can we go, please, to Mr Roper's transcript of
 11 his evidence on [Day71/111]. I would like to go with
 12 you, please, Mr Evans, in his transcript ...
 13 (Pause)
 14 I'm not quite sure what is taking the time.
 15 SIR MARTIN MOORE-BICK: There we are, we have it now.
 16 MR MILLETT: We have it, right, thank you.
 17 Can we look at this page, please, page 111, at
 18 line 12. Here I'm putting to Jonathan Roper the email
 19 that he sent you with the presentation. I ask him at
 20 line 14:
 21 "Does that tell us that you didn't discuss these
 22 slides with Paul Evans at the meeting on 12 May that's
 23 referred to in your Outlook diary or at all before you
 24 sent them to him?"
 25 Just to put this in context for you, Mr Evans, this

3

1 email was of course the one at 10.45 in the morning --
 2 A. Yes.
 3 Q. -- of the meeting, when you were going to present at
 4 11.30.
 5 Then he says:
 6 "I'd have definitely discussed those slides with
 7 him ... prior to me sending them. I mean, it looks like
 8 it's 45 minutes before his time slot of 11.30, so it
 9 would be very unlikely for me to send a presentation
 10 45 minutes before and say, 'Present that.'
 11 Now, is Mr Roper correct in his recollection that
 12 you discussed those slides with him before the meeting
 13 on 14 May?
 14 A. My recollection is that Jon Roper came to a MAG meeting
 15 at some point. I can't 100% confirm it was that MAG
 16 meeting, but I know that there was a process that had
 17 taken place in the business where people from -- not on
 18 the MAG would be invited to the MAG meeting to present
 19 on projects. It's something I had seen before with
 20 other people. And, as I said yesterday, I don't
 21 believe, with how I conduct myself in terms of my
 22 planning, I would have taken the slides 45 minutes
 23 before, during a meeting, that they would have been sent
 24 to me. I would have been asking for those slides before
 25 the meeting, before I was going in. I was presenting at

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1 a MAG meeting, I wouldn't have run the risk of not
 2 having the slides available to me before I went into the
 3 meeting. So I don't recall ever presenting slides of
 4 that level of detail to the MAG.
 5 Q. Now, it was Mr Roper's recollection that it was you who
 6 would have presented those slides to the meeting, but
 7 you're telling us that -- is this right? -- if you were
 8 going to address those slides at the MAG meeting, then
 9 you would have wanted to discuss those first with
 10 Mr Roome, rather than presenting them cold at the
 11 meeting?
 12 A. Mr Roome, sorry?
 13 Q. Mr Roper, I do apologise.
 14 A. Sorry, could you repeat the question?
 15 Q. Yes. So if you were going to be presenting these slides
 16 at the meeting, if it were you --
 17 A. Yes.
 18 Q. -- do I take it from your answer that you would have
 19 wanted to be sure you understood the slides --
 20 A. I would have wanted to understand the slides and I would
 21 have wanted to have the slides in my possession.
 22 Q. Yes, exactly.
 23 Equally, would you have simply left the preparation
 24 of these slides to Mr Roper --
 25 A. I think --

5

1 Q. -- not having seen them before the meeting started, and
 2 just let him come into the meeting and present them
 3 cold?
 4 A. If it was myself who was wanting to present the content,
 5 I would have wanted to know what I was being asked or
 6 expected to present. If Jon Roper was coming in to
 7 present the slides, based on the level of detail he had
 8 about the project, I would have had trust for Jon to
 9 have come and presented that to the MAG and for him to
 10 put those together.
 11 Q. Yes. Now, his recollection was that it was you who
 12 presented these at the meeting, not him, he wasn't at
 13 the meeting, and therefore it would follow that, if he
 14 is right about that, then you would have had
 15 a discussion with him prior to the meeting about the
 16 content of these slides?
 17 A. As I say, my recollection is that Jon came to a MAG
 18 meeting to present a project, and I don't believe it was
 19 myself that would have presented at the MAG.
 20 Q. Right. So are you saying that you were quite prepared
 21 to go into that meeting to present slides to that
 22 meeting yourself without seeing them any more than, as
 23 it turns out, by luck, 45 minutes before you were due to
 24 address the meeting?
 25 A. I wouldn't have accepted that that was how I would have

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1 gone into the meeting. I would have wanted the slides
 2 in my possession before the meeting if I was going to be
 3 going in to present the slides. I wouldn't have
 4 accepted somebody sending them to me 45 minutes before,
 5 whilst the meeting is in place.
 6 Q. Now, if, looking at the other hypothesis, it was going
 7 to be Mr Roper who was presenting those slides at the
 8 meeting, surely you, as his boss, would have wanted to
 9 be well satisfied with the contents of those slides
 10 before he presented them to the MAG meeting?
 11 A. Possibly, but I also had confidence that Jon was close
 12 to the project and was confident being able to discuss
 13 the project up until this point.
 14 Q. And you wanted, surely, to ensure, as his line manager,
 15 before the meeting started, that you had seen and were
 16 satisfied with the slides, rather than leaving it to the
 17 chance of receiving them some 45 minutes before the part
 18 of the meeting which addressed RS5000 was to begin; no?
 19 A. I don't believe so. The MAG meeting would have been --
 20 you know, it wouldn't have -- there would have been
 21 an opportunity for Jon to have got questions and to talk
 22 through the slides. So there wouldn't have been
 23 a definite need for me to have seen the slides, no.
 24 Q. Was there a prior plan that Mr Roper would be there?
 25 A. Yes, he wouldn't have been told on the day or the day

7

1 before, I believe.
 2 Q. If that's the case, can you explain why his name doesn't
 3 appear on the agenda or the invitation as the invitee?
 4 A. Yeah, quite possibly the agenda just wasn't updated. It
 5 might have been sent out before and Jon was asked to
 6 come and present that part, and we didn't re-issue
 7 an agenda. That wouldn't have been uncommon.
 8 Q. Well, it's possible, but what do you remember?
 9 A. I don't remember exactly.
 10 Q. Is there a minute or note of the meeting? We've not
 11 seen one.
 12 A. The only minutes that would come from MAG were generally
 13 the action points. There wasn't separate minutes kept
 14 in the business, I believe, I believe for MAG meetings.
 15 Q. At any rate, as we saw yesterday, these slides made no
 16 secret, did they, of the addition of the 6-millimetre
 17 magnesium oxide at the two levels in the rig, so we can
 18 assume, can't we, from that, that at least so far as
 19 Mr Roper was concerned, he wasn't intending to keep that
 20 fact a secret from you?
 21 A. No, he had included that detail in the slides.
 22 Q. And it follows from that that he wasn't intending to
 23 keep that fact a secret from the MAG either.
 24 A. No.
 25 Q. Now, can we go to your statement at page 31

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1 {CEL00010058/31}, please, at paragraph 114.
 2 You say there:
 3 "I would like to make it clear that I was not aware
 4 of any differences between the system described in the
 5 BRE Test Report and the system tested in May 2014 at any
 6 time until the possibility of it was drawn to my
 7 attention in the course of Celotex's post fire
 8 investigation into this issue."
 9 Is that really true?
 10 A. As I said yesterday, in terms of the recollection of the
 11 system and how it had changed between test 1 and test 2,
 12 the only recollection, until I was provided with copies
 13 of documents that I've reviewed to make the statement,
 14 is that it was the thickness of the cladding board that
 15 was changed.
 16 Q. Well, do you acknowledge that the slide presentation,
 17 which we can have back up on the screen if we need to,
 18 acknowledges the presence of the 6 millimetres of
 19 magnesium oxide, but the BRE test report does not?
 20 A. Yes, that's true.
 21 Q. Therefore, given that you had seen the slide presented
 22 to the MAG meeting which referred to the 6 millimetres
 23 of magnesium oxide, you did know that that was there,
 24 but the BRE test did not refer to it. So you were aware
 25 of the difference in that respect, weren't you?

9

1 A. When I would have seen the slide at the MAG, I would
 2 have seen the slide, but not made the link, I don't
 3 know.
 4 Q. Right. You say, "I was not aware of any differences",
 5 and I have to suggest to you that you were aware of the
 6 differences because you'd seen the slide and knew the
 7 6 millimetres of magnesium oxide was there in the test,
 8 and then later seen the test report and seen that it
 9 wasn't in that report, and therefore would have known
 10 the difference and seen it.
 11 A. I don't think I would have been that close to all of
 12 that technical detail to have remembered one event and
 13 then seen how that went into a test report.
 14 Q. Would you not?
 15 A. No.
 16 Q. We'll come on to the BRE test report in due course.
 17 Can I take you to Mr Roper's statement. It's
 18 {CEL00010052/15}, please, paragraph 6.4. He there
 19 describes a conversation he had with Louise Garlick and
 20 he says:
 21 "Louise Garlick, the Customer Service Manager, who
 22 I believe had apparently been present for at least some
 23 of the Board meeting, spoke to me at around this time
 24 and told me that there had been a heated exchange
 25 between Rob Warren and Paul as to what to do. The

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1 upshot, as I understood it from Ms Garlick, was that
 2 a decision had been taken (it was not entirely clear to
 3 me when or by whom) that there would be no reference to
 4 the first failed test, nor to the magnesium oxide board
 5 used in the second test."
 6 Now, before I ask you a question, let me just show
 7 you what Mr Roper said in his evidence, which I think we
 8 looked at a little bit before. We've seen it, where he
 9 says that he discussed the slides with you before the
 10 meeting.
 11 One way or the other, whether he did or he didn't,
 12 did this heated exchange take place, do you recall?
 13 A. I think it's very strange that I was said to have had
 14 a heated exchange with Rob. I don't believe I've ever
 15 had a heated exchange with anybody at Celotex, and not
 16 at that MAG meeting. Just -- a heated exchange isn't in
 17 my style, so I was surprised when I saw that.
 18 Q. All right. Leave aside the "heated". Had there been
 19 a disagreement, a discussion, an argument, if you like,
 20 between you and Mr Warren about what to do?
 21 A. Not that I recall.
 22 Q. Right.
 23 A. And -- sorry, but looking at the agenda, I also saw that
 24 Rob Warren wasn't at the meeting, so that again made me
 25 also a little bit confused as to why that had happened.

11

1 Q. Right. So you don't recall that?
 2 A. I don't recall that, no, and as I said, a heated
 3 exchange wouldn't have happened. It's not something Rob
 4 and I ever had.
 5 Q. Did you have any discussion with Rob Warren around the
 6 time of this meeting about whether or not the
 7 6-millimetre magnesium oxide should be referred to in
 8 any of Celotex's documents?
 9 A. I don't believe so, no.
 10 Q. Was a decision taken at that meeting to conceal the
 11 presence of the additional magnesium oxide layer in the
 12 test rig?
 13 A. I don't believe there was a decision made without --
 14 we've obviously seen the slides, but I don't know and
 15 I can't remember what the discussions were around the
 16 differences in the test and whether a decision was
 17 actually sought, or whether it was just explaining what
 18 had happened and whether there was any question about
 19 that.
 20 Q. Can we look at the foot of the previous page of
 21 Mr Roper's statement, please, page 14 {CEL00010052/14},
 22 and I would like to show you the beginning of
 23 paragraph 6.3. We looked at this a little bit
 24 yesterday, but let's go back to it. In the third line
 25 there, Mr Roper says:

12

1 "Following the Board meeting, Paul asked me to
2 create another version of the Board presentation which
3 did not refer to the February test or to the 6mm
4 Magnesium Oxide."

5 Just pausing there, it's right, isn't it, that
6 in fact -- and we can look at it if we need to --
7 a shorter version of the slide deck was then produced by
8 Mr Roper which ran to some 12 pages only, didn't refer
9 to the first test, and didn't refer to the 6 millimetres
10 of magnesium oxide in the second test?

11 A. Yes.

12 Q. So he's right that such a slide pack was created; his
13 evidence, as you can see here, is that he did that on
14 your instructions. Is that right?

15 A. Not that I can remember, no.

16 Q. That being so, can you explain why Mr Roper produced
17 a truncated version of the 17-page slideshow shown to
18 the MAG meeting if it wasn't at your direction?

19 A. I can't, no.

20 Q. Might it have been at the direction of the MAG?

21 A. Not that I can remember from the meeting and being asked
22 to do that.

23 Q. Right. So you can't explain why he produced it unless
24 it was at your direction; does that tell us that you
25 accept that it was at your direction?

13

1 A. No, it wasn't at my direction. I don't recall ever
2 asking Jon to shorten that presentation down.

3 Q. So is your evidence to the Inquiry that he did it off
4 his own bat?

5 A. He wasn't asked by me to do it. Whether he was asked by
6 somebody else to do it, I don't remember.

7 Q. Did you notice when you saw the 12-page slide version
8 that it was shorter than the version that was presented
9 to the meeting?

10 A. I don't remember when I would have next seen that
11 presentation being presented.

12 Q. You do remember seeing one, don't you?

13 A. Only through my evidence. I don't remember at that time
14 in May when that presentation would have been given to
15 me again.

16 Q. Well, let's look at the shorter presentation,
17 {CEL00000961}, see if it triggers a recollection. There
18 it is. It's in similar format, except that it's just
19 got changes and omissions. As I say, it's now only
20 12 pages long and not 17 pages long. Take it from me
21 that it doesn't mention the February failed test at all.

22 A. Okay.

23 Q. If you go to slide 9 {CEL00000961/9}, we can see the
24 description of the second test build-up, and there we
25 can see that it didn't refer to the 6-millimetre

14

1 magnesium oxide in this slide.

2 Now, can you think of a reason why Mr Roper would
3 have omitted the reference to the failed February test
4 and deleted the previous reference on this slide to the
5 6-millimetre magnesium oxide layer behind the
6 fire barriers, unless he had been asked to do that?

7 A. No, I can't think of a reason why he would have done it.

8 Q. Wasn't the reason, regardless of who asked him to do
9 that, to conceal the fact that Celotex had failed the
10 February test?

11 A. I don't believe that was a -- I don't know why Jon has
12 changed it, and I don't know what his rationale for
13 doing it would have been.

14 Q. Well, he has given us the rationale in his evidence, and
15 that was to prevent the market from knowing that there
16 had been a first test which had failed.

17 A. I don't think we would have communicated to the market
18 part of the development of the product anyway.

19 Q. And that the rationale for removing the reference to the
20 6-millimetre magnesium oxide is to create a record which
21 would indicate that there was no such layer in the test
22 rig, whereas in fact there was.

23 A. As I say, I don't know why he's done that.

24 Q. The reality, do you accept, as Mr Roper accepted
25 candidly, is that this truncated slideshow or slide set

15

1 is thoroughly misleading, because it omits the reference
2 to the failed test and omits any reference to the
3 6 millimetres of magnesium oxide?

4 A. Yes, it doesn't represent the system that we -- that was
5 designed or that was tested second time round with the
6 magnesium oxide.

7 Q. And, as such, it is thoroughly misleading; yes?

8 A. Yes, it's not representative of what we tested.

9 Q. Yes. You said that, and I put to you that it's
10 misleading. Do you accept that it was deliberately
11 misleading?

12 (Pause)

13 A. On the basis that it's come out, then, yes, that was
14 done deliberately.

15 Q. Yes.

16 If we go back to Mr Roper's witness statement,
17 please, at page 14 {CEL00010052/14}, the second part of
18 paragraph 6.3, he says in his statement there that you
19 asked him to create another version of the board
20 presentation which did not refer to the February test or
21 the 6-millimetre magnesium oxide. He confirmed that
22 when he gave evidence yesterday. Do you deny it?

23 A. Yes, I didn't ask -- I don't recall asking Jon to take
24 out that information and create a second board
25 presentation.

16

1 Q. You have got no explanation, as you told us, for him
2 doing it off his own bat, have you?
3 A. No.
4 Q. So he would have done it on instructions from somebody,
5 wouldn't he?
6 A. I don't know.
7 Q. Well --
8 A. Unless he's done it off of his own back.
9 Q. I'm just trying to get you to examine with me the
10 rational possibilities, Mr Evans. The rational
11 possibilities are either that he did it off his own bat
12 or that he was asked to do it.
13 Now, do you accept that it's not very likely that he
14 would have done it off his own bat, that he would have
15 decided to truncate, in a thoroughly misleading way,
16 a candid statement of the second test?
17 A. I don't know.
18 Q. You don't know. Well, let's try the second of those: he
19 was asked to do it.
20 A. He wasn't asked to do it by me, and I don't know whether
21 he was asked to do it by anybody else.
22 Q. If he wasn't asked to do it by you -- well, you were his
23 line manager; weren't you the most likely person to give
24 him instructions?
25 A. Generally, yes.

17

1 Q. Why would there be an exception in this case?
2 A. I don't know, but I don't recall asking Jon to take out
3 that information.
4 Q. You had worked very closely with Mr Roper on the
5 above-18-metre project and, indeed, as we know, it was
6 one of the matters throughout 2013 that was on his KPI
7 list. You confirmed yesterday that you were closely
8 involved in his work. Can you think of a single reason
9 why you wouldn't have given him instructions to truncate
10 the 17-page slideshow down to a 12-page slideshow on
11 this occasion?
12 A. I just don't recall asking Jon to do that, and I don't
13 know why I would have asked him to do it.
14 Q. Well, I can think of a reason why you would have asked
15 him to do it, and it's the reason that Mr Roper gave,
16 which was to create deliberately a dishonestly
17 misleading set of slides. That's the reason. I'm going
18 to suggest to you that you asked him to do it, as he
19 said on oath.
20 A. I can't say that I asked him to do it, because I don't
21 recall asking him to do it, so I can't say that I did.
22 Q. You say you can't recall asking him to do it, but I've
23 shown you the document. Is it possible that your
24 recollection is simply faulty on this, and that in fact,
25 as he confirmed, you did ask him to do it?

18

1 A. I don't believe that my recollection on something like
2 this would have ... would have been the case, no.
3 Q. So when he says that you asked him to create another
4 version of the board presentation, you're saying he's
5 lying?
6 A. I'm saying that that's not what I remember asking Jon to
7 do. I don't have any recollection of asking Jon to
8 change the slides after the MAG meeting.
9 Q. But you can't think of any other candidate for the giver
10 of the instructions to him, can you?
11 A. No, I can't think of anybody that would do that, but
12 that doesn't mean that someone didn't.
13 Q. I accept that it doesn't mean that someone didn't. As
14 a matter of fact, though, who else customarily gave
15 Mr Roper his day-to-day instructions apart from you?
16 A. I think, on the basis of this project, there was other
17 people involved and had knowledge of the project, so
18 that's slightly different to the day-to-day instructions
19 because of the other people that were working on the
20 project team.
21 Q. Can you think of a single reason why anybody else on the
22 project team would have given Mr Roper these
23 instructions to truncate the slideshow without your
24 knowledge?

(Pause)

19

1 A. No, I can't.
2 Q. No.
3 Now, let's go to the BRE report, and let's, on that
4 topic, stick for the moment with Mr Roper's witness
5 statement at page 17 [CEL00010052/17], please. I would
6 like to go on that page with you to paragraph 7.13.
7 Now, this is a lengthy section of his statement,
8 just to try and put you in the picture of what he's
9 talking about, and he's talking here about the
10 whiteboard that was created in your office on 19 June
11 after the meeting that he'd had with the NHBC.
12 A. Yes.
13 Q. That's what he is talking about, and it comes here in
14 this run of evidence in his statement. He says at
15 page 17, paragraph 7.13:
16 "There was a short break in the meeting whilst
17 I went to print off the draft test report received
18 earlier that morning and brought it back to Paul Evans'
19 office."
20 Just pausing there, his evidence was that he'd
21 received the first draft of the BRE full test report
22 dated 2 June at about 10.30 on the morning of 19 June,
23 very shortly before his meeting with the NHBC, and he
24 hadn't had time to read it.
25 A. Okay.

20

1 Q. That was his evidence, and that's the background to that
2 first sentence. He then goes on to say:
3 "Paul Evans, Paul Reid and I looked at it together
4 and noted that it did not refer to the magnesium oxide
5 board in the list of components. My perception was that
6 the Board had a clear view as to how they wanted to
7 market the product even before the test report was
8 available."

9 Now, can we go over the page, please, and look and
10 see what he says at paragraph 7.14 {CEL00010052/18}. He
11 says:

12 "I did not know whether this was normal or not, but
13 was told by Paul Evans that Kingspan were thought to be
14 purposefully omitting information about their BS 8414
15 test from their sales literature."

16 Do you remember you telling Jon Roper that?
17 A. No, and I don't believe I would have had knowledge that
18 Kingspan were purposefully omitting information. The
19 only information about their sales literature when we
20 reviewed it was that it was not overly clear in that
21 particular section what system had been -- you had to
22 kind of look into the detail to see what system had been
23 actually tested. I don't believe I had any knowledge
24 that Kingspan were thought to be purposefully omitting
25 information. I wouldn't have got that -- I don't know

21

1 where I would have got that information from.

2 Q. Then he goes on to say:

3 "This was Celotex's intended approach."

4 Did you say that to him?

5 A. Not that I remember, no.

6 Q. Did you say words to the effect that you were going to
7 follow the same kind of approach that Kingspan were
8 adopting, namely presenting the information about their
9 BS 8414 test in a way that wasn't crystal clear to the
10 reader, if I can put it that way?

11 A. The way we were looking to approach the launch of the
12 product and the marketing of the product was to make it
13 a lot clearer than what Kingspan were doing as to the
14 build-up of the system, and as I understood the system
15 as it had been tested.

16 Q. That may, Mr Evans, have been your original approach
17 prior to the failed February test in February 2014, but
18 it wasn't now the approach that you were going to take
19 after the May test, was it?

20 A. I don't believe the approach changed --

21 Q. Well --

22 A. -- between February and May in terms of what we were
23 looking to do as a marketing communication.

24 Q. Then it goes on to say:

25 "Paul Evans and Paul Reid made it clear in this

22

1 discussion that Celotex would not correct the
2 information in the BRE test report."

3 That's right, isn't it? That's what Mr Roper
4 recalls. Is that your recollection?

5 A. No, I don't understand that recollection. I don't know
6 what that conversation has been based on, other than the
7 MAG on 14 May.

8 Q. During this conversation, was there no discussion of the
9 fact that the BRE test report had made no mention of the
10 6-millimetre magnesium oxide, or the fact, indeed, that
11 8 millimetres of Marley Eternit Natura panel had been
12 placed over it at two points on the rig?

13 A. All I can recall, obviously, the discussion that Jon and
14 I had on the actual whiteboard information, but no,
15 I don't believe that was the case.

16 Q. You see, this is all in the context of the decision made
17 by somebody to remove from the slideshow reference to
18 the first test and reference to the 6 millimetres of
19 magnesium oxide.

20 Do you accept that the decision to remove that from
21 Celotex's own internal documentation, the slideshow, is
22 at least consistent with this discussion, namely that
23 Celotex wouldn't correct the information in the BRE test
24 report so as to make it identify the presence of the
25 6-millimetre magnesium oxide?

23

1 A. Based on the fact the presentation was altered, there
2 seems to be a link, yes, between that approach and this
3 approach.

4 Q. And that was what this discussion was about, according
5 to Mr Roper. Do you accept that?

6 A. My understanding of the whiteboard discussion, which Jon
7 is saying here that Paul Reid was part of, my
8 recollection of that was more about the NHBC rather than
9 the general testing that had been carried out.

10 Q. He goes on:

11 "Paul Reid asked whether anyone was likely to pick
12 it up."

13 Do you remember that?

14 A. I don't -- as part of the whiteboard discussion, I don't
15 100% recall Paul Reid being at that discussion. I can't
16 say he wasn't, but I don't recall him being there.

17 Q. Right.

18 Do you remember a discussion involving Mr Roper,
19 involving the question whether anyone would pick up the
20 incorrect information in the BRE test report, namely the
21 absence, as could be seen from the draft -- and we'll
22 come to it -- of the 6-millimetre magnesium oxide?

23 A. No, I don't recall any conversation on that.

24 Q. Right. Do you deny it --

25 SIR MARTIN MOORE-BICK: I'm getting a bit confused about

24

1 this.

2 What Mr Roper says is there was a break in the

3 meeting, and he obtained or printed off a copy of the

4 BRE report that he'd recently received, and that he

5 brought it back and discussed it with you.

6 Now, first question: is he right about that? Was

7 there some discussion about the BRE report between you

8 and Mr Roper, and perhaps Mr Reid as well?

9 A. My understanding of the whiteboard discussion -- the

10 discussion we had where I made notes on the whiteboard

11 was that was to do with the NHBC, that had been to see

12 us on 19 June.

13 SIR MARTIN MOORE-BICK: That I understand, but what Mr Roper

14 is saying is that, in the course of that meeting, he

15 obtained a copy of the BRE report, which he discussed

16 with you -- and he thinks Mr Reid, but let's leave

17 Mr Reid out of it for the moment -- and you both

18 realised that it did not contain any reference to the

19 magnesium oxide board.

20 Now, is he right about that?

21 A. I don't remember the conversation being about the test

22 report or it being printed out. I thought it was more

23 of a general conversation about the meeting that they'd

24 had with the NHBC and --

25 SIR MARTIN MOORE-BICK: All right. But, again, I just want

25

1 to understand this. You do recall, do you, his bringing

2 along a copy of the BRE test report?

3 A. I couldn't -- I can't say whether he brought a test

4 report along or not.

5 SIR MARTIN MOORE-BICK: You can't remember one way or the

6 other?

7 A. Yes, no, I can't.

8 SIR MARTIN MOORE-BICK: Does it follow that you're telling

9 us you can't remember any discussion about the BRE

10 report at this time?

11 A. I don't remember the BRE report being part of that

12 discussion when I was making notes on the whiteboard.

13 SIR MARTIN MOORE-BICK: All right. Well, just to clarify

14 that one, do you recall having that type of conversation

15 with Mr Roper about the BRE report and it being drawn to

16 your attention that it didn't refer to the magnesium

17 oxide board?

18 A. No, I don't believe I did.

19 SIR MARTIN MOORE-BICK: Right, thank you very much.

20 Yes, Mr Millett.

21 MR MILLETT: Well, let's see if we can take that a little

22 bit further.

23 Can we go to the draft BRE report. I said to you

24 that it was the draft dated 2 June 2014. It's at

25 {CEL00001352}, and, as I say, this document came into

26

1 Mr Roper's hands only on the morning of 19 June, so it

2 was the morning of the meeting you had. It's dated

3 2 June 2014, and it's issue 1. That's the first page.

4 Do you recognise that document?

5 A. I recognise that as a BRE test report, yes.

6 Q. Do you recognise that as the thing, the report, that

7 Mr Roper brought to the meeting with you in your office

8 on 19 June?

9 A. If he did bring a test report with him, it would have

10 been that test report, yes.

11 Q. Right.

12 Now, let's look at page 35 {CEL00001352/35}, please.

13 This is figure 18, and it's a "Photograph showing the

14 condition of the cladding system post-test (Insulation

15 layer)", and it's a picture of the rig actually being

16 dismantled.

17 Do you remember looking at this picture at that

18 meeting?

19 A. No.

20 Q. It shows, on the right-hand side, a layer of white

21 material on top of the insulation just above the level 2

22 thermocouples, doesn't it?

23 A. Yes.

24 Q. It also shows a white layer of material at the top of

25 the rig running on the top and on the return. Do you

27

1 see that?

2 A. Yes.

3 Q. If we compare that with figure 16, I think two pages

4 before it at page 33 {CEL00001352/33}, we can see there

5 that in both of those locations the cladding is orange.

6 Do you see that?

7 A. Yes.

8 Q. Mr Roper told us that the orange are panels which are

9 Marley Eternit Natura 8-millimetre panels, as opposed to

10 Marley Eternit Natura 12-millimetre panels, which are

11 the white panels. Do you remember seeing that picture?

12 A. No.

13 Q. Do you remember seeing this picture at any point and

14 noting that there were two different coloured panels?

15 A. No.

16 Q. You really don't?

17 A. No.

18 Q. Take it from me, at least on the basis of the evidence

19 we've seen so far, that the white material is a layer of

20 magnesium oxide and that the orange is the 8-millimetre

21 Eternit cladding.

22 If we go back to figure 18, two pages on, page 35

23 {CEL00001352/35}, this is the photograph which Mr Roper

24 says that you asked him to remove, or there was

25 discussion about the removal of, during that meeting.

28

1 Is that right?

2 A. Yes.

3 Q. That is right? So at the meeting on 19 June, you and
4 Mr Roper, possibly Mr Reid, discussed the removal of
5 this photograph?

6 A. There was a discussion which was on that whiteboard note
7 that I took which was one of the things that Jon had
8 identified could be a challenge from the NHBC, from
9 an NHBC approval, and Jon said an option was to take
10 figure 18 out.

11 Q. Now, at line 17 of page 27 just this morning
12 {Day73/27:17}, not long ago, when I asked you: do you
13 remember looking at this picture at that meeting, you
14 said no. But in fact it turns out that you did look at
15 that picture at that meeting because you discussed its
16 removal. Which is right?

17 A. I'm not sure I looked at the picture. I think there was
18 a verbal conversation that Jon was having with me about
19 different things. I don't recall looking at that as
20 part of the discussion.

21 Q. So are you saying that you did have a discussion about
22 the removal of the photograph at figure 18 with Mr Roper
23 at the meeting, but didn't look at the photograph
24 itself?

25 A. Yes.

29

1 Q. Can you explain how you could possibly have had
2 an informed discussion about the potential removal of
3 a photograph from a BRE test report without looking at
4 the photograph? It doesn't follow, does it?

5 A. What I remember from that meeting is that Jon was having
6 a discussion with me about the NHBC meeting that had
7 happened earlier that day, and I was compiling what he
8 was telling me and making notes on the whiteboard as per
9 the document. I don't believe we were -- I don't recall
10 that we were reviewing this information as Jon was
11 telling me that information.

12 Q. Now, while we're on the document, let's go -- well, let
13 me finish off this point.

14 Did you actually tell Mr Roper to ask the BRE to
15 remove the photograph?

16 A. I think from the conversation we were having, it was
17 about if there was challenge from the NHBC. I don't
18 know whether I gave him specific instruction to follow.
19 The detail, as I understand it, of the whiteboard was
20 around possibilities rather than actually saying yes, to
21 go and do it.

22 Q. While we're on this document, you can see at the foot of
23 figure 18 that there is a sticky note with a 1 next to
24 it, can't you?

25 A. Yes.

30

1 Q. If we turn the page to page 36 {CEL00001352/36}, you can
2 see what that represents. Mr Roper told us that it was
3 his sticky note dated 1 July 2014, with a text
4 underneath it:

5 "Can we change this image to the one I've attached
6 with this email to show a close up of horizontal
7 fire barrier and the insulation below and above the
8 break."

9 Now, there's an email of 1 July, let me just show
10 you that, {CEL00001350}, and it's an email from
11 Jon Roper to Phil Clark at the BRE, it's at the foot of
12 the page, and we can see that it's copied to you,
13 Mr Evans, as well as to Jamie Hayes, subject: "Test
14 Report Comments".

15 If we go to page 2 {CEL00001350/2}, please, you can
16 see that he says:

17 "As discussed, please find attached our first draft
18 comments for our BR 135 test report. Annotations are
19 highlighted throughout the document ..."

20 And then in the second paragraph:

21 "As previously discussed, could you also replace
22 figure 18 with the attached photographs as we want to
23 show a close up of the condition of our insulation below
24 and above fire break with the intumescent fired off. If
25 you feel you also have a suitable photograph, then

31

1 please include."

2 So can we take it from that that you were fully
3 au fait with the request to the BRE to remove the
4 photograph at figure 18 and replace it?

5 A. Based on that email, which I was copied in to, then yes,
6 but also with the reason for doing that based on the
7 explanation that Jon had given me as to why it needed to
8 be replaced.

9 Q. Well, we'll come to the whiteboard discussion in just
10 a moment. I just want to establish the extent of your
11 knowledge of what was going on.

12 You accept that you saw this email. I'm assuming
13 that the request to replace figure 18 in this email, and
14 as noted in the report that I've just shown you, did not
15 come as a surprise, when Mr Roper asked Mr Clark to make
16 the replacement on 1 July, because it had been the
17 subject of discussion on 19 June; is that right?

18 A. It had been discussed on 19 June, yes.

19 Q. And this email here, as I've just shown you, reflects
20 the instructions that you gave to Jon Roper to ask the
21 BRE to remove figure 18.

22 A. I don't believe I gave Jon confirmation to go and do it,
23 based on the discussion we had on 19 June.

24 Q. Can you think of a reason why Jon Roper would have gone
25 ahead off his own bat and asked the BRE to remove

32

1 a photograph that they had seen fit to include in the
 2 report, unless that request was being made with your
 3 approval or under your instruction?
 4 A. Jon was a lot closer to the project, the test report,
 5 the rig, et cetera, so there would have been examples
 6 where he may have gone and done things without
 7 instruction.
 8 Q. Well, this isn't one of them, though, is it?
 9 A. I don't recall asking Jon to email the BRE and say, "Go
 10 ahead and remove figure 18". Jon has spoken to me about
 11 that being something that the NHBC may have a concern
 12 with, but I don't recall giving him the go-ahead to go
 13 and make that decision, to go and do that.
 14 Q. Can you think of a reason why he would have done it off
 15 his own bat rather than seeking instructions from you or
 16 approval from you beforehand?
 17 A. Only that he felt that that was something that needed to
 18 be done as part of the project.
 19 Q. Well, he says it was as a result of the discussion you
 20 had had with him on 19 June, and that you asked him to
 21 do that. Is he wrong about that?
 22 A. I don't remember asking Jon to specifically email the
 23 BRE and say, "Remove figure 18".
 24 Q. So are you saying that when you saw this email, as you
 25 were copied in on it, this request came as a surprise?

33

1 A. I don't remember whether I was surprised or not.
 2 Q. There isn't any record we've got in anybody's statements
 3 of you going back to Jon Roper and asking him why he
 4 wanted to replace figure 18. We don't have a record of
 5 that. Doesn't that tell us that in fact you knew, when
 6 you received this email, what he was going to do, namely
 7 to ask the BRE to remove the photograph at figure 18 and
 8 replace it with other photographs? No?
 9 A. I don't know.
 10 Q. You don't know.
 11 I have to suggest to you, although we will look at
 12 the whiteboard conversation in a moment, that the reason
 13 that Jon Roper asked the BRE to remove the photograph at
 14 figure 18 was because it was the one thing in the BRE
 15 draft report that identified the presence of magnesium
 16 oxide at those two points on the rig.
 17 A. Yes, that looks like the reason why it's been done.
 18 Q. And you accept that that was the reason why it was done,
 19 do you?
 20 A. Yes.
 21 Q. And you knew at the time that that was the real reason
 22 why Mr Roper wanted to ask the BRE and did ask the BRE
 23 to remove figure 18?
 24 A. No. The reason was because of what Jon was telling me,
 25 because at that point, as I said yesterday and earlier

34

1 today, I didn't know that we had done that work around
 2 the rig at level 2. I hadn't remembered that we'd done
 3 that work.
 4 Q. You mean the magnesium oxide?
 5 A. Yes.
 6 Q. But it was in the slide we looked at, which was only
 7 a month before.
 8 A. I haven't made the link between the presentation on the
 9 14th and what Jon's asking to do here.
 10 Q. Were you not curious now to make that link, either on
 11 19 June itself or, at latest, on 1 July when Mr Roper
 12 made his request?
 13 A. No. I don't know why. I know I was only back in the
 14 business after a couple of weeks on 19 June, so there
 15 would have been a lot going on after a two-week absence,
 16 but I don't know why that's happened.
 17 Q. Very well.
 18 Let's then go to the meeting itself and look
 19 a little more closely at what happened, following up on
 20 the Chairman's questions.
 21 Mr Roper says that he'd had a meeting with the NHBC
 22 on the morning of the 19th.
 23 A. Yes.
 24 Q. And he describes the NHBC as having been not
 25 particularly impressed with the test, and also that he

35

1 said that Dave White of the NHBC had not been friendly.
 2 Do you recall him describing the NHBC's attitude in
 3 that way when he came to see you after the meeting?
 4 A. I don't recall him saying that that had happened, but it
 5 might have done.
 6 Q. Now, during the meeting on the 19th that you had with
 7 him, we know that notes were made on a whiteboard,
 8 weren't they?
 9 A. Yes.
 10 Q. And you took a photograph of that whiteboard on your
 11 telephone?
 12 A. Yes.
 13 Q. Let's look at that. It's {CEL00002517}.
 14 Can you tell us why you decided to take a photograph
 15 of that whiteboard?
 16 A. Generally, as part of my work, if I was working with
 17 a member of a team and we were making notes and not in
 18 notebooks, I would take a photo. It wasn't an uncommon
 19 thing for me to do. Lots of people at Celotex did the
 20 same and took pictures of things on flipcharts in
 21 meetings.
 22 Q. If we go to the various columns at the top, we can see
 23 that this is in your handwriting, isn't it? That's what
 24 Mr Roper said. Is that right?
 25 A. All bar the last point, point 6.

36

1 Q. Yes, I'm just looking at the top.
 2 A. Oh, the top, yes.
 3 Q. "NHBC concern/challenge", "CX [Celotex's] response",
 4 "Action required" and "Risk", and I think you just
 5 confirmed that the entirety of the rest of the writing
 6 is yours, except against item 6.
 7 A. Yes.
 8 Q. Now, let's look at item 6. Under the column "NHBC
 9 concern/challenge", we can see that Jon Roper has
 10 written "Calcium silicate at level 2". Now, he wrote
 11 that, not you.
 12 A. Yes.
 13 Q. Does that tell us that he was the one essentially giving
 14 the explanation at that stage?
 15 A. I don't know why the -- why Jon would have started
 16 writing that and not me, having done the first five
 17 points.
 18 Q. In fact, calcium silicate is another way of describing
 19 magnesium oxide, isn't it?
 20 A. I don't know the technical differences between calcium
 21 silicate and magnesium oxide, but I know that they're
 22 both that type of product.
 23 Q. Yes.
 24 A. Similar products.
 25 Q. Just enlighten us, they are products or compounds, if

37

1 you like, which are not only non-combustible but don't
 2 conduct heat?
 3 A. Yeah, I know they're non-combustible, I know they're
 4 used as kind of high-impact boards as well, or have been
 5 used as high-impact boards.
 6 Q. Under "[Celotex] response", Jon Roper noted, "Confidence
 7 in fire barriers to expand". So did you understand that
 8 he was setting out the purported justification that
 9 would be given to the NHBC had they found out about the
 10 presence of the 6 millimetres of magnesium oxide?
 11 A. Jon was telling me that if that was a challenge that
 12 came from the NHBC, then that would be the response that
 13 Celotex could give, yes.
 14 Q. Yes.
 15 Under "Action required", it says, "Remove last image
 16 of test report". Now, we've seen the test report, and
 17 the last image is indeed figure 18, which we've looked
 18 at now.
 19 So that tells us, doesn't it, that there was
 20 discussion at this meeting in your office between you
 21 and Jon Roper about the removal of figure 18, doesn't
 22 it?
 23 A. Yes.
 24 Q. Yes.
 25 Can we look at paragraph 130 of your witness

38

1 statement. You will find that on page 36
 2 {CEL00010058/36}. You say there:
 3 "I do not recall this e-mail [which is the email of
 4 1 July], nor do I recall any discussion relating to the
 5 request in Mr Roper's e-mail to replace Figure 18 in the
 6 draft test report. I relied on Mr Roper in relation to
 7 matters such as the detail on finalising the test
 8 report."
 9 Having looked at your whiteboard photograph and the
 10 whiteboard of that meeting, do you accept that in fact
 11 there was a discussion relating to the request in
 12 Mr Roper's email to replace figure 18 in the draft test
 13 report, because we can see it in the third column on the
 14 whiteboard?
 15 A. The only time I recall the conversation that happened
 16 with the NHBC was when I, by chance, found that photo on
 17 my phone after the fire.
 18 Q. All right. So you now do recall the discussion? You
 19 didn't when you did your statement -- is that right? --
 20 but you did when you --
 21 A. I recalled the discussion as soon as I found the photo
 22 on my phone.
 23 Q. But did you not have the photograph of the whiteboard
 24 when you did your statement?
 25 A. Yes.

39

1 Q. Did that not prompt a recollection of the discussion
 2 about the request by Mr Roper to remove figure 18?
 3 (Pause)
 4 A. I can't remember exactly the flow of the -- of my
 5 knowledge, sorry.
 6 Q. Let me put it a different way, see if I can help. You
 7 say:
 8 "I do not recall this e-mail, nor do I recall any
 9 discussion relating to the request in Mr Roper's e-mail
 10 to replace Figure 18 in the draft test report."
 11 Are you saying in your statement that even though
 12 you have seen the photograph of the whiteboard made on
 13 19 June at the meeting in your office, that still
 14 doesn't trigger any recollection in your mind of the
 15 discussion on that day?
 16 A. The only discussion -- as soon as I saw and found the
 17 photo, and saw what the content of the photo was,
 18 I recalled that Jon and I had had that meeting, but
 19 I didn't necessary -- unless I was looking at that,
 20 I didn't recall that we'd asked them to replace
 21 figure 18.
 22 Q. I'm not sure I understand. Let me try a third time.
 23 When you saw the photograph of the whiteboard from
 24 the 19 June meeting, did it trigger a recollection of
 25 the discussion about the removal of figure 18 or did it

40

1 not?

2 A. I think it must have done because I was reading the
3 detail that that was an option that was possible.
4 I don't know whether I'd remembered that we'd actually
5 sent the email.

6 Q. Given that you refer to the whiteboard in your
7 statement, why do you say, "nor do I recall any
8 discussion relating to the request to replace Figure 18
9 in the draft test report"? Can you explain?

10 (Pause)

11 A. No, I can't, sorry.

12 Q. Do you accept that in fact, Mr Evans, you and Mr Roper
13 discussed the potential request to the BRE to remove
14 figure 18 from the draft test report at this meeting?

15 A. What I was discussing -- my understanding of what I was
16 discussing with Jon at the time was that the NHBC may
17 have some concerns about the system that was tested, and
18 Jon was giving me the information that what these
19 responses could be if we were challenged on that.

20 Q. Yes, and one of the responses would be: take the picture
21 out.

22 A. Yes.

23 Q. And, as we can see from the email of 1 July, and
24 Mr Roper's own comment in the draft, going back to the
25 BRE, that is precisely what he then proceeded to do,

41

1 didn't he?

2 A. Yes, he did, yeah.

3 Q. With your knowledge?

4 A. Only because I was copied in to the email. I don't
5 remember saying to Jon, "We've talked about this, you
6 now need to go and do that".

7 Q. No, Mr Evans, with your knowledge and approval, which
8 arose at the 19 June meeting.

9 A. No.

10 Q. The reason you instructed him, as I would suggest to
11 you, based on what Mr Roper told us, to remove
12 figure 18, was because it was the only indication in the
13 draft test report that showed the presence of the
14 magnesium oxide layer in two places in the test rig, and
15 that's right, isn't it?

16 A. That's not, because I didn't know or recall that we'd
17 done what we'd done around the magnesium oxide, then no,
18 I wasn't asking Jon to deliberately go and do that.
19 I don't recall asking Jon to go and send that email.

20 Q. I'm going to suggest to you that you instructed
21 Jon Roper to ask the BRE to remove figure 18 for that
22 reason, consistently with your instruction to him to
23 remove the reference to the magnesium oxide in the
24 truncated slide pack that we saw earlier?

25 A. No, that's not my recollection.

42

1 Q. It's certainly his. Do you say his recollection is
2 faulty and yours is better?

3 A. I just think I would have remembered doing things like
4 that.

5 Q. Well, he does remember doing things like that, and are
6 you saying his recollection is faulty and yours is
7 better?

8 A. Based on what I remember and how I've -- all of the
9 recollections at the time and since, I don't recall
10 asking Jon to -- I don't recall the discussion around
11 the magnesium oxide or the -- giving Jon instruction to
12 take those out of the test report.

13 Q. Can we go back to the slides (sic), please, at
14 {CEL00002517}. There is one more thing I just want to
15 ask you about, and that's the last column, where you can
16 see that Jon Roper, under the column headed "Risk",
17 wrote "Medium". What was that about?

18 (Pause)

19 A. I believe the risk was to do with NHBC accepting Celotex
20 for use on their projects.

21 Q. Well, that's clearly the case very broadly. What was
22 the precise risk that you or he, or both of you perhaps,
23 were gauging as a medium risk in relation to item 6
24 specifically, which is where we see it?

25 A. I don't know what we'd have meant by medium risk.

43

1 Q. Was it a medium risk that the NHBC would pick up the
2 fact that magnesium oxide had been used in the test and
3 challenge the test on that basis?

4 A. I don't know.

5 Q. Or was it the risk that the NHBC might somehow discover
6 the fact that the BRE test report without the reference,
7 without figure 18 in it, was misleading?

8 A. As I say, I don't know.

9 Q. I would like to turn, then, to the topic of marketing,
10 marketing the RS5000.

11 Now, we start, I think, on 1 July 2014 with
12 {CEL00001213}. This is Mr Roper's email to you on that
13 date, emailing you a marketing action plan:

14 "As discussed folder J.Roper under M Drive has
15 everything to do with RS in.

16 "Thanks."

17 Rather a pithy and perhaps not particularly
18 communicative message, but let's look at the attachment.
19 It's at {CEL00001214}, and this is a document entitled
20 "Marketing action plan" which Mr Roper created,
21 "Launch date: 5th August", and there are the contents.

22 Do you remember seeing this document?

23 A. We would have had a marketing action plan for RS5000.

24 They were common for all products that we launched.

25 Q. Do you remember seeing this document?

44

1 A. Yes.
 2 Q. If we go to page 2 {CEL00001214/2}, please, it lists
 3 under the third bullet point under "Objectives":
 4 "Present RS5000 as Celotex's primary rainscreen
 5 application offering to compete directly with Kingspan
 6 K15 & Rockwool Duo-Slab."
 7 That was not only one of the motivations for
 8 developing RS5000 but also one of its selling points,
 9 wasn't it?
 10 A. Sorry, in -- selling points in relation to?
 11 Q. It was a selling point that it was a primary rainscreen
 12 application which would compete directly with
 13 Kingspan K15?
 14 A. Yes, the product was marketed as being specific for
 15 rainscreen cladding.
 16 Q. Yes. Indeed, we looked yesterday at the slideshow which
 17 said, "Give us an alternative to Kingspan K15 and we'll
 18 buy it". That's what that links with, is it not?
 19 A. No, I think what this links with is that Celotex at that
 20 time, as part of its strategy, was moving to have
 21 specific applications. A lot of their products could be
 22 used in multiple applications, definitely the 4000
 23 range, and one of the things the company wanted to do as
 24 we moved into the ownership from Saint-Gobain is start
 25 having more specific products for applications and

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1 marketing them that way.
 2 Q. Under "Concept", it says:
 3 "Proposition
 4 "The first PIR insulation board tested and
 5 approved to BR 135 and therefore acceptable for use in
 6 buildings above 18m in height."
 7 Do you remember who came up with that wording?
 8 A. I think the wording was a combination of two or three
 9 different people's attention.
 10 Q. Mr Roper told us that he had not in fact come up with
 11 that wording, but had lifted it pretty much verbatim
 12 from Kingspan's March 2011 Kingspan Kooltherm K15
 13 datasheet. Did you know that?
 14 A. No.
 15 Q. Do you accept that that wording would suggest that
 16 because RS5000 had been tested and approved to BR 135,
 17 it was for that reason acceptable for use on all
 18 buildings over 18 metres?
 19 A. No, that wasn't the discussion that we'd been having
 20 previously, but even before July in the business about
 21 how we would market the product, we weren't saying it
 22 could be used in buildings above -- or in all buildings
 23 above 18 metres.
 24 Q. I'm asking you about the words. Do you accept that the
 25 words "and therefore acceptable for use in buildings

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1 above 18m in height" would suggest that because RS5000
 2 had been tested and approved and met the BR 135
 3 criteria, it was for that reason acceptable for use on
 4 all buildings over 18 metres? I'm focusing on the
 5 language.
 6 A. Yes, I think at the time that would have been the
 7 business's understanding of being able to be used on
 8 buildings above 18 metres, was that you had passed
 9 a test which therefore complied with the requirements of
 10 BR 135.
 11 Q. Well, that's correct, isn't it? An accurate statement
 12 would be that RS5000 could be used on all buildings over
 13 18 metres, provided it was used in exactly the same
 14 system, with exactly the same components, and exactly
 15 the same configurations, as tested. That's right, isn't
 16 it?
 17 A. Yes, and that is what we looked to do when we started to
 18 launch the additional marketing materials that went with
 19 the product.
 20 Q. And given that an accurate statement would have been set
 21 out in that way, the statement "and therefore acceptable
 22 for use in buildings above 18m in height" was thoroughly
 23 misleading, wasn't it, if it was used?
 24 A. At the time we weren't -- we didn't see that as being
 25 misleading, no.

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1 Q. Well, Mr Roper did. He told us that. Did you not?
 2 A. We didn't have a discussion about those words and how --
 3 that they'd been lifted from Kingspan and whether they
 4 were misleading in ...
 5 Q. When you got this document from Mr Roper on 1 July, did
 6 you read it?
 7 A. I'm pretty sure I would have read it, yes.
 8 Q. Did you not then pick up the wording under
 9 "Proposition"? Did you read that specifically?
 10 A. No.
 11 Q. You didn't?
 12 A. I would have read the whole document, but I wouldn't
 13 have picked up that there was something wrong with that,
 14 no.
 15 Q. Right. So do I take it that you would have read the
 16 language there next to "Proposition", but not thought
 17 that the words "and therefore accept for use in
 18 buildings above 18m in height" was thoroughly
 19 misleading? You didn't see it that way; is that right?
 20 A. No.
 21 Q. So did you think that it was right to present RS5000 as
 22 acceptable for use in buildings above 18 metres in
 23 height? Take those words on their own. Do you think
 24 they're accurate?
 25 A. When presented with the additional information that we

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1 attempted to put in lots of the other marketing
 2 material, that was a decision that the business was
 3 aware of how we were going to market the product across
 4 lots of different parts of Celotex and Saint-Gobain, and
 5 they seemed -- they appeared to have been locked down as
 6 the main words.
 7 Q. Do you accept that it would be thoroughly misleading to
 8 present RS5000 as acceptable for use in buildings above
 9 18 metres in height?
 10 A. If used as a standalone statement without any additional
 11 information to be available or in the same statement,
 12 then yes, but that wasn't what we were trying to do.
 13 Q. I understand the qualification you want to put on your
 14 answer, but I just want to see how far you are prepared
 15 to accept what Mr Roper was prepared to accept, which is
 16 that those words in that proposition are thoroughly
 17 misleading because they suggest, as they stand, that
 18 because RS5000 had passed the test, it could be used on
 19 buildings above 18 metres in height without
 20 qualification.
 21 A. Without qualification, I can see how somebody that
 22 would -- could see those words as being misleading, but
 23 that wasn't the intention from the marketing plan.
 24 Q. Let's then move to the marketing literature. You say it
 25 wasn't the intention from the marketing plan; let's

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1 explore that in some detail.
 2 Can we go, please, to your statement at page 39
 3 {CEL00010058/39}. I want to start off with this because
 4 it's what you say is your recollection.
 5 At the foot of page 39 you see paragraph 141, and
 6 you say:
 7 "The marketing proposition for RS5000 was quite
 8 simple. We saw K15 as the benchmark and were moving
 9 into the rainscreen cladding market for both below and
 10 above 18m applications in competition to Kingspan.
 11 Importantly and recognising that the testing of RS5000
 12 to BR135 and to BS8414-2 had involved the product being
 13 tested as part of an overall system we were keen to make
 14 it absolutely clear in the marketing literature that the
 15 product approval to the two standards had occurred as
 16 part of a system so the product was not approved in
 17 isolation for use in any application or system."
 18 Now, that's what you say there.
 19 Let's look at the marketing literature closely. We
 20 will start with the compliance guide at {CEL0000012/2},
 21 please.
 22 I'm going to take it that you're familiar with each
 23 of these pieces of marketing literature for RS5000
 24 unless you tell me otherwise, Mr Evans.
 25 A. Okay.

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1 Q. If you go to page 2, it says:
 2 "This document provides guidance on complying with
 3 Approved Document B2 (AD B2) for external wall cladding
 4 systems fixed to steel frame or masonry constructions.
 5 It provides a step by step guide to an alternative route
 6 to compliance for AD B2 through meeting the performance
 7 criteria set out in BR 135 through testing to
 8 BS 8414-1:2002 or BS 8414-2:2005."
 9 In fact, it's right, isn't it, that actually RS5000
 10 had never been tested under BS 8414-1, had it?
 11 A. No.
 12 Q. So to the extent that this document suggests that it
 13 had, it was misleading; no?
 14 A. I think what's happened here or potentially happened
 15 here is the fact that we are marketing the product for
 16 above and below rainscreen cladding as well.
 17 Q. Ah, all right.
 18 SIR MARTIN MOORE-BICK: Well, you are actually showing
 19 a picture of a masonry substrate, aren't you?
 20 A. Yes.
 21 SIR MARTIN MOORE-BICK: And that hadn't been tested.
 22 A. No, that hadn't been tested, and I think this is
 23 where -- why we changed the product from AE to
 24 rainscreen. We were looking to get a specific product
 25 for the rainscreen market because K15 could be used

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1 below 18 metres and above 18 metres. There was a time
 2 delay between the launch of FR5000 and RS5000, and
 3 FR5000 was suitable for use below 18 metres, so the
 4 longer term plan for the business was to have a solution
 5 for both, one product that could be used above and below
 6 18 metres, so that might be why that's happened there.
 7 MR MILLETT: Well, just explain how that works.
 8 It's right, isn't it, that you wouldn't need to
 9 satisfy the criteria in BR 135 through a BS 8414-1 or 2
 10 test for any building if you were going to use it below
 11 18 metres, would you?
 12 A. No, that's true.
 13 Q. So what was the purpose of telling readers that this was
 14 a step-by-step guide to an alternative route to
 15 compliance through meeting the performance criteria set
 16 out in BR 135 through testing to BS 8414-1, when it
 17 hadn't?
 18 (Pause)
 19 A. I don't know how that's happened.
 20 Q. It's misleading, isn't it, in that respect?
 21 (Pause)
 22 A. It's certainly not showing the test that we did.
 23 Q. And to be fair to you, it does come on to that. But
 24 just as a standalone statement, first page, first thing
 25 that anybody reads, would suggest that RS5000 had been

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1 tested under both parts of BS 8414; no?

2 A. It could be read that way, yes.

3 Q. Yes. And if it were read that way, it would be

4 thoroughly misleading, wouldn't it?

5 (Pause)

6 A. Yes, it wouldn't cover the only system we'd passed.

7 MR MILLETT: Yes.

8 Mr Chairman, I'm conscious I'm going to take some

9 time on these documents. It may be a convenient moment.

10 SIR MARTIN MOORE-BICK: Yes, all right.

11 Well, we'll have a short break at this point,

12 Mr Evans. We will come back at 11.30, please.

13 While you're out, please don't talk to anyone about

14 your evidence. Thank you very much.

15 (Pause)

16 11.30, then, please. Thank you.

17 (11.16 am)

18 (A short break)

19 (11.30 am)

20 SIR MARTIN MOORE-BICK: Right, Mr Evans, shall we carry on?

21 THE WITNESS: Yes, please.

22 SIR MARTIN MOORE-BICK: Yes, Mr Millett.

23 MR MILLETT: Can I ask you to stay in this document, please,

24 which we were on, {CELO0000012/3}. This is entitled

25 "BR 135" in the top left-hand corner, and you can see,

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1 if you cast your eye across the page to the three little

2 pink triangle bullet points there, there is some text

3 underneath that.

4 Now, before I show you that, can I just ask you

5 a general question about BR 135.

6 I think you had been sent the third edition of

7 BR 135 in May 2013 by Mr Roper; do you remember that?

8 A. Based on, I think, what I saw yesterday, then yes, it

9 was sent to me.

10 Q. If we look at the passage under the three pink bullet

11 points, it says:

12 "The classification applies only to the system as

13 tested and detailed in the classification report. The

14 classification report can only cover the details of the

15 system as tested. It cannot state what is not covered.

16 When specifying or checking a system it is important to

17 check that the classification documents cover the

18 end-use application."

19 Now, that reflected the language in annex B of

20 BR 135 more or less. Do you remember that that was the

21 case?

22 A. No, I don't think I ever read BR 135.

23 Q. Right.

24 When you saw this document, did you read that text

25 there?

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1 A. I would have read the materials, yes, but would have

2 relied on others to have determined which text needed to

3 be included in the documents.

4 Q. Maybe, but when they made that determination, did it

5 come to you for final approval?

6 A. I'm not sure whether it was final approval, but they

7 would have come to me -- we would have shared the

8 documents and people would have been invited to comment,

9 but I don't think it had final approval from me,

10 certainly on technical content.

11 Q. Did you read it?

12 A. I believe I read this document, yes.

13 Q. Did you have any doubts about what that passage meant?

14 A. I don't remember specifically thinking anything when

15 I read that particular paragraph.

16 Q. Was it clear to you that the BR 135 criteria and the

17 BS 8414 test was for a full-scale test of a system, not

18 for a product in application?

19 A. My understanding was what we were doing was testing

20 a system and then marketing the product as part of the

21 system.

22 Q. Part of the system?

23 A. Part of a system.

24 Q. Part of the same system as tested?

25 A. Yes.

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1 Q. Did you think that there was any wiggle room, any

2 ambiguity for any interpretation of this language which

3 might suggest that a building designer could use RS5000

4 with any component in a system other than that which was

5 tested and still be covered by the classification

6 report?

7 A. No, I think our understanding was that we tested the

8 system and the product -- our product formed part of the

9 overall system, and that if people wanted to change

10 that, they needed to seek separate advice on whether

11 that was permissible.

12 Q. Now, we've seen this statement in all the other

13 marketing literature used by Celotex to market RS5000.

14 Does your answer there apply to those statements as

15 well?

16 A. Sorry, in terms of this final paragraph?

17 Q. In terms of this language, yes.

18 A. Yes, I think the language would have been used across

19 different literature.

20 Q. Therefore, did you understand that it was absolutely

21 critical, as a result of this language, for anybody

22 reading this statement to be sure that the details of

23 the system as tested, to use the words there, as tested,

24 were correctly and fully described in the marketing

25 literature?

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1 A. Yes.
 2 Q. And indeed in the classification report itself?
 3 A. Yes.
 4 Q. Now, if you look at page 4 {CEL00000012/4}, we can see
 5 the middle column sets out the system that this document
 6 states was tested. Under "Celotex RS5000", middle
 7 column, there is a bold heading which says:
 8 "The system tested was as follows:
 9 •" 12mm Fibre Cement Panels
 10 •" Supporting aluminium brackets and vertical rails
 11 •" 100mm Celotex RS5000
 12 •" 12mm Non-combustible sheathing board
 13 •" 100mm SFS System
 14 •" 2 x 12.5mm plasterboard."
 15 There's no mention in that list there of the layer
 16 of 6-millimetre magnesium oxide, is there?
 17 A. No.
 18 Q. Nor of the fact that in some places, two places in fact,
 19 on the test rig the fibre cement panels were not
 20 12 millimetres but 8 millimetres.
 21 A. No.
 22 Q. If we look at the diagram below, diagram 4, figure 4,
 23 you can see that the list is then set out in pictorial
 24 form, can't you?
 25 A. Yes.

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1 Q. And similarly there, do you accept that that doesn't
 2 show the layer of 6-millimetre magnesium oxide at the
 3 level 2 thermocouples and the top of the rig, or the
 4 presence of the 8 millimetres of Marley Eternit Natura?
 5 A. Yes.
 6 Q. Do you accept that those omissions make the statement
 7 and the drawing thoroughly misleading?
 8 A. On the basis of what we tested and what we know now,
 9 what I know now, versus that, then yes, it's not
 10 a reflection of what was tested.
 11 Q. So the answer to my question is: yes, you accept that
 12 this marketing literature here, when describing the
 13 test, was thoroughly misleading?
 14 A. Yes.
 15 Q. Yes. So any designer looking to follow your words of
 16 warning that we saw on the previous page, and to try to
 17 replicate exactly the cladding system that you were
 18 describing as having passed the test, would in fact be
 19 designing a cladding system that had not passed the
 20 test.
 21 A. Yes.
 22 Q. Those omissions and misdescriptions were not
 23 an accident, were they, they were quite deliberate?
 24 A. On my part, the system that we put into the marketing
 25 materials was the system that I at the time believed

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1 that we had tested. I ...
 2 Q. Well, do you think they were accidental omissions?
 3 A. Based on what I knew and what I had recalled and
 4 their -- my understanding was that what we were doing
 5 was what we had tested.
 6 Q. Do you accept that if you had faithfully described the
 7 test components as actually used, namely including the
 8 6-millimetre magnesium oxide and the 8-millimetre Marley
 9 Eternit Natura at those two locations, that would have
 10 given the game away as to how the test had been passed?
 11 A. I don't know whether it was about giving the game away.
 12 I don't know why or how that's happened.
 13 Q. You don't know how what's happened?
 14 A. I don't know how the -- based on my knowledge at the
 15 time of putting the information into the marketing
 16 material and the feedback that was in the business and
 17 what people in the business were doing, my understanding
 18 was that was what we had tested.
 19 Q. That's not true, is it?
 20 A. Not from what I've seen now, no.
 21 Q. It's not true that your understanding at the time was
 22 that that was what you had tested. That's not true, is
 23 it?
 24 A. Based on materials I had seen but not ... I think being
 25 unaware of kind of what I was aware of I think is the

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1 problem there.
 2 Q. I don't understand that answer.
 3 A. There's materials that were presented and decisions have
 4 been made, and we've ended up putting a -- marketing
 5 a system that wasn't as I thought we had tested.
 6 Q. You knew by 19 June that the system as tested included
 7 a magnesium oxide layer of 6 millimetres, and two orange
 8 8-millimetre panels of Marley Eternit. You knew that
 9 because you had seen the report, and you had discussed
 10 it at the 19 June meeting. Indeed, you had seen the
 11 previous slideshow in its 17-page form which identified
 12 the 6 millimetres.
 13 Those two pieces of information, I would suggest to
 14 you, led you to know very well that the list of
 15 components set out in the description of the test we see
 16 here was materially inaccurate and misleading?
 17 A. Based on the information that -- and I know I've seen
 18 things and seen documents, but the detail that I was
 19 aware of and what I was being told was okay to go to
 20 market was what we put in there.
 21 Q. Can you account for how this, what I would suggest is
 22 a thoroughly dishonest and misleading document, could go
 23 out to the market on your watch as head of marketing,
 24 Mr Evans?
 25 A. Only by relying on other people to give information, and

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1 decisions have been made and things have been moved on
 2 which has led to us promoting the system this way.
 3 Q. Is it really right that you would have delegated to
 4 other people and not checked their work when identifying
 5 the build-up of the test, given the very clear warning
 6 or disclaimer or caveat we see on the page before?
 7 A. Based on what people were giving -- the information
 8 people were giving me and what decisions seemed to have
 9 been made and things that seemed to have been done,
 10 that -- based on what I was launching and how we
 11 launched the product, that is what I was led to believe
 12 we were marketing.
 13 Q. You were led to believe you were marketing? Who led you
 14 to believe that?
 15 A. That was -- well, the business. There was no one coming
 16 to me saying, "This is -- we shouldn't be launching
 17 this", et cetera.
 18 Q. You are not suggesting, are you, that Mr Roper or
 19 anybody else involved in the RS5000 project deliberately
 20 kept the presence of the 6 millimetres of magnesium
 21 oxide and the 8 millimetres of Marley Eternit from you
 22 as a secret, are you?
 23 A. No, because it's been shared --
 24 Q. Yes.
 25 A. -- in the business, and --

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1 Q. Yes.
 2 I'm going to suggest to you that this document, in
 3 the respects I've identified, is a dishonest and
 4 deliberately misleading document, and you knew it was.
 5 A. All I can say is when we were launching the product to
 6 the sales team and the marketing material was going,
 7 there was not anything in me that was thinking that what
 8 we were doing was taking that approach.
 9 Q. And you had to market it without those references in
 10 there because you knew very well at the time, as would
 11 have been obvious, not only that the test had included
 12 those two features, but telling the market that those
 13 two features were there would have meant that you had
 14 tested a thoroughly unrepresentative system.
 15 A. Yes, there seems to be decisions made to remove the --
 16 those two aspects.
 17 Q. Yes, and that the rationale for removing those two
 18 aspects was because, if you had mentioned them, you
 19 would have revealed to the market that you had tested
 20 a system which was thoroughly unrepresentative of
 21 systems being used in the market.
 22 A. Yes.
 23 Q. Yes, thank you.
 24 Can we go to the specification guide,
 25 {CEL00000013/3}. I think I can take this quite quickly.

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1 On that page, you can see that it says, under the
 2 heading "Building above 18 metres" -- I don't think you
 3 can quite see the heading there. It's under the
 4 "Introduction", in fact, but it says in the fourth
 5 paragraph:
 6 "Celotex RS5000 is uniquely positioned to help meet
 7 these goals. Celotex RS5000 is a premium performance
 8 PIR solution for use in rainscreen cladding applications
 9 and suitable for use in building above 18 metres in
 10 height."
 11 Again, do you accept that that sentence I've just
 12 read to you, particularly with the conclusion at the end
 13 of it, "and suitable for use in building above 18 metres
 14 in height", is thoroughly misleading, for the reasons we
 15 discussed before?
 16 A. This is an example of where we were looking to put the
 17 system in as part of the material. So we would have
 18 introductory information, but then the document would
 19 also take you to the system that had been tested.
 20 Q. If we go to page 5 {CEL00000013/5}, please, it says in
 21 the top left-hand corner:
 22 "Celotex RS5000 has been successfully tested to
 23 BS 8414-2:2005 ..."
 24 Then under the heading "Building above 18 metres" in
 25 bold, it says the same thing. Then it says, six lines

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1 down or so, after the reference in brackets to
 2 BS 8414-2:2005:
 3 "... meets the criteria set out in BR 135 and is
 4 therefore acceptable for use in buildings above
 5 18 metres in height."
 6 Same point again, Mr Evans: thoroughly misleading,
 7 for the reasons we discussed before; do you accept that?
 8 A. Those words have -- are being replicated in multiple
 9 documents.
 10 Q. Then on the right-hand side, again -- and it's the same
 11 point -- it says under the italics, third paragraph
 12 down:
 13 "The fire performance and classification report for
 14 Celotex RS5000 only relates to the components detailed
 15 above. Any changes to the components listed will need
 16 to be considered by the building designer."
 17 Again, any ambiguity you see in that? It's pretty
 18 clear, isn't it?
 19 A. Yes, that's what we're saying, yes.
 20 Q. Yes, "only relates to the components detailed above".
 21 Now, we can see the components detailed above if you
 22 go to the left-hand column at the bottom:
 23 "The system tested to BS 8414-2:2005 was as
 24 follows ..."
 25 And there again is the six-item list. Again, it

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1 doesn't include the 6 millimetres of magnesium oxide,
 2 does it?
 3 A. No.
 4 Q. And again, do you accept that, contrary to the
 5 disclaimer given in this document, the classification
 6 report didn't in fact cover the system as described
 7 here?
 8 A. No, it doesn't.
 9 Q. Because this was not in fact the tested configuration,
 10 was it?
 11 A. No.
 12 Q. And, again, I would suggest to you that this is
 13 deliberately and dishonestly misleading and you knew it.
 14 A. I didn't know -- the information that I had and how I've
 15 remembered it or recalled it, I wouldn't have sent that
 16 product to market with -- doing that.
 17 Q. Well, you would have, I suggest, because you did. You
 18 don't agree?
 19 A. I just think the information that I was given has been
 20 kind of removed from ... I wasn't thinking about those
 21 when I was looking and signing these documents off.
 22 Q. Again, no reference here to the 8-millimetre
 23 Marley Eternit Natura board there, is there?
 24 A. No.
 25 Q. So, again, a deliberately dishonest and misleading

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1 omission from that list?
 2 A. Yes, it's not representing the system that was tested.
 3 Q. No, and I'm going to be firm here: that was a deliberate
 4 decision dishonestly to make that omission and you knew
 5 it.
 6 A. There seems to be decisions being made and I'm aware of
 7 the information, but I haven't put that information
 8 together when looking at these documents.
 9 Q. Do you remember I showed you the test report, at least
 10 in the first draft version, which showed two orange
 11 layers?
 12 A. Yes.
 13 Q. Were you never curious to know what they were?
 14 A. No, I don't think I was.
 15 Q. Did you never say to Jon Roper or Jamie Hayes, who was
 16 at the test, or who knew about the test at any rate,
 17 "Why are there two different colours on the May rig?"
 18 A. No.
 19 Q. You were that incurious; is that right?
 20 A. I don't really remember spending that much time on the
 21 document or looking at that.
 22 Q. Even though it was the subject of a discussion that led
 23 to a whiteboard, which we've seen, on 19 June, when
 24 Jon Roper received that for the first time and brought
 25 it for discussion with you, you don't remember noticing

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1 that there were two different colours on the rig?
 2 A. I don't remember, when we did the whiteboard
 3 annotations, looking at the test report at the same
 4 time.
 5 Q. Do you remember after 19 June but before 1 July, when
 6 Mr Roper went back, to your knowledge, to the BRE,
 7 looking at the test report?
 8 A. No.
 9 Q. I'm having trouble understanding that, because this was
 10 the second attempt at a test for which you had had to
 11 get a fresh budget in relation to an extremely important
 12 marketing strategy, breaking into a new market for the
 13 first time. Was this test report not of absolutely
 14 critical importance to you?
 15 A. Yes, and I was relying on people -- other people in the
 16 business and in the team to support me in that.
 17 Q. I'm sure you were, Mr Evans, but you were Mr Roper's
 18 line manager and you were head of marketing, and
 19 therefore you were responsible for this sphere of
 20 activity within Celotex. Here comes a draft report in
 21 relation to a second test, having failed the first test,
 22 which I have to suggest to you would have been of
 23 immense importance to you personally; no?
 24 A. It was important to me, but I don't -- as I say, I don't
 25 know why, but I haven't studied that information in more

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1 detail.
 2 Q. Well, I'm suggesting to you that because of the
 3 importance of the project, and because of your role, you
 4 did study it carefully.
 5 A. No, I didn't study it carefully.
 6 Q. Well, that would have been a dereliction of your duties,
 7 wouldn't it?
 8 A. I was relying on people within the project team to
 9 support me.
 10 Q. No, but you can't pass the buck to people in the project
 11 team to support you. Your role was to supervise
 12 Mr Roper. He was a young graduate, fresh out of
 13 university in his first job, who you had given a big
 14 project, and you were his line manager; it would have
 15 been a dereliction, an abandonment of your obligations
 16 to Celotex, not to keep a very close eye on his work,
 17 but critically, not to read that report very closely.
 18 Do you not accept that?
 19 A. No, I think there was other people in the business who
 20 would have read that report, and also the fact that
 21 anything that was coming in to me I was also feeding in
 22 to other departments and in to senior management in
 23 Celotex.
 24 Q. Why would senior management have had any greater
 25 interest in reading the test report than you?

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1 A. I didn't just mean the test report, I meant the project
2 generally.
3 Q. I'm talking about the test report specifically,
4 Mr Evans. Why would anybody in senior management have
5 had a greater interest in understanding every page of
6 that test report than you?
7 A. Senior management not on the test report, but on the
8 project as a whole. But on the test report I was
9 relying on other people in the project team to come to
10 me with their level of detail and knowledge, which was
11 above mine.
12 Q. I've got to suggest to you that this is not credible, is
13 it, Mr Evans? You were in charge of this project. This
14 was a vitally important test report, second time around,
15 for a vitally important marketing effort. You read that
16 document very thoroughly.
17 A. Which document, sorry?
18 Q. The test report.
19 A. I didn't read the test report thoroughly.
20 Q. So was this a one-off lapse from your duties as head of
21 marketing?
22 A. No, I wouldn't say it was a lapse of duties. I was --
23 there would have been people that I trusted in the team
24 to be taking that level of technical detail, which
25 I didn't have, and be responsible for that.

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1 Q. Right.
2 Can we look at the datasheet for RS5000,
3 {CEL00007961}, please.
4 Now, this is the shortest, I think -- is this
5 right? -- of the documents comprising the suite of
6 marketing documents, because it only runs to three
7 pages.
8 A. Yes, a product datasheet would have generally been two
9 to three pages.
10 Q. Yes. On every one of the three pages there is a pink
11 banner running across the top, which says in it:
12 "Celotex RS5000.
13 "Premium Rainscreen Cladding Board.
14 "(suitable for buildings above 18 metres in
15 height)."
16 Just to make that good, that's page 1, let me show
17 you the top of page 2, there it is again, and the top of
18 page 3, there it is again. You see that.
19 Now, it doesn't matter which we pick, but there is
20 no qualification, is there, of that three times repeated
21 statement; it's just stated baldly "suitable for
22 buildings above 18 metres in height".
23 Now, that was simply misleading, wasn't it, as
24 a standalone statement?
25 A. It wasn't intended to be used as a standalone statement

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1 on those documents, because the documents were making
2 reference to the tested system.
3 Q. Yes, we will see that, but I am just asking you about
4 the statement itself, and really what I'm addressing
5 with you is the presentation of this document.
6 On each of the three pages, you get a standalone
7 statement "suitable for buildings above 18 metres in
8 height". Now, as a statement, that was inaccurate,
9 wasn't it?
10 A. As a standalone statement, yes, but it's being -- the
11 intention there, and what we had discussed as
12 a business, was about making sure that that was
13 supported by reference to the tested system.
14 Q. What was the purpose of putting those words in the
15 banner at the top of the page, on every page?
16 A. I believe there was a request, and having reviewed again
17 my bundle of documents, that there was a request from
18 Craig Chambers to have an 18-metre -- to have 18
19 a little bit more prominent on things. I'm not saying
20 that was the reason for that, but I know there was
21 an email that I've seen. So maybe it was to do with
22 having "above 18 metres" in a little bit more detail,
23 rather than it just being positioned as a rainscreen
24 cladding board.
25 Q. There isn't even an indication in any of these three

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1 pages that you should look to page 3 and find a caveat
2 or disclaimer, is there?
3 A. No, there's not.
4 Q. And why is that?
5 A. Part of the reason for that is that we would have been
6 marketing this to people that -- to an audience of
7 people that we felt would have read the documents, been
8 knowledgeable about this particular application, and
9 want to read more information, rather than needing to
10 take them there. We deliberately looked to keep the
11 amount of information that we had in these documents
12 small. We didn't want to create mass pages of
13 documents. We wanted to have three or four pages, why
14 the compliance guide was only three or four pages and
15 the rainscreen cladding guide and this; it was about
16 having a short number of pages.
17 Q. Was the real purpose here on each page to draw the eye
18 of the reader to the message you wanted to get across,
19 "suitable for buildings above 18 metres in height", but
20 not to draw the eye to the disclaimer, the small print,
21 if you like?
22 A. No, that was never a discussion.
23 Q. Well, then, can you explain why there is a bald
24 statement on each of these three pages which is
25 inaccurate and which doesn't draw the reader's eye to

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1 the disclaimer on page 3?

2 A. No, I can't explain why we've put it on all three pages

3 rather than the first. I can only assume it was because

4 there was a discussion around having the 18 metres

5 message a little bit more prominent.

6 Q. You say a little bit more prominent; it's a lot more

7 prominent, isn't it? It's the message.

8 A. I think, again, going back to the market that we were

9 launching this into, we wouldn't have seen that at the

10 time as being a long document for people to read or to

11 actually understand the system.

12 Q. No, indeed. People don't have time, they want a short

13 document they can understand, and anybody picking this

14 up would have looked at it and thought: Celotex RS5000

15 is suitable for buildings above 18 metres in height.

16 A. No, that wasn't the plan, and I know that I made

17 a specific -- because, again, I've seen an email, where

18 I was making sure that we weren't using "above

19 18 metres" as a standalone statement in too many places.

20 Q. Well, you say that wasn't the plan; before we get to the

21 plan, that was the effect.

22 A. That wasn't ever our intention. That wasn't

23 a discussion that we were going to have, to take people

24 in that direction. We wanted people to have information

25 because we felt that our main competitor in that market

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1 wasn't making this as prominent, and that we could make

2 it more prominent across the majority of the information

3 that we provided.

4 Q. But not all of it, because if we go to page 1 on the

5 introduction section, in the main body of the paragraph

6 there, it says -- and this is now becoming familiar,

7 Mr Evans, but I make no apology for it -- in the

8 last-but-one line, after the reference to meeting the

9 test, it says:

10 "... and therefore is acceptable for use in

11 buildings above 18 metres in height."

12 That's repeated in the second bullet point down,

13 just a bit lower down the page, if you look at that,

14 isn't it?

15 Again, do you accept that this wording is

16 potentially thoroughly misleading?

17 A. What we were trying to do with the marketing materials

18 is we were using those words, and it was about making

19 sure that we then gave the information on the system or

20 where people could go and get information -- more

21 information on that.

22 Q. Then on page 3 {CEL00007961/3} it sets out the system

23 tested, and again it says, as you can see underneath the

24 list:

25 "The fire performance and classification report

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1 issued only relates to the components detailed above.

2 Any changes to the components listed will need to be

3 considered by the building designer."

4 Then above that is the system tested.

5 Why is that on page 3 and not on page 1?

6 A. I don't know. I think generally we had a template of

7 application and product datasheet, so maybe it's just

8 followed that process and it's just gone into that area.

9 I don't think there was a deliberate decision to put it

10 on the last page.

11 Q. On the last page we see, just above those words, "The

12 system tested was as follows", and again we have the six

13 stated ingredients of the system, but again, no mention

14 of the 6-millimetre magnesium oxide panels or any

15 reference to the 8-millimetre Marley Eternit panels

16 either.

17 A. No.

18 Q. Again, even had the scrupulously careful designer read

19 the small print here on page 3, the small print itself

20 was misleading because of those omissions, wasn't it?

21 A. Based on what was tested, then yes.

22 Q. And it was not an accident, quite deliberate, and

23 a dishonest document as a result; do you accept that?

24 A. From my side, when I launched -- when we launched the

25 product, I wasn't looking at that being dishonest of

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1 how -- what's happened. Between the second test and

2 this happening, that information has managed to happen,

3 and it wasn't my intention to have a misleading

4 document, but that's how it's come about.

5 Q. The only explanation for you allowing what are now three

6 misleading documents sent out to the market on your

7 watch is that you yourself knew and approved these

8 dishonest and misleading statements, Mr Evans; do you

9 not accept that?

10 A. I would have approved the documents based on the

11 knowledge that I had when I was doing that and

12 I don't -- that knowledge didn't include -- I hadn't

13 gone back to include that knowledge that I had, and that

14 wasn't deliberate at all, no.

15 Q. Can we go to {CEL00000407}, please. This is a press

16 release prepared for the launch of Celotex RS5000 that

17 Mr Roper didn't, I think, prepare, but certainly told us

18 he approved.

19 Were you involved in preparing this document?

20 A. I can't recall whether I was involved or not.

21 Q. Did you see this document before RS5000 was launched?

22 A. I saw a lot of documents, so I can't say yes, I did, but

23 I would imagine I did see this document.

24 Q. Yes. As head of marketing, and given that this was the

25 launch of a new product entering an important market for

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1 the first time, can we take it that you would have done,
 2 even though you can't recall it specifically ?
 3 A. I think you can take it that I would have read it, yes.
 4 Q. Thank you.
 5 Let's look at the first paragraph. It says in the
 6 second line :
 7 "... a new premium performance PIR solution
 8 specifically designed for rainscreen cladding
 9 applications ."
 10 That was untrue, wasn't it, because RS5000 was
 11 simply FR5000 re-branded and launched? It wasn't
 12 specifically designed at all, was it?
 13 A. The products, no, but putting it into the testing
 14 process that we put it through would I imagine be the
 15 background as to why we used those words.
 16 Q. Well, on the face of the document, do you accept -- and
 17 you read it -- that in fact it's telling the reader that
 18 RS5000 isn't an old product re-branded and relaunched
 19 with a test attached to it, but specifically designed
 20 for rainscreen cladding applications? That's not true,
 21 is it?
 22 A. No, there was no change to the physical product.
 23 Q. In the next paragraph it says:
 24 "The latest addition to the '5000' series product
 25 range ..."

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1 Again, that suggests that it's a new product being
 2 added to your existing range, doesn't it?
 3 A. Yes, and from our side, because we were calling it
 4 RS5000 and it was -- we were marketing that into
 5 a rainscreen cladding market, that's why we would have
 6 said that it was a new addition, the latest addition.
 7 Q. That's not true though, is it? It was the old FR5000
 8 re-branded, wasn't it?
 9 A. Yes, from a technical perspective, but from our side we
 10 were looking at getting it into a new application, which
 11 is why we would have said it was a new product, because
 12 it meant that we went from having however many 5000
 13 products we had to having one more.
 14 Q. Indeed, and you, for marketing reasons, were presenting
 15 something as new because that was better from
 16 a marketing perspective, whereas in fact it was old.
 17 A. Yeah, that wasn't the thinking at the time. The
 18 thinking at the time was about broadening the 5000 range
 19 in line with the company strategy to have solutions for
 20 more applications.
 21 Q. Why not simply say, "This is FR5000, which we have had
 22 for many years, which has now passed the BR 135 criteria
 23 and a BS 8414 test"? Why not say that?
 24 A. We did talk about whether we wanted to do that, and
 25 there was some reasons why we didn't. I can't

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1 necessarily remember all of them, but I can remember
 2 a couple.
 3 FR5000 was already in the market, and was already
 4 being stocked in distribution, and what we wanted to
 5 avoid is people going in to a distribution outlet and
 6 ordering FR5000 and putting it into an application which
 7 wasn't in line with the way that our system was being
 8 marketed.
 9 Q. No. I mean, was the thinking that you had to present
 10 RS5000 as a new product in order properly to attack
 11 Kingspan's K15 market share?
 12 A. No, I don't think so. I think if the plan was to attack
 13 Kingspan's market share, we could have done what was
 14 suggested there, which is just to say that FR5000 can
 15 now be used above 18 metres.
 16 Q. It wouldn't have had the same impact, though, would it?
 17 A. I can't say whether it would or it wouldn't, but I don't
 18 think, from the market that I knew, that that would have
 19 been a problem, people knowing that FR5000 could then be
 20 used -- FR5000 was multipurpose. It could be used in
 21 pitched roofs, in floors.
 22 Q. On this point finally, the top of page 2 of this
 23 document {CEL00000407/2}, please, again it says:
 24 "With the addition of Celotex RS5000 to
 25 an unrivalled PIR insulation product range, Celotex

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1 products achieve better U-values with thinner
 2 solutions."
 3 Again, that is suggesting -- in fact, it's stating
 4 in terms -- that RS5000 is an addition to an existing
 5 product range, but it wasn't, was it?
 6 A. When comparing the two products, no, but in terms of
 7 putting the product into a new application, then that's
 8 the thinking behind what we were doing there.
 9 Q. Now, if we can go back a page, please, to the second
 10 paragraph {CEL00000407/1}, we can see there that it
 11 says, in the second part of it, after the reference to
 12 BR 135:
 13 "... and therefore is acceptable for use in
 14 buildings above 18 metres in height."
 15 Again, that was misleading as a statement, wasn't
 16 it?
 17 A. As a standalone statement, then yes.
 18 Q. Yes. Well, it is a standalone statement --
 19 A. Yes.
 20 Q. -- isn't it, here?
 21 A. Yes.
 22 Q. And it was misleading, therefore, wasn't it?
 23 A. It's made its way into this press release without the
 24 substantiation of the system.
 25 Q. Yes, and it makes the press release misleading, doesn't

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1 it?
 2 (Pause)
 3 A. It's misleading to say that the product could be used in
 4 buildings above 18 metres in height, but again, that
 5 wasn't our intention. It was more about telling the
 6 market with a press release what we had and then looking
 7 for people to get more information, go to the website,
 8 et cetera.
 9 Q. I suggest to you that, yet again, this is I think
 10 perhaps the fifth time we've seen that mantra, it was
 11 not only misleading, but deliberately and dishonestly
 12 so, and you knew that.
 13 A. Again, that wasn't what -- that wasn't what I was
 14 looking to do when I was launching the material, that
 15 wasn't on my mind.
 16 Q. You were not involved in the drafting here. Were you
 17 involved in the drafting of the specification guide and
 18 the compliance guide and the datasheet, or any of those,
 19 that we have looked at?
 20 A. No, generally, that would have been -- the role of that
 21 would have been product management with technical input
 22 as well.
 23 Q. As head of marketing, you would have hardly let those
 24 into the marketplace unless you had reviewed them and
 25 were happy with them, though, would you?

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1 A. I would have reviewed them, read them, and based on the
 2 information that I had in my mind at the time, I would
 3 have said they were okay, yes. We did also seek
 4 guidance as well from Saint-Gobain.
 5 Q. I was going to ask you that. How high up did approval
 6 of these documents go within Saint-Gobain?
 7 A. Sorry, I'm ... because of privilege, I'm not sure how to
 8 answer that.
 9 Q. Well, I'm not interested in asking you anything about
 10 legal advice. I just want to know at an executive level
 11 who within Saint-Gobain approved the marketing material
 12 we have been looking at?
 13 A. The materials, and I don't know how many of them, but
 14 they went to the Saint-Gobain legal team.
 15 Q. Did they go to anybody on the executive side of
 16 Saint-Gobain's business?
 17 A. I don't know.
 18 Q. Right.
 19 A. I don't know who -- I know the people who I think looked
 20 at the documents or who managed that for us, but I don't
 21 know what roles they had within Saint-Gobain at board
 22 level.
 23 Q. Now, can I go to {CEL00002108}, please, and I would like
 24 to go to the bottom of the page, where you can see
 25 an email from Bex Hartlebury.

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1 She was the marketing communications manager at the
 2 time, wasn't she, or one of them?
 3 A. Bex was our only marketing communications manager. She
 4 left the business in early August, so ...
 5 Q. Early August 2014?
 6 A. 2014. She would have been in her notice period at this
 7 point, yes.
 8 Q. Now, we see this email to you on 7 July, and she says in
 9 big red bold letters:
 10 "This needs to include BS 8414 [and] BR135 can you
 11 add in to the clause as not sure where it should go.
 12 "Thanks."
 13 Then she sets it out:
 14 "Specification Clause.
 15 "Celotex RS5000."
 16 Can you see that?
 17 A. Yes.
 18 Q. It says what it says there:
 19 "The rainscreen cladding insulation shall be
 20 Celotex RS5000 ..."
 21 If we look halfway through the third line, it's
 22 a bit difficult to tell, but you can just about see it,
 23 there's some additional text which says:
 24 "RS5000 has been successfully tested to BS 8414-2
 25 and meets the performance criteria of BR 135."

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1 If we look at the top of that page, we can see that
 2 you have responded to her on the same day, and put:
 3 "As below. Again, JR can confirm this is
 4 technically accurate. I have taken the wording from the
 5 Technical Bulletin that is at draft stage."
 6 So you had inserted -- is this right? -- the blue
 7 words there; yes?
 8 A. There does look to be a difference in colour in that,
 9 and I have said "As below", so I would imagine I have
 10 copied -- cut my wording into that for Jon to approve.
 11 Q. Well, for Jon to approve, you say that, for Jon to
 12 confirm that it's technically accurate, but you were
 13 putting the wording in, subject to that; yes?
 14 A. Yes.
 15 Q. You refer to a technical bulletin that is at draft
 16 stage; what was that document?
 17 A. I don't recall whether -- I don't think we'd launched
 18 a technical bulletin.
 19 Q. Right.
 20 A. Technical bulletin sounds like -- we used to do some
 21 internal documents into -- communications into parts of
 22 the business, I can't remember if they were called
 23 technical bulletins, but it's not something I remember
 24 as being a marketing -- a market-facing document.
 25 Q. I see.

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1 Can we go to {CEL00009674}, please. This is another
2 email from Ms Hartlebury to you a few days later at the
3 bottom of the page, and the title or subject is "RS5000
4 Press Lunch". She is looking to book a restaurant in
5 London called the Duck and Waffle. You can see that.

6 You reply on 15 July 2014 at the top of the page,
7 and you say in the second paragraph:

8 "Craig's view was that the above 18m part was not
9 always prominent enough and we can look at this on the
10 spec guide, technical guide and datasheets. We always
11 need to be careful how we validate the +18m message. We
12 can't have it in too many places as a stand alone
13 statement. I'd be concerned we would need to get too
14 techy with the press media and end up causing
15 confusion."

16 Now, by "validate" there, did you mean caveat or
17 qualify?

18 A. Yes, this is the point I was making a few minutes ago,
19 where we needed to make sure that we validated/caveated
20 the message.

21 Q. Yes. So we can take it from this that, at the time, not
22 only were you involved in the drafting of these
23 documents, but were clearly concerned that you shouldn't
24 have that statement, "above 18 metres", in too many
25 places as a standalone statement; that's what you

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1 were --

2 A. Yes.

3 Q. -- communicating to --

4 A. Yes.

5 Q. That was because, unless it was qualified, it would have
6 the potential to mislead people into thinking that
7 RS5000 was generally acceptable for use in buildings
8 above 18 metres, as opposed to use only in the system as
9 tested.

10 A. Yes.

11 Q. Why didn't you tell Bex Hartlebury that, as a standalone
12 statement, it shouldn't be anywhere, rather than in "not
13 too many places"?

14 (Pause)

15 A. I think at the time there was materials that would only
16 have -- you know, wouldn't have the ability to have all
17 of that technical information, so that would be why.

18 Q. Was Celotex trying, were you trying, Mr Chambers, from
19 what you could tell, trying to tread the finest of lines
20 between the big sales banner, "suitable for use above
21 18 metres", and the small print?

22 A. No.

23 Q. The qualification.

24 A. No.

25 Q. It looks as if you were, because you were saying, "We

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1 can't have it in too many places as a stand alone
2 statement", so that would require a judgement to be
3 made, wouldn't it, about how often you made the
4 standalone statement and where?

5 A. Yes.

6 Q. Therefore that judgement was a fine one, wasn't it? It
7 was a matter of gauging it, working out the risk.

8 A. I don't remember it going into that much -- that much
9 level of thought. I think it was just making sure --
10 what I'm trying to do there is communicate a comment
11 that's come to me from Craig, and giving Bex
12 an understanding that we need to be careful about having
13 "above 18 metres" as a general message, which I think is
14 linked to the email below, which is talking about the
15 press launch.

16 Q. Let's move on in time, then, to January 2015,
17 {CEL00003457}, please. This is an email in which, at
18 the bottom of page 1, we can see, if we go to it, you
19 email Debbie Berger, forwarding her a document, and the
20 document, if you go over the page {CEL00003457/2}, is
21 a request that Jonathan Roome had received in a phone
22 call he had had on 7 January with one of the façade
23 engineers from Buro Happold. He says to Debbie Berger,
24 who was by then the product manager in place of
25 Jon Roper:

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1 "I have just come off the phone with one of the
2 Façade Engineers from Buro Happold.

3 "She would like us to comment on the suitability of
4 the use of RS5000 in the environment above 18m.

5 "Please can you consider and get an answer back to
6 me by the end of the week."

7 If we go up to page 1 {CEL00003457/1}, you ask
8 Ms Berger -- she sends this to you:

9 "What is your view on this system?"

10 Do you see that?

11 A. Yes.

12 Q. If we go to the email at the top of the page, her email
13 to you on 13 January:

14 "Hi Paul

15 "I spoke briefly to Jonathan about this at
16 Conference. I mentioned the drawing is very different
17 to the build-up of our system test and the design is
18 [as] such unsuitable for RS5000.

19 "Ultimately we are not in a position to give
20 compliance. All we can do is refer people to the
21 details of our compliance guide and if required our copy
22 of BR135 which details our system.

23 "They should discuss with Building Control their
24 design before ordering materials or work starts on site.

25 "Those are my thoughts.

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1 "Would you like a set of words that gives that
2 message in a friendly way?"
3 Now, the approach that she's taking in that email
4 there is or was clearly correct, wasn't it?
5 A. Yes.
6 Q. You didn't go back to her, did you, and tell her that
7 RS5000 could be used in a much wider range of
8 applications than the system itself?
9 A. No.
10 Q. And that's because you knew it couldn't be?
11 A. Unless that decision was made by somebody else who had
12 reviewed the system in line with their own building.
13 Q. There were no tenable arguments you could come up with
14 in favour of using RS5000 in a wider application than
15 the system as tested, particularly where you were
16 dealing with specialist façade engineers such as
17 Buro Happold.
18 A. No.
19 Q. If we go to {CEL00003607}. This is an email from you to
20 Richard John on 31 March 2015. You can see that now on
21 the screen. "RS5000" is the subject. "Hi Jonno", is
22 your greeting. It relates to -- I don't think I need to
23 show you the whole of the email string behind it --
24 a rainscreen opportunity in Scotland. Do you remember
25 that?

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1 A. No, I don't remember this email.
2 Q. Let's look at page 2 {CEL00003607/2} and see if we can
3 trigger a recollection of what this was about.
4 If you look at page 2, you can see that there's
5 an email on 26 March 2015 from Andrew Jennings at SIG to
6 Richard John, which has a query in red:
7 "When they say it was tested with 12mm Fibre Cement
8 Panels are they talking about something like an Eternit
9 Rainscreen Panel? And is this the only type of panel
10 that the board is certified for use with?"
11 That question gets passed to you by Richard John, as
12 we can see from the top of page 2. Do you see that?
13 A. Yes.
14 Q. "Paul
15 "Please see below question ..."
16 If we go back to page 1 {CEL00003607/1}, you reply
17 to him.
18 So that's the context, and you're answering his
19 question of 27 March on 31 March, and you say:
20 "Hi Jonno,
21 "With regard to your question below, the compliance
22 guide we have put together for RS5000 states (page 4)
23 that the external cladding panel is 12mm Marley Eternit
24 Natura panel. Whilst the panel does not need to be
25 specifically a Marley panel, it must be one that

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1 performs to the same level of specification and
2 performance as this. Having looked at the datasheet for
3 this panel the Fire Resistance is quoted as A2-s1,d0
4 when tested in accordance with EN13501-1. Would be
5 worth validating the specification /performance of the
6 Marley rainscreen panel."
7 Now, you must have realised when telling
8 Richard John that that that wasn't correct. When I say
9 "that", you say it must be one that performs to the same
10 level of specification and performance. That wasn't
11 right, was it?
12 A. No, I think what I'm doing there is saying to Jonno that
13 if he wants to have a conversation with -- you know,
14 this is the information, if he wants to -- if he wants
15 SIG or their client to have a conversation, he needs to
16 be doing that with somebody else, but I'm making him
17 aware of the performance of the Marley panel.
18 Q. Well, what you say in the second sentence there is:
19 "... the panel does not need to be specifically
20 a Marley panel, it must be one that performs to the same
21 level of specification and performance as this."
22 But that's not correct, is it, because that's not
23 what BR 135 says, and indeed it's not what your
24 marketing literature says?
25 A. No, this is an email I don't recall seeing and is

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1 different to the approach that I've taken with other
2 emails that I have seen.
3 Q. Well, why did you take that approach when responding to
4 Richard John's query?
5 A. I don't know.
6 Q. I want to ask you some questions about the full test
7 report.
8 Can we go to {CEL00003335}, please. This is
9 an email from you to Ian Lathbury on 3 October 2014 in
10 relation to a Keepmoat project. You're responding to
11 a question that had come up from Luke Cresswell at
12 Simco, where I think he had wanted the complete test
13 report, and you say to him:
14 "Hi Ian,
15 "As discussed, can you please confirm the exact
16 information they are after and we can look to assist.
17 We are not able to issue the full test report as this is
18 proprietary and confidential information to Celotex and
19 the RS5000 launch."
20 Why were you not prepared to show Mr Cresswell of
21 Simco the full report?
22 A. The approach to test reports in Celotex from the day
23 I joined was always not to issue test reports. So it's
24 a policy that the company had, which is why I've said
25 for this that it's not to be issued.

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1 Q. Was this something to do with any reluctance connected
2 to the presence of figure 18 and the fact that magnesium
3 oxide could be seen there?
4 A. No, I wouldn't have been thinking about that at the
5 time. As I said, this is all about a behaviour that's
6 been embedded and regardless of the -- what the test
7 report was, Celotex was always reluctant to send out
8 details of test reports to the market.
9 Q. What was specifically proprietary and confidential about
10 the RS5000 BRE test report?
11 A. Again, I don't think I would have been thinking about
12 the specific content of the test report; it was just
13 a request for the full test report, which would always
14 be met with a no.
15 Q. Did you ask anybody higher up the management chain about
16 whether or not on this occasion you might be able to let
17 the person asking for the test report see it, perhaps
18 under a non-disclosure agreement? Did you pursue it?
19 A. I don't remember.
20 Q. Was this just a knee-jerk reaction based on habit?
21 A. I wouldn't say it was knee-jerk, but it was certainly
22 based out of a policy that the company had, which I had
23 learnt after I joined, which was about test reports
24 being sent out to clients.
25 Q. Right. So this was, as I say, an automatic reaction,

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1 a blanket reaction, if you don't like knee-jerk; you
2 never send out full test reports as a matter of
3 practice?
4 A. I wouldn't say we never did, but I don't believe our
5 policy was that we would do it.
6 Q. If it wasn't a policy with that exception, on what
7 occasions would you exceptionally send a test report to
8 people who asked for it?
9 A. For example, we would have sent them to people when
10 there was desktop studies done for RS5000.
11 Q. By this time, October 2014, was there a desktop study
12 done for RS5000?
13 A. I don't know.
14 Q. {CEL00003784}, please. This is an email from you to
15 Richard John on 15 August 2014, and this is the second
16 email down, where you send him, although we can't see it
17 from the email, a copy of the full BRE test report. You
18 say:
19 "As discussed. Strictly for your eyes only
20 please ...!"
21 And he responds with an X, which I take it is simply
22 an acknowledgement.
23 You say "As discussed"; can you remember what you
24 discussed with Mr John?
25 A. No, not based on that email or that timing.

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1 Q. Given that Mr John was part of Celotex, why was it
2 strictly for his eyes only?
3 A. I don't know. Without knowing the background or the
4 context as to why we sent that out, I don't know.
5 Q. Can we look at Knauf and the prospective partnership
6 with them next, please, as a topic.
7 {CEL00003360/3}, please. This is an email from
8 Paul Reid to Debbie Berger on 24 October 2014. It's
9 quite a long string. I'm going to start with page 3.
10 This is an email, as I say, from Paul Reid to
11 Debbie Berger, 24 October 2014, and we can see you were
12 copied in on that.
13 A. Yes.
14 Q. It related to "Knauf & Celotex - New Products". It was
15 about carrying out a BS 8414 test on their own system,
16 and she was being asked to advise on the difference
17 between that and the tested system and the possibility
18 of it passing.
19 Do you remember that background?
20 A. I remember Knauf speaking to us about a potential supply
21 of our product for them to have a PIR solution in their
22 own above-18-metre system.
23 Q. Yes. If you go to the foot of page 2 {CEL00003360/2},
24 we will see the email that Debbie Berger sends to you --
25 or maybe it's Paul Reid. Perhaps you can tell me.

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1 I think it's Paul Reid, in fact, but she says:
2 "Hi Paul,
3 "To confirm the drawing attached is not [too]
4 different from the system we tested. Points to discuss
5 would be ..."
6 Then if we go to page 3 {CEL00003360/3}, she sets
7 out her view, and you can see it there.
8 Then in the second paragraph, under all the bullet
9 points, she says:
10 "These are my initial observations if you like. The
11 harder question of whether this is suitable to be used
12 above 18m would need to be discussed further perhaps with
13 Paul Evans."
14 Is that because you had been managing Jon Roper
15 through the 8414 test period and had a good
16 understanding of the above-18-metre requirements?
17 A. I think it's because Jon Roper left the marketing team
18 to go and join sales and Debbie joined, and Paul's given
19 that to Debbie in her role as taking over above-18-metre
20 market, and Debbie has defaulted to myself to become
21 involved.
22 Q. You respond on the same day. If we go to page 2
23 {CEL00003360/2}, you say:
24 "Debbie,
25 "Thanks for coming back quickly on this. My

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1 understanding is that Knauf will perform their own
2 BS8414 test to include RS5000 but it was useful to get
3 sight of their planned system so we can provide guidance
4 on how this compares to how we tested."

5 You see that?

6 A. Yes.

7 Q. Then she responds to you at the bottom of page 1
8 {CEL00003360/1} and over to page 2 on 25 October 2014.
9 We can see the email at the bottom of page 1 timed at
10 11.13:

11 "I understand Paul's question now.

12 "There are other details which I've not fed back to
13 Paul regarding our Pass for RS5000. I wasn't sure how
14 much detail to go into but design considerations
15 included orientation of the board, the base board below
16 the cladding that separates the fire chamber from the
17 structure and also the thickness of the A2 cladding, we
18 used a 12mm board."

19 Then she goes on, over the page at page 2
20 {CEL00003360/2}:

21 "The idea behind these little design tweaks was to
22 delay the fire entering the cavity and contacting RS5000
23 for as long as possible. It's thought the design
24 contributed to the flames taking 20mins of the 30 min
25 test to enter the cavity and contact Celotex thus

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1 minimising fire propagation."

2 Now, you, of course, I think, were already aware of
3 that, weren't you? You were already aware of those
4 little design tweaks that she's referred to.

5 A. Yeah, I don't recall at the time linking what Debbie was
6 saying to anything pre-launch or during the testing
7 process, but that is what she seems to be saying there,
8 yes.

9 Q. Well, the little design tweaks she's identifying,
10 thickening the boards for example, were tweaks that you
11 were aware of.

12 A. They were tweaks that I had been -- I had seen slides,
13 et cetera, but I wouldn't have been thinking about that
14 when I was looking at this email.

15 Q. Now, one of those little tweaks which she doesn't refer
16 to, of course, is the existence of the 6-millimetre
17 magnesium oxide under an 8-millimetre Marley Eternit
18 board, which she doesn't identify.

19 Was that one of the details that she knew about but
20 hadn't fed back to Paul Reid, do you know?

21 A. I don't know.

22 Q. Did you know that she wasn't aware of that herself, or
23 whether she was by that time?

24 A. I don't know whether Debbie would have been aware of the
25 testing process that Celotex had been through.

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1 Q. Right.

2 Then you respond to her, if we go to the email at
3 the top of page 1 {CEL00003360/1}, please. You say in
4 the second paragraph there:

5 "Subject to all of this detail being in the summary
6 report we have provided for projects before then we can
7 just wait and follow this detail up with any other
8 meetings. I have not met with Knauf on this. Just
9 Paul R and Jonathan Roome a couple of weeks ago for
10 a kick off meeting."

11 You must have realised that the summary report would
12 not have contained any detail about the 6-millimetre
13 magnesium oxide or the 8-millimetre Marley Eternit
14 boards, because it wasn't in the full classification
15 report or indeed in the full test report?

16 A. Again, that detail isn't in my mind when I'm talking
17 about this to Debbie.

18 Q. Can we move on to a different topic: LABC certificates.

19 Do you remember that LABC gave a first approval
20 certificate, a drawing registration document, in
21 August 2014, very shortly after launch?

22 A. I believe we got an LABC certificate, yes, in or around
23 launch.

24 Q. And Mr Roper was initially leading on that initiative,
25 wasn't he, I think?

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1 A. I believe so.

2 Q. And you were his line manager and therefore knew all
3 about it?

4 A. I knew we were getting an LABC approval; whether I knew
5 all about it, I don't know.

6 Q. Right. You were aware of what he was doing, though, in
7 relation to obtaining the LABC certificate, I think,
8 weren't you?

9 A. I was aware he was getting an LABC, yes.

10 Q. Let's look at {CEL00001017}. This is an email from
11 Jon Roper, if we look at the foot of the page, dated
12 29 August 2014, to all the sales teams and marketing and
13 tech department:

14 "LABC Registered Detail Approval - Celotex RS5000.

15 "All,

16 "Please find attached our LABC registered detail
17 certificates for Celotex RS5000."

18 He sent those around, and then if you look at the
19 top of page 1, you can see that you respond.

20 A. Yes.

21 Q. You say:

22 "Outstanding. Well done.

23 "Now just the NHBC please!"

24 Were you pleased because having LABC approval was
25 valuable to Celotex, and particularly its ability to

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1 market RS5000?

2 A. From memory, and from what I understood of the project,

3 having an LABC certificate was, yes, important to have

4 with the product.

5 Q. If you look at the certificate, we can see what was

6 issued. {CEL00000009}, please. This is the LABC

7 registered details drawing and document list which was

8 issued. Under the first box you can see it says,

9 "RS5000 PIR insulation board", and then there is a long

10 list of supporting documentation reference numbers. You

11 see that? It includes the BRE Global test report number

12 295255, issue 2, dated 11 August 2014, there at the

13 bottom of that box.

14 A. Yes.

15 Q. Then there is a box which says "Limitations of use", and

16 it says:

17 "For use in rainscreen wall construction including

18 above 18 metres height. The required thickness of board

19 for a particular construction must be established with

20 the use of the Celotex online calculator."

21 Now, the limitation on use there is not the

22 limitation on use which bears any resemblance to the

23 caveats in your marketing literature.

24 A. No.

25 Q. The statement "For use in rainscreen wall construction

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1 including above 18 metres height" was so general as to

2 be thoroughly misleading itself, wasn't it?

3 A. Yes, I don't know who has put that wording in.

4 Q. Well, we'll come to that, but do you accept, on its

5 face, it is a thoroughly misleading statement?

6 A. On its own as one sentence, then yes, unless that

7 certificate is supported with other information.

8 Q. Then let's go down to "Advice Notes":

9 "Celotex RS5000 can be used with a variety of

10 cladding systems (including masonry or rainscreen

11 systems) and can be fixed back to a structural steel

12 frame with a sheathing board or direct back to masonry."

13 Now, first of all, the statement that RS5000 can be

14 used with a variety of cladding systems was manifestly

15 incorrect, wasn't it?

16 A. It wasn't correct, no.

17 Q. And, again, thoroughly misleading as a result; yes?

18 A. Yes.

19 Q. And the suggestion that it could be used for masonry was

20 misleading in the sense that it suggested that it had

21 passed a specific test for masonry, namely part 1 of

22 BS 8414, when it hadn't.

23 A. Yes. Again, I don't know where those words have come

24 from.

25 Q. Then it goes on:

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1 "Celotex RS5000 has successfully tested to BS 8414:2

2 2005, meets the criteria set out in BR 135 ..."

3 Then we see again the now mantric words:

4 "... and therefore is acceptable for use in

5 buildings with storeys above 18m in height (subject to

6 the board being fixed to a non-combustible substrate)

7 alternative compliance to ADB."

8 Now, that sentence there was misleading because it

9 was suggesting that RS5000 was acceptable for use in

10 buildings with storeys above 18 metres in height with

11 only one qualification, and the qualification related

12 only to the board being fixed to a non-combustible

13 substrate.

14 A. Yes, that's what it says.

15 Q. Well, it's misleading, isn't it?

16 A. Yes.

17 Q. And to be clear, it's thoroughly misleading because the

18 qualification was not simply subject to the board being

19 fixed to a non-combustible substrate, but subject to the

20 use of RS5000 being in exactly the same system as

21 tested. That's right, isn't it?

22 A. Yes.

23 Q. Now, you asked about where this wording comes from.

24 Let's see.

25 Can we leave that up on the screen, and go, please,

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1 to another document, {CEL00001995}. We will have two on

2 the screen at the same time.

3 (Pause)

4 Yes, thank you.

5 What I want to compare is the advice notes in the

6 LABC certificate with Mr Roper's email of 17 June 2014

7 to Tim Bartlett at West Suffolk, LABC West Suffolk, and

8 also copied to David Ewing at LABC. That's the email on

9 17 June on the right-hand side of the screen.

10 If you look at the advice notes on the left-hand

11 side:

12 "Celotex RS5000 can be used with a variety of

13 cladding systems (including masonry or rainscreen

14 systems) and can be fixed back to a structural steel

15 frame with a sheathing board or direct back to masonry."

16 If you cast your eye to the right-hand side of the

17 screen, you can see that that is word for word the same

18 as Mr Roper's first bullet point in his email, can't

19 you?

20 A. Yes.

21 Q. If you then go to the third bullet point down, we will

22 read back the other way. This is the email:

23 "Celotex RS5000 has successfully tested to BS 8414:2

24 2005, meets the criteria set out in BR 135 and therefore

25 is acceptable for use in buildings with storeys above

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1 18m in height ([and note the gap before the word
2 'subject'] subject to the board being fixed to a
3 non-combustible substrate) alternative compliance to
4 AD B.”
5 Now cast your eye to the left and see in the advice
6 notes halfway down the block of text, it says exactly
7 the same thing, including even the gap after the first
8 bracket and before the second bracket around the
9 parentheses "subject to the board being fixed to
10 a non-combustible substrate". Do you see?
11 A. Yes.
12 Q. Now, Mr Roper told us yesterday that the text that he
13 had sent to the LABC on 17 June was, so far as he could
14 see, cut and pasted into the certificate there. Do you
15 accept that?
16 A. It's cut -- yes, it's like-for-like.
17 Q. Yes, indeed, down to the way in which the lettering is
18 set out. Therefore, the what you have accepted are
19 misleading statements originated with Mr Roper's email.
20 (Pause)
21 A. I think certainly the third bullet's been copied from
22 text we're using in other marketing materials and
23 something else has been added about the board being
24 fixed to a non-combustible substrate. That's not
25 language that I've seen us use or know that we were

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1 using.
2 Q. You, as Mr Roper's line manager, were responsible for
3 him sending this email to the LABC, weren't you?
4 A. I wasn't responsible for -- I knew we were going for
5 LABC approval, but I wasn't aware of what Jon was going
6 to say until the certificate has been published.
7 Q. When you saw the certificate, as we've seen you did when
8 Mr Roper sent it to you, and you responded "Well
9 done" -- I'm paraphrasing it -- didn't you notice that
10 it contained a series of fundamentally misleading
11 statements?
12 A. No, I didn't, on the basis that the LABC had sent it to
13 us.
14 Q. Did you read it?
15 A. I don't recall whether I read it or how much detail
16 I read it in.
17 Q. Mr Roper's email was deliberately worded the way it was
18 in order to mislead any reader of the certificate and --
19 we will have to explore this with the LABC -- the LABC
20 cut and pasted his words into their certificate.
21 Now, on the face of it, that looks like what's
22 happened. Do you accept that?
23 A. Certainly looks like we've asked them to put -- consider
24 something in their certificate and they've just accepted
25 it, yes.

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1 Q. And that the certificate has come back to you, and did
2 you know that your sales team was sending those
3 certificates out to buyers of RS5000?
4 A. I knew we had LABC certification. I don't know how many
5 times we would have sent it out.
6 Q. Did you know that this misleading certificate, the
7 wording of which originated with Mr Roper, the man for
8 whom you were responsible, was sent to
9 Daniel Anketell-Jones at Harley for the Grenfell Tower
10 project?
11 A. I didn't know that, no.
12 Q. Given that this certificate was sent to the marketing
13 teams, it's hardly surprising that the marketing teams
14 were quick on the uptake to get it out to their
15 potential customers for RS5000 as soon as possible.
16 A. I don't know how that process of sending it out would
17 have worked. I don't know whether it was -- it wouldn't
18 have been sent out en masse, I don't think.
19 Q. Do you know why Mr Roper sent it to the marketing teams
20 without you checking it first?
21 A. No, I don't.
22 Q. You were happy that he had done?
23 A. Sent it out?
24 Q. Well, you can see --
25 A. Or issued it, sorry?

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1 Q. We can go back to the email if you like. You can see
2 that he had sent it out to the marketing teams and also
3 to the technical teams, and your response wasn't, "Why
4 have you done this without my approval?" Your response
5 was, "Outstanding. Well done."
6 Do we take it from that that you hadn't read it
7 before it had gone out?
8 A. I don't believe I read this before it went out, no.
9 Q. Why is that?
10 A. I don't know, just the -- Jon was working on the LABC
11 approval and he was given -- you know, as part of the
12 project, that's something he was doing.
13 Q. If you had read it when you received it and seen
14 anything you didn't like about it, you would have gone
15 back to Mr Roper and said, "Could you please withdraw
16 this document from the marketing teams, it's
17 a thoroughly misleading certificate"? You would have
18 done that, wouldn't you, if you had --
19 A. If I'd -- yeah, if I'd known it was -- if I'd read it
20 and seen that it was misleading, I would've asked Jon
21 why it was saying what it was saying.
22 Q. Well, let's take it in stages. Did you read it?
23 I think you said you did.
24 A. On the basis that I've replied to his email to say,
25 "Well done", then I would have looked at it. Whether

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1 I've read it in detail, I don't know.
 2 Q. Well, it's not a very long document, and most of it is
 3 just technical detail. The only bits that are worth
 4 reading, really, are "Limitations of use" and "Advice
 5 Notes". It wouldn't have taken you very long to read
 6 this document, would it?
 7 A. No.
 8 Q. As some of the slides we saw yesterday suggest, launch
 9 with an LABC certificate would have been much better
 10 than launch without one; yes?
 11 A. I think there was a ... I can't think of the word,
 12 sorry, but there was a focus on getting LABC approval at
 13 some point. I don't think it would have stopped the
 14 launch.
 15 Q. You would have, having received this document, wanted
 16 to, if you were being honest, have read it, studied it,
 17 understood it and made sure you were happy with it,
 18 given its importance in the marketing effort. Is that
 19 wrong?
 20 A. No, that's not wrong.
 21 Q. Therefore, if we proceed on the basis that you did read
 22 it and wanted to approve it, can we take it that you saw
 23 and realised that the statements that I've pointed out
 24 to you and you have accepted are misleading, you saw and
 25 realised were misleading at the time?

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1 A. I don't believe I would have -- if I'd have thought they
 2 were misleading at the time, I would have done something
 3 about it.
 4 Q. Well, you say that now. We know that you didn't go back
 5 to Mr Roper and say, "This document is thoroughly
 6 misleading in a number of different respects, please
 7 withdraw it immediately from the marketing teams", did
 8 you? On the contrary, you congratulated him.
 9 A. Yes.
 10 Q. And that is because, despite the fact that you knew, as
 11 you must have done because you had read this document,
 12 I would suggest, that it was thoroughly misleading,
 13 nonetheless it was of immense assistance in marketing
 14 RS5000 to as wide a customer base as possible.
 15 A. I don't know whether that was my thinking at the time.
 16 I don't know.
 17 Q. I'm suggesting to you that it was, and I would like your
 18 comment on it.
 19 A. From getting the LABC registered detail, I don't ever
 20 remember thinking that this was going to give us lots of
 21 access to new projects without following what we were
 22 trying to do in our previous marketing efforts, which
 23 was about the literature and the system.
 24 Q. Mr Evans, this LABC document was thoroughly misleading.
 25 You knew it was. You deliberately allowed it to go into

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1 the marketplace, with the intention of misleading people
 2 who read it.
 3 A. No. Again, from the time and from what I recall at the
 4 time, that's not what I was doing.
 5 Q. And it went to Harley on the Grenfell Tower project.
 6 You didn't know that?
 7 A. I didn't know that, no.
 8 Q. As I put to you before, it's hardly surprising that it
 9 would have done, given the importance to the marketing
 10 team of having this document to give to their customers.
 11 That was the point of it, wasn't it?
 12 A. If someone wanted an LABC registered detail, then that
 13 would have been what we issued, yes.
 14 Q. Now, it's right to say that there was later in the year
 15 some discussion about changing the LABC certificate we
 16 can see here on the screen for a later one.
 17 Mr Roper said in his evidence that the LABC were in
 18 the process of changing their certificates, and that is
 19 indeed what happened. But briefly, there was a process
 20 behind that.
 21 Can we go to {CEL00001017/2}. I'm sorry, that's my
 22 fault, we're in the same document, but if we go to
 23 page 2, it says at the top:
 24 "LABC are currently in the process of changing the
 25 format of their certificates and these are likely to be

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1 issued to us in the next couple of weeks. In the
 2 meantime, please use the existing certificates.
 3 I recommend using the LABC Drawing & Document List RD491
 4 to issue to customers and specifiers as this contains
 5 more detail around the subject matter but both
 6 certificates can be issued and will be live on LABC's
 7 website within the next two weeks."
 8 I just want to be clear with you that it's right
 9 that there was a process ongoing of changing the format,
 10 but Mr Roper was very keen to get the message across to
 11 the marketing department that the document we've been
 12 looking at, RD491, should go out to customers and
 13 specifiers, and you could see that from the email that
 14 you received and on which you congratulated him; yes?
 15 A. Yes.
 16 Q. Yes.
 17 Now, going to that little bit of later history, and
 18 to be fair to you and to the LABC, can we go to
 19 {CEL00002021}, please. This is an email string of
 20 6 November 2014, and it's an email to Sam Li at LABC
 21 from Debbie Berger, copying Jon Roper and you, if we
 22 look at the top of the page. The subject is:
 23 "Important Changes to Your LABC Registration -
 24 EW491 ..."
 25 That's the topic.

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1 If we go to page 2 {CEL00002021/2} of that document,
 2 I think it's the best place to find it, this is an email
 3 from Sam Li on 3 November 2014 to Jon Roper, not copied
 4 to anybody, about the recent improvements LABC has made
 5 to the registered detail scheme. He says that new
 6 registration certificates have been created, et cetera.
 7 If we go to the next email up from that, that
 8 document is the one that goes from Jon Roper to
 9 Debbie Berger on 3 November, foot of page 1
 10 {CEL00002021/1}, and he says:
 11 "Debs
 12 "For you.
 13 "Please go back to LABC and ask to take out any
 14 references that RS5000 is the same product as FR5000."
 15 You're not copied in on that, but if we go to the
 16 top of page 1, as we saw before, you were copied in on
 17 Debbie Berger's response to Sam Li, and she says:
 18 "Hi Sam
 19 "Please find attached some paragraphs of text as
 20 suggestions for use in your LABC certificates and fact
 21 sheets for RS5000
 22 "1. To replace 'description of product' in both
 23 certificates."
 24 And then some other changes.
 25 Why did you think Mr Roper asked Debbie Berger to

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1 ask Sam Li to remove reference to the fact that RS5000
 2 was the same product as FR5000?
 3 A. I don't know why he would have asked that, other than
 4 maybe looking to have RS5000 as our only solution in
 5 that market.
 6 Q. Yes. Maybe looking to have; you mean maybe looking to
 7 present RS5000 as your only solution, in other words as
 8 a new product when in fact it was an old one?
 9 A. The product was the same but we were looking to make
 10 sure that RS5000 could be the rainscreen cladding
 11 product for that particular application.
 12 Q. Then if we go to {CEL00008691}, please, we need the
 13 bottom of page 1 of that email run for the date stamp.
 14 Debbie Berger, 6 November, to Sam Li. Then if we go
 15 over the page {CEL00008691/2}, she says -- this is the
 16 same day as the previous message:
 17 "Hi Sam
 18 "I've just noticed the website is live with the
 19 certificate and fact sheet.
 20 "Is ... it possible to limit visibility or better
 21 remove these until we have sorted out the wording?"
 22 If we go back to page 1 {CEL00008691/1}, we can see
 23 the LABC response.
 24 Now, I should just have picked this up with you,
 25 that her email to Sam Li was copied to you. Just go

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1 back to the bottom of page 1, just pick that up.
 2 Debbie Berger's email to Sam Li, copied to Jon Roper and
 3 to you, Mr Evans. You see that. So you could see her
 4 message to Sam Li.
 5 Then Sam Li's response at the top of page 1 comes
 6 back to Debbie Berger and is also copied to you:
 7 "Hi Debbie,
 8 "Sorry for the delay in getting round to your
 9 emails. No problem at all. I will check with my
 10 colleague who deals with the website if we can make your
 11 landing page not visible to members of the public.
 12 "I will check with my Manager to see if we can make
 13 the suggested changes in your attachment on the
 14 certificates and website."
 15 Now, was it your understanding, looking at that
 16 email chain at the time, that although new form
 17 certificates had been issued, they weren't generally
 18 available until the wording was to be sorted out?
 19 A. I don't recall this particular situation, but it would
 20 suggest that we're asking the LABC not to publish
 21 something on their website until we're happy with the
 22 wording.
 23 Q. And we know that -- well, you tell me: were the LABC
 24 certificates that had been issued in August 2014
 25 withdrawn at this point?

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1 A. I don't know.
 2 Q. If we look at {LABC0000312}, this is the actual
 3 certificate, EW491, and we can see that it says in the
 4 box on the left, under "Description of Product":
 5 "This is an assessment of a PIR insulation board by
 6 Celotex designed for use within rain screen
 7 construction. RS5000 is a textured aluminium foil faced
 8 PIR board that comes in thicknesses of between 50mm and
 9 150mm ..."
 10 Then it says:
 11 "... and goes through the same manufacturing process
 12 as the Celotex FR5000 product, the difference being it
 13 has been assessed by the BRE and complies with
 14 BR135:2013 for use in rain screen applications above
 15 18 metres in height, see conditions of certificate for
 16 more information."
 17 You see that?
 18 A. Yes.
 19 Q. If you go to page 2 {LABC0000312/2}, these are the
 20 conditions of the certificate, and you can see in the
 21 second paragraph it says:
 22 "The required thickness of board for a particular
 23 construction must be established with the use of the
 24 Celotex online calculator."
 25 Then it goes on to say:

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1 "Celotex RS5000 can be used with a variety of
2 cladding systems (including masonry or rainscreen
3 systems) and can be fixed back to a structural steel
4 frame with a sheathing board or direct back to masonry."
5 Again, that was wrong, wasn't it?
6 A. If talking about the above 18 metres. What I'm not
7 clear on is whether this LABC certificate is also trying
8 to cover below 18 metres.
9 Q. Right. It does go on to say in the middle of the
10 paragraph:
11 "For use on buildings with a floor more than 18m
12 above ground level, Celotex RS5000 has been successfully
13 tested ..."
14 And then it says:
15 "This classification is only valid for the system
16 specification and detailing outlined in section 2 of the
17 BRE fire test report 295255 including the associated
18 details found in section 4 test reports as
19 an alternative compliance to AD B. A full copy of the
20 report should be made available by Celotex ..."
21 Now, you were telling us earlier that it was
22 Celotex's rarely departed from practice not to make full
23 test reports available.
24 A. Yes.
25 Q. So how can you account for the fact that the LABC

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1 certificate that you're relying on to market this
2 product told buyers or people who studied this
3 certificate properly that they could get a copy of the
4 test report from you, when in fact your practice was
5 that you would refuse them if they asked?
6 A. Only the fact that I didn't know that that was
7 a condition of the LABC certificate.
8 Q. Well, I'm asking you because you were in charge of this
9 marketing effort, Mr Evans. Can you explain how you
10 were, on the one hand, marketing this product on the
11 back of this certificate which told potential buyers to
12 ask you for the test report, but equally pursuing
13 a policy of refusing requests for a test report when it
14 came? How does that work out?
15 A. I think the policy which had been inherited during my
16 time didn't consider things -- you know, LABC
17 certification.
18 MR MILLETT: Mr Chairman, is that a convenient moment?
19 SIR MARTIN MOORE-BICK: Yes, I think it is, thank you very
20 much.
21 MR MILLETT: I'm making reasonable progress. I will finish,
22 I hope, at some point before the end of the afternoon to
23 be able to get on to our next witness.
24 SIR MARTIN MOORE-BICK: Yes, we do have another witness
25 waiting.

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1 MR MILLETT: We do, and I will go and see him after this and
2 just make him aware of what we're doing.
3 SIR MARTIN MOORE-BICK: Well, Mr Evans, we will take a break
4 at this point so we can all get some lunch. We will
5 come back at 2.05 today, please.
6 THE WITNESS: Okay.
7 SIR MARTIN MOORE-BICK: And please don't talk to anyone
8 about your evidence or anything relating to it.
9 THE WITNESS: Thank you.
10 SIR MARTIN MOORE-BICK: All right? Thank you very much.
11 (Pause)
12 Thank you. 2.05, please. Thank you.
13 (1.05 pm)
14 (The short adjournment)
15 (2.05 pm)
16 SIR MARTIN MOORE-BICK: Right, Mr Evans, ready to carry on?
17 THE WITNESS: I am, thank you.
18 SIR MARTIN MOORE-BICK: Good, thank you.
19 Yes, Mr Millett.
20 MR MILLETT: Thank you, Mr Chairman.
21 Mr Evans, can I ask you to be shown [CEL00003121],
22 please. This is an email on 16 May 2014 from you to
23 Jon Roper, subject "Above 18m". Just putting it in its
24 chronological context, this is two days after the second
25 day of the MAG meeting, all right? You start the email

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1 by saying:
2 "Another one for my 4 and a bit hour journey home
3 (if I'm lucky !!!). Absolutely agree with all these
4 points. I will give my view on some of this when we
5 speak."
6 Just so you know, what he was sending to you was
7 a long detailed email about the marketing of RS5000.
8 Then you say:
9 "Please add the meeting with Jonathan Cheeseman with
10 SG Legal to your list. I think Craig was looking at
11 Friday 30th (late afternoon) once the bus event is
12 over."
13 Pausing there, what's the bus event? Is that the
14 business event?
15 A. No, the bus event is the three-month tour of the UK that
16 Celotex undertook between March and May.
17 Q. Oh, I see. So bus means bus?
18 A. Yes, bus means bus.
19 Q. Right:
20 "Can you please this afternoon speak with Catherine
21 to ask her to approach Jonathan to arrange the meeting.
22 Content wise, your MAG presentation can provide all the
23 background we need to explain our approach.
24 "Please also check with Carol on PR availability to
25 visit NHBC with you. Ideally we need all these items

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1 completed by month end."
 2 The MAG presentation that you're referring to there,
 3 that's clearly a document, isn't it?
 4 A. Yes.
 5 Q. What was the MAG presentation? Was it the long 17-page
 6 one we know he sent you during the meeting on 14 May, or
 7 was it the shorter version?
 8 A. I wouldn't recall which one of those two I meant.
 9 Q. Right.
 10 Looking at the purpose of your reference to it
 11 there, was it the document that you were planning to
 12 send to Jonathan Cheeseman at SG Legal?
 13 A. I don't know whether we were sending the document to
 14 Jonathan or that was just for the present -- the meeting
 15 for Jonathan on the 30th.
 16 Q. Right. Can we take it, though, from this that when you
 17 said "Content wise, your MAG presentation can provide
 18 all the background we need to explain our approach", we
 19 know you saw the 17-page version by this stage, can we
 20 take it that you had looked at and satisfied yourself
 21 that the full content of the MAG presentation was
 22 something which could form the background to what you
 23 were going to explain to the legal department?
 24 A. I believe the MAG presentation, I don't know which one
 25 of those two, would have provided the detail that we

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1 wanted to use for that meeting, yes.
 2 Q. And you were sufficiently familiar with the contents of
 3 that presentation to be able to form the opinion that it
 4 was something which could be used to explain the
 5 background?
 6 A. On the basis of the date of the email and that it was
 7 only just after that MAG meeting, then yes.
 8 Q. Thank you.
 9 Now, can I go to the topic of NHBC.
 10 We've already discussed together the meeting that
 11 Mr Roper had with you in your office on 19 June about
 12 NHBC and their potential concerns. I want to look at
 13 the period post-launch.
 14 Can we go to {CEL00001020}, please. This is
 15 an email from Jon Roper to you on 5 September 2014, and
 16 it relates to ongoing problems with the NHBC accepting
 17 the test. It's a long email, but that's the topic of
 18 it.
 19 Do you remember reading this email at the time?
 20 A. I can't say now whether I recall reading it.
 21 Q. It's addressed to "All", and he explained that that's
 22 because this was a draft email that he wanted to send to
 23 people. Do you remember that?
 24 A. Not specifically, no.
 25 Q. He was asking you to sign it off.

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1 A. Okay.
 2 Q. Now, in the fourth paragraph there, he refers to
 3 competition with Kingspan. He says:
 4 "I have also been told of a number of occasions now
 5 that Kingspan K15 has successfully tested to
 6 BS 8414-2:2005 onto steel frame (Metsec). This has
 7 apparently only happened recently and has not been
 8 included in their BBA certificate. To support any
 9 potential challenges we may face with the NHBC on the
 10 way we have tested (i.e. thickness and choice of cladding
 11 panel, sheathing board etc.), it is imperative we
 12 understand how K15 that seemingly is accepted by NHBC
 13 has tested to 8414-2:2005. I am told that the system
 14 used a cement particle board rather than
 15 a non-combustible sheathing board and a combustible
 16 cladding panel. The details in particular around what
 17 type of panel was used for the exterior of this system
 18 are crucial and would hugely aid our argumentation."
 19 Were Celotex adopting a strategy of seeking to put
 20 pressure on the NHBC into accepting your BR 135
 21 classification by pointing out to them that they'd
 22 accepted Kingspan's?
 23 A. I don't think we were putting pressure on the NHBC.
 24 I think there would have been a question asked within
 25 the business, which is: why is Kingspan K15 able to be

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1 used on NHBC projects and Celotex's isn't?
 2 Q. Putting the question a slightly different way, was the
 3 strategy to seek to persuade NHBC that because they had
 4 previously accepted Kingspan's BR 135 and BS 8414 test,
 5 then they should do the same with yours?
 6 A. I think we would want to understand if we could and, if
 7 not, why we couldn't.
 8 Q. In the penultimate paragraph you(sic) say:
 9 "Having led the way in being transparent of the
 10 tested system that complied with BR 135, we hope that
 11 contractors will challenge our competitors to provide
 12 the same information to have a true understanding of
 13 what has been tested."
 14 It's simply not true, is it, that Celotex had been
 15 transparent about the system which complied with BR 135,
 16 is it?
 17 A. Based on the information that I now have, then it
 18 wasn't -- the system marketed wasn't the same as the
 19 system tested.
 20 Q. Celotex had not been transparent about the system
 21 tested, had it?
 22 A. No, it hadn't.
 23 Q. No, and you knew that?
 24 A. Again, when I was launching the product, that
 25 information that I had been made aware of wasn't in my

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1 thinking what we signed the marketing and launch off.
 2 Q. We have been through that.
 3 Now, can we go to {CEL00001022}, please. This is
 4 an email at the bottom of page 1 and on to the top of
 5 page 2, if we can just look at that, from NHBC,
 6 Jon Behan, of 22 September 2014.
 7 If we start at the bottom of page 1, we can see that
 8 message, and we will come to that in a minute. But just
 9 to show you, you saw this, if we scroll up page 1.
 10 Jon Roper receives that email from Michael Healey, and
 11 then if we scroll up page 1 a little bit more, we get to
 12 Jon Roper sending that to you, "FYI". So you saw this
 13 email chain, at least according to this email run.
 14 If we go to Jon Behan's email at the bottom of
 15 page 1 and on to page 2, what he says there, and let's
 16 look at the top of page 2 {CEL00001022/2}, is:
 17 "As stated, NHBC has issues with the test
 18 certification recently achieved. Celotex technical
 19 department are fully aware of the issues raised."
 20 If you look a little bit lower down the same page,
 21 page 2, you can see towards the bottom of page 2
 22 an email from Jon Behan to Michael Healey which says:
 23 "At present Celotex holds no relevant testing
 24 certification for the insulation to be used above 18m.
 25 This has been discussed between technical departments of

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1 both NHBC and Celotex."
 2 When you saw this email run, did you understand that
 3 Jon Behan was saying that, as far as NHBC was concerned,
 4 it would not accept RS5000 above 18 metres on any
 5 project?
 6 A. Yes, that's my understanding.
 7 Q. Yes.
 8 Can we go to {CEL00003445}, please. This takes us
 9 to January 2015. If we look at the email you get at the
 10 top of the page from Nigel Waring, it's sent to
 11 Jon Roper, copied you, "For your [information]", and
 12 what you get is an email from Nigel Shields of Durkan to
 13 Nigel Waring of Celotex, also on 7 January, where
 14 Nigel Shields of Durkan says:
 15 "Morning Nigel."
 16 So this is a Nigel to Nigel email:
 17 "Having discussed the use of insulation with the
 18 NHBC yesterday and what they are looking for in terms of
 19 third part assurance, they are looking for BBA
 20 accreditation, they would not accept the fire test
 21 certification you have at present as in their words it
 22 does not represent [a] true test of the product in all
 23 of its applications. They are claiming that it does
 24 burn as does the Kingspan K15 product and are very
 25 nervous of it being used in high rise buildings, they

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1 are currently consulting with the Fire brigade on the
 2 use of these materials."
 3 Did you ever hear anything further about this
 4 consultation with the Fire Brigade?
 5 A. Not that I can remember, no.
 6 Q. Did the NHBC ever raise these concerns that they
 7 expressed in this email to Nigel Waring with you?
 8 A. I don't believe so.
 9 Q. When you saw Nigel Shields' message to Nigel Waring
 10 which I've just read to you, did that not come as a bit
 11 of a shock to you?
 12 A. I don't recall how I felt when I saw the email. I think
 13 we knew after launch that there would be -- we might not
 14 be allowed on NHBC projects, and that we would carry on
 15 having a dialogue with the NHBC to understand what we
 16 needed to do to be allowed.
 17 Q. Did you regard yourself as on notice now that the NHBC
 18 regarded your BS 8414 test as unrepresentative, and
 19 RS5000 as dangerous, at least if used in applications
 20 other than that specifically tested?
 21 A. I understood that NHBC wouldn't accept our product on
 22 those projects, then we wouldn't be accepted.
 23 Q. It's not just a question of acceptance, is it? It's
 24 also the fact that they now regarded the use of your
 25 product on or in cladding systems other than exactly

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1 that which had been tested under your BS 8414 test as
 2 dangerous?
 3 A. Yes, that's what they're saying.
 4 Q. Yes, and that must have come as something of a shock to
 5 you; no? Or was it something you always knew?
 6 A. I wouldn't say it was something we always knew, I think
 7 we just knew that the NHBC at that point wanted more
 8 information from Celotex on the next stage maybe for the
 9 product.
 10 Q. We don't see you going to your marketing department or
 11 asking either Jon Roper, who I think had left and gone
 12 into sales by this point, or Debbie Berger, we don't see
 13 you saying to them, "You must tell all the salespeople
 14 to reinforce the message that RS5000 can only be used in
 15 a system which is exactly the same as that tested".
 16 Now, leave aside the magnesium oxide. We don't see you
 17 doing that, do we?
 18 A. I think -- and I can't remember the dates, but there's
 19 been projects and emails I've seen of projects where
 20 I've said that it has to be in line with the system as
 21 we tested, so I don't think it changed my approach to
 22 what we were saying on projects.
 23 Q. But this is the NHBC coming to you and telling you that
 24 your certification is unacceptable because the product
 25 burns, and that it's not representative of a true test

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1 of the product in all of its applications.
 2 My question really is: why didn't that spur you to
 3 reinforce the message that was already in the marketing
 4 literature and get it out there into the market that,
 5 actually, in reality, RS5000 shouldn't be used at all
 6 unless it was part of a system exactly as tested?
 7 A. I don't know why we didn't reinforce the message.
 8 Q. Can I suggest why: it suited you commercially to keep
 9 selling RS5000 for as long as you could. That's
 10 the reason, isn't it?
 11 A. I don't believe that was the strategy. I think the
 12 strategy that we'd had from launch going forward, which
 13 was: here's the marketing material, here's how we've
 14 tested the product, and it was for others to decide
 15 whether they felt that the product could be used in
 16 alternative systems.
 17 Q. Is that really a fair summary of the strategy, Mr Evans?
 18 From all the documents we've seen, wouldn't a fairer
 19 summary of the strategy be: here is the product, here
 20 are some marketing materials which have a big banner
 21 telling you that it's usable above 18 metres and some
 22 small print with a qualification, and hope that some
 23 people won't pick up the qualification and buy it for
 24 use in systems other than that which exactly was tested?
 25 A. Certainly from my side, by making the system noticeable

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1 on the specification literature and other things we put
 2 in place on, like, the U-value calculator as a warning
 3 box before people selected the RS application, I don't
 4 believe that was what I was thinking we should be doing.
 5 Q. And worse than that, even the most scrupulous of
 6 specialists in the market, reading your marketing
 7 literature, would never know that in fact even the
 8 system as described wasn't in fact as tested.
 9 A. No.
 10 Q. And that was also part of your marketing strategy, to
 11 get this product away into the market, compete with
 12 Kingspan, and make as much money from it as possible in
 13 order to satisfy Saint-Gobain's commercial ambitions for
 14 it.
 15 A. That wasn't part of the marketing strategy that I had
 16 discussed at the time, that we had done a system test,
 17 and that the system was going to be marketed clearly
 18 about it being a system, and marketed to those
 19 guidelines.
 20 Q. Can we look at {CEL00003660/7}, please. This is a very
 21 long email chain. What we will find is an email from
 22 Mark Wakeling at Berkeley Group on 5 March 2015 at 9.53
 23 to Jonathan Roome, copied to Richard John.
 24 If we look up the chain in this email chain, we see
 25 you're copied in on it. If we scroll up, I think, to

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1 the bottom of page 5 {CEL00003660/5}, over to page 6,
 2 Jonathan Roome sends this to you on 1 May. So it comes
 3 to your attention, copied to Richard John, and the
 4 subject is "RE: Celotex RS5000 & the NHBC":
 5 "Hi Paul,
 6 "We are being chased on a response regarding the RS
 7 claim by the SFS manufacturer to Berkeley
 8 Group/St Edward.
 9 "Please can you let me have an official response to
 10 the claim."
 11 So that's how it comes to your attention with
 12 a request.
 13 If we look back, please, to Mr Wakeling's email at
 14 page 7 {CEL00003660/7}, I want to ask you about that.
 15 This is Mr Wakeling of Berkeley Group, 5 March. He
 16 says:
 17 "Jonathan,
 18 "I have had two recent meetings with two different
 19 NHBC Special Project Surveyors. Whilst nothing has been
 20 officially issued by NHBC both advised NHBC would no
 21 longer approve the use of PIR or Phenolic insulation in
 22 buildings taller than 18m. As it stands they will only
 23 accept the approach outlined by BCA (as attached):
 24 "1. Material of limited combustibility e.g. Rockwool
 25 "2. Evidence based approval from BRE or similar for

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1 the precise wall construction
 2 "3. Actual fire test data
 3 "The above impacts on both our 190 Strand and Ph8a
 4 Stanmore projects.
 5 "I am advised a major UK SFS company (I would prefer
 6 not to state their name) conducted a fire test with
 7 RS5000 (Option 3 of BCA Guidance) and they had to
 8 abandon the test as the insulation caught on fire 'very
 9 quickly.'
 10 Now, when you received this email chain, did you
 11 read Mr Wakeling's email some way down the chain,
 12 towards the foot?
 13 A. I don't recall. I think I understand the last paragraph
 14 of there, because I recall where we took that
 15 conversation. Now, whether that came from that email or
 16 a separate follow-up from this email which I didn't
 17 read, I don't know.
 18 Q. Right.
 19 The reality is that options 1, 2 and 3 of those
 20 three options, you had pursued 2, which was the BS 8414
 21 test, hadn't you?
 22 A. Yes.
 23 Q. And 3, actual fire test data, you didn't have, if that's
 24 what is meant by desktop.
 25 What was your reaction to this email, do you

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1 remember?

2 A. I don't recall any reaction I had to it. As I said,
3 I can remember the work we then did with the major SFS
4 company, which I think we -- well, which I think is
5 related to that point, but I don't know whether that
6 came, as I said, from a different conversation or email
7 that came to me.

8 Q. Now, Mr Roome had forwarded this email to you asking for
9 an official response to the claim. Had he done that
10 because, although Mr Roper and Debbie Berger were the
11 project managers for RS5000, in reality you were the
12 senior person overseeing it and always had been?

13 A. I think Jonathan would have sent it to me, yes, because
14 of the role I had in the business, and probably knowing
15 that there would need to -- some words would need to be
16 put together.

17 Q. If we scroll up in the email chain, please, to page 4
18 {CEL00003660/4}, we can see that at the bottom of page 4
19 and over on to page 5, Richard John comes back to
20 Jonathan Roome and to you and says:

21 "Both

22 "I feel that we need to respond to Mark with a lot
23 of thought. As you both know, this has been hanging
24 around now for a few months, and we have to make sure
25 that our response [alludes] to the fact that we have

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1 been very active over this time period."

2 Now, that's right, isn't it, this has been hanging
3 around for a few months? In other words, the concern
4 that NHBC had had with Celotex's 8414 test and the
5 question about whether it was properly representative of
6 systems being commonly used in the market at the time,
7 was one which had been hanging around, in fact, since
8 the middle of June 2014?

9 A. Yes, certainly from those emails, and after the launch
10 we had an email chain from the September.

11 Q. And really the time had now come for Celotex to decide
12 what its position was and formulate it properly; is that
13 right?

14 A. Yes, that would be right.

15 Q. We can see that your reaction to this is to set up
16 a call. There's talk about a call in Richard John's
17 email. In the middle of the page on page 4, you say:

18 "Are you both available now? I can send some
19 conference call details and we can get 10mins on this
20 now."

21 Do you think ten minutes was really going to cover
22 it? This was a complex subject on a delicate issue in
23 relation to a major new project. Do you think it could
24 be just covered in ten minutes, or did it require a lot
25 of thought, as Richard John had suggested?

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1 A. I don't think I'm saying that it's only ten minutes to
2 finish -- to start it and finish it. I think that's
3 maybe just an introductory call to kick things off.

4 Q. I see.

5 If we look up to page 3 {CEL00003660/3}, we can see
6 there's some rather standard discussion about arranging
7 a call. Richard John says:

8 "No, but can do first thing Tuesday morning on
9 a CC."

10 And you go back:

11 "Cool. Will arrange now. Jonathan will call later
12 this afternoon to explain my views having gone through
13 this again."

14 Did you go through that again with Jonathan Roome?

15 A. I don't know.

16 Q. Or Jonathan Roper, if it's a different Jonathan.

17 A. I don't know.

18 Q. Did you have a discussion on that day -- it's 1 May --
19 with either Jonathan Roome or Jonathan Roper to explain
20 your views?

21 A. If I said there was going to be a call, I can't see why
22 we wouldn't have had that call.

23 Q. Right. Do you remember what your views were that you
24 explained, if you did have that call?

25 A. I believe my views would have been consistent with what

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1 we were saying at that time, which was around the system
2 has been tested, and, until we have other testing or
3 desktop studies or other options, then that's what we
4 need to carry on with.

5 Q. If we look up the chain, I think we might be able to
6 time the call more precisely. If we go to page 2
7 {CEL00003660/2}, there is an email string which one
8 normally sees when people are on the phone or setting up
9 a meeting. The long and short of it is that a meeting
10 on 5 May was arranged and people were dialling into it,
11 if you scroll up page 2 and into page 1 {CEL00003660/1}.
12 For example, on page 1 at the foot, you see that
13 Jonathan Roome says to you and Richard John, "I'm on
14 waiting", and then so is Richard John, if we can see the
15 top email.

16 So it looks like there was a call to discuss this
17 very topic on 5 May, if not earlier. Do you remember
18 that?

19 A. I don't remember the call, but it looks like there was
20 a call being made.

21 Q. Do you remember what the upshot was?

22 A. I don't remember, no.

23 Q. So that's 5 May.

24 We can turn on to 6 May, next day, {CEL00002037}.
25 This is an email from Jonathan Roome forwarding you

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1 an email chain from Squire and Partners, as we can see
2 from the bottom of page 1 now on the screen, and there's
3 a bit of a history to this from pages 2 and 3, and I'll
4 summarise it for you, I think.

5 If we go to page 2 {CEL00002037/2} and over to
6 page 3, we can see that Squire and Partners, who were
7 architects -- at the bottom of page 2 we can see NHBC
8 were communicating with Matthew Colledge, who was at
9 Squire and Partners, an architect, about the use of
10 phenolic insulation in high-rise buildings.

11 If you go to the top of page 3 {CEL00002037/3}, you
12 can see what the issue is. It says in the second line
13 there:

14 "The issue remains in that for sites started before
15 end December 2013 Kingspan should have been consulted on
16 buildings over 18m and they should have confirmed that
17 the façade has been assessed by them and is fine for use
18 that particular building. This is as per the
19 requirements of the BBA certification ... The BBA
20 certificate has since been amended to include a wall
21 type which has been tested (terracotta rainscreen) and
22 if the construction is exactly as this BBA cert then
23 that would be acceptable. But this is the only test
24 Kingspan have had approved but are undergoing further
25 tests on differing wall types at the moment to try and

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1 demonstrate suitability.

2 "So, to answer the question, unless the wall make up
3 is exactly as described in the Celotex BBA certificate
4 which I understand used a large Eternit rainscreen
5 board, you will have to demonstrate compliance using the
6 guidance shown in the enclosed BCA document.

7 "If you decide to revert back to the Kingspan
8 product, then confirmation should be sought from
9 Kingspan that K15 is acceptable for your build up
10 (assuming you haven't already got this)."

11 Now, you obviously weren't in on this email, and
12 there isn't a BBA certificate for RS5000, as we know, so
13 that I think must be a reference to something else. But
14 that's the background to it.

15 If we go up, then, please, to page 2
16 {CEL00002037/2}, we can see the way this comes about.
17 Matthew Colledge writes to Jonathan Roome and says:

18 "Jonathan,

19 "Please see below, I will call to discuss."

20 Then Jonathan Roome, bottom of page 1
21 {CEL00002037/1}, sends this to you:

22 "Paul,

23 "Interesting information from Squire & Partners
24 (Architects) regarding conversations with NHBC.

25 Non-committal and claims that Kingspan have a new BBA

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1 encompassing the testing of a terracotta build-up
2 (Although I cannot find any BBA newer than
3 December 2013)."

4 Then you go back to him:

5 "Jonathan.

6 "thanks for sending through. Clearly shows the
7 change in NHBC approach from around February on this
8 area. We are aware of Kingspan's testing on Terracotta
9 but as you say yet to see this transfer into a new BBA.
10 However, looking at the BBA website just now the K15
11 certificate is a more recent version [than] the one you
12 attached. This new Issue 2 is dated December 2013 but
13 looking at the fire section still references Part 1 of
14 BS 8414 and no reference to terracotta cladding as the
15 panel."

16 Now, in your reference there to "shows the change in
17 NHBC approach from around February on this area", what
18 did you mean by that, looking at the full email chain
19 that we've looked at? What was the change?

20 A. I think February was around the time where Celotex were
21 made aware of a project on -- I can't remember the exact
22 name of the project, where the contractor had complained
23 to Celotex about RS5000 being used and when we
24 investigated it, and I don't know how long later, it
25 transpired that the NHBC had actually signed off the

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1 building or were okay for the project to carry on. So
2 I think my comment there is that we were seeing that the
3 NHBC had signed an NHBC project off with Celotex being
4 used on it.

5 Q. Is that the Octavius Street project, Ardmore?

6 A. Ardmore, that's right.

7 Q. We will come to some more detailed questions on that
8 shortly. But you think that in February NHBC's position
9 changed, did you? Just tell us in a nutshell what the
10 change you detected was.

11 A. That they had said that they had looked to approve or
12 had said -- approved Celotex's product on that
13 particular project.

14 Q. Well --

15 A. Which I believe is --

16 Q. That's not a general change in approach. That's maybe
17 a change on a project. It looks from this as if you're
18 saying that this particular exchange "shows the change
19 in NHBC approach from around February on this area". It
20 doesn't look like you mean on this particular project,
21 but on the applicability of BS 8414 system tests to
22 a wider set of applications than the test itself. Is
23 that what you're referring to?

24 A. I think the fact that it's dated February, the evidence
25 that I've seen, that was an example of where we saw

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1 something in the NHBC change in February insofar as
 2 allowing a Celotex product to be used on an NHBC
 3 project.
 4 Q. Right. So your evidence is that, before February 2015,
 5 you thought that NHBC would allow your BR 135 and
 6 BS 8414 test results to be used on a wider set of
 7 systems than that which was tested?
 8 A. I think the market intelligence we were getting from the
 9 launch was that the NHBC were saying you can't use
 10 Celotex, and then from this event in the February, they
 11 had said that it could be used, albeit on one particular
 12 project.
 13 Q. Right.
 14 Now, given those concerns, it's clear, isn't it,
 15 that the NHBC were not, at least by this time, prepared
 16 to approve RS5000 on the basis of only one test?
 17 A. That they were?
 18 Q. They were not.
 19 A. Sorry, can you say that again, please? Sorry.
 20 Q. It's clear by this time, isn't it, that at this point or
 21 by this point, the NHBC were not prepared to approve the
 22 use of RS5000 based only on the single test that you had
 23 achieved?
 24 A. No, they weren't.
 25 Q. Mr Roome in his witness statement says that he raised

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1 the need for further testing a number of times and
 2 continued to push Celotex management to commit further
 3 investment in testing or in desktop studies.
 4 Can you tell us why no further BS 8414 tests were
 5 carried out so as to be able to satisfy the NHBC?
 6 A. I think there was always a plan to do more testing.
 7 I think that process took a longer amount of time than
 8 Jonathan Roome wanted it to, but I know that there was
 9 then the evolution into desktop studies, and the BCA
 10 document which Celotex -- or certainly I don't believe
 11 myself and the project team were aware of when we
 12 launched the product then came into the business I think
 13 around March/April of that year, and therefore there was
 14 a route to compliance through the BCA route.
 15 Q. You say the BCA route; do you mean desktop studies?
 16 A. I think desktop studies was one option on that document.
 17 Q. Well, the desktop studies was first mentioned in a BCA
 18 document in issue 0 of its Technical Guidance Note 18,
 19 which had been issued in June 2014. Did you know that?
 20 A. As I said, we didn't know that in June 2014, that that
 21 document existed.
 22 Q. So when did you come to learn about the possibility of
 23 desktop studies?
 24 A. I believe around -- desktop studies in line with the BCA
 25 document, around -- I can't remember exactly when,

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1 March/April 2015, because that's when it was sent into
 2 the product marketing team.
 3 Q. Did Celotex actually ever get a desktop study for RS5000
 4 that would safely show that it could be used on systems
 5 other than that which had been tested under the BS 8414
 6 test?
 7 A. We certainly sent our test report to a third party and
 8 started commissioning desktop studies, yes.
 9 Q. Did you ever get any?
 10 A. I thought we did.
 11 Q. When?
 12 A. They were -- I can't remember the exact date without
 13 seeing the evidence.
 14 Q. Right. Does the gradual arrival of desktop studies
 15 explain why there was no further BS 8414 test?
 16 A. Yes, that would be a -- that would be the main reason.
 17 Q. Did the NHBC, looking at it in general terms, come to
 18 accept Celotex's desktop studies when giving approval
 19 for projects which were different from the project which
 20 had been the subject of the BS 8414 test?
 21 A. I don't know how many of those projects which we got
 22 desktop studies for were NHBC projects, so I don't know.
 23 Q. Let's look at paragraph 169 of your statement. You say
 24 there, at page 49 {CEL00010058/49}, that you believe you
 25 were not aware of the BCA guidance note, which is

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1 Technical Guidance Note 18, until around March 2015.
 2 You say a little bit lower down the paragraph, four
 3 lines up from the bottom:
 4 "Had I been aware of it sooner, I believe that the
 5 contents of the Guidance Note would not only have been
 6 reflected in the marketing materials but would have
 7 focused attention much earlier on the possibility of
 8 desk top studies being a route to achieve a wider field
 9 of application."
 10 Can we then go to {CEL00001075}. This is an email
 11 from March 2015 between RMA Architects and Celotex.
 12 This particular email is an email from Jonathan Roome to
 13 you, Mr Evans, copied to Debbie Berger, but the context
 14 of this is a request for a desktop study.
 15 Can we go to pages 5 and 6 {CEL00001075/6} where we
 16 see that. We have to work up from the bottom,
 17 I'm afraid, at page 6, just to trace the context of this
 18 long email chain.
 19 At the bottom of page 5, top of page 6, we can see
 20 this is an email from James Kirkman to Jonathan Roome,
 21 and James Kirkman is an architect at RMA Architects.
 22 This is 27 February 2015. That's the bottom of page 5.
 23 Top of page 6, second paragraph:
 24 "I have attached our typical wall build up drawings.
 25 Could you confirm, if we were to replace the current

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1 rigid insulation spec with the Celotex RS5000, if the
 2 build-up has been assessed according the assessment
 3 criteria in BR125 - Fire Performance of External
 4 Insulation for Walls of Multi-storey buildings. If so,
 5 could you provide the certification to that effect?
 6 "If not, then are Celotex able to have a desktop
 7 study report from a suitable independent UKAS accredited
 8 testing body (BRE, Chiltern Fire or Warrington Fire)
 9 stating whether, in their opinion, BR135 criteria would
 10 be met with the proposed system."
 11 That's the background.
 12 If we go up then to page 5 {CEL00001075/5}, we can
 13 see that Jonathan Roome sends a response to
 14 James Kirkman and says that Celotex has been
 15 successfully tested to BS 8414-2 "and so can be
 16 considered for use in buildings above 18m", so
 17 thoroughly misleading, as we've discussed before; yes?
 18 A. Yes, without the additional information that should have
 19 been sent with it.
 20 Q. Yes:
 21 "Please find attached a copy of our Rainscreen
 22 Cladding Compliance Guide which gives details of our
 23 fire test and some background to the building
 24 regulations requirements."
 25 So he does provide the cladding compliance guide

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1 which does contain the caveat, as we know, so his
 2 misleading statement has to be qualified by the fact
 3 that he does send the compliance guide with it, and also
 4 attaches "a copy of our BRE classification report".
 5 Then at the end he says:
 6 "Currently we are not able to provide a desktop
 7 study."
 8 Then if you go to page 4 {CEL00001075/4}, the
 9 architect, we can see, comes back, this is now
 10 Sam Handscombe of RMA, and says:
 11 "I think we are nearly there with NHBC and Ardmore
 12 are very tempted to switch from Kingspan to Celotex.
 13 "Are you able to have a desktop study done by BRE,
 14 Warrington Fire or Chiltern Fire to confirm in their
 15 opinion, BR135 criteria would be met with our exact
 16 proposed systems."
 17 So that's his question.
 18 If we go to the bottom of page 3 {CEL00001075/3},
 19 top of page 4, we can see Jonathan Roome's response to
 20 Sam Handscombe, which is basically no:
 21 "Hi Sam,
 22 "Currently we are unable to have a desktop study
 23 completed at the moment although we are investigating
 24 for the future.
 25 "We are only able to provide you with the current

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1 test data as already supplied for now.
 2 "Apologies for not being able to support you further
 3 at this time."
 4 Then if we go to the bottom of page 2
 5 {CEL00001075/2} -- and I'm sorry to take so long over
 6 this lengthy email string, but it's right that I should
 7 put it out there and show it to you -- Jonathan Roome
 8 writes to you on 16 March and says:
 9 "Sam thinks that the client may even pay for a
 10 desktop study to be completed."
 11 At the top of page 2, bottom of page 1, you say:
 12 "Hi Jonathan
 13 "As discussed, we need to fully understand the
 14 process and requirements of the desktop study. Debbie
 15 is looking at this in more detail. When we have further
 16 information we will let you know."
 17 Now, what did you need to understand about the
 18 processes and requirements of a desktop study?
 19 A. I don't know, other than understanding who did them, how
 20 they worked, what the costs were, just it's a new way
 21 for Celotex products to be used in buildings above
 22 18 metres, and I would have asked Debbie to have done
 23 that to understand in a little bit more detail.
 24 Q. You do go on to say that Debbie is looking at this in
 25 detail. What was the upshot of that, do you remember?

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1 A. My understanding of that is that we then moved to some
 2 discussions with the NHBC around some build-ups that
 3 they suggested to Debbie and we commissioned some
 4 desktop studies to be done.
 5 Q. That may explain then the next string of emails, but it
 6 may not.
 7 You say you commissioned some desktop studies to be
 8 done. Did you commission them specifically for this
 9 project, the Limehouse Basin project?
 10 A. I don't believe so, no.
 11 Q. So what happened with the Limehouse Basin project? Did
 12 the client keep with K15 or did they --
 13 A. I don't know.
 14 Q. -- go over to Celotex? You don't know?
 15 A. I don't know.
 16 Q. At this stage, did you wonder how any of these
 17 professionals were going to be able to do a desktop
 18 study if you only gave them the BRE test report and the
 19 classification report?
 20 A. No, because if we're talking about the likes of the BRE
 21 and Warrington and Chiltern, to go with that we would
 22 have sent the full details of the test report.
 23 Q. When you say the full details of the test report, would
 24 that have included the fact that in the test itself
 25 there was the presence of 6 millimetres of magnesium

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1 oxide at two places on the rig, overtopped with
 2 8 millimetres of Marley Eternit?
 3 A. No, we wouldn't have sent -- we would have sent the test
 4 report which we were given for the launch of the
 5 product.
 6 Q. So is this right: even if you were commissioning
 7 a desktop study in response to the market's requirement
 8 for one, the instructions for the desktop study would
 9 have been as misleading as the test report and the
 10 classification report?
 11 A. Based on what we've covered since the launch and the
 12 documents I've seen, then yes.
 13 Q. So the product, a desktop study which came out of that
 14 process, would be similarly misleading, wouldn't it?
 15 A. If the information, which it wasn't, wasn't available to
 16 the person doing the desktop study, then yes.
 17 Q. Was there ever any intention to come clean with the
 18 likes of BRE, Exova Warrington, whoever it was who would
 19 have done the desktop studies, and show them exactly
 20 what the test build-up really was, as opposed to the way
 21 it had been presented in your marketing literature and
 22 in the test and classification reports?
 23 A. From my side, again, that information wasn't in my mind
 24 when we launched the product. Therefore, there wouldn't
 25 have been any reason to go back to that because I didn't

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1 know what we had done, I didn't know what we were --
 2 what we had done was just -- had moved on. So
 3 I wouldn't have gone back to those pre-launch details
 4 because I wasn't aware of them and they weren't front of
 5 mind.
 6 Q. Let's move on then with the same topic and see where
 7 that particular issue comes out.
 8 {CEL00003589}, please. This is an email chain --
 9 and I'm sorry, Mr Evans, that these chains are quite
 10 long -- from Debbie Berger to Frans Paap of Exova,
 11 copied to you, on 18 March 2015. She sends Frans Paap
 12 a copy of the 32-page test report for BS 8414-2 and some
 13 examples of four build-ups.
 14 Now, is this what you meant in your earlier email
 15 when you said that Debbie Berger was looking into
 16 a desktop study?
 17 A. Yes.
 18 Q. Right. Okay.
 19 If we look at this page -- and we can see you saw
 20 it -- she lists the four systems that she wanted
 21 configured.
 22 Now, let's just look at them a little bit closely.
 23 She says:
 24 "Please find also some examples of 4 build-ups which
 25 we commonly see presented to us at design stage:

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1 •" Design 1: Inside to out."
 2 And they're all inside to out, I should say. You
 3 have:
 4 "2x 12.5mm Plasterboard.
 5 "100mm SFS
 6 "12mm Calcium Silicate Board - A1
 7 "100mm Celotex RS5000
 8 "Unventilated Cavity
 9 "103mm Brickwork Façade
 10 "Stainless Steel Ties."
 11 That's design 1.
 12 If you look down, the next three designs, designs 2,
 13 3 and 4, are all the same in that they are all for
 14 ventilated cavities -- same as each other, different
 15 from 1 -- as opposed to unventilated cavities, they've
 16 all got brackets and rails, and the only thing that's
 17 different between them is the cladding. In design 2
 18 you've got terracotta cladding, design 3 you've got
 19 cladding laminates, and design 4 you've got aluminium
 20 class 0. I think I'm right in saying that the rest of
 21 them are the same as between the three of them, and
 22 altogether different, or at least substantially
 23 different, from design 1.
 24 Have I summarised it accurately, do you think?
 25 A. Yes.

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1 Q. She goes on to say:
 2 "I think these best represent what's commonly
 3 specified and in particular what NHBC commonly see. The
 4 analysis will hopefully help us to better understand the
 5 risky parts of cladding systems.
 6 "It will also provide us with some insights on
 7 RS5000 fire behaviour and contribution to this risk."
 8 Now, first, had you been involved with Debbie Berger
 9 about discussions about what system Celotex was going to
 10 seek a report for?
 11 A. From memory, Debbie had agreed -- had said she was going
 12 to speak to the NHBC to get some guidance on the
 13 different types of build-ups.
 14 Q. So you think she got these from the NHBC, do you, not
 15 from in-house expertise?
 16 A. I don't know, but the fact that she said "and in
 17 particular what NHBC commonly see", and I know that she
 18 did speak to someone at the NHBC, I saw that in some
 19 previous evidence.
 20 Q. What was the reason for seeking to obtain this report?
 21 Was it because there had been customer pressure such as
 22 we've seen before?
 23 A. I think there was feedback -- there was feedback from
 24 the market about the product being used in different
 25 applications, with different cladding systems, sorry,

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1 and therefore the BCA guidance which we'd only just been
 2 made aware of, gave an option for us to start this
 3 desktop study route.
 4 Q. She says, as I've shown you, at the bottom of the page:
 5 "It will also provide us with some insights on
 6 RS5000 fire behaviour and contribution to this risk."
 7 Do you agree that that was one of the purposes of
 8 seeking a desktop study from Mr Paap, Exova?
 9 A. My understanding was that we were looking at different
 10 systems and how they could be assessed as a desktop
 11 study.
 12 Q. Now, we saw I think yesterday that you had known since
 13 June 2013 that RS5000 was very unlikely to pass with
 14 an aluminium cladding, because we saw that from the
 15 notes of the Sotech meeting that Mr Roper had attended
 16 in June 2013 and again in October 2013. We saw that.
 17 A. Yes.
 18 Q. So you already knew, didn't you, that the combination of
 19 RS5000 and cladding aluminium class 0, which was
 20 design 4, was a risky combination?
 21 A. I don't know whether I knew about all of the different
 22 types of aluminium cladding to have been able to say yes
 23 or no to that.
 24 Q. Now, we can see what it is that Debbie Berger sent to
 25 Frans Paap, and it's a copy of the full test report, the

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1 32-page test report, BS 8414-2. She says it's 32 pages.
 2 Did you notice that it was not the full 35-page version?
 3 A. No.
 4 Q. Did you notice that, whatever it was she was sending,
 5 she didn't indicate to Frans Paap what was not in the
 6 report, namely that the test build-up, the rig build-up
 7 as tested, included 6 millimetres of magnesium oxide in
 8 two places on the rig and 8 millimetres of
 9 Marley Eternit as cladding at those points?
 10 A. No.
 11 Q. You didn't notice that?
 12 A. I don't think I would have looked at the test report.
 13 This is the test report we had in the business at that
 14 time, and my understanding at the time was that that was
 15 the test report that needed to be used.
 16 Q. But you knew at the time that the test report omitted
 17 those two critical elements of the test rig as
 18 described, didn't you?
 19 A. Based on what I've seen since, but not at the time,
 20 that's not where my thinking was.
 21 Q. As you accept, I think, any desktop study done by
 22 Mr Paap based on that test report would have been
 23 incomplete and misleading and wholly unreliable because
 24 Mr Paap would not have been informed of the true test
 25 build-up; that's right, isn't it?

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1 A. Based on what I've seen since, yes.
 2 Q. I would suggest to you, given what I've put to you
 3 earlier, that you did know that and that you
 4 deliberately and intentionally did not correct Ms Berger
 5 and ensure that Mr Paap got the full information.
 6 A. No, that's not what -- where I was with my understanding
 7 and thinking of this launch.
 8 Q. Can we then turn to the Octavius Street project which
 9 you referred to just a moment ago in your evidence.
 10 {CEL00002193}. This is a lengthy letter of complaint
 11 from Ardmore Construction Limited to Paul Reid, and it
 12 says:
 13 "Dear Paul,
 14 "Please be advised that your Celotex RS 5000
 15 insulation product has been deemed unacceptable for use
 16 by the NHBC at our Octavius Street project, a mixed-use
 17 development of some 121 apartments and commercial space.
 18 The NHBC have stated that your products are flammable
 19 and are therefore not to be incorporated into buildings
 20 over 18m in height, of which Octavius Street is one
 21 such; we enclose here their refusal notice for your
 22 comment.
 23 "We are well on with the build process, see attached
 24 site pics, and this refusal notice on the part of the
 25 NHBC has very serious implications in both cost and

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1 programme to the project with of course further
 2 consequential costs for the delay incurred directly
 3 resultant from the non compliance of your products.
 4 "Your available Product Literature & Data sheets for
 5 this product does not state that it is not suitable for
 6 use as rainscreen insulant in buildings over 18m, your
 7 company has been well aware of this project and full
 8 knowledge of the respective detailing. We had been in
 9 contact via email & telephone with Jeremy Suttle
 10 (Celotex Technical Services Officer).
 11 "Clearly you are an international supplier and
 12 manufacturer of some repute and we are amazed that you
 13 send products to market that are not suitable for their
 14 intended use. You must have test data for these
 15 products, which you appear to be reluctant to share with
 16 use, is there some technical reason for your reluctance?
 17 "Currently we are faced with total removal of your
 18 product and substitution with a compliant material,
 19 which is clearly a huge issue in both time and money to
 20 us. This action is extreme to say the least and we look
 21 to you to immediately provide unequivocal laboratory
 22 supported evidence that your products have been fire
 23 tested to prove beyond doubt that they meet the
 24 requirements of surface spread of flame and general
 25 combustibility for buildings over 18m in height. It

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1 would seem unimaginable that a company with the market
 2 size of yours and technical expertise cannot provide
 3 such evidence; we require receipt of same by return.
 4 "In the unlikely event that you have no such
 5 evidence then we would suggest you notify all of the
 6 national Building Control Warranty bodies together with
 7 the wider construction industry advising that your
 8 products are not for use over 18m.
 9 "Furthermore please notify your insurers accordingly
 10 of your failure to provide products suitable for their
 11 intended use; we will be seeking full recompense for all
 12 of our costs, both direct and indirect incurred as an
 13 absolute consequence of your failures.
 14 "We trust you recognize this lamentable state of
 15 affairs we have here and treat this matter with the
 16 upmost attention it deserves from the most senior people
 17 in your business within the shortest possible time
 18 frame.
 19 "Yours Faithfully
 20 "Richard Hunt
 21 "Technical Director."
 22 Now, there is not a lot in that letter which could
 23 possibly be misunderstood, is there?
 24 A. No.
 25 Q. It doesn't appear to have been copied to you on

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1 23 March 2015, but you became aware of the dispute
 2 a little bit later.
 3 This was a clear allegation, as I suggest you must
 4 have realised when you saw this letter, that the Celotex
 5 product literature was, to put it at its lowest,
 6 insufficiently clear. You must have realised that was
 7 at least the point they were making, to put it at its
 8 lowest?
 9 A. Yes, that's what they were saying, that it was not in
 10 line with the literature.
 11 Q. Yes, and they were calling you out on your refusal to
 12 issue full test data.
 13 A. Yes.
 14 Q. So that's the letter. Let's look at the correspondence
 15 around it.
 16 If we go to {CEL00002193/3}, please. We need the
 17 bottom of page 3, top of page 4. This is what starts it
 18 off. Here is Dave White of NHBC writing
 19 to Ben Whitaker, copied to various people but including
 20 Richard Hunt, the signatory of the letter of 23 March
 21 we've just seen, and in fact if you go to the top of
 22 page 3, we can see that there is the email of 23 March
 23 which sends this on. But I want to focus with you on
 24 the email from Dave White to Ben Whitaker into which
 25 Mr Hunt had been copied of 11 March.

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1 Now, Dave White was the self-same Dave White whom
 2 Mr Roper had met at Hadleigh, Celotex's premises, on
 3 19 June 2014, along with his colleague Mr Perrior.
 4 A. Yes.
 5 Q. So he was known to Celotex. He says:
 6 "Hello Ben,
 7 "Ref. Octavia(sic) Street Ardmore Deptford Project
 8 Development - Fire Performance of Phenolic Insulation
 9 (Celotex RS 5000)."
 10 I don't want to read it all out to you, but I can
 11 pick out the salient points.
 12 Under paragraph 1 he is dealing with the masonry
 13 outer leaf façade, and under (d) there, he says:
 14 "The 50mm [thick] Phenolic type rigid insulation
 15 board product (Celotex RS5000) is not fully resistant to
 16 fire and will burn in fire."
 17 Then under paragraph 2 he says under (d), and this
 18 is in relation to the terraced balcony areas of the
 19 building:
 20 "The 80mm [thick] Phenolic type rigid insulation
 21 board product (Celotex RS5000) is not fully resistant to
 22 fire and will burn in fire."
 23 Then if we turn the page, please {CEL00002193/4}, he
 24 says under paragraph 4:
 25 "Other insulated parts of the building envelope,

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1 e.g. curtain walling panel types on lower level façade
 2 zones, are not referred to in the BWC report. Also, in
 3 this report the continuous rainscreen facades that
 4 extend the full height of the building are not fully
 5 assessed in terms of fire performance and level of
 6 safety/risk e.g. relating to the mechanism of fire
 7 spread within the concealed cavity where combustible
 8 insulation is installed behind an aluminium rainscreen
 9 façade. To my knowledge this specific type of
 10 rainscreen has never been tested by Celotex under the
 11 BR135 requirements."
 12 And that's correct, isn't it, it hadn't?
 13 A. No, it hadn't.
 14 Q. Paragraph 5:
 15 "It is apparent from reading your report that access
 16 to the full final version of the BRE fire test report
 17 295255 for Celotex RS5000 was, unfortunately, not
 18 possible. Therefore, I feel that some of the
 19 assumptions made in your report on likely fire
 20 performance of this facade in comparison with what
 21 actually occurred during the testing are not strictly
 22 accurate."
 23 Now, this seems to have been the basis on which
 24 Richard Hunt of Ardmore concluded that some of the
 25 assumptions that Ardmore had made were not accurate.

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1 Was this an indication to you when you saw this that
 2 the refusal to issue the full test report was leading to
 3 difficulties ?
 4 A. I can recall from the letter that we received from
 5 Ardmore that that was something that I then made sure
 6 that we had a discussion on. I remember Craig Chambers,
 7 myself and I think Rob and maybe Paul Reid having
 8 a discussion in the boardroom at Hadleigh about this,
 9 because it was the first time we'd had our product being
 10 used and this level of correspondence coming from it.
 11 Q. You say this level of correspondence, you mean this
 12 level of complaint?
 13 A. Yes.
 14 Q. {CEL00001080}, please. Here is an email of
 15 24 March 2015, so the day after, it appears,
 16 Richard Hunt had sent the Ardmore letter in to Celotex.
 17 It comes to you, copied to Debbie Berger and
 18 Louise Garlick, "Timeline on enquiries from Ardmore to
 19 Celotex":
 20 "Paul
 21 "Please see attached for the timeline of events as
 22 best as we can piece them together (there were a number
 23 of CTC people involved and not all interactions would
 24 have been recorded on Salesforce). It includes
 25 telephone conversations we have had with Ardmore.

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1 "It should help to form a response to the letter .
 2 "At the moment we have other NHBC project enquiries
 3 in the technical inbox and we are holding off responding
 4 otherwise we are in danger of ending up in the same boat
 5 as the Ardmore enquiry. My view on NHBC projects is
 6 that we turn them away and say we are not suitable up
 7 front until we have evidence to the contrary."
 8 Why had that not been the position anyway, even
 9 before the Ardmore complaint letter?
 10 A. I don't know.
 11 Q. Well, because you were riding your luck is one possible
 12 reason; is that wrong?
 13 A. I don't think -- certainly didn't ... my understanding
 14 is that we weren't riding our luck. There were projects
 15 that came back to us from NHBC from the launch, and some
 16 of those projects we weren't -- or all of those projects
 17 we weren't able to supply our material for, then we
 18 accepted that we couldn't supply our material for.
 19 Q. Now, Mr Warren attaches a timeline of events, or at
 20 least a document which shows the timeline, and it seems
 21 to be the document at {CEL00001081}, if we can just have
 22 that up, please. It runs over two pages. It looks to
 23 be a sort of chronological document and it's not that
 24 straightforward, but it seems to start on
 25 6 January 2014, which can't be right, so that must be

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1 2015, with information about U-values.
 2 One can run down the page. There are different
 3 dates, different enquiries and different answers, most
 4 of which come from either Jeremy Suttle -- well, all of
 5 which come from Jeremy Suttle, actually, the technical
 6 officer, and then if you look at the bottom of the page,
 7 11 February 2015, Damien McMahon, who is on Ardmore,
 8 who's already made two requests for information in
 9 December 2014 and January 2015, as you can see above,
 10 and in fact twice in that month, says at the bottom of
 11 the page:
 12 "Telephone conversation between Debbie Berger
 13 (Product Manager) and Damien explaining that RS5000 is
 14 compliant to a specific system as is made clear in our
 15 Rainscreen Cladding Guide. If the system proposed is
 16 not in line with that guide then an alternative product
 17 such as Rockwool should be considered. Also explained
 18 that the full fire test is a proprietary document and we
 19 would not be able to issue this document."
 20 Now, this advice as encapsulated by that summary of
 21 that discussion doesn't seem to tally with the advice
 22 that Ardmore felt that they had received as set out in
 23 Mr Hunt's letter of 23 March, does it?
 24 A. No.
 25 Q. Can we look at {CEL00003637}, please. This is an email

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1 from you to Rob Warren, also on the Octavius/Celotex
 2 non-compliance issues topic, and in the second main
 3 paragraph you say:
 4 "My view is that we make the email back to him cover
 5 the following points."
 6 And then there is a long list of them, and you can
 7 see what they are. The first point is you say:
 8 "We successfully passed BS 8414-Part 2 last year and
 9 launched RS5000 in August 2014. Through our literature
 10 and technical guidance we have made it clear of the
 11 components that make up the system and in the case of
 12 Octavia Street gave guidance to Ardmore that if their
 13 wall system differed from our tested build up then our
 14 advice would be to gain approval from the relevant
 15 bodies for this or use an alternative solution."
 16 Now, that's not accurate, is it? When you say there
 17 "Through our literature and technical guidance we have
 18 made it clear of the components that make up the
 19 system", that's just incorrect, isn't it, because we
 20 know that the literature and technical guidance made no
 21 reference to the true components which were tested?
 22 A. Yes, but based on, again, what I've said previously, in
 23 that that's not in my -- I haven't -- that's not even in
 24 my mind when I'm writing this, because of my
 25 understanding of what we'd done when we launched the

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1 product.

2 Q. So you say, yes, I understand that.

3 One way or the other, the concern that Ardmore had

4 expressed didn't prompt you to suggest to your internal

5 team that the product literature should be reviewed to

6 see if it could be made clearer, to see if the caveat in

7 it could be made clearer. We don't see any evidence of

8 that.

9 A. No.

10 Q. Is that right? So that really prompts the question why

11 this was so complicated. If Ardmore had read and

12 understood the caveat in your RS5000 marketing

13 literature, then, Mr Evans, all you had to do was simply

14 answer his complaint by saying, "Well, we don't know why

15 you're making such a fuss, read our marketing

16 literature, it says quite clearly in there that the

17 BS 8414 test is only for exactly the same system as the

18 test". Why didn't you do that? It would have been

19 a very simple answer, rather than all this

20 hand-wringing.

21 A. I don't know why we didn't do that.

22 Q. You don't know. Let me again suggest a reason: because

23 at the time you knew very well that the marketing

24 literature was, at its most generous, sailing close to

25 the wind, where a preference had been made to trumpet

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1 the availability of RS5000 for use on all buildings over

2 18 metres and put the caveat in the small print?

3 A. No, that wasn't what I was intending to do with the

4 launch of the product.

5 Q. Did it occur to you at the time that Mr Hunt's complaint

6 was a try-on?

7 A. Was a ...?

8 Q. A try-on. Wasn't really a genuine complaint, but was

9 just a bit of commercial positioning --

10 A. I think it came -- when it came in to us, we -- as

11 I say, Craig, myself, maybe Paul met, and I think our

12 approach would have been, well, he clearly hasn't --

13 they clearly haven't read the literature. I think there

14 was then this BWC desktop study that we weren't aware

15 of, which I later saw in the evidence, and then in that

16 Ardmore case, I think what made it more confusing for us

17 is that we then found out that the complaint almost had

18 gone because the NHBC signed off on the use of the

19 product.

20 Q. Just looking at the complaint, your reaction to it at

21 the time wasn't, "Well, this is a try-on, they've read

22 our marketing literature"; you took this complaint

23 extremely seriously and you treated it as genuine,

24 didn't you?

25 A. Yes, we did.

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1 Q. That's because I'm suggesting to you that it was

2 genuine, and the reason it was genuine was because

3 Ardmore had failed to grasp the point that you had

4 tucked away in the marketing literature, the

5 qualification, caveat, that is to be found --

6 A. Yeah, maybe they hadn't read the literature or hadn't

7 read the details of the system.

8 Q. Did that not concern you, that your marketing literature

9 was not sufficiently clear to big market players like

10 Ardmore?

11 A. I don't believe so at the time. I think they've

12 obviously used the product thinking they can use it, and

13 then they were turning it back to the manufacturer on

14 the basis that we hadn't made it clear, whereas in our

15 view we had made it clear.

16 Q. Why didn't you go back to them simply with a three-line

17 letter saying, "Dear Mr Hunt, I enclose a copy of each

18 of the pieces of our marketing literature, you will see

19 the caveat on page 3 [or whatever it would be] in each

20 of them, I trust this answers your query"? It would

21 have been very easy to do that; why didn't you?

22 A. The discussions that I think we had with the other

23 people from the business, we wanted to investigate it

24 and then go back with a full answer.

25 Q. The reason I suggest that it needed all this internal

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1 investigation and further thought was precisely because

2 you knew very well that the marketing literature,

3 regardless of whether it accurately identified the true

4 build-up of the test, was in and of itself misleading,

5 or at least apt to mislead, and on this occasion had

6 misled?

7 A. It wasn't -- as I've said, it wasn't my intention with

8 the literature to mislead. We had a system that we

9 tested, and when we launched it, that was my

10 understanding of how we were going to launch the system.

11 Q. I would suggest to you that the honest businessman's

12 approach to a complaint like that, if you had taken the

13 complaint genuinely, which it seems that you did -- and

14 I'm not suggesting that it wasn't, so as to be clear --

15 would have been to have started an internal discussion

16 about how to improve the literature so as to make it

17 absolutely crystal clear to the likes of Ardmore that

18 RS5000 should not be used above 18 metres in any system

19 unless it was exactly the same as the system as tested.

20 That would have been the honest thing to do, wouldn't

21 it?

22 A. Which is my view on what we had done based on what

23 I knew at the time of launching the product.

24 Q. That can't be right, because at the time of launching

25 the product, you launched the product literature on

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1 which Ardmore were relying, hence their complaint. So
 2 you can't go back to the original launch.
 3 I will put the question one more time: on the basis
 4 that Ardmore's complaint was a real and genuine
 5 complaint, wasn't the honest approach to have had an
 6 internal discussion about how to improve the marketing
 7 literature so that people like Ardmore didn't make the
 8 same mistake again?
 9 A. That is something we could have done, yes.
 10 Q. And you didn't do it?
 11 A. We did look to improve the literature in the future off
 12 the back of other work that we were doing, but we didn't
 13 do it off the back of this, no.
 14 Q. And that's because you were quite content to keep
 15 peddling RS5000 into an unsuspecting market and take the
 16 risk that some people might complain, but others might
 17 not.
 18 A. Again, that wasn't how I saw the product being launched.
 19 MR MILLETT: Let's turn to the topic of further NHBC
 20 contacts in 2015.
 21 Mr Chairman, this might be an appropriate moment for
 22 a break.
 23 SIR MARTIN MOORE-BICK: Yes, I was just wondering that. You
 24 are going to a new topic, are you?
 25 MR MILLETT: I am going to go to a new topic.

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1 SIR MARTIN MOORE-BICK: All right. Well, I think we will
 2 take a break at this stage.
 3 We're going to have a short break again now,
 4 Mr Evans. We will come back at 3.35, and see if there
 5 are some more questions for you then. Well, there will
 6 be.
 7 THE WITNESS: Thank you.
 8 SIR MARTIN MOORE-BICK: So please don't talk to anyone about
 9 your evidence while you're out of the room. Thank you.
 10 (Pause)
 11 Right, 3.35, please. Thank you.
 12 (3.17 pm)
 13 (A short break)
 14 (3.35 pm)
 15 SIR MARTIN MOORE-BICK: Right, Mr Evans, ready to carry on?
 16 THE WITNESS: I am.
 17 SIR MARTIN MOORE-BICK: Yes, thank you.
 18 Yes, Mr Millett.
 19 MR MILLETT: Mr Evans, some more questions about NHBC.
 20 Can we go, please, to {CEL00001088}. This is
 21 an NHBC letter to Rob Warren of 21 April 2015. Do you
 22 think you might have seen this at the time?
 23 The title of it is "The use of combustible materials
 24 within the external wall construction of buildings over
 25 18m in height", if that helps your recollection.

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1 A. Well, I know we went to meet with the NHBC in May of
 2 2015, so this is possibly the letter that instigated
 3 that, so I believe I would have seen it, yes.
 4 Q. It's an update to the writer's letter of
 5 9 February 2015, as you can see from the first line. Do
 6 you see that?
 7 A. Yes.
 8 Q. It goes on to say in the "Background" part:
 9 "We are aware that some builders are specifying
 10 combustible components within the external wall
 11 construction of buildings with a floor level 18m or more
 12 above ground level."
 13 It goes on to set out, in both summary and detailed
 14 terms, the Building Regulations requirement.
 15 If we go to page 2 {CEL00001088/2}, it says:
 16 "What do the NHBC Standards require?
 17 "NHBC Standards require compliance with Building
 18 Regulations and also that materials provide satisfactory
 19 performance. In addition, paragraph D8(c) of
 20 Chapter 6.9 'Curtain walling and cladding' of the NHBC
 21 Standards advises that reference should be made to
 22 BR 135."
 23 Did that tell you anything you didn't already know,
 24 assuming you saw this letter at the time?
 25 A. I wasn't as close to the actual NHBC standards as the

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1 technical team, but I don't believe that's anything
 2 different that the business didn't know.
 3 Q. Right.
 4 Similarly, under "Demonstrating compliance",
 5 Mr Perrior, who is the writer, sets out guidance on
 6 three possible methods of demonstrating compliance:
 7 limited combustibility, BR 135 or desktop study.
 8 Again, did that, by that stage, tell you anything or
 9 tell the business anything that it didn't already know?
 10 A. By that stage we knew about BCA guidance from a month or
 11 so previous.
 12 Q. Can you explain why or how come it was only nine months
 13 or so after the technical guidance note which had been
 14 published by the BCA in the June of 2014 that you came
 15 to know about it?
 16 A. No, I can't explain, other than the business and the
 17 team at the time in launching the product, there's other
 18 projects, lots of things, this wasn't the only thing we
 19 were trying to focus our time on, and it's ... we didn't
 20 know about it when we were launching the product.
 21 Q. Now, can we go to {CEL00001087}. This is the email to
 22 you from Rob Warren which sent this letter to you, which
 23 I should have shown you before showing you the letter,
 24 but it doesn't matter.
 25 He says in the second sentence:

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1 "Very interesting as it now states that a desktop
2 study is acceptable as a means of compliance."
3 Does that tell us that it wasn't until then that it
4 was clear to the business that NHBC were prepared to
5 accept a desktop study?
6 A. That's my understanding, yes.
7 Q. I see.
8 Your response to this email is at {CEL00003640}, and
9 you say:
10 "Useful to get official confirmation from them
11 though given the intel from Ardmore today it makes it
12 very difficult with the NHBC to be able to say
13 a definitive yes or no given there could be specific
14 detail changes in the design that we are not aware of."
15 What was that a reference to?
16 A. My understanding is that the Ardmore project was given
17 the go-ahead because there was something technical
18 around the balconies or terracing on the building, and
19 that's why the NHBC allowed it.
20 Q. Then you say in the third paragraph:
21 "Are you ok to suggest some dates to Graham
22 [Perrior, the writer of the letter]. I'd rather have
23 a face to face meeting on this then just respond in
24 a letter. I think they need to be aware of the
25 challenges we as a manufacturer now face on

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1 communicating where RS5000 can and can't be used. We
2 need to start working closer with them and can update
3 them on where we are with our overall message on RS as
4 well as progress on desktop studies."
5 Why would you want to have a face-to-face meeting
6 with them rather than setting out your simple position
7 in a letter?
8 A. I think it was just the style of how Celotex operated.
9 There was always face-to-face meetings, and that was
10 generally the preferred way of working.
11 Q. I see.
12 You say, as I've shown you, that they need to be
13 aware of the challenges that Celotex as a manufacturer
14 now faces. What challenges did you have in mind?
15 A. Linked to paragraph 1 with the Ardmore letter, and then
16 the acceptance of our product being allowed on that
17 scheme.
18 Q. Can we go to {CEL00003342}, please. This is the 2015
19 budget, and it seems to have been a presentation for
20 Les Miroirs for 14 October 2014.
21 Just help me, Les Miroirs, was that Saint-Gobain's
22 glass-clad head office in Paris?
23 A. Yes.
24 Q. Did you go to that meeting?
25 A. I believe so.

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1 Q. The date of 14 October 2014, did you go to that meeting
2 on that date?
3 A. That's the date of the meeting to present the budget for
4 the next year, starting in January 2015. That was the
5 general timeline that you had to present your budget in.
6 Q. Who presented this slideshow at Les Miroirs?
7 A. I can't remember everybody that would have gone to the
8 budget, but there was a number of people from the
9 Celotex MAG team would have gone, so it was a --
10 multiple people.
11 Q. You went, as you told us. Did you do the presentation?
12 A. I would have done some of the marketing slides, yes.
13 Q. I see.
14 Can we go to slide 21, please, on page 21
15 {CEL00003342/21}. This is a slide addressing
16 "2015 Actions - New Build Housing", and you can see
17 under "Initiative ", third item down:
18 "NHBC 'buy-in' for above 18m applications."
19 Timing, 2014 Q1. That probably ought to be Q1 2015,
20 shouldn't it?
21 A. Yes.
22 Q. Budget, £20,000.
23 Now, what does "NHBC buy-in" mean or refer to?
24 A. I think that's a set of words which basically means NHBC
25 approvals for above-18-metre applications.

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1 Q. And the budget of £20,000, what would that be spent on?
2 A. Based on where we were, I think desktop studies, or
3 additional testing that the NHBC might need us to do.
4 Q. Well, wait a moment. You just told us that it wasn't
5 until March, possibly April 2015 that you were aware
6 that the NHBC would accept desktop studies. Indeed,
7 I think you said earlier that it wasn't until March 2015
8 that you knew that the BCA guidance which had been
9 issued in the June of 2014 contained an option of
10 desktop studies by way of compliance.
11 How could the £20,000 be allocated possibly to
12 desktop studies as early as October 2014, Mr Evans? How
13 does that work?
14 A. It may have been for additional testing. I used desktop
15 studies, but it could have been for additional testing
16 that we might need.
17 Q. Right. I see. So the £20,000, you say, could have been
18 for additional testing. You don't sound terribly sure.
19 A. No, I don't recollect totally why that was in there.
20 Q. Might it be a sum allocable for lobbying or making
21 presentations to the NHBC to obtain what you call their
22 buy-in?
23 A. No.
24 Q. What form would NHBC buy-in take as was contemplated at
25 this time, do you think?

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1 A. I think it was just RS5000 being able to be used on some
2 NHBC projects.
3 Q. What had led you, mid-October 2014, to think that NHBC
4 buy-in was required and sufficiently difficult to
5 warrant a budget of £20,000 being allocated to it?
6 A. Based on what I've seen today, I can only look at the
7 feedback that we were getting from the market on NHBC
8 projects.
9 Q. So this would be feedback between the beginning of
10 August 2014, when RS5000 was launched, and the middle of
11 October 2014?
12 A. Based on those timings, yes.
13 Q. So did you anticipate at this point or by this point
14 that, even though you had your 8414 test, the NHBC would
15 not simply accept it and give you an endorsement for
16 RS5000, you had to go further and spend £20,000 on
17 getting their buy-in?
18 A. I think we were accepting that we might need to do
19 additional testing.
20 Q. Right. So the £20,000 is additional testing in order to
21 get buy-in, and you told us earlier there was no
22 additional testing.
23 What happened, so far as the NHBC buy-in was
24 concerned, between the middle of October 2014, when you
25 were considering spending that money on further testing,

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1 and March 2015, when you discovered the existence of the
2 BCA Technical Guidance Note 18 which referred to desktop
3 studies?
4 A. I don't believe anything in terms of additional testing.
5 Q. No. So what was it? It was a limbo period. You didn't
6 know about desktop studies, but you weren't doing any
7 testing.
8 A. No.
9 Q. So what was happening? How were you going about getting
10 NHBC buy-in during that period.
11 A. Well, we're not. We're not being used on those
12 projects.
13 Q. But this is about six months that goes by, isn't it?
14 Mid-October to mid-March. Maybe five and a half months
15 or something like that. Why were you prepared to allow
16 so long to go by without NHBC buy-in in the absence of
17 further tests or any desktop initiatives?
18 A. I don't know, just timings of other activities possibly.
19 Things that are listed on that slide, so --
20 Q. Again, were you proposing simply to ride your luck until
21 the NHBC came clear about what it was they wanted to do?
22 A. I don't think we were riding our luck. I think there
23 was lots of other things happening in the business, not
24 just RS5000, and most of them are on that -- a lot of
25 them are on that slide there, which are big projects in

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1 terms of other development.
2 Q. Going back to the Ardmore complaint of 23 March 2015, to
3 give it its date, can we look at {CEL00003595/4},
4 please. We will come back to page 1 in due course, but
5 page 4 is an email of 25 March 2015, and it starts at
6 the bottom of page 3 {CEL00003595/3}, as is typical.
7 You can see that he is sending you and Rob Warren and
8 Louise Garlick some wording, being:
9 "... a draft position for the specification of
10 RS5000 and a set of words for both LABC and NHBC
11 projects.
12 "Please be aware that we have NHBC project enquiries
13 where customers are awaiting a response."
14 Then he sets out a set of drafts.
15 If we go to page 4 {CEL00003595/4}, we can see the
16 NHBC section of this email, a third of the way down the
17 page:
18 "Where projects are subject to NHBC requirement we
19 will identify the given construction and unless it
20 exactly matches the specification given in our
21 literature we will advise that the use of Celotex is not
22 supported.
23 "If customers ask for an official position then they
24 can be sent the set of words below."
25 That was what Jamie Hayes was proposing. That's

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1 very different, isn't it, from the marketing literature
2 which had been approved in August 2014 and launched?
3 A. Yes, this is different wording.
4 Q. This is basically now telling the market that they
5 shouldn't be using RS5000 unless it exactly matches the
6 specification given in the literature.
7 A. Yes.
8 Q. Then the set of words, as you can see below:
9 "Thank you for your enquiry."
10 The second sentence still contains the weasel words:
11 "... and so can be considered for use in buildings
12 above 18m."
13 Then the last paragraph is where one gets the rather
14 stiffer caveat:
15 "Where the proposed design differs from the tested
16 system as outlined in our compliance guide we would not
17 recommend the use of Celotex RS5000."
18 Now, you saw that at the time.
19 If we go up the page, then, and look at the bottom
20 of page 1 {CEL00003595/1}, and over to page 2, bottom of
21 page 1, he says:
22 "Thanks Rob.
23 "I have identified some awkward questions that we
24 could be asked that we need some guidance on. I meant
25 to send these earlier.

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1 " How do we handle projects for NHBC where
 2 calculations have already been provided?"
 3 Then over to page 2 {CEL00003595/2}:
 4 " Where customers have had calculations for
 5 previous NHBC projects and now find our position has
 6 changed, how do we answer them?"
 7 Just going to the first of those points, at the
 8 bottom of page 1, he describes that question as
 9 an awkward one:
 10 "How do we handle projects for NHBC where
 11 calculations have already been provided?"
 12 Why were those questions, or why was that an awkward
 13 question?
 14 A. I think from Jamie's perspective, being -- answering
 15 enquiries from clients, customers, the position and the
 16 wording has changed, therefore that's why he's seeing
 17 that as a potential awkward question that could come
 18 from previously -- previous enquiries.
 19 Q. It was awkward, wasn't it, as was obvious, I would
 20 suggest, because the marketing literature on the basis
 21 of which RS5000 had been launched had not set out the
 22 qualification or the caveat, as I would call it, in
 23 clear terms, and had it done, you wouldn't have had
 24 customers lining up to ask these awkward questions?
 25 A. I just think we've launched a product, and the -- we've

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1 learnt as we've launched the product and been given
 2 feedback from the market based on our launch, and
 3 therefore we've needed to come up with additional
 4 statements such as this to -- for the company.
 5 Q. Can you turn the page again, please, to page 2:
 6 "Where customers have had calculations for previous
 7 NHBC projects and now find our position has changed, how
 8 do we answer them?"
 9 Is the change in position that he's referring to
 10 there the change in position to make it clearer that
 11 RS5000 should not be used above 18 metres unless the
 12 system in which it was to be used exactly conformed with
 13 the system as tested?
 14 A. Yes, I think it's just the fact that we were saying
 15 something -- we're now saying something new that we
 16 hadn't said previously.
 17 Q. So market pressure and awkward questions from potential
 18 customers was now driving management into changing the
 19 way it presented RS5000; is that a fair summary?
 20 A. As we learnt more from the market, we had to change some
 21 of the responses to enquiries, yes.
 22 Q. Yes. And really this was just the coming home to roost
 23 of something that you had already really predicted at
 24 the time of the launch.
 25 (Pause)

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1 A. I just think we learnt as -- after the product was
 2 launched, there was more information coming in to us
 3 that maybe we didn't know at other times.
 4 Q. It can't have come as a surprise to you, could it, that
 5 all these players in the market were lining up with
 6 awkward questions such as those which Mr Hayes has set
 7 out?
 8 A. I think we always knew there would be questions that
 9 came from RS5000 because of the nature and how different
 10 it was as a product launch for us.
 11 Q. Again I make the point: why was any of this awkward?
 12 Why couldn't you just point each and every one of these
 13 customers to your marketing literature which had been
 14 generated in the summer of 2014 and say, "Our marketing
 15 literature is perfectly clear, our caveat is in there if
 16 you read it properly"? That doesn't seem to have been
 17 a choice you ever made. Why is that?
 18 A. I think we did say that, and I think it's just the fact
 19 that we've learnt more, there's more projects, people
 20 are coming to us, that we've needed to adjust what we're
 21 saying.
 22 Q. Well, I would suggest that it was really just that you
 23 knew very well that the marketing literature was
 24 misleading in the way in which we've established and
 25 wasn't crystal clear about the caveats, and when people

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1 started complaining about it, this was entirely
 2 a foreseeable result of that.
 3 A. That's not how I thought the market was going to go, but
 4 I can see why people would think that.
 5 Q. Can we go, then, to {CEL00003599/3}, please. We can see
 6 your response to Mr Hayes' original email about the
 7 suggested wording for responses:
 8 "Jamie
 9 "I am ok with these words to be used for projects
 10 currently in the Salesforce pipeline where we need to
 11 get back to people quickly.
 12 "Following this, we should be looking to wrap
 13 a communication around NHBC and RS5000 into a consistent
 14 message that is then communicated into marketing, sales
 15 and technical as well as the wider market.
 16 "Please let me know of any other market feedback you
 17 get on RS5000."
 18 When you say "wrap a communication around NHBC and
 19 RS5000 that is then communicated into marketing", what
 20 did that mean?
 21 A. I think summarise, have a -- one communication.
 22 Q. Right.
 23 Now, Mr Roper also responded the following day on
 24 26 March, {CEL00003599/1}, if we just look up to that.
 25 You can see his email there. It's a long email, I'm

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1 certainly not going to read it out to you at this hour,
 2 but in the third paragraph he says:
 3 "The note below also assumes that LABC and private
 4 building inspectors equally do not have the same
 5 reservations over AD B compliance as NHBC but the recent
 6 publication from the BCA would indicate that it is only
 7 a matter of time before they are brought up to speed
 8 with the issues surrounding combustible insulation. We
 9 could therefore be in a similar position with buildings
 10 that are warranted by somebody other than NHBC."

11 Does this mean that, in other words, Celotex knew
 12 that RS5000 was being specified on some projects where
 13 NHBC was not involved, but that might change for the
 14 worse once the BCA was, to use Mr Roper's words, brought
 15 up to speed?

16 A. Yes, I think that's what Jon is saying.

17 Q. So you were taking advantage for the time being of the
 18 BCA not being up to speed and were concerned that that
 19 advantage might come to an end?

20 A. I don't recall thinking like that at the time,
 21 I think -- but I can see why -- that's how that could be
 22 interpreted.

23 Q. That's because that was what was happening, I would
 24 suggest. No? You were taking advantage of BCA's
 25 leaden-footedness for the time being.

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1 A. I think we were only aware of the BCA document at this
 2 time, so ...

3 Q. {CEL00003600}, please. Email from Jamie Hayes to the
 4 various teams, tech department, copied to Louise Garlick
 5 and you, Mr Evans, 27 March 2015:

6 "Good morning!

7 "With regards to RS5000 enquiries for buildings
 8 above 18m, it is important that any changes to our
 9 policy in dealing with these enquiries is rolled out in
 10 a consistent way to our customers, sales team and to the
 11 market in general.

12 "To that end the advice we give to customers is to
 13 be reviewed by Paul Evans and the management team."

14 If there was a need for consistency, were you not
 15 concerned that previous messaging had been inconsistent?

16 A. I'm not sure inconsistent, I just think there -- we're
 17 just needing to find a different way or different ways
 18 of communicating to clients as we have been in the
 19 market for longer.

20 Q. I'm not sure that's right, is it? He, Mr Hayes, is
 21 saying to you that it's important that changes to your
 22 policy in dealing with enquiries that were coming in
 23 about RS5000 were "rolled out in a consistent way to our
 24 customers, sales team and to the market in general", and
 25 to the reader, that does raise the question whether or

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1 not previous messages were inconsistent.

2 A. Yes, that could be implied. I would say that might be
 3 because Jamie's team are on the phone or answering
 4 emails, and maybe they don't have that consistent set of
 5 language to all say the same thing.

6 Q. What could be inconsistent? Why wouldn't they all have
 7 the same language to say the same thing?

8 A. I don't know. That's --

9 Q. Might it be that there was some lack of consistency
 10 about whether or not they should be pushing the use of
 11 RS5000 above 18 metres and not pointing up the
 12 qualification in order to get sales, on the one hand,
 13 for some people, but other people might be pointing up
 14 the qualification on the other hand and foregoing sales?
 15 Might that be the inconsistency to which Mr Hayes is
 16 referring?

17 A. Maybe, I don't know.

18 Q. Did you not enquire? Did you not investigate what
 19 messages the marketing team, who were of course under
 20 your supervision, were giving customers?

21 A. The marketing team were under my supervision. This --

22 Q. Yes.

23 A. Sorry, I thought this was to do with the technical
 24 team's message.

25 Q. Well, it's changes -- well, it's the advice given to

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1 customers, that's the point that Mr Hayes is dealing
 2 with here.

3 A. Yes.

4 Q. And how advice given to customers, whether it's by the
 5 technical team, sales team or marketing team, it doesn't
 6 matter, his concern was there was a need for consistency
 7 in the messaging.

8 My question to you is: did his identification of
 9 a need for a consistent message not concern you, or not
 10 alert you to the fact that there were inconsistent
 11 messages at that point, or up to that point?

12 A. Not that I can remember, and also that I'm working with
 13 Jamie and Rob to make a set of words that can all be
 14 used.

15 Q. If we go to {CEL00003641/2}, please. This is an email
 16 of 13 March 2015 at 10.50. A few days on from what
 17 we've just seen, Jamie Hayes sends an email which is
 18 a change to a standard wording being added to emails
 19 where a calculation was requested for buildings. It's
 20 a long email.

21 If we go to the bottom of page 2 and over to page 3,
 22 you can see again there's that mantra at the bottom of
 23 page 2 that, because of the test, Celotex RS5000 "can be
 24 considered for use in buildings above 18 metres".
 25 Again, we have been round that hoop a number of times.

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1 If we go to the top of page 3, this is the wording
 2 that he's now suggesting:
 3 "Please find attached a copy of our Rainscreen
 4 Cladding Compliance Guide which gives details of our
 5 fire test and some background to the
 6 Building Regulations ..."
 7 Then:
 8 "It will be the responsibility of the building
 9 control body to judge compliance on a project by project
 10 basis. We would recommend showing them the compliance
 11 guide and the details of your proposed system and have
 12 a discussion with them as early in the design process as
 13 possible.
 14 "Our tested system comprised an external rainscreen
 15 façade ..."
 16 And then in the last line:
 17 "It is critical that compliance is agreed before the
 18 design is finalised or work commences on site."
 19 This is a very different message from the message
 20 conveyed in the original marketing literature, isn't it?
 21 A. Yes.
 22 Q. Does that tell us that these changes were because of
 23 a concern in management that that message, the message
 24 that is now in that draft, had not been uniformly
 25 conveyed until now?

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1 A. Yes, I think there was -- as we've had more feedback
 2 from the market, we've needed to have more -- different
 3 wording, clearer wording.
 4 Q. It's not really surprising, is it, that you had all
 5 these awkward questions leading to this wholesale change
 6 in the wording of the literature, given statements in
 7 the literature such as the pink banner on each of the
 8 three pages at the top of the datasheet, "suitable for
 9 use on buildings above 18 metres"?
 10 A. It might have been because of those headline messages.
 11 That was never the intention.
 12 Q. No, but didn't you ask yourself why it was that all
 13 these customers were coming in and asking all these
 14 questions?
 15 A. Not at a time that I can recall, no.
 16 Q. {CEL00001279}, to finish this line off. It's an email
 17 following the adoption of these wordings, and after the
 18 Ardmore situation appears to have been resolved, and
 19 this is 23 April 2015, an email from you to Rob Warren
 20 and Debbie Berger and Craig Chambers. In that email,
 21 you go on to say, three paragraphs up from the bottom:
 22 "Given NHBC have now written to us with their
 23 position on Above 18m and also the fact that façade
 24 systems which we would assume are not compliant are now
 25 being accepted due to building design details that we

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1 would struggle to be made aware of, we do need to
 2 respond to NHBC with our position on what we are telling
 3 the market.
 4 "Whilst informing that RS may not be suitable for
 5 use on certain projects, I believe we need to revisit
 6 our wording here as it could be that specific design
 7 details are incorporated into projects that we are not
 8 aware of and could be turning down projects by only
 9 having limited information."
 10 I show you that, but it's clear that,
 11 notwithstanding the difficulties that you had
 12 encountered with the NHBC and Ardmore, would you say
 13 that you were still concerned with ensuring the
 14 maximisation of sales of RS5000?
 15 (Pause)
 16 A. There would obviously be a commercial consideration to
 17 be had in what we're doing, but my position from the
 18 start on this is that we -- if there was projects which
 19 we can't be used for compliance reasons, then they're
 20 projects that we wouldn't be used on.
 21 Q. Was your position that Celotex shouldn't be adopting
 22 a line so cautious that it might result in the loss of
 23 sales?
 24 A. I don't ever remember thinking about the sales impact on
 25 what we were doing, no.

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1 Q. I mean, that's certainly the effect or the impression
 2 given by the second of the two paragraphs I've read to
 3 you from that email, that you needed to revisit the
 4 wording because you might be turning down projects
 5 because you have got limited information.
 6 A. Yeah, I think that comes down again to this Ardmore
 7 situation, where we've not always got all of the
 8 information to know whether the project -- we can be
 9 used on the project or not.
 10 Q. You wouldn't need information, would you? It's not
 11 about you needing information at all. You just need to
 12 get the message across that whatever the system is that
 13 they're going to use the RS5000 in, it has to be the
 14 same as the system tested. Why was that a problem?
 15 A. That wasn't a problem, if --
 16 Q. Well, it was a problem if you were going to lose sales
 17 as a result of it, and that was something that it's
 18 quite clear from that paragraph you didn't want.
 19 A. I just think it became -- we were getting more
 20 information again and there was confusion and -- on
 21 certain projects.
 22 Q. Now, do you remember a meeting in May 2015 with the
 23 NHBC?
 24 A. Yes.
 25 Q. Can we go to {CEL00003682}, please. This is an agenda

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1 for that meeting on 9 May. Do you know who prepared
 2 this agenda?
 3 A. I don't recall, no.
 4 Q. We can see who was there from the NHBC, Graham Perrior
 5 and Dave White, and from Celotex, Debbie Berger, you and
 6 Rob Warren.
 7 You can see the agenda. After the introductions,
 8 "Review of Celotex RS5000" and then "NHBC Compliance
 9 Requirements".
 10 Now, you say in your statement -- we don't need to
 11 go to it, it's paragraph 180 {CEL00010058/52} -- that
 12 Mr White was at one point quite rude to you at the
 13 meeting, interrupting you while you were speaking and
 14 suggesting that some aspect of Celotex's position on
 15 RS5000 was stupid. That's what you have recorded in
 16 your statement.
 17 A. Yes.
 18 Q. But you don't remember what it was that he was talking
 19 about.
 20 Can you recall what Celotex's position on RS5000
 21 actually was at that meeting?
 22 A. At that point, it would have followed the position that
 23 we had in the business around the new wording that Jamie
 24 had put together and the compliance literature that we
 25 had.

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1 Q. Right. So when you say the wording Jamie had put
 2 together, that's in the last email I showed you?
 3 A. Yes, I think it would have evolved into that wording as
 4 well.
 5 Q. I see.
 6 Then we can look at the May 2015 update,
 7 {CEL00003710}, please. Was this prepared by you or by
 8 Mr Warren? I think you say it was Mr Warren who
 9 prepared that.
 10 A. Yes.
 11 Q. Was that prepared for the MAG?
 12 A. That was prepared for the MAG, yes.
 13 Q. If we go to page 8 {CEL00003710/8}, please, we can see
 14 a heading, "Robust Argumentations".
 15 A. Yes, that would be a section Rob would have --
 16 Q. Right.
 17 A. -- populated.
 18 Q. "Fire."
 19 "Celotex meeting with NHBC was quite heated (every
 20 pun intended) with Dave White of NHBC being very vocal
 21 and in our view unprofessional in the manner in which
 22 he dealt with the points discussed."
 23 Is that a reference to the part of your evidence
 24 where he said that aspects of Celotex's position on
 25 RS5000 was stupid?

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1 A. Yes.
 2 Q. Is it a reference to anything else?
 3 A. The main part of Dave White's behaviour at that meeting
 4 was around that point I made in my statement. I can't
 5 quite remember the rest of his demeanour for the
 6 remainder of the meeting.
 7 Q. Four lines down:
 8 "The NHBC's issue is that in their view our fire
 9 test was not sufficiently representative of a typical
 10 Rainscreen system."
 11 Pausing there, that had been the view expressed to
 12 you by Dave White, perhaps in slightly more polite
 13 terms, and Graham Perrior at the 19 June 2014 meeting
 14 almost a year before, isn't it?
 15 A. Yes.
 16 Q. So nothing had changed, had it, then, in NHBC's attitude
 17 to your fire test?
 18 A. Generally I don't believe so, no.
 19 Q. Did it not concern you that the NHBC thought that your
 20 position was stupid? I know it may be rude and
 21 unprofessional, but didn't it concern you?
 22 A. I think it concerned us, but I think there was a focus
 23 for the business to work with the NHBC to understand
 24 what we needed to do to be used on certain NHBC
 25 projects.

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1 Q. Then you go on:
 2 "At some point we will have to consider another test
 3 to broaden the scope of RS5000."
 4 It looks as if testing had now come back on to the
 5 radar. What had happened to desktop studies?
 6 A. I don't know, I think testing and desktop studies were
 7 always two options.
 8 Q. Well, yes, but we don't see any reference in there to
 9 doing a desktop study, other than the reference in the
 10 third line that the NHBC would look at the desktop study
 11 that you had carried out with Exova. So that is there.
 12 A. Yes.
 13 Q. But it doesn't seem that the contemplated strategy from
 14 there on in was to keep doing desktop studies to broaden
 15 the application; it was another test, wasn't it?
 16 A. That's what Rob is suggesting there.
 17 Q. Yes, and then it says:
 18 "Until that time [that's the time of a new test] we
 19 will continue to maximise the potential of RS5000 in
 20 non-NHBC jobs and the occasional NHBC job where the
 21 specific design of the building (due to balconies acting
 22 as fire breaks for example) allows RS5000 to be
 23 included."
 24 So, again, given that you were now looking at doing
 25 another test, can you explain why one wasn't done?

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1 A. No, I can't.
 2 Q. Is it because you knew it would fail?
 3 A. No, I don't believe that would have been a reason why we
 4 were thinking we wouldn't test.
 5 Q. Is it because you knew that, without the 6 millimetres
 6 of magnesium oxide round the thermocouples in two places
 7 on the rig, and the 8 millimetres of Marley Eternit that
 8 had been present on the rig in the May 2014 test, there
 9 was a very real risk that it would fail?
 10 A. No, that wasn't in our thinking.
 11 Q. And with a failed test, you would be absolutely nowhere,
 12 wouldn't you?
 13 A. Yes, we would be, but that wasn't part of the reason why
 14 we hadn't tested.
 15 Q. What was the thinking in not doing another test?
 16 A. As I say, I don't know the specific reason, other than
 17 other things happening in the department, in the
 18 business, that maybe just meant that that wasn't able to
 19 happen, for whatever reason.
 20 Q. But in the meantime, it seems that you were content to
 21 continue to sell RS5000 into non-NHBC jobs. Did that
 22 mean that even if the cladding system was different from
 23 the cladding system tested, if the customer didn't pick
 24 it up, you would be happy to make a sale?
 25 A. We would be expecting the client to be aware of our

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1 guidance and also their understanding of that market.
 2 Q. Yes, so you were prepared to go on marketing with the
 3 new wording into RS5000, knowing very well not only the
 4 fact that the NHBC weren't prepared to endorse it but
 5 the reasons why?
 6 A. We would have carried on selling RS5000, yes.
 7 Q. Indeed.
 8 Just before I leave this document, I'll just pick up
 9 with you the point I've mentioned. In the second and
 10 third lines you can see it says:
 11 "On the positive side, the NHBC will look at the
 12 desk top study work that we have carried out with Exova
 13 to see if they accept the findings."
 14 So that, to be fair to you, was the position in
 15 May 2015.
 16 We can see how that turned out. {CEL00002241/2},
 17 please. We can see that on 8 June 2015, Graham Perrior
 18 of NHBC writes to you, Mr Evans, as well as Dave White
 19 within NHBC, and he is coming back with his initial
 20 views about the Exova report, the desktop.
 21 If you cast your eye down to the fifth paragraph
 22 down -- one can read the detail, if you want to, of the
 23 first three paragraphs, I'm not going to read them
 24 aloud, but there are certainly questions that are
 25 studied throughout those paragraphs -- he says:

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1 "Therefore it appears that the basis for Exova's
 2 analysis does not reflect either a true model of
 3 a ventilated rainscreen façade or take fully into
 4 account the fact that a large part of the Marley
 5 'rainscreen' caught fire."
 6 Is it safe to say that, when you saw that, you
 7 realised that the NHBC were not persuaded that the Exova
 8 desktop study done thus far could be relied on?
 9 A. We took those comments from the NHBC and relayed them to
 10 Exova for their response.
 11 Q. And how did that end up?
 12 A. I believe there was a -- responses between Debbie and
 13 Frans, and he assessed those and came up with answers.
 14 Q. Did you go back to NHBC with those answers?
 15 A. I thought we did, from evidence --
 16 Q. What was the NHBC's judgment on that?
 17 A. I can't recall.
 18 Q. Did you ever get the NHBC's sign-off on a desktop study?
 19 A. I can't say for sure, but I don't think so.
 20 Q. No.
 21 We can see that they were extremely sceptical about
 22 the desktop study for the reasons they have set out, and
 23 that is even without knowing of the presence of the
 24 6-millimetre magnesium oxide in two places on the rig
 25 and the 8-millimetre Marley rainscreen at those points,

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1 isn't it?
 2 A. Yes.
 3 Q. Would it be fair to say that, had the NHBC known about
 4 those aspects of the test, they would have been even
 5 less impressed with Exova's work?
 6 A. Yes, I think that's fair to say.
 7 Q. Can I just ask you one or two questions about the NHBC
 8 2016 guidance.
 9 At {CEL00003783} is a note. It's dated
 10 18 August 2015, and it's drafted by Tom Elwell of
 11 Celotex.
 12 A. Yes.
 13 Q. Which department was he in?
 14 A. He worked in the Celotex technical centre.
 15 Q. It's entitled "NHBC & RS5000". Three options, and we
 16 can see them there, and then:
 17 "NHBC continue to offer resistance to using RS5000
 18 in rainscreen cladding applications. Why? Do they
 19 insure fire damage? Would they be liable for deaths?
 20 Part of the issue seems to be that they have allowed
 21 Kingspan to 'get away with it' for a number of years and
 22 they [now] feel that they have to tighten up."
 23 Was that your impression?
 24 A. I think during this time, it was difficult for our
 25 business to understand why Kingspan were being allowed

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1 to do what we were being told they were to do, and other
 2 manufacturers --
 3 Q. Right.
 4 A. -- weren't.
 5 Q. Now, it's right, isn't it, that less than a year after
 6 this the NHBC published guidance entitled "Acceptability
 7 of common wall constructions"? Do you know that?
 8 A. I know that now.
 9 Q. Let's see. It was June 2016. Let's look at it:
 10 {CEL00001169}. I think you had left Celotex by this
 11 time.
 12 A. No, I was still at Celotex.
 13 Q. Did you look at this document at the time? It's dated
 14 actually July 2016, if one looks at the very bottom of
 15 the page, July 2016.
 16 A. I can't 100% recall, but it's something that -- if it'd
 17 come into the business then it would have been something
 18 that would have been circulated, so ...
 19 Q. Yes. Can you look at the bottom right-hand corner,
 20 "Common wall and facade types accepted by NHBC":
 21 "The following common wall and facade constructions
 22 are acceptable to NHBC without the need to provide an
 23 Option 3 assessment providing that the design
 24 specification and installation meets the minimum
 25 specifications set in the following appendices."

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1 Appendix 3, you can see, aluminium composite panels.
 2 A. Yes.
 3 Q. In your statement at paragraph 201 {CEL00010058/59} you
 4 say that you regarded this guidance as:
 5 "... a positive development for Celotex, albeit not
 6 that surprising, given that RS5000 was being used in the
 7 market, and to Celotex's knowledge being approved via
 8 desktop studies for use in a variety of build-ups."
 9 Were you not surprised by this apparent volte face,
 10 this change of position, about-face, from the NHBC
 11 within less than a year?
 12 A. It did seem surprising at the time, yes.
 13 Q. Was that change as a result of the lobbying of the NHBC
 14 by players in the market -- I'm not necessarily
 15 including Celotex in that -- to achieve NHBC buy-in?
 16 A. I don't know what other organisations or companies were
 17 doing. All I know is that we had met with the NHBC on
 18 a few occasions to talk about specific matters.
 19 Q. Do you know how this change in position within a year of
 20 the position as seen before came to happen?
 21 A. No.
 22 Q. Had this guidance, when it came out, taken you by
 23 surprise?
 24 A. I can't remember exactly how -- what I remember at the
 25 time, but it does -- it did seem strange that we'd been

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1 from where we were to where we are now with being
 2 instantly approved.
 3 Q. What was your reaction when you saw it, do you remember?
 4 A. I can't remember, no.
 5 Q. Just briefly, do you remember that in 2017, before the
 6 fire at Grenfell Tower, Celotex decided to test RS5000
 7 to BS 476?
 8 A. Yes.
 9 Q. Why was that?
 10 A. We were being asked for copies of the class 0 report for
 11 FR5000, and Rob and I made a decision that we felt it
 12 would be better to re-test the product as RS5000 so that
 13 we could send a test report out that stated RS5000, not
 14 FR5000.
 15 Q. Can we go to {CEL00000543}, please. This is an email
 16 from Dr Dane, Sarah Dane, to you, bottom of page 1,
 17 "Dear Paul". Do you see that?
 18 "Please see the results below from the Class 0
 19 testing, sent out in April. It shows a failure to
 20 achieve Class 0 on all of the products tested; the FR
 21 results are from trial formulations. I will go through
 22 the results today to see if I can determine at what
 23 point in time the test failed."
 24 A. Yes.
 25 Q. That's August 2017, so that's after the fire --

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1 A. Yes.
 2 Q. -- at Grenfell Tower.
 3 Then at the top of the page, Dr Dane goes to
 4 Joe Mahoney and you and says:
 5 "Dear Paul, Joe,
 6 "Please find attached the I values for the tests.
 7 "Everything failed in the first 3 minutes of
 8 testing. The 100 and 160 products also failed during
 9 4-10 minutes."
 10 That must have come as something of a shock?
 11 A. It did, yes.
 12 Q. Do you know why they failed?
 13 A. No, I don't.
 14 Q. I think you forwarded those results to Dean O'Sullivan,
 15 didn't you?
 16 A. Yes, this was a -- I remember this day, because I was at
 17 a colleague's wedding as well as Joe Mahoney.
 18 Q. Do you remember what you discussed with Mr O'Sullivan
 19 about these results?
 20 A. I called Dean once I had sent those results to him and
 21 asked whether I needed to do anything that morning, and
 22 he said no, and it was picked up as part of the --
 23 picked up within the business that day and going
 24 forward.
 25 Q. It's also right, isn't it, that in November 2017,

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1 further testing was carried out? Were you aware of
 2 that?
 3 A. I know that there was some work done on -- there was
 4 work being done on class 0 investigations during that
 5 period between August and November. I don't know too
 6 much of the detail.
 7 Q. Right. Can we look at {CEL00009429}, please. We can
 8 see here that this is a letter from Exova from a T Mort
 9 to Joe Mahoney, and in the fourth paragraph it says:
 10 "The tests were deemed invalid, as specified in
 11 Clause 9.2 of the Standard, due to deformation of the
 12 specimens blocking the burner ports of the gas burner of
 13 the test apparatus, such that the required gas input
 14 could not be maintained."
 15 Did you discover that the November test had failed
 16 in that way? Did Mr Mahoney discuss these with you?
 17 A. I can't remember.
 18 Q. Right. Were you aware that the subsequent tests in 2018
 19 had passed?
 20 A. No.
 21 Q. You didn't know anything about that, right.
 22 I think it's right that, shortly after these tests,
 23 you were then subject to disciplinary procedures,
 24 weren't you?
 25 A. Yes.

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1 Q. They were in relation to your involvement in Celotex's
 2 practice around calculating its declared lambda.
 3 A. Yes.
 4 Q. And then you resigned as a result, I think, in
 5 December 2017.
 6 A. I did.
 7 Q. Can I just ask you one question. If you go to your
 8 second witness statement where you deal with your
 9 disciplinary procedures, {CEL00012233/7}, paragraph 31.
 10 You say in paragraph 31 on page 7:
 11 "It is for others to assess whether the disciplinary
 12 processes were also orchestrated to remove senior
 13 members of the business out of Celotex before the
 14 Grenfell Inquiry commenced."
 15 What do you mean by that?
 16 A. I mean that I feel there was an opportunity for Celotex,
 17 having understood how lambda was being calculated in the
 18 business, and had been as a process, something that was
 19 done for a long time, I think they -- with a lot of
 20 people from the previous ownership, and as well as many
 21 members of the first Saint-Gobain MAG moving on, I think
 22 it only left two or three people that would have been
 23 aware of the lambda regime, purely because we had been
 24 in the business a long time, and my view is that Celotex
 25 used that as an opportunity to remove those people from

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1 the business --
 2 Q. Are you saying that the lambda fiasco was being used as
 3 an excuse to conduct a purge?
 4 A. I think Celotex, in my opinion, had a strategy, yes.
 5 Q. Well, are you saying that Celotex had decided to use the
 6 lambda affair as an opportunity to purge some of the
 7 older members of management?
 8 A. Yes.
 9 Q. Are you saying that that was unjustified?
 10 A. I feel that it was based on that process for lambda,
 11 which was a decision made many years before and by
 12 statutory directors of the company, and how that just
 13 became integrated as part of an ongoing process in our
 14 business, I felt that was -- yes, I felt that was
 15 unfair.
 16 MR MILLETT: Mr Evans, I have no further questions for you,
 17 thank you very much. There may be some questions which
 18 come from somewhere else, but, Mr Chairman, I note the
 19 time. It's 4.30.
 20 SIR MARTIN MOORE-BICK: We had better deal with them now,
 21 hadn't we?
 22 MR MILLETT: We had better deal with them now. We ought to
 23 take the usual break just to make sure that I have no
 24 further questions as well.
 25 SIR MARTIN MOORE-BICK: Yes.

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1 Mr Evans, although Mr Millett's finished the
 2 questions that he thinks he needs to ask, we always have
 3 a short break at this point to give counsel time to
 4 check there is nothing he has overlooked, and also to
 5 take into account questions that may have been submitted
 6 by people who are not in the room but following the
 7 proceedings quite closely.
 8 So we will take a break now.
 9 Ten minutes enough, Mr Millett?
 10 MR MILLETT: Should be, Mr Chairman, yes.
 11 SIR MARTIN MOORE-BICK: I will say ten minutes, which means
 12 we'll be back here at 4.40. Sometimes it takes a little
 13 longer, and if so, I'm afraid we will all be held up.
 14 THE WITNESS: That's fine, I understand.
 15 SIR MARTIN MOORE-BICK: But we'll try and get back at 4.40,
 16 and as before, please don't discuss your evidence or
 17 anything to do with it with anyone else while you're out
 18 of the room.
 19 THE WITNESS: Thank you.
 20 SIR MARTIN MOORE-BICK: Thank you very much. Would you like
 21 to go with the usher, please.
 22 (Pause)
 23 Right, Mr Millett, we will say 4.40, but of course,
 24 as usual, if further time is actually required, then you
 25 can let us know.

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1 MR MILLETT: That would be helpful. Thank you, Mr Chairman.
 2 (4.31 pm)
 3 (A short break)
 4 (4.40 pm)
 5 SIR MARTIN MOORE-BICK: Right, Mr Evans, we will see if
 6 Mr Millett has found some more questions for you.
 7 THE WITNESS: Okay.
 8 SIR MARTIN MOORE-BICK: Have you found some more questions,
 9 Mr Millett?
 10 MR MILLETT: I have one or two, Mr Chairman, but really one
 11 or two.
 12 Mr Evans, can I ask you please to go to
 13 {CEL00001042}. This is an email from Jonathan Roome on
 14 28 November 2014, second email down on the page, to you
 15 and to Debbie Berger, subject: "celotex RS5000 - BRE
 16 Testing - 190 Strand":
 17 "Hi Paul/Debbie,
 18 "I have spoken to Total Façade Solutions about
 19 potentially giving us guidance as how to move forward
 20 with RS5000 (Testing etc.)
 21 "We would need to employ them directly.
 22 "Andy Jones is one of the most knowledgeable people
 23 in the façade industry and advises the likes of the
 24 Berkeley Group as to what products comply.
 25 "Please let me know if you would be willing to

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1 employ them as a consultant, even if it is only for
 2 one day."
 3 You went back to him on 1 December and said:
 4 "Let's discuss as part of our plans for 2015 when we
 5 meet on the 19th."
 6 Which I think would have been 19 December.
 7 Did you discuss Mr Roome's proposal to engage
 8 Andy Jones when you met him?
 9 A. I don't believe so. I don't think there was any
 10 follow-up on that point, or we discussed it in that
 11 meeting.
 12 Q. No. Indeed, Mr Roome confirmed in his evidence that
 13 Celotex never did engage Total Façade Solutions, and his
 14 evidence was -- and this is {Day69/149:5} to
 15 {Day69/150:5} -- he said:
 16 "... it must be that I was told no, that option
 17 wasn't available or wasn't going to be considered."
 18 Do you remember telling Mr Roome that you weren't
 19 going to take his proposal forward?
 20 A. I don't remember that, no.
 21 Q. Can you explain otherwise why that proposal was not
 22 taken forward?
 23 A. No, I can't explain why we didn't take it forward,
 24 either, just --
 25 Q. Are you saying that he's wrong, that you didn't tell him

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1 no, or ...?
 2 A. I can't remember telling him no.
 3 Q. What was the reason why it was never taken forward, do
 4 you know?
 5 A. No, I don't know.
 6 Q. It would have been sensible, wouldn't it, looking back
 7 on it?
 8 A. On reflection, yes.
 9 Q. That takes me to the last question, Mr Evans.
 10 We have been through a lot of evidence over the last
 11 day and a half or so, and given your position within
 12 Celotex at the time, looking back on that evidence and
 13 looking back on the experiences up to and including the
 14 day of the fire, is there anything that you, looking
 15 back on it, would have done differently?
 16 A. I think everything I've seen, and during the evidence
 17 I've given and preparing for it, is that it was
 18 a totally different type of project for our business,
 19 for the size of business and for the experience that the
 20 people in the business had, and it needed a lot more
 21 attention, focus, investment, time, not all of the other
 22 things that were part of working for Celotex, and
 23 I believe if we'd have had some of those or all of that
 24 in place, and the business had have understood that
 25 more, different decisions would have been made and

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1 ultimately we wouldn't have launched the product.
 2 MR MILLETT: Thank you very much, Mr Evans.
 3 It only remains for me to thank you very much for
 4 coming here and assisting us with your evidence. We are
 5 extremely grateful. Thank you very much.
 6 THE WITNESS: Thank you.
 7 SIR MARTIN MOORE-BICK: Mr Evans, I would like to thank you
 8 on behalf of the panel for coming to give your evidence.
 9 It has taken a lot of your time, I understand that, but
 10 your evidence has been very useful to us, and we are
 11 very grateful to you for coming to give it.
 12 THE WITNESS: Thank you.
 13 SIR MARTIN MOORE-BICK: Thank you very much.
 14 Now you are free to go. So if you would like to go
 15 with the usher, she will look after you.
 16 THE WITNESS: Thank you.
 17 (The witness withdrew)
 18 SIR MARTIN MOORE-BICK: Thank you, Mr Millett. That must be
 19 it for the day.
 20 MR MILLETT: It is it for the day, I'm glad to say.
 21 Mr Chairman, I'm grateful for your sitting late, the
 22 entire panel.
 23 Tomorrow we have Mr Jamie Hayes, who is going to
 24 come to give evidence. He will last most, if not all,
 25 of the day. That means unfortunately there has to be

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1 an amendment to the scheduled programme, which is that 215
2 Debbie Berger now won't be coming to give evidence
3 tomorrow, but we are making arrangements with her to
4 come during the course of next week, late next week, and
5 we will be updating all core participants and members of
6 the public accordingly as soon as we can.
7 SIR MARTIN MOORE-BICK: Thank you very much.
8 Good. Well, then, we will finish there for the day
9 and resume tomorrow at 10 o'clock, please.
10 MR MILLETT: Thank you.
11 (4.50 pm)
12 (The hearing adjourned until 10 am
13 on Thursday, 19 November 2020)
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