

## **Hamilton College London Ltd and another v Ahmad and another**

[2013] EWHC 2072 (Ch)

### **CHANCERY DIVISION**

**Mr Jeremy Cousins QC (Sitting as a Deputy Judge of the Chancery Division)**

**25 July 2013**

*Company - Shares - Legal and beneficial ownership of share - First defendant alleging transfer of single issue share in company from second claimant to first defendant - Preliminary issue arising in course of proceedings between parties as to whether transfer of share effective, and in respect of who owned legal and beneficial interest in share - Whether transfer of share effective - Whether second claimant holding legal interest in share for first defendant beneficially.*

### **Judgment**

JUDGMENT: APPROVED BY THE COURT FOR HANDING DOWN (SUBJECT TO EDITORIAL CORRECTIONS)

MR JEREMY COUSINS QC (Sitting as a Deputy Judge of the Chancery Division):

#### THE PRELIMINARY ISSUE

1. This case comes before the court for the trial of a preliminary issue pursuant to the direction of Master Price given on 9th May 2012. The issue for determination is:

"Was the alleged transfer in 2007/2008 of the single issue share in Hamilton College London Limited (company number: 05378757) from the Second Claimant to the First Defendant valid and/or effective so as to transfer the legal title and/or beneficial interest in the said share of the aforementioned company to the First Defendant and further, who is now the legal and/or beneficial owner of that share."

#### INTRODUCTION

2. Hamilton College London Limited ("HCL") is a private company limited by shares. It was incorporated, by the Second Claimant ("Dr Rehman"), on 1st March 2005, with company number 05378757. It was established to carry on business as a technical and vocational higher education college. I shall refer to the business of the college as "the College", irrespective of which legal entity may have been conducting that business. HCL traded variously under the names "Hamilton College", "AA Hamilton College" and "Hamilton College London". A single £1 share ("the Share") was issued to Dr Rehman, and it is this share which is the subject of the claim. From the time of the incorporation of HCL, until 11th November 2008 when he resigned, Dr Rehman was a director of HCL.

3. The First Defendant ("Mr Ahmad") was appointed a director of HCL on 26th July 2007. On Dr Rehman's case, Mr Ahmad was validly removed as a director by Dr Rehman on 28th June 2010.

4. The Second Defendant ("AAHC") is a private company limited by guarantee which was incorporated, by Dr Rehman and Mr Ahmad on 27th July 2006, with company number 05889034. It was registered as a charity on 7th February 2007. Both Dr Rehman and Mr Ahmad were directors of AAHC until 11th November 2008 when Dr Rehman resigned.

5. In October 2007, Dr Rehman became managing director of another charity called Crossroads: Caring for Carers ("Crossroads"). Dr Rehman maintains that his resignation from his positions at HCL and AAHC was in order to avoid any conflicts of interest.

6. Mr Ahmad claims that in April 2008 he agreed to buy the Share from Dr Rehman for £22,500, and that it was transferred under a document back-dated to 24th July 2007. Mr Ahmad says that the £22,500 was paid in five instalments between December 2008 and September 2009. Dr Rehman disputes that any such agreement was made, and that he signed a share transfer document; he accepts that he was paid £22,500 by Mr Ahmad, but he says that this represented repayment of a loan by HCL, Mr Ahmad's bank account being used to make the payment purely as a matter of administrative convenience. In any event, Dr Rehman alleges, the share transfer document was defective in form, as well as there being a lack of consideration for it, so that it was ineffective to transfer title to Mr Ahmad.

7. In his written opening, Mr Winfield, counsel for Dr Rehman, helpfully identified three issues which would have to be decided in order to deal with the preliminary issue. I gratefully accept his analysis. The issues are:

(i) Whether there was an agreement in April 2008 that Mr Ahmad would purchase the share concerned from Dr Rehman for £22,500, as Mr Ahmad suggests.

(ii) Whether the five payments from Mr Ahmad's bank account to Dr Rehman's bank account, made between December 2008 and September 2009 and totalling £22,500, were consideration for the transfer of the Share (on Mr Ahmad's case), or repayments of loans previously made to HCL (on Dr Rehman's case).

(iii) Whether a document headed "List of Changes", purportedly dated 24th July 2007, was effective (i) to transfer the Share legally and beneficially to Mr Ahmad (Mr Ahmad's primary case), or (ii) to transfer only the beneficial interest to Mr Ahmad so that Dr Rehman holds it on trust for him (Mr Ahmad's alternative case), or (iii) to transfer neither the legal title nor the beneficial interest to Mr Ahmad (Dr Rehman's primary case), or (iv) to transfer only the legal interest to Mr Ahmad, so that he now holds it on trust for Dr Rehman (Dr Rehman's alternative case).

#### THE PRINCIPAL WITNESSES

8. Before considering the history of the dispute more fully, I shall set out my assessment of the principal witnesses in the case.

##### *Dr Rehman*

9. Dr Rehman came to England from Pakistan in 2001. He had a visa enabling him to remain in the United Kingdom for a limited period only; he did not have indefinite leave to remain in the country ("ILR"). He describes himself as an expert in global economic development, an author, consultant and experienced tutor in management accounting. Whilst the extent (and source) of Dr Rehman's academic qualifications was never conceded by Mr Ahmad, he was clearly an intelligent and educated man. He was employed as a Financial Controller by Easy Recruitment Services Limited in about December 2002, and at about the same time he became Finance Director of the Waltham Forest Chamber of Commerce, and a member of the Waltham Forest Asian Business Association. He gained experience in incorporating businesses, and obtaining local authority grants. From these beginnings, and in discussion with various colleagues (including Mr Sohail Ak-

bar and Mr Ahmad), he developed the idea of setting up a college. He identified suitable premises at Union House in Shepherd's Bush (part of former BBC offices), and a ten-year lease was agreed in June 2005. Dr Rehman moved from his previous home to live at Union House.

10. I found Dr Rehman, on the whole, to be an unsatisfactory witness, upon whose recollections I could not rely. When he was confronted with facts or documents that he found inconvenient, he would not face the difficulties that they posed for his case. Instead, he would deny all knowledge of them (such as the contents of his CV which he claimed had been fabricated), put forward implausible excuses (such as a supposed conflict of interests, when there was none, for resigning as a director), and hide behind almost blind reliance on Mr Ahmad for conduct which required an explanation (such as the documentary presentation to Companies House of the fact that the Share had been transferred to Mr Ahmad). On occasions in his written evidence, he would confidently profess a detailed recollection of fact, as with regard to dealings with Bridgepoint, a potential investor in the College, which could later be demonstrated to be seriously inaccurate.

*Mr Ahmad*

11. Mr Ahmad, too, was clearly an educated man. He is an associate member of the Institute of Cost and Management Accountants of Pakistan, and holds an MA in economics. He has many years experience working in the field of education. He has known Dr Rehman since about 2001. He achieved ILR status in July 2007. He was employed by Brunel University from October 2006 until October 2007, and then by Aria Technology ("Aria") until February 2008.

12. I found him to be a truthful witness, in the sense that I did not detect that on any issue he gave evidence which he knew to be false. He did elaborate somewhat on the contents of his witness statements (for example as to payments that he made for the benefit of the College), and some of his dealings with HCL (such as having his Aria salary paid in HCL's bank account) were a little unorthodox. However, I did not consider that such features of his evidence revealed him to be unreliable as a witness. He was ready to concede facts which might have been thought to be unhelpful to him; for example, he accepted that he had altered figures on some accounts, received from Mr Khan, which were ultimately sent to Bridgepoint. (As I explain later, the alteration was not one of substance.)

*Mr Akbar*

13. Mr Akbar is an accountant, and was HCL's company secretary, but it was only during the period February to April 2006 that he worked full-time for the College. Following this he moved to Cheltenham. However, he kept in contact with Dr Rehman, and others associated with the College, which he visited periodically. Much of his evidence simply reflected what he said he had been told by Dr Rehman. Although he provided a substantial witness statement, a large proportion of it dealt with matters which preceded the events under consideration. I accept his evidence that he helped Dr Rehman to obtain various documents from Companies House in early 2010. I did not find his evidence assisted me in resolving the main factual conflicts in the parties' respective cases.

*Mr Khan*

14. Mr Khan came to Britain in August 2005 to study accountancy. He is a friend of Dr Rehman. He accepted that he lived at the same address as Dr Rehman for some years. In about September 2005, he began working as an administrator at the College. He said that Dr Rehman worked hard at obtaining accreditations for the College, and that they were obtained in its name. The change in the name to AA Hamilton College was, he said, a marketing strategy designed to put the College at the top of colleges posted on websites of the Association of Chartered Certified Accountants, and the Chartered Institute of Management Accountants.

15. Mr Khan spoke of the a high level of trust, and friendship, that had existed between members of staff, for example, with the use of HCL's bank cards to make payments for items for the College. He suggested that this extended, from the time when Dr Rehman began working for Crossroads, to Dr Rehman's signing blank cheques and pieces of paper for staff use on College affairs; originally in his witness statement, he said that this was from about June 2008, but giving evidence he said that this was from September 2007. Like Dr Rehman, he emphasised the high degree of respect that existed at the College for Mr Ahmad, suggesting that he was "seen by everyone as an elder in the family".

16. I found Mr Khan to be a very partisan, and unreliable, witness, who seemed concerned to tailor his evidence in a fashion that would assist Dr Rehman's case. This, I considered, was well-demonstrated in connection with Mr Khan's assertions in respect of what he knew as to the source of his pay. He said, giving evidence, that he had been unable to "figure it out" why his pay was shown in his bank statements as being paid by AAHC, and, in this connection, he denied any knowledge of the involvement of a charity until early 2010. He said that there had never been any payroll system at the College, and that if any employees had needed documents then they had been provided. He did, however, accept that his P60 for 2009/10, which was in evidence, and which correctly recorded his date of birth and National Insurance number, showed his employer as AAHC. His evidence was also contradicted by a payslip from November 2009, showing AAHC as his employer. It seemed to me that Mr Khan's evidence on this point was contrived to support the suggestion made by Dr Rehman to the effect that AAHC's running of the College was not appreciated until early 2010.

17. Mr Khan denied that he had any payroll function within the College; in this respect his evidence was contradicted by Miss Syeda Bokhari (whose evidence I accept) who worked at the College from November 2009 as an HR Manager and Registrar. She said that Mr Khan worked as an accountant, and that his duties included bookkeeping, invoice authorisation, as well as Payroll, and that he dealt with the external accountant and auditors from whom he received payroll slips for distribution. Whilst she worked at the College, Miss Bokhari said that no-one had any doubt that it was running as a charity.

#### *Mr Azeem*

18. Mr Azeem is a longstanding friend and confidant of Dr Rehman. Like Mr Khan, he appears to have used Dr Rehman's address; he said for document purposes only, and that he did not live there. He began to undertake occasional administrative tasks for the College in 2005, and joined the College as a part-time lecturer in 2006. He too spoke of the marketing purpose behind the use of the name AA Hamilton College. He said that the main reason, which emerged in discussions between Dr Rehman and Mr Ahmad in 2006, for the establishing of a charitable company, AAHC, was to explore public funding options for the College.

19. Mr Azeem appeared to play only a very limited part in the running of the College, beyond his function as a part-time lecturer. He was in Pakistan from September 2008 until March 2009, though he said that he undertook some marketing for the College at that time.

20. Whilst I found Mr Azeem to be more restrained than Mr Khan in his partisan approach to giving evidence, I formed the impression that Mr Azeem's primary concern was to assist Dr Rehman rather than to give objectively accurate evidence.

#### THE COLLEGE FROM 2005 to 2008

21. Dr Rehman's evidence was that he provided funding for the enterprise from the inception, including by borrowing from a friend and introducing the money into HCL, paying bills on behalf of HCL, and buying equipment for it. I make more detailed findings in relation to such matters below.

22. Mr Ahmad also provided funds to assist HCL (which he put in his first witness statement at £10,000 between October 2007 and February 2008, together with some staff salary payments). Giving evidence, Mr Ahmad elaborated (making some reference to his bank statements) upon his expenditure to include other items such as the costs of moving the College from its Union House premises to the Albert Embankment in early 2008. I accept Mr Ahmad's evidence that he did introduce funds as he described, but on the material available, I do not find it possible to make findings as to precisely how much money he injected into HCL, or precisely when this was done.

23. By the middle of 2005, the College obtained affiliations with a number of accounting, educational, and business organisations including the Association of Chartered Certified Accountants.

24. Dr Rehman, in common with Mr Khan and Mr Azeem, said that the use of the name "AA Hamilton College London" was conceived out of a desire to achieve a prominent position in lists of college names, and that this name was used from about the middle of 2005. Dr Rehman said that the formation of AAHC was designed to facilitate winning educational training contracts, not to carry on or take over the business of the College. He said that as a result of discussions with others, including Mr Shokat Khan, a former Sheriff of Nottingham as well as previous director of the Asian Business Forum ("ABF"), he believed that a charitable organisation was more likely to secure such business, and that the charity concerned could then subcontract the delivery of services to an independent college. He said that he discussed this idea with Mr Ahmad, Mr Akbar and Mr Khan. He said that Mr Ahmad dealt with establishing AAHC. Dr Rehman, Mr Ahmad and his wife became the trustees of the charitable business.

25. Mr Ahmad's evidence, on the formation of the charity, was that in late 2005 advice was taken from Mr Mark Farrell who suggested incorporating a company limited by guarantee to operate the College as a charity, and that this was discussed with Dr Rehman, and they took the decision to follow that advice, because it seemed to be in the best interests of the College. (In cross-examination Mr Ahmad said that he had no knowledge of the ABF's being behind the suggestion of using a charity; he accepted that he had been to a dinner involving the ABF but he said that there was no discussion of a charity or joint tendering with it.) Mr Farrell's fees were paid for by an HCL cheque. Incorporation was dealt with by Mr Farrell. Mr Ahmad said that once registration of the charity with the Charity Commissioners was achieved, he understood that it was his and Dr Rehman's common intention that the charity would carry on the business of the College. Importantly, he said that the purpose of the charity was to run the College as a charity. The lease of the Albert Embankment premises was taken in the name of AAHC, although Mr Ahmad accepted that the initial rent was paid by HCL at a time when AAHC did not have a bank account. (It opened an account in about April or May of 2008.)

26. In July 2007, Mr Ahmad was granted ILR status. Dr Rehman maintained that shortly after this, when he visited Mr Ahmad, Mr Ahmad advised him that he would more readily be able to achieve similar status if he worked as an employee, with a reference from an employer. (Mr Nazeem also claimed to recall this advice being given.) Dr Rehman said that this persuaded him to appoint Mr Ahmad as a director of HCL and also another dormant company, United Business Consultants Limited, which had been formed for similar purposes, so that his name could be used whenever Dr Rehman might need to do so. Mr Khan's evidence also supported the suggestion that Mr Ahmad's appointment as a director was in connection with his obtaining of ILR status, and facilitating the use of his name in company records. Mr Akbar's similar evidence seems to have been based on what Dr Rehman told him. Mr Ahmad, by contrast, said that he was appointed in order to have greater authority, and be enabled to deal more effectively with enquiries, and to take steps to enhance the profile of HCL and the College. He disputed the suggestion that there was a connection in the arrangements made with seeking to improve Dr Rehman's ILR prospects. I accept Mr Ahmad's evidence about this.

27. In the late summer of 2006, Mr Ahmad was engaged by Brunel University, initially on a part-time basis, but latterly full-time. From about September 2006, Dr Rehman said that Mr Ahmad was no longer working for HCL, but for his former employer Aria Technology ("Aria") in Manchester. However, I accept Mr Ahmad's ev-

idence that he continued to work on a part-time basis for the College, even at this point. Dr Rehman said that Mr Ahmad asked that he be permitted to receive his salary from Aria through HCL's bank account because of his own poor credit rating. Altogether, he said, some £9,322.45 was paid to HCL by Aria (a fact accepted by Mr Ahmad), but was fully paid out to Mr Ahmad between November 2007 and March 2008. Mr Ahmad accepted that £8,042.50 was paid out to him, but disputed that the remainder was paid out in cash. I accept his evidence about the extent of such payments.

28. Once Dr Rehman had joined Crossroads, he said that he left Mr Khan and Mr Mohammed Azeem to manage the College on a daily basis, although he attended himself to undertake some lecturing and administrative tasks. He said that all the while he was paying HCL's rent, using his credit card for that purpose.

29. AAHC was unsuccessful in a bid for a contract from the Learning and Skills Council in November 2007. At about this time, a decision was taken to relocate the College to premises at the Albert Embankment, not least because of disenchantment with Union House in light of competition from a rival college business operating from within the same building. Fitting out work at the new premises began in early 2008. Also, in early 2008 (Dr Rehman said March, Mr Ahmad said February), Mr Ahmad returned to work at the College on a full-time basis; I do not consider the precise date to be significant.

#### THE ALLEGED SHARE SALE

30. Mr Ahmad's case (disputed by Dr Rehman) is that soon after he had rejoined the College, Dr Rehman told him that he wished to end his involvement with HCL, AAHC, and the College, because of its poor financial performance, and indebtedness to him, and that he would wish to back-date his departure to July 2007; no reason was given for the suggested back-dating, but Mr Ahmad said he thought it might be connected with Dr Rehman's outstanding ILR application which might be affected (presumably because of association with an institution in difficulty).

31. On the evidence of both Dr Rehman and Mr Ahmad, it was in April 2008 that the annual return for HCL ("the 2008 Return") and the "transfer form" were dealt with. Their accounts as to how this occurred, whether there was an agreement for a sale of the Share, and whether a transfer form as such was signed, are diametrically opposed. The Return was a standard form of some seven pages. The first page set out HCL's name and address, with details of the nature of its business. Mr Ahmad accepts that he completed this page, and made the manuscript alteration to the page by including HCL's new address. Page 2 identified Mr Akbar as the company secretary, and Mr Ahmad as a director; page 3 named Mr Shahid Mahmood and Dr Rehman as directors. Page 4 was completed (by Dr Rehman) to show that there was one share, and at the foot of the page there was a tick showing that a list of changes ("the List of Changes") was enclosed. Page 5 recorded that Mr Ahmad was the shareholder of one ordinary share with a nominal value of £1; Dr Rehman accepted that he completed the box dealing with the class and number of shares. Page 6, completed by Dr Rehman, showed him as a former shareholder of one ordinary share, and that this was transferred on 24th July 2007. Page 7 contained the declaration as to accuracy of contents, and was signed by Mr Ahmad. The List of Changes set out HCL's name and number, recorded that that was one ordinary share with a nominal value of £1, and that this was the total share capital. It gave Mr Ahmad's name and address as the details of the new shareholder, and Dr Rehman's name and address as the former shareholder. The date of transfer was given as 24th July 2007.

#### *Dr Rehman's evidence*

32. Dr Rehman's evidence about the completion of the 2008 Return was that on visiting the College in April 2008, he was told that HCL's annual return was due; Mr Ahmad said that he would handle the matter, and so Dr Rehman left it to him. Then in the middle of April, Mr Ahmad told him that the Return had been sent back by Companies House because information about share capital, issued shares and nominal value of HCL was missing. To deal with these omissions, Mr Ahmad asked him to complete pages 4 and 6 of the return, page 5

already having been completed by Mr Ahmad. (He accepted, though, in cross-examination that he had completed the box dealing with the class and number of shares.) Information in the column for "Class and Number of Shares or Amount of Stock Held" had been blotted out with Tippex. He did not find it odd that Mr Ahmad had inserted his name as a shareholder, because Mr Ahmad had told him that this was on the basis of the earlier understanding that Mr Ahmad's name be used in HCL documentation for the purposes of Dr Rehman's ILR application. Mr Ahmad told him that it would be easier to demonstrate that he was an employee if he was not named as a shareholder, and, further, that since Dr Rehman was not available at the College during the day, if any inspecting body should call to see the owner, he would not be available, whereas, Mr Ahmad, named as shareholder, would effectively be able to adopt the position of the owner. Throughout his evidence on this point, and in relation to his dealings with Mr Ahmad at this and earlier times, Dr Rehman emphasised that he had placed great trust in Mr Ahmad; therefore, trusting in Mr Ahmad, and relying on his assurance that the position could be "rectified" simply by filing a new return, "without hesitation" he completed the return on pages four and six, and, at Mr Ahmad's request, he inserted the date as 24th July 2007 on page 6. The latter date was chosen because Mr Ahmad suggested that since he had achieved his own ILR status in that month, he could be "shown" as a shareholder from that point.

33. As for the List of Changes, Dr Rehman agreed that it was his signature that appears at the foot of the page. His explanation for this was that he had left around some signed, but otherwise blank, sheets of paper for the purpose of assisting Mr Ahmad in the administration of HCL on occasions when he was unavailable to deal with such matters. His pleaded case is that such a signed, but otherwise blank, sheet of paper was used fraudulently by Mr Ahmad to create the List of Changes. Evidence in support of Dr Rehman's practice of signing blank cheques and sheets of papers was also given by Mr Khan.

34. Dr Rehman, in denying that he agreed to sell the Share for £22,500, suggested that at the relevant time he had believed that (i) the net assets of HCL to be in excess of £350,000 (excluding the loans owed to him), and (ii) the value of the business to be considerably higher. He suggested that he had sent e-mails to potential investors valuing the business at more than £100,000. Against this financial background, it was suggested, it would not make sense for Dr Rehman to agree to sell the Share for just £22,500. I deal with this more fully below.

#### *Mr Ahmad's evidence*

35. On the evidence of Mr Ahmad, in April 2008, he and Dr Rehman agreed that Mr Ahmad would buy the business of the College, and the Share, for £22,500. The agreement was partly recorded in writing in that the transfer was set out in the Transfer Form, dated 24th July 2007 as suggested by Dr Rehman. The details of the transfer were included in the 2008 Return, with sections 3, 4, and 4B being completed by Dr Rehman. Mr Ahmad completed the first page of the Return, signed it, and submitted it to Companies House, together with the List of Changes. Mr Ahmad said that he did not tell Dr Rehman that making these arrangements would assist his ILR application, nor did he advise him to cease to be a director, and he said that Dr Rehman's description of events was false. He insisted that Dr Rehman had not signed a blank sheet of paper, which became the List of Changes. He said that both Mr Khan and Mr Azeem were fully aware of the sale.

#### *Payment*

36. As Mr Winfield emphasised, the documents which purport to deal with the change of ownership of the Share do not mention any monetary consideration; nothing was stated as to price, payment by instalments, or the time when any instalment payments were due.

37. Mr Ahmad's evidence was that when the agreement was made, he explained to Dr Rehman that he would not be able to pay everything at once, but would have to do so by instalments, though the first payment (£5,000) was not in fact made until December 2008. The remaining payments were made in four further instalments (each of £5,000, save the last for £2,500) between February and September 2009. All payments

were made by bank transfer. Mr Ahmad said that he had to arrange a personal loan to make some of the payments. It is not in dispute that the payments were made from Mr Ahmad's bank account, but Dr Rehman's case is that he believed that the money had been paid by HCL following a discussion with Mr Ahmad in which Dr Rehman had said that a plan needed to be put in place to reduce loans due to him from HCL. (I deal below with the matter of such loans.) He said that he rejected Mr Ahmad's suggestion that Dr Rehman's credit card could be used to put money into HCL; this evidence I found surprising, because it would have made little sense for Mr Ahmad to make a promise to reduce debts due to Dr Rehman when at the same time asking for Dr Rehman's credit card to be used to run up further liabilities. He said that Mr Ahmad promised that loan reduction would be achieved gradually over time. He said he did not realise that the payments had come from Mr Ahmad's account until Mr Ahmad raised the matter in the course of the proceedings, at which point Dr Rehman checked his bank statements. His case was that he had not noticed the source of payment shown in his bank statements, including the statement which recorded the final payment as such and identified Mr Ahmad as the maker of the payment, and further that it was usual for Mr Ahmad and Dr Rehman, as a matter of convenience, to make payments for the College out of their personal bank accounts.

*Dr Rehman's case on loans to HCL*

38. Dr Rehman's case is that over the years he advanced substantial sums to HCL, so that by November of 2008, HCL owed him more than £54,000. This figure was pleaded in the Reply, and a breakdown of amounts and dates was set out in the Schedule thereto. He said in cross-examination that at that time, Mr Ahmad knew that this was the case. Dr Rehman relies on the extent of this disputed indebtedness, coupled with his denial of knowledge of the true source of payment, to explain why he believed that payments actually made from Mr Ahmad's account were payments being made by HCL. He was challenged in some detail about much of his claim to have introduced substantial funds to HCL:

- (i) As to a £600 payment to secure a telephone line. Such a payment was made, but Dr Rehman's Barclaycard statement does not show, nor does any other document, that this was for HCL's benefit.
- (ii) As to payments to HCL, supposedly totalling £17,000 (borrowed from a friend and Halifax Bank), the document relied upon (from Halifax) does not demonstrate a link to HCL.
- (iii) As to £3,500 and £2,500 in cash payments for a photocopier, other office equipment and building work, there is certainly evidence of cash withdrawal, but no receipts or other documents recording benefit to HCL.
- (iv) £3,000 was claimed in respect of 60 classroom chairs and office furniture, paid for in cash, and £616.70 for some computer chairs. There is no receipt for the classroom chairs, and the only document in respect of the other chairs is an invoice for £616.70. It is made out to United Business Consultants Limited, and written on it in manuscript is the assertion that it was for the chairs. It was paid by Dr Rehman.
- (v) Dr Rehman suggested that he paid rent on behalf of HCL in June and December 2007 for the Union House premises, but the credit card payment documents record payments to UVS Limited Belgrave House Hotel respectively for £4,000 and £5,000. Dr Rehman sought to explain this on the basis that payments were made to a friend of the landlord, because the landlord himself did not accept payment by American Express. No other documents in support were produced to demonstrate that these payments discharged a rent obligation.

39. Dr Rehman said that in April 2008 he lent £4,000 to HCL, by transferring money from his Barclaycard account to HCL's bank account, to enable it to pay rent; this payment is supported by the Barclaycard statement.



*Dr Rehman's case as to the value of HCL*

40. Dr Rehman claimed, in his first witness statement, to have held an opinion during about the second half of 2007, that, with goodwill, the College's value was "well in excess" of a figure of £250,000, and around £300,000 to £400,000. In forming this view, he said he had also taken into account an offer of £125,000 for a 20 per cent stake in July 2006.

41. In further support of his professed belief as to the value of HCL, he relied on the fact that, during the summer of 2007, he had received an expression of interest of investment in the College from an American company called Bridgepoint. From the e-mail exchanges, it is apparent that Mr John Evans, on behalf of Bridgepoint, met Dr Rehman and some of his colleagues in late June. In his original account of the dealings with Bridgepoint, in his first witness statement, Dr Rehman's evidence was extremely confused. He referred to e-mail exchanges which took place in December 2007, between Mr Ahmad and "Gary" (a later potential investor), as though they were part of the Bridgepoint dealings, when in fact they were nothing whatever to do with them. Then, as part of the Bridgepoint dealings, he went on to describe how, in September 2007, he had discussion with Mr Akbar and Mr Ahmad, in the course of which, Dr Rehman said, Mr Ahmad offered to undertake preparation of management accounts valuing the College, and offered to liaise with Bridgepoint about the information it might require. He said that later Mr Ahmad provided such accounts, dated 28th February 2007, showing net assets of £250,000. Other information, including as to courses, staff and facilities, was provided to Bridgepoint. All of this material, he said, was sent to Bridgepoint by Mr Ahmad in December 2007.

42. A significantly different account of the Bridgepoint negotiations was given in Dr Rehman's second witness statement, following sight of the second witness statement served on behalf of Mr Ahmad (which included some e-mail exchanges between Mr Evans and Dr Rehman), which demonstrated that Dr Rehman's earlier account of events could not be correct. In his second statement, Dr Rehman produced his e-mail exchanges with Mr Evans. These show that on 30th June 2007, Mr Evans requested an audited report (mentioning his belief that it was available for one year), a 2006/07 unaudited report, and other information. On 4th July 2007, Dr Rehman responded saying that he was sending copy accounts. Dr Rehman's evidence, in his second statement, was that it was at this time that he sent the 2007 balance sheet and profit and loss accounts (two pages) to Mr Evans; this was, of course, several months before he had originally suggested that this information had been provided. He said that the statutory accounts for the year ending 31st March 2006 were sent as an attachment to his e-mail to Mr Evans on 12th July 2007 in which Dr Rehman mentioned a price of £350,000 for a 51 per cent share in the College. (Mr Evans' e-mail in response, also sent on 12th July 2007, rejected this price as "unrealistic based upon the current financial status of the college".)

43. The management accounts of 28th February 2007 were produced in evidence. The stated figure for total assets less current liabilities was £432,943, but this figure was based upon the inclusion of £300,000 for goodwill. At this stage, the accounts suggested that HCL had made a loss for the year of £27,157. In my judgment, there was little proper evidential basis to support the asset figures included in the accounts, and the goodwill figure was inexplicable. In cross-examination Dr Rehman said that the goodwill figure was based upon an in-house valuation. Mr Ahmad's evidence was that he had not produced these accounts or seen them before they were sent to any investor; I accept that evidence.

44. There was an issue as to the provenance of the 2006 accounts. They were purportedly signed by Mr Shahbaz Yousaf of Intelligent Accounting Services. Dr Rehman said in his second statement that he believed that these accounts were prepared between 30th June and 12th July 2007. He said that his understanding was that Mr Ahmad had obtained a template of accounts from Mr Yousaf and provided this to Mr Khan whom he instructed to insert numbers taken from abbreviated accounts into the template, and that Mr Khan returned the accounts (by e-mail, which was produced) to Mr Ahmad for comment. Mr Khan confirmed that he had forwarded the draft accounts to Mr Ahmad by e-mail at 1.33pm, and that Mr Ahmad had returned them to him within the hour by e-mail (which he produced). Mr Ahmad had made an alteration in that whilst the figure for total assets less current liabilities remained the same at £432,943, the bottom line figure for

shareholders funds in the earlier document had been removed. The explanation for the difference was that the shareholders' funds figure had been reached by deducting the £160,000 entry in respect of Creditors. However, as Mr Khan conceded in cross-examination, the change was immaterial; the result, in accounting terms, was the same. Mr Ahmad accepted that he had made the change. Dr Rehman accepted that he had received and signed the accounts, before they were sent to Mr Evans.

45. Mr Yousaf's evidence, which I accept, was that he did not sign the accounts; he said that his name was wrongly spelt. He accepted that he had been asked by Mr Ahmad to help with the preparation of the accounts, but he said that this was not followed up, and that he never produced them, or any other accounts for HCL. Dr Rehman's evidence was that he did not know who purportedly signed the accounts in Mr Yousaf's name, but at the relevant time he had believed that the signature was genuine.

46. On the evidence before me, I am unable to make a finding as to who signed the accounts in Mr Yousaf's name, other than that it was not Mr Yousaf.

47. Nothing came of the dealings with Bridgepoint; Dr Rehman suggested that one reason for this was that the rival college had begun to operate from the ground floor of Union House.

48. Dr Rehman also relied, in support of his case as to the true value of HCL, upon dealings with another supposed prospective purchaser of HCL in late 2007. These dealings were evidenced in some e-mail exchanges between "Gary" and Mr Ahmad. Gary initially invited Mr Ahmad to provide "a soft offer one for the franchise and another for the lease". Mr Ahmad subsequently, on 7th December 2007, provided information about the lease details for the Union House premises, at an asking price of £25,000, and described possible franchising arrangements. He added "If any of the above offer doesn't suits (*sic*) you then please let me know and I will send you all the details requested along with asking price which will be above £100K". (Dr Rehman's evidence was that this figure was for only a 40 per cent stake in HCL.) Mr Winfield pointed out that £100,000 was more than four times the price which Mr Ahmad says was the sum agreed, only four months later, for the Share. When he asked Mr Ahmad about the offer made, Mr Ahmad responded that he could ask a higher figure from someone who did not know the business, but that it would not be possible to ask Mr Ahmad for such a price because he knew the position as to assets, students, and other matters.

#### EVENTS AFTER THE COMPLETION OF THE 2008 RETURN

49. Dr Rehman suggested that his continued involvement in the running of the College and HCL continued after April 2008, and that this was inconsistent with what was to be expected if there had actually been a sale of the Share to Mr Ahmad. He did not resign as a director until November 2008. Mr Winfield pointed to other activity that suggested continued involvement; for example, in August 2008 he was involved in some correspondence about some self-inking stamps for the College, and in the same month in exchanges concerning a Pre-Qualification Questionnaire Code. In about July or August of 2008, a dispute arose between Dr Saboor Javed, a member of the College staff, and Mr Ahmad as to the provision of monthly sheets for the monitoring of College income. Dr Rehman says he became involved in trying to resolve this difficulty.

50. However, despite continued involvement in the College, Dr Rehman maintained, supported in this by Mr Khan's evidence, that from about the time of the move to Albert Embankment, Dr Rehman had relied upon Mr Ahmad and trusted him to manage the College.

51. Dr Rehman claimed that he resigned as a director, and trustee of AAHC, because of a perceived conflict of interests. The conflict, he said, arose from the fact that in his new work for Crossroads he became involved in bidding for grants and commissioning of contracts. He said that he therefore agreed with Mr Ahmad that he would resign as a director of HCL and AAHC and as a trustee of the charity. It was pointed out to him in cross-examination that Crossroads provided carers and was not concerned in education; he was asked to

explain how the conflict arose. He gave no convincing answer to this question, suggesting that the awarding tender body was the same. He also maintained that a reason was his application for ILR status, and that it would be "prudent" for him not to appear as a director of the College or AAHC. I note that personal commitments were given as the reason for resignation in his letters of November 2008. (According to Dr Rehman, there were two resignation letters, differently dated and drafted, because Mr Ahmad had requested a copy as he did not have an original to send to the Charity Commission.)

52. Mr Akbar suggested in his witness statement that he was at a meeting with Mr Ahmad and Dr Rehman in early 2009 in London, at which Mr Ahmad had stated that Dr Rehman was the founder and owner of the College, and said nothing to suggest that he was the owner himself. He was challenged about this.

53. In November 2009, Dr Rehman obtained British citizenship. Shortly after this, he said that he convened a meeting with Mr Ahmad and Mr Khan to sort out issues affecting the College. He wished to be registered once again as a shareholder and director, because his ILR status was no longer a concern for him. He said that a little later he discovered that the Tier 4 sponsorship licence of the College had been suspended, which would affect the ability to recruit overseas students. Further enquiries conducted by Mr Khan, Dr Rehman explained, disclosed that HCL had been dormant for the year to 31st March 2009. He claimed to have been shocked to discover this. At around the same time, he claimed that he learned of the fact that new companies had been set up by Mr Ahmad (naming Dr Rehman as a director without his knowledge or consent), and that funds generated by the College (namely HCL) were being deposited in AAHC's bank account. (Mr Ahmad's evidence as to the other companies was that he had set them up, and that Dr Rehman had been involved in the process and agreed with what was done. In cross-examination he pointed out that there would be no benefit to him to put forward Dr Rehman's name in the suggested manner if Dr Rehman did not agree to it.)

54. Dr Rehman's case was that he had not realised after April 2008 that Mr Ahmad had continued to transfer business from HCL to the charity, and that the charity was conducting the business. Mr Keen pointed out to Dr Rehman, in cross-examination, that a *curriculum vitae* ("CV") for him, held by the College, which was headed "Zia Ur Rehman PhD, M Com, DCMA" stated, amongst other things, of Dr Rehman's experience at the College:

"Identified benefits of moving the organisation from limited by share to charitable status; led the operational transition process in terms of all registrations, regulations and internal systems"

Dr Rehman's response to this was that he had not created the CV. In his second witness statement, he had said that he had not seen it, and that he believed that Mr Ahmad had created it without his knowledge or consent, using an earlier copy of a CV. He drew attention to some inaccuracies in the CV, and to some omissions, for the purpose of suggesting that the CV was not his work. This was despite the fact that the CV appeared to have been forwarded by an e-mail sent by Mr Khan to Mr Ahmad, on 8th July 2008. This was long before any dispute between the parties had developed, so that it might be difficult to imagine how, as early as July 2008, Mr Ahmad could have foreseen that by including the disputed statement in the CV he could gain some forensic advantage years later.

55. In September 2008, as Dr Rehman accepted in evidence, he closed the bank account for HCL and withdrew the money for himself. In cross-examination he said that by this time he believed, following discussion with Mr Ahmad and his instruction to him, that a new account for the College had been opened with HSBC, and only discovered that this had not happened in February 2010. The suggestion that there should be a move to HSBC, according to Dr Rehman's first witness statement, was motivated, at least in part, by the fact that Dr Rehman had (supposedly) signed "a fair number" of blank cheques and handed them to Mr Khan and Mr Ahmad for use when needed. In the same statement he said that he had not appreciated Mr Ahmad's improper dealing with HCL's funds had occurred because he did not consider that he should check HCL's bank statements and accounting records, given the extent to which he trusted Mr Ahmad to handle affairs properly. This was somewhat unusual, I considered, since in the same statement he had expressed surprise

and shock when he discovered in August 2008 that HCL's cash position was very significantly worse than he had expected it to be, and had been puzzled by Mr Ahmad's explanation that money had been spent on refurbishment and capital expenditure.

56. It was in about February or March of 2010 that Dr Rehman said he realised that he had been betrayed by Mr Ahmad. It was only at this time, Dr Rehman claimed, that he first saw the List of Changes as completed by Mr Ahmad. This was at about the time that Mr Khan said that he was shocked to discover that Mr Ahmad claimed that he owned the Share, which he suggested was completely contrary to every indication given over the years, from 2005 to 2009, in numerous meetings and conversations with Dr Rehman and Mr Ahmad, when Dr Rehman's ownership of the College was mentioned.

57. Mr Nazeem's evidence, also, was that it was around the same time that he was told by Mr Ahmad of his purchase of the College in 2007; Mr Nazeem said that on learning this he was shocked, and angry that Dr Rehman had not told him of this, since Mr Azeem had undertaken marketing efforts on behalf of the College when in Pakistan. He was concerned that his commissions might be jeopardised. On confronting Dr Rehman about the sale, he said that Dr Rehman denied that it had occurred, and claimed to be the victim of fraud. Mr Azeem said it was not common knowledge that the charity was functioning and that Mr Ahmad was its head.

58. On 24th May 2010, Dr Rehman sent a notice to the directors of HCL, asserting his shareholding, and demanding a meeting to pass a resolution that he be re-appointed a director of the company. Mr Ahmad's former solicitors responded by letter on 4th June 2010, stating that Dr Rehman was no longer a shareholder, and that he had sold the Share, and resigned as a director from 24th July 2007. This statement was not entirely accurate, even on Mr Ahmad's case, because although the 2008 Return had suggested that date, the share transfer was not agreed until April 2008, and the directorship was not resigned until later still. However, I do not consider that this error was, taken as part of all the evidence, of great significance. It is easy to understand how Mr Ahmad's former solicitors could have formed the impression from the documentary evidence that the transfer of the Share had taken place sooner. The incorrect date mentioned as to resignation is not so readily explained, but by June 2010 there was no doubt that Dr Rehman had ceased to be a director. The focus of the dispute was upon whether Dr Rehman had any status as a shareholder. The likely explanation for the error was that the details as to resignation as a director were not fully investigated.

#### FINDINGS IN RESPECT OF THE FACTUAL ISSUES

59. I have set out above the evidence on many disputed matters of fact upon which the parties rely in their respective cases upon the issues of whether or not Dr Rehman agreed to transfer the Share to Mr Ahmad, and whether there was consideration for it. I have considered the material relating to the individual factual disputes, and in the round, in coming to a conclusion as to where the truth lies, and whether Mr Ahmad has proved (the burden being upon him) both that there was an agreed sale of the Share, and that the £22,500 which he paid to Dr Rehman represented agreed consideration for it.

60. Mr Winfield, in his careful and powerful submissions, urged me to accept Dr Rehman's account of the dealings in this case. He emphasised Dr Rehman's case as to concerns over ILR, the material which he said suggested that Dr Rehman believed that HCL had a much higher value than £22,500, Mr Ahmad's involvement in making an offer to a third party at a much higher figure, Dr Rehman's case as to an investment of at least £54,000 in HCL, the uncommerciality of Mr Ahmad's purchase (of a dormant company), and the timing of payment for the Share being open-ended. I have taken all those matters, and others advanced by Mr Winfield, into account.

61. After weighing all the material before me, I am satisfied that Dr Rehman and Mr Ahmad agreed a sale of the Share, as Mr Ahmad has described, and that the payment of £22,500 represented the agreed consideration for it, even though at the time when the agreement was reached, no firm date for payments had been fixed. Dr Rehman agreed to allow Mr Ahmad time to pay, and was prepared to accept payment by instal-

ments. Prior to the completion of all the payments, there was no issue between them about the rate of progress in paying the sum due.

62. I have reached these conclusions despite Mr Winfield's forceful submissions as to the absence of evidence as to how the purchase price was arrived at, and the absence of anything in writing to confirm it.

63. My findings on the principal factual disputes are as follows:

- (1) I accept Mr Ahmad's description of the discussions (including with Mr Farrell) and intentions as to the running of the College through the medium of a charity, and that this was the purpose of incorporation of AAHC and registration with the Charity Commission as was well known to Dr Rehman. In making this finding I am conscious of the fact, upon which Mr Winfield relied, that there is no evidence of Mr Farrell's involvement other than from Mr Ahmad.
- (2) I find that from early 2008, it was increasingly very clear that AAHC was running the business of the College, and that this was known to Dr Rehman and others involved. Of particular importance is the taking of the lease in AAHC's name, Dr Rehman's CV, and the evidence as to the payslips and payroll management, including Miss Bokhari's evidence.
- (3) I accept Mr Ahmad's evidence as to the discussion with Dr Rehman in early 2008, shortly after he rejoined the staff at the College, in which Dr Rehman expressed his desire to end his involvement in the College, HCL and AAHC.
- (4) I accept that the College was run on a very friendly and trusting basis between Dr Rehman, Mr Ahmad and other senior staff, and also that Mr Ahmad was a respected figure. I also accept that Mr Ahmad was appointed a director because he was trusted and experienced. I reject the suggestion that the appointment was connected in any way with Dr Rehman's concerns as to his ILR status, or that Mr Ahmad suggested that for some related reason that he should be appointed. I do not accept that Dr Rehman was completely unquestioning in his relationship with Mr Ahmad, and that he blindly accepted advice. Dr Rehman was an experienced and capable man of business, and would have been well able to question, and would have questioned, whether he really needed, in his immigration status interests, apparently to surrender the Share.
- (5) Dr Rehman intended that Mr Ahmad would, for the purposes of all records, be the holder of the Share concerned. Dr Rehman assisted in the completion of the 2008 Return, which included reference to the attached List of Changes, which he did not sign in blank. Even without the List of Changes, the transfer of the Share was well-documented in the remainder of the form.
- (6) I do not accept that Mr Ahmad abused the trust placed in him, whether in relation to the share transfer, or otherwise. I found Dr Rehman's explanation for the transfer of the Share to Mr Ahmad to be unworthy of belief. Dr Rehman had no need to transfer the Share to Mr Ahmad in order to assist his application for ILR status. If he wished to appear as an employee, he could have agreed to a contract of employment with HCL. There is no inconsistency between being a shareholder, and an employee; this is something which would have been obvious to a person who describes himself as an expert in global economic development, and an experienced tutor in management accounting. Even when he transferred the Share in April 2008, Dr Rehman did not cease to be a director for many months.
- (7) I found the suggestion that Dr Rehman had signed blank sheets of paper, one of which was then fraudulently used by Mr Ahmad, to be unconvincing and untrue. Equally, I am not persuaded that Dr Rehman was in the habit of signing blank cheques.

(8) Dr Rehman and Mr Ahmad agreed in April 2008 that Dr Rehman would sell the Share to Mr Ahmad for £22,500 to be paid by instalments. No date was fixed by which the payments should commence or end. The payments were completed by September 2009. The payments made by Mr Ahmad did not represent repayments to Dr Rehman of any sums owed to him by HCL; they were made from his own monies, some of which he had borrowed from his bank. (Although no terms as to timing were agreed, the law would have implied that they should be made within a reasonable time. In the event, Mr Ahmad completed the payment before any issue as to timing arose between the parties.) I reject the suggestion that Mr Ahmad encouraged Dr Rehman to generate any documents for the (particularly ILR) purposes that Dr Rehman suggests. The 2008 Return and the List of Changes were prepared in the terms that they were because they reflected the agreement made between Dr Rehman and Mr Ahmad.

(9) I do not accept Dr Rehman's evidence that he believed that the payments totalling £22,500 were made by HCL, and represented repayment to him of debts owed by the company. He knew full well that the payments were being made by Mr Ahmad, and that they were made for the purpose of discharging Mr Ahmad's obligation to pay for the Share which had been sold to him.

(10) As to loans which Mr Ahmad said he had made to HCL, I am prepared to accept that over the years of his association with HCL, Dr Rehman did introduce personal funds to assist in its business. I am unable, on the evidence, to make a finding as to the extent of HCL's indebtedness to Dr Rehman, not least because, as he conceded in cross-examination, he did not maintain a record of his loan account. Whilst the documents upon which he placed reliance, where any were produced, may have demonstrated that some payments were made, it is far from clear, in many cases, that the payments were for the benefit of HCL. I am therefore unable to accept, as Dr Rehman suggested in cross-examination, that it was the case that HCL owed him more than £54,000, and that Mr Ahmad was aware of this.

(11) I was completely unimpressed with Dr Rehman's case that he would not have been prepared to sell the Share for just £22,500 because he believed (whether because of dealings with third parties such as Bridgepoint, or otherwise) HCL to be worth a much greater sum. I do not consider that the accounts discussed above, or the dealings with Bridgepoint, or any other potential investors, support the view that HCL had a value in the region of that asserted by Dr Rehman, or that he believed that it did. The 2007 management accounts provided only flimsy and unsubstantiated support for Dr Rehman's figures, and the offers made to investors were never accepted. I do not consider the fact that Mr Ahmad was party to making one of the offers, at a price much higher than he was prepared to pay himself, is indicative of a genuinely higher value. In my judgment, Dr Rehman's case as to loans made by him to HCL, and as to the value, and his belief as to the value of HCL, have been put forward by him with a view to lending false support to his case that he would not have been prepared to sell the Share for £22,500.

(12) I found Dr Rehman's professed ignorance of the manner in which the business of HCL was effectively transferred to AAHC and the charity incapable of belief. I reject, similarly, Mr Khan's and Mr Nazeem's evidence as to ignorance as to the part played by AAHC and the charity in the running of the College from 2008 onwards, and their alleged shock on learning of Mr Ahmad's claims.

(13) I reject Dr Rehman's account as to the falsification by anyone else of his CV. That document shows that Dr Rehman played a major part in the process of transition of the business. The errors and omissions in the CV, I consider, are more readily explicable by Dr Rehman's failure to check information which he included for accuracy, and his failure to update it periodically, than by Mr Ahmad's alleged forgery.

(14) I reject Dr Rehman's "conflicts" explanation for his resignation as a director of HCL and AAHC and as a trustee of the charity, and bear in mind his "personal commitment" reason set

out in his letters at the time. I find he resigned because he had sold the Share, and no longer had an interest in developing those organisations. Other work commitments, which also had implications for convenience of access, no doubt also played a part. Indeed, relocation away from the College for work reasons may have been a factor in his detaching himself from it and HCL initially. I find, also, that his resignation was unconnected with his ILR application. If this had been so important a consideration, there was nothing to stop him from resigning as a director much earlier.

(15) I find it difficult to accept that Mr Ahmad said anything at a meeting in February 2009, as Mr Akbar suggested, which was inconsistent with the arrangements for the sale of the Share which had been made in April 2008. I can accept that Mr Ahmad may have said something concerning who the founder had been, but by early 2009, he had begun, on my findings, to pay for the Share. Given the extent to which Mr Akbar's evidence is based upon what Dr Rehman told him, it seems to me likely that his recollection of the relevant conversation has been affected by his discussions with Dr Rehman, and is unreliable in this regard.

(16) I reject Dr Rehman's evidence that his name was used without his consent in connection with the other companies established by Mr Ahmad.

(17) I prefer Mr Ahmad's evidence to that of Dr Rehman and the witnesses called on his behalf, where there is conflict between them.

#### THE EFFECT OF THE LIST OF CHANGES

64. Finally, I have to consider the effect in law of the List of Changes. Mr Winfield submitted that it was not in a form which complied with s1(1) of the Stock Transfer Act 1963. It was, he submitted, not "in any usual form or in any other form which the directors may approve" in accordance with paragraph 23 of Schedule 1 to the Companies (Table A to F) Regulations 1985/805 (applied by article 1 of HCL's articles) because it contained no particulars of consideration, and thus was not in any usual form. Further it was not approved by the directors, who, on any view at the material time included Shahid Mahmood as well as Dr Rehman and Mr Ahmad.

65. Mr Keen submitted that since Dr Rehman and Mr Ahmad had agreed the sale and adopted the List of Changes, the directors had approved the form of transfer. On this point I consider that Mr Winfield was right, however. Mr Mahmood was a director, and he was not party to the meeting. Further, as *Barber's Case* (1877) 5 Ch D 963, CA, demonstrates, a decision taken by persons who happen to be directors will not be regarded as a decision of the directors if they did not meet in that capacity. The issue in that case was whether Mr Barber had been recommended for election by the board of directors. Six out of seven directors met to hold a shareholders' meeting which elected him to the board. In his first instance judgment, Sir George Jessel MR said:

"Six out of seven met in a different capacity and for a different purpose, and such a meeting does not make them a board of directors. Moreover, the whole seven, did not meet ..."

The decision of the Master of the Rolls was affirmed by the Court of Appeal.

66. In my judgment, the meeting between Dr Rehman and Mr Ahmad, at which the Share sale was agreed, was not a meeting of the directors. They met as buyer and seller, not as directors for the purposes of approving a form of transfer. The List of Changes did not amount to a valid form of transfer.

67. In the circumstances the Share has remained in the legal ownership of Dr Rehman, but beneficially it belongs to Mr Ahmad. A sale was agreed, and consideration has changed hands. Neither the statutory provisions, nor HCL's articles require the sale of a share to be in any particular form. They are concerned merely

with the form of transfer. The position is, therefore, that the agreed sale and payment of consideration have been effective to transfer the beneficial interest in the Share to Mr Ahmad.

#### DISPOSAL

68. In the circumstances, and for the reasons given above, I find that Dr Rehman holds the legal interest in the Share for Mr Ahmad beneficially, and that the transfer upon which Mr Ahmad relies was effective to that extent. I determine the question posed by the preliminary issue accordingly.

69. On handing down this judgment, I will hear further submissions as to the form which any relief should take.