



Neutral Citation Number: [2013] EWHC 2298 (QB)

Case No: HQ12D03024

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31/07/2013

Before :

THE HONOURABLE MR JUSTICE TUGENDHAT

Between :

Peter Cruddas
- and -

Claimant

(1) Jonathan Calvert (2) Heidi Blake (3)
Times Newspapers Ltd

Defendants

**Desmond Browne QC and Matthew Nicklin QC and Victoria Jolliffe (instructed by
Slater and Gordon) for the Claimant**
**Richard Rampton QC and Heather Rogers QC and Aidan Eardley (instructed by Bates
Wells and Braithwaite) for the Defendants**

Hearing dates: 2 –12 July 2013

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
THE HONOURABLE MR JUSTICE TUGENDHAT

Mr Justice Tugendhat :

1. This is the judgment on the second stage of the trial of a claim for libel and malicious falsehood. The first stage of the trial was a preliminary issue, to determine what the words complained of actually meant. This issue was determined by myself at first instance: *Cruddas v Calvert* [2013] EWHC 1427 (QB) (5 June 2013) (“the 5 June judgment”), but my judgment was varied in one respect by the Court of Appeal in their judgment [2013] EWCA Civ 748 (21 June 2013). At this second stage of the trial I have to determine all the remaining issues in the case.
2. The case is about the conduct of the Claimant (“Mr Cruddas”) in his capacity as the Treasurer of the Conservative Party (“the Party”). It is part of the function of a Treasurer to raise funds for the Party. The evidence has covered wider issues of funding of political parties. But the case relates to what Mr Cruddas said as Treasurer of the Party on 15 March 2012 at a meeting (“the Meeting”) with undercover journalists posing as international financiers who were considering making a donation to the Party (“the Journalists”). The Meeting was covertly recorded in both audio and video form, and there is an agreed transcript (“the Transcript”).
3. The main dispute that I have to resolve in this judgment is whether the report of the meeting published in the issue of the *Sunday Times* dated 25 March 2012, and online, was an accurate and true report. Other defences to this claim for libel might in principle have been available to the Defendants, such as honest opinion (formerly fair comment), or the public interest in responsible journalism (the *Reynolds* defence). In a pre-action letter dated 13 July 2012 the Defendants said these defences would be available to them. But when the time came for them to serve a Defence the Defendants chose not to raise either of these defences. They have chosen to rely solely on the defence of truth. The case does, plainly, raise issues of public interest, but public interest is not necessary or relevant to a defence of truth. The truth is the truth, whether telling it is in the public interest or not. But telling a falsehood would not be in the public interest.
4. Mr Cruddas is a businessman. In March 2012 he was the Treasurer of the Conservative Party. The Third Defendant is the publisher of the *Sunday Times*. The 1st and 2nd Defendants are the Journalists and part of that paper’s ‘Insight’ team. The Journalists put together a plan whereby they would pretend to be international financiers working for a company called Global Zenith who wanted to explore making donations to the Conservative Party. They hired a lobbyist called Sarah Southern (“Ms Southern”) and, through her, arranged the Meeting with Mr Cruddas. Unknown to him, each journalist carried a concealed camera with an audio recording facility as well. I have viewed the audiovisual recording and the Transcript, both in court and in my room.
5. On 25th March 2012 the *Sunday Times* published four articles. The first (“the First Article”) began on the front page and continued on page 2 under the headline ‘Tory treasurer charges £250,000 to meet PM.’ The front page also had a photograph of Mr Cruddas. A sub-heading further reported that the day before ‘Cameron’s fundraiser [had been] forced to resign’. The second article (“the Second Article”) was on pages 8 and 9 under the headline ‘Cash for Cameron: cosy club buys the PM’s ear’. The third article (“the Third Article”), also on page 9, had the headline, ‘Pay the money this way and the party won’t pry’. Page 9 carried a fourth article as well. This was written

by Mark Adams under the headline ‘Rotten to the Core’. These four articles, in substantially the same form, were also carried by the newspaper’s website (“the Website”). The *Sunday Times* also published an editorial (“the Editorial”) in the same issue on the theme ‘Sack the Treasurer and Clean Up Lobbying’. I shall refer to the parts of the Articles which Mr Cruddas complains of as “the Articles” or “the words complained of”. The reader of the Articles is referred to the Editorial by a direction printed at the end of the Second Article.

6. In addition, on page 2 there is printed an excerpt from Mr Cruddas’s letter of resignation, and on page 9 a report of a speech given in 2010 by David Cameron on lobbying (see para 32 below) when he was Leader of the Opposition.
7. The claim form was issued on 24th July 2012. Mr Cruddas complained of the whole of the First and Second Articles, together with most of the Third Article, both in the print edition and on the Website. He did not complain of the Fourth Article, the Editorial, or the other items on those pages. The original Particulars of Claim were served two days later on 26th July 2012. The first three Articles were alleged to be defamatory of Mr Cruddas. The first three Articles were also said to be malicious falsehoods. Malice is an essential ingredient of malicious falsehood and it is Mr Cruddas’s case that the Journalists each published those first three articles maliciously and that the 3rd Defendant is vicariously responsible for their torts.

MEANING

8. For the purposes of a libel action the law assumes that all reasonable readers will understand the words complained of in the same way (this is the so-called single meaning rule). In its judgment, referred to above, the Court of Appeal has ruled that in their natural and ordinary meanings the Articles meant what Mr Cruddas had said they meant, namely:

“The first meaning: In return for cash donations to the Conservative Party, the claimant corruptly offered for sale the opportunity to influence government policy and gain unfair advantage through secret meetings with the Prime Minister and other senior ministers.

The second meaning: The claimant made the offer, even though he knew that the money offered for secret meetings was to come, in breach of the ban under UK electoral law, from Middle Eastern investors in a Liechtenstein fund; and

The third meaning: further, in order to circumvent and thereby evade the law, the claimant was happy that the foreign donors should use deceptive devices, such as creating an artificial UK company to donate the money or using UK employees as conduits, so that the true source of the donation would be concealed.”

9. The point on which the Court of Appeal varied the determination that I had made was in respect of the first meaning, relating to what Mr Cruddas had been offering to the undercover Journalists who he believed to be, or to be representing, prospective

donors. Mr Cruddas had submitted, and I had accepted, that the Defendants had alleged that Mr Cruddas was guilty of a criminal offence involving corruption (that is to say a crime other than one under the Political Parties, Elections and Referendums Act 2000 s.61 (“PPERA, or the 2000 Act”). The Defendants submitted, and the Court of Appeal accepted, that the Defendants had not alleged such criminality, but, rather, no more than that what Mr Cruddas said in the course of a meeting on 15th March was:

“inappropriate, unacceptable and wrong and gave rise to an impression of impropriety”.

10. As far as the second and third meanings are concerned, the Court of Appeal explained the meanings which they and I had determined the words complained of to bear (as set out above) by saying (at para [23]) that “the allegation of being prepared to countenance a ‘loophole in electoral law’ does not amount to an imputation of criminality but ... that the allegation of countenancing the funnelling of money through a third party is an imputation of countenancing a breach of section 61 of the 2000 Act [PPERA].”
11. For the purposes of an action for malicious falsehood the law assumes that reasonable readers may understand the words complained of differently from one another. For the purposes of this claim, the Court of Appeal and I determined that the imputation of criminal corruption (that is criminality other than a breach of s.61 of the PERA) is a meaning which reasonable persons could read into the Articles. Both courts determined (para [33] of the judgment of the Court of Appeal) that the second and third meanings advanced by Mr Cruddas are meanings which a substantial number of reasonable readers would understand the words complained of to bear, and in particular that, the Articles alleged that Mr Cruddas was offering benefits in return for a donation in circumstances which would have been an actual breach of PERA (not just a breach of the spirit of PERA), in so far as he allegedly knew that the donation would be funds from a foreign owner channelled through the Journalists purporting to be the donors.

ELECTORAL LAW AND PARTY FUNDING

12. The PERA s.61 provides:
 - “(1) A person commits an offence if he—
 - (a) knowingly enters into, or
 - (b) knowingly does any act in furtherance of,any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of donations to a registered party by any person or body other than a permissible donor.”
13. A permissible donor is defined by PERA, in particular s.54. That section has been amended by the Political Parties and Elections Act 2009, but the amendments have

not yet been brought into force. So the relevant provisions of PPERA in force at the relevant times are:

“(2) For the purposes of this Part the following are permissible donors—

(a) an individual registered in an electoral register;

(b) a company—

(i) registered under the Companies Act 2006, and

(ii) incorporated within the United Kingdom or another member State,

which carries on business in the United Kingdom;”

14. PPERA also provided (as it was in force at the relevant times), in s.54:

“(1) A donation received by a registered party must not be accepted by the party if—

(a) the person by whom the donation would be made is not, at the time of its receipt by the party, a permissible donor; or

(b) the party is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of that person.”

15. The effect of s.61 is to distinguish between a real donor, on the one hand, and, on the other hand, an apparent donor who is a disguise for a real donor who is concealed. To take the example of a Mr Abrahams that was referred to in the course of the Meeting, if an employee of modest means and earning an average salary makes a large donation which she could not afford to make out of her own resources, but which derives from funds provided to her by her wealthy employer, then the real donor is the employer, and (if the other conditions are fulfilled) there will be an offence under s.61.

16. PPERA s.61 was enacted following much public discussion on the funding of political parties, and an investigation by the Committee on Standards in Public Life (“CSPL”). Public discussion on how political parties should be funded continues to this day, and there has been no final agreement on the issues involved.

17. In October 1998 Lord Neill of Bladen QC presented to Parliament the Fifth Report of the CSPL (CM4057). He included the following under the Summary and List of Recommendations:

“S.3 Without doubt the parties’ belief that elections can only be won by the expenditure (mainly on advertising) of vast sums of money has given rise to something of an arms race. This in turn has put enormous pressure on party fundraisers to devise innovative ways of attracting donations. The result has been the well-publicised, very large donations to both the main political

parties and also the development of strategies – such as the fundraising dinner attended by senior party figures – which together give credibility to accusations that money buys access to politicians.

S.4 It is a small step from the thought that money buys access (encouraged by some party fundraisers) to the widespread public perception that money can buy influence. This accusation is denied by politicians on all sides in respect of their own parties ... While we have no evidence that such influence has been bought, we believe that the widespread assumption among the public that it can be bought is extremely damaging. This is of particular concern because... we believe that political parties are of fundamental importance to the democratic process.” (emphasis added)

18. PPERA gave effect to the following recommendations listed at paragraph S.9 of the Report:
- “Clear rules on full public disclosure of donations (including benefits in kind) to political parties – of £5,000 or more nationally – in any one financial year, from any one person or source
 - Donations to political parties be allowed only from a ‘permissible source’ (defined so as effectively to ban foreign donations)”.
19. Since 2001 the Electoral Commission has reported to the public information relating to donations received by political parties, as prescribed by PPERA. The limit was raised from £5,000 to £7,500 with effect from 1 January 2010.

PUBLIC STATEMENTS ON PARTY FUNDING

20. The public stance of the Conservative Party, and of the other main parties, has at all material times been that donors of large sums of money will be offered an incentive to donate. The incentive is preferential access, at dinners and other private functions, to Members of Parliament, including (in the case of the largest donors) access to the Leader of the Party and other senior figures, and the opportunity to lobby those whom they meet. In 2010 all three main parties had also made Manifesto commitments to change the law, to put a cap on donations, in a manner to be agreed on a cross party basis. This is set out in the Report by the CSPL issued in November 2011 (that is immediately before the Defendants’ investigation which led to the publication of the words complained of in this action). The Report was the 13th by the CSPL, this time chaired by Sir Christopher Kelly. It is referred to by the Defendants in their Defence, and Mr Calvert stated that he had read it in the course of his research before publication.
21. The Report recorded that no witness had given “concrete evidence of a connection between donations and influence” and that “access did not automatically bring direct influence on particular decisions”. But as the Report also recorded, although in 1947

the combined membership of the main political parties had been over 1.5 million, the combined membership in 2010 was only about 420,000. As the Report observed, mass memberships are today more likely to be associated with cultural or leisure activities, or single issue movements, than with political parties. It is this general decline in popular participation in political parties that has given rise to their dependence on large donations from rich individuals and organisations, and to the discussion of alternative ways in which political parties should be funded.

The Brochure

22. In the period up to 15 March 2012 the Conservative Party had set out the basis on which it invited members of the public to make substantial donations to support the work of the Party. All political parties also continue to invite modest subscriptions and donations by numerous other means, including by subscription from the declining number of party members.

23. The Party issued a brochure (“the Brochure”) which was also available on its website. The brochure is an eight page A4 document. The cover page reads in capital letters:

“PLAY A KEY ROLE IN THE FUTURE OF THE PARTY”.

24. The second page has a picture of David Cameron and a quotation from him over his signature, as follows:

“Please support the long tradition of donor club membership.
Our fighting fund for future election battles”.

25. The third page is headed in capital letters “IS MEMBERSHIP REALLY FOR ME?” and gives the following answers:

“YES if you are interested in politics and would like to get closer to the heart of the Party.

YES if you believe in core Conservative principles and want to help us win elections and put Britain back on track.

YES if you would like to attend some of our question and answer sessions, political discussions and social events with MPs and senior Conservative politicians.

YES if you want to give as a business or individually.

YES if you are interested in meeting other like minded supporters to discuss the Conservative values which underpin our approach.

YES if you can donate £2000 or more to help fund important campaign initiatives and an overall majority at the next election.”

26. The fourth page reads, under the heading “JOIN A DONOR CLUB AND GET INVOLVED AT THE HEART OF THE PARTY”:

“MEET the key party figures and supporters

QUESTION the Party on how we intend to clean up Labour’s mess

CHALLENGE us with your ideas

WITNESS in depth debate

ENJOY all the Party’s politics

PARTICIPATE in Party campaigns

For more information on any of our donor clubs please call [and a telephone number is given].”

27. The fifth page describes seven different donor clubs each with an annual membership at a cost as follows:

“Team 2000:

the principle group of donors who support and market the Party’s policies in government, by hearing them first hand from the Leader and key Conservative politicians through a lively programme of drinks receptions, dinners and discussion groups... annual membership £2000

City and Entrepreneurs Forum:

business professionals, city executives and entrepreneurs who are keen to help the Party to get Britain back on track and open for business. Discussions with leading industrialists, parliamentarians and prominent city figures are held in London’s West End and the City ... annual membership £2000

The Property Forum:

for key players within the property industry to meet senior members of Parliament over breakfast, discuss current topics and learn about related issues... annual membership £2,500

The Front Bench Club:

for those with a deep interest in politics and current affairs who want to make a serious contribution to our Party. Members have the opportunity to meet and debate with MPs at a series of political lunches and receptions held throughout the year. Members will also be invited to all Team 2000 club events and other social events ... annual membership £5000

The Renaissance Forum:

for our closest supporters to enjoy dinners and political debate with eminent speakers from the world of business and politics. Members are invited to all Team 2000 events ... annual membership £15,000

The Treasurer's Group:

the Treasurer's Group is aimed at substantial financial supporters with a keen interest in politics. Members are invited to join senior figures from the Conservative Party at dinners, lunches, drinks receptions, election result events and important campaign launches... annual membership £25,000

The Leader's Group:

the Leader's Group is the premier supporter group of the Conservative Party. Members are invited to join David Cameron and other senior figures from the Conservative Party at dinners, lunches, drinks receptions, election result events and important campaign launches. Annual membership £50,000".

28. The next two pages of the Brochure contain forms for an applicant to fill in giving personal details and payment methods. Each of these two pages includes the following:

"Under the Political Party Elections and Referendums Act 2000 (PPERA) you must be on the electoral register in the UK excluding the Channel Islands and Isle of Man in order to make a donation of more than £500. We will check this for you".

29. The last page of the brochure advertises the Conservative Foundation, stating that it was launched in March 2009 to build an endowment fund that will underpin the Party's finances in the long term and particularly during the election periods. Details are given as to where further information can be obtained. The version of the Brochure available on the internet in December 2012 has a number of hyperlinks. One of these, which was added after the publication of the words complained of in this action, reads:

"Click here to view the register of major donors attending Leader's Group meals".

30. The Party has thus for some years advertised to the public that donors will be given access to Members of Parliament, and that the larger the donation the more senior will be those to whom the donor will be given access. And the Party has encouraged prospective donors to join the Leader's Group by assurances that, if they do, they will meet the Leader, David Cameron himself, and other senior figures from the Conservative Party at

"dinners, lunches, drinks receptions, election result events and important campaign launches".

31. Before the publication of the words complained of in this action the Party did not reveal the names of donors who attended these dinners and other events with David Cameron and other senior figures. But any member of the public was free to look at the Electoral Commission publications which gave the lists of donors who had donated over £7,500 per year, and could deduce from that information which individuals made up the pool of donors who were eligible to attend Leader's Group meals.

Mr Cameron's speech in February 2010 and Lord Feldman's statement in 2011

32. On 8 February 2010 Mr Cameron, then Leader of the Opposition, had made a speech in which he explained both the dangers of secret lobbying by donors, and how lobbying "makes for better, more workable, legislation". He said :

"Now we all know that [MPs'] expenses has dominated politics for the last year. But if anyone thinks that cleaning up politics means dealing with this alone and then forgetting about it, they are wrong. Because there is another big issue that we can no longer ignore.

It is the next big scandal waiting to happen. It's an issue that crosses party lines and has tainted our politics for too long, an issue that exposes the far-too-cosy relationship between politics, government, business and money.

I'm talking about lobbying – and we all know how it works. The lunches, the hospitality, the quiet word in your ear, the ex-ministers and ex-advisors for hire, helping big business find the right way to get its way. In this party, we believe in competition, not cronyism. We believe in market economics, not crony capitalism. So we must be the party that sorts all this out.

Now, I want to be clear: it's not just big business that gets involved in lobbying. Charities and other organisations, including trade unions, do it too. What's more, when it's open and transparent, when people know who is meeting who, for what reason and with what outcome, lobbying is perfectly reasonable.

It's important that businesses, charities and other organisations feel they can make sure their voice is heard. And indeed, lobbying often makes for better, more workable, legislation. But I believe that it is increasingly clear that lobbying in this country is getting out of control.

Today it is a £2 billion industry that has a huge presence in Parliament. The Hansard Society has estimated that some MPs are approached over one hundred times a week by lobbyists. Much of the time this happens covertly.

We don't know who is meeting whom. We don't know whether any favours are being exchanged. We don't know which outside interests are wielding unhealthy influence. This isn't a minor issue with minor consequences. Commercial interests - not to mention government contracts - worth hundreds of billions of pounds are potentially at stake.

I believe that secret corporate lobbying, like the expenses scandal, goes to the heart of why people are so fed up with politics. It arouses people's worst fears and suspicions about how our political system works, with money buying power, power fishing for money and a cosy club at the top making decisions in their own interest.

We can't go on like this. I believe it's time we shone the light of transparency on lobbying in our country and forced our politics to come clean about who is buying power and influence.

Politics should belong to people, not big business or big unions, and we need to sort this out. So if we win the election, we will take a lead on this issue by making sure that ex-ministers are not allowed to use their contacts and knowledge - gained while being paid by the public to serve the public - for their own private gain."

33. In July 2010 the CSPL began to inquire into the financing of political parties. On 15 February 2011, in his Opening Statement to the CSPL when giving evidence, Lord Feldman included the following:

"Contrary to the impression given by some sections of the media, in my experience there is no question of individuals either influencing policy or gaining an unfair advantage by virtue of their financial contributions to the Party. On the contrary, I have found donors to be motivated by a genuine desire to support the Conservative party and help it to win elections. They listen carefully to the arguments put forward by Conservative politicians, read the manifestos and other policy documents and then decide whether or not to support the Party.

However, we recognise that public perception is important, which is why we believe there is a case for a comprehensive cap on donations that applies equally to individuals, companies and trade unions...."

The 13th Report by the Committee on Standards in Public Life

34. In its Report published in November 2011 the CSPL made recommendations which have not been enacted into law by Parliament. These recommendations included that there be a limit of £10,000 placed on donations from any individual or organisation (including trade unions) in any year to any political party, and that (to make up the

funds which political parties need) there should be public funding of political parties, based on the number of votes that each party had secured in the previous election. The estimated cost of this to the taxpayer was put at around £23 million per year.

35. The Report also included a Recommendation 3 that
- “To be a permissible donor all companies, ... should have to be able to demonstrate that they are trading in the UK and earning sufficient income here to fund any donations”.
36. The Electoral Commission had supported what became Recommendation 3. See its submission dated October 2010 at para 4.13. In his witness statement (all the Defendants’ witness statements were served on 15 May 2013) Mr Calvert stated he read this on 23 March 2012. The Electoral Commission noted that the recommendation had been made in the Fifth Report of the CSPL, but had not been adopted in PPERA. However, this recommendation has still not been enacted by Parliament. The fact that, as a result, companies may be permissible donors without being able to demonstrate that they earn sufficient income in the UK to fund any donations has been referred to by the Defendants as a “loophole”.
37. The explanation in the Report of the nature of the problem which these recommendations were to address included the following:
- “1.2 Political parties are essential to democracy in the United Kingdom. They provide the policy platforms and political leaders between which voters choose at local and national elections. They develop the policies which make up those platforms and build support for them by communicating with the electorate. They generate debate which enables citizens to influence policy
- 1.3 There is much public cynicism about political parties. But their role in shaping and debating policy affects the social and economic circumstances in which we all live.
- 1.4 It follows that the existence of vigorous, sustainably funded parties is a matter of public interest. In short, political parties provide a public good.
- 1.15 Scepticism about the motivations of donors is not necessarily a problem if the public believe the parties are not being influenced by their donations. But our survey suggests the opposite....
- 1.18 It is not easy to assess whether this public suspicion is justified.
- 1.19 On the one hand:
- Significant donors do have preferential access to political decision-makers. All three main parties run leader’s clubs

of one form or another that explicitly provide access as an incentive to donors.

- Significant donors have on occasion been appointed to the House of Lords....
- The way influence is exerted does not have to be very direct...

1.20 On the other hand:

- None of our witnesses gave us concrete evidence of a connection between donations and influence or position.
- Access does not automatically bring direct influence on particular decisions – though it may have more subtle effects. ...
- Public suspicion about party funding might partly reflect the way some donations are reported in the media. It might also be caused by unwarranted scepticism among people without party allegiance that strong supporters of political parties might wish to donate for that reason alone...

1.25 In sum, the present arrangements for funding political parties are seriously problematic because:

- They lack integrity, in that if not corrupt they are plainly corruptible.
- They rely on a degree of dependency on a small number of individuals or organisations, which is fundamentally unhealthy.
- They leave something to be desired in terms of fairness, in that they give parties with more wealthy supporters an advantage over those with fewer.
- They attract such a significant degree of public suspicion that a failure to respond is unlikely to be acceptable to the electorate, whose lack of trust on this issue is corrosive to the political system as a whole.”

38. The first bullet point in para 1.19 is cited by Mr Calvert in a memorandum he prepared headed “Cash for Cameron” and which he e-mailed to Mr Hymas, the Managing Editor (News) and Ms Blake on 19 March at 18:04.
39. Although the Report of November 2011 stated that all the main parties receive large donations from a small number of individuals, that is also a matter of common knowledge. Such individuals may be more numerous amongst the donors to the Conservative Party, but they are not confined to the Conservative Party. In the case of

the Labour Party the largest donations come from Trade Unions, but there are also a number of millionaire businessmen who have donated large sums. Some of these have not only given large donations to the Labour Party, but also held ministerial office in Labour Governments.

Ms Blake's article in *The Daily Telegraph* dated 10 September 2011

40. In *The Daily Telegraph* dated 10 September 2011 there appeared an article about the Brochure under the title "Property Developers Pay for Access to Tories". The article had been written by Ms Blake, who worked for *The Daily Telegraph* until she joined *The Sunday Times* in November 2011. In this article she described the Property Forum. She stated that the Property Forum was advertised prominently on the Party's website. Her article included the following:

"The Conservatives were mired in a 'cash for access' row in August last year, three months after coming to power after it emerged that David Cameron was raising money for his party by offering to attend dinners with businessmen who donate £50,000 a year. Despite the controversy, that The Leader's Group is still offering its members the chance to join David Cameron and other senior figures from the Conservative Party at dinners, post – PMQ lunches, drinks receptions, election result events and important campaign launches ...

The Conservatives last night denied that members of the Property Forum had a hand in shaping government policy.

A spokesman said "The Conservative Property Forum is a discussion forum for people with an interest in property. It in no way influences policy. Any relevant donations made by members of this forum are publicly declared to the Electoral Commission just like all other relevant donations".

The Prime Minister's speech of 26 March 2012

41. Some indication of what is the public stance of the Party is also given by what the Prime Minister said, and did not say, when he gave a speech on 26 March 2012. He included in that speech a passage responding to the Articles, as set out at para 287 below. The only change to the existing practices that he announced was:

"From now on the Conservative Party will publish details every quarter of any meals attended by any major donors whether they take place at Downing Street, Chequers or any official residence."

LAW ON ENTRAPMENT AND MISREPRESENTATION BY JOURNALISTS

42. The dishonest use of deception can amount to a civil wrong or to a crime, if the representor intends either to make a gain for himself, or to cause the representee to suffer a loss, or be exposed to the risk of loss. This may be so even if the representor is a police officer or a journalist. But there must be emphasis on the word "dishonest".

In the case of the police and other officers of the state the use of deception in investigations must also be in accordance with the Regulation of Investigatory Powers Act 2000. Deception will be lawful if it is authorised in accordance with that Act.

43. As is well known, there is no similar statutory regulation of journalists, but if a journalist uses deception with the intention of discovering something in the public interest, and the deception is proportionate to that interest, the journalist is unlikely to be held to be dishonest. In any event, the legal risk for journalists is not likely to be that they will be sued or prosecuted for the deception (although they may be prosecuted for deceptions contrary to specific statutes such as the Data Protection Act 1998), but that they will face civil claims for defamation, as happened in *Grobbelaar v News Group Newspapers Ltd* [2001] EWCA Civ 33; [2001] 2 All ER 437 and as is happening in the present action.
44. Journalists may also be under a professional obligation (and a contractual obligation to their employers) to comply with the Press Complaints Commission's Editors' Code of Practice ("the PCC Code"). But that does not give rise to a legal right enforceable by a representee who has been deceived. The relevance of the PCC Code to the present case is discussed below.
45. Investigative journalists have for many years used deception and provocation to detect or expose crime or serious impropriety, and to prevent the public from being misled by an action or statement of an individual or organisation.
46. On many occasions representees who have committed offences as a result have been prosecuted. An example is *R v Shannon* [2001] 1 WLR 51. In that case the defendant was charged with supplying drugs to a journalist posing as an Arab sheikh in an elaborate stratagem to obtain evidence of drug offences against him. There was no dispute that he had supplied the drugs. The defendant appealed against his conviction on the grounds that the journalist (and his accomplices) were *agents provocateurs*, and that he did not have a fair trial. He argued that the judge ought not to have permitted their evidence to be adduced at his trial. On the particular facts of that case the Court of Appeal upheld the conviction. The Court decided, as summarised in the headnote:

"that there was no general rule requiring a court on grounds of fundamental fairness not to entertain a prosecution at all in cases of incitement or instigation by an agent provocateur regardless of whether the trial as a whole could be a fair one in the procedural sense; that the judge found correctly that the evidence fell short of establishing actual incitement or instigation of the offences concerned and that in any event the admission of the evidence would not have an adverse effect on the procedural fairness of the trial; and that, accordingly, the judge did not err".
47. In that case the journalists worked for the News of the World, and included Mr Mahmood, who was notorious as the "fake sheikh". He claimed to have been responsible for obtaining very many convictions. The facts were relatively simple. The journalists had evidence that the defendant was a supplier of drugs. They deceived him into meeting them to discuss a contract that would have been attractive

to him, and in the course of the discussion they turned the conversation to drugs. It seems plain that he would not have offered to supply the drugs to them if they had not expressed an interest in buying them. But this was not the first time that he had supplied drugs, and once he understood that the undercover journalists were willing buyers, “the defendant remained eager, rather than reluctant, to take advantage of the opportunity with which he was presented” (p73). The Court was not required to consider whether the conviction would have been unsafe if he had not previously supplied drugs, or if he had not been eager rather than reluctant, to supply the journalists.

48. Another example is Mr Grobbelaar’s libel action (after criminal trials which did not result in his conviction, he won the libel action but recovered damages which were reduced on appeal to a nominal figure). A former friend, Mr Vincent, fell out with Mr Grobbelaar, and told his story to *The Sun*. *The Sun* took steps to verify the information provided to it by Mr Vincent by arranging for Mr Vincent to put a corrupt proposal to Mr Grobbelaar and by covertly recording the occasions when this was done. In that case it was not disputed that, in the course of these meetings, Mr Grobbelaar confessed to having taken money from a Mr Lim for losing matches in the past. The critical issue at trial, however, was whether these confessions were true or false. Was Mr Grobbelaar genuinely admitting to corrupt behaviour in the past and agreeing to a fresh corrupt proposal for the future? Or was he, as he claimed, intent rather upon bringing Mr Vincent to justice and fabricating for the purpose a false account of past corruption and a mere pretence that he could be bribed to throw matches in future?
49. In his judgment in the Court of Appeal ([2001] 2 All ER 437, [2001] EWCA Civ 33) Jonathan Parker LJ remarked (at para [204]) that

“An *agent provocateur* is never an attractive figure, but on the other hand the task of obtaining firm evidence of corruption is never likely to be an easy one and the use of an *agent provocateur* may provide an effective means to that end”.

THE PRESS COMPLAINTS COMMISSION EDITORS’ CODE

50. The PCC Code includes the following provisions which have been referred to at this trial:

“1. *Accuracy*

i) The Press must take care not to publish inaccurate, misleading or distorted information, including pictures.

ii) A significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence, and - where appropriate - an apology published. In cases involving the Commission, prominence should be agreed with the PCC in advance.

iii) The Press, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact.

iv) A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published....

*10. *Clandestine devices and subterfuge*

i) The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs; or by accessing digitally-held private information without consent.

ii) Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

The public interest

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest.

1. The public interest includes, but is not confined to:
i) Detecting or exposing crime or serious impropriety.
ii) Protecting public health and safety.
iii) Preventing the public from being misled by an action or statement of an individual or organisation.

2. There is a public interest in freedom of expression itself.

3. Whenever the public interest is invoked, the PCC will require editors to demonstrate fully that they reasonably believed that publication, or journalistic activity undertaken with a view to publication, would be in the public interest [and how, and with whom, that was established at the time]...” (the words in square brackets were included to take effect from 1 January 2012).

51. The PCC issued an Adjudication on a complaint by the President of the Liberal Democrat Party that a series of articles in *The Daily Telegraph* on 21 to 23 December 2010 contained information which had been obtained using subterfuge in breach of clause 10 of the PCC Code. The complaint was upheld. The articles quoted a number of comments made by senior Liberal Democrat MPs in their constituency surgeries which had been secretly recorded by the newspaper's journalists posing as constituents. It happens that one of the journalists was Ms Blake, who at that time was working for that newspaper. The newspaper denied the complainants' allegation that it had undertaken a 'fishing expedition', contending that, rather, it had acted upon specific information it had received from parliamentarians and members of the public, and that its enquiry was undertaken in the public interest.

52. In its Adjudication the PCC said:

“...The questions for the Commission in this case were, ultimately, as follows: had the newspaper demonstrated that it had sufficient *prima facie* grounds for investigation before its reporters were asked to go undercover, such that would justify the recording of numerous MPs at their surgeries without their knowledge; and was such an investigation (using hidden listening devices) justified in the public interest?

There was a fine balance to be struck here. The Commission accepted from the outset that there was a broad public interest in the area the newspaper had chosen to investigate: the unity of a Coalition government... However, it felt that, nonetheless, the newspaper had reached the wrong decision in deciding to pursue subterfuge on this occasion for the following reasons.

First, the evidence on which the newspaper was acting (such as the Commission could see) was of a general nature. The newspaper did not appear to have any specific information (the significance of which could be established in advance) that the ministers in question had expressed private views at odds with Coalition policy. Rather, it was responding to broad assertions of party-wide disquiet, which perhaps could have been reported on an unattributed basis....

The Commission considered that there was an important dislocation here between the *prima facie* evidence and the method used to test it....

Certainly, the level of subterfuge was - contrary to the newspaper's assertion - high. The Commission wished to make it clear that recording individuals using clandestine listening devices without their knowledge was particularly serious and intrusive, requiring a strong public interest defence....

On this occasion, the Commission was not convinced that the public interest was such as to justify proportionately this level of subterfuge....

The Commission did feel that the newspaper had uncovered material in the public interest regarding the remarks made by Vince Cable about the News Corporation bid for BSkyB, which had led to him being divested of his role in that decision. However, there had been no suggestion that the intention of the newspaper had been to explore how he had been handling the bid (it made clear in its coverage that Mr Cable had spoken "despite not being asked about the issue"), and the newspaper itself had chosen not to make it a focus of its first day's coverage. The test for the Commission was whether there were

grounds in the first place to justify the subterfuge: the Cable disclosures about Sky were not relevant to that.”

53. Mr Browne put to the Defendants’ witnesses that there had been a breach of the Code in this case in a number of respects. He does not, however, ask me to find that there has been a breach of the PCC Code. Whether or not there has been a breach is a matter for the PCC. Mr Cruddas made a complaint, but the PCC did not pursue it after Mr Cruddas had commenced this action, as he was entitled to do. A complainant to the PCC is not required to waive his legal rights. But the requirements of the PCC Code are relevant to a proper understanding of how the Journalists proceeded, and of the significance of certain documents which either were, or were not, produced in the course of their investigations. This is relevant not to the defence of truth, which is the only defence to the libel action, but to the issue of malice in malicious falsehood and to any damages.

THE APPLICABLE LAW OF DEFAMATION

54. The law of malicious falsehood will be considered separately below. To succeed in a defence of truth (justification) in a claim for libel a defendant must prove that what he has published is substantially true. The court should not be too literal in its approach or insist on proof of every detail in a long article. The court must make appropriate allowances for exaggeration, and have regard in that context also to proportionality. The court must consider whether the sting of the libel is substantially true.

55. As Laws LJ expressed it in *Rothschild v Associated Newspapers Ltd* [2013] EWCA Civ 197 at para [25], the applicable principles

“have to be understood in light of defamation's place in the modern common law. The focus is not on reputation as akin to a right of property. It is on the balance to be struck between public interest and individual right: between free speech and private claims.”

56. Where the defamatory words complained of contain statements of both fact and opinion, the defendant has a right to defend the statements of opinion either as honest opinion, or as true. Some statements of opinion may be value judgments which cannot be said to be true or false, but other statements of opinion may be either true or false. But if he chooses to defend an opinion by the defence of truth, a defendant must prove that the opinions are in fact true. See *Gatley on Libel and Slander* 11th ed para 11.7. A defence of truth in respect of an opinion may succeed where a defence of honest opinion would not succeed, because a defence of honest opinion may be defeated by malice (that is, proof by the claimant that the defendant did not hold the opinion in question), whereas malice is irrelevant to a plea of truth.

THE WORDS COMPLAINED OF

57. The First and Second Article, and the parts of the Third Article of which the Claimant complains, are set out in my 5 June judgment and in the Annex I to this judgment.

58. In this case the words complained of contain two distinct charges against Mr Cruddas. The first meaning which the words complained of bear has been referred to as “the

Corruption meaning”. As explained by the Court of Appeal, the charge in this meaning is not one of criminal corruption, but of corruption in the sense of “inappropriate, unacceptable and wrong and gave rise to an impression of impropriety”.

59. The second and third meanings have been referred to as “the Breach of Electoral Law meanings”. The second and third meanings were also summarised by the Court of Appeal by the words “that he was prepared to countenance breaches of electoral law” (para [12]).
60. There are two parts to the second of the two Breach of Electoral Law meanings. In relation to the first suggestion attributed to Mr Cruddas (for the prospective donors to establish a UK company: described in the Third Article as a "loophole in electoral law") the charge is of conduct that might be discreditable, but which could not be understood as illegal. But in relation to the second suggestion attributed to Mr Cruddas (for the prospective donors to funnel money through a third party, such as the Journalists posing as executives: the Third Article para 6), the charge is that this would be illegal to Mr Cruddas's knowledge (see my judgment paras [39] and [40] and the Court of Appeal's judgment para [23]).
61. So, in so far as the second and third meanings relate to funnelling money from a foreign donor through a British third party, the charge is one of criminality, albeit that the charge is that he offered to provide a benefit to the Journalists in circumstances where he knew they would commit an offence, rather than that he actually committed an offence. It is (in the second meaning found by the court) that Mr Cruddas offered for sale secret meetings with the Prime Minister and other senior ministers, even though he knew that the money offered was to come, in breach of the ban under UK electoral law (PPERA s.61), from Middle Eastern investors in a Liechtenstein fund. And (in the third meaning found by the court) it is that he was happy that the foreign donors should use deceptive devices, such as using UK employees as conduits, so that the true source of the donation would be concealed.
62. The Defendants have created difficulties for themselves by the manner in which they have purported to adopt the Court of Appeal's summary version of the second and third meanings. This is explained further below.

THE MEETING OF 15 MARCH 2012

63. On 1 March 2012 Ms Southern called Mr Cruddas's PA, Ms Ehrenstrahle asking to arrange a meeting which she confirmed in writing in an e-mail which Ms Ehrenstrahle forwarded to Mr Cruddas. Ms Southern wrote:

“Dear Sofia, Following our phone conversation I would like to confirm the meeting between Hayley Harris and John Brewster with Peter. I will also attend the meeting.

Hayley and John run a fund and are wanting to donate to the Party for the first time. They are keen to get a better idea of what donating involves especially in regards to the business groups that they could join. My understanding is that they

would want to make a substantial donation spread across the year...”

64. That was all the information Mr Cruddas had before the Meeting about the two people that Ms Southern was introducing. The Journalists knew that that was all the information he had. On 14 March there was a discussion in the St James's hotel between Ms Southern and the two Journalists. She told them:

“...I have not actually given [Mr Cruddas] a briefing on you two because I wasn't quite sure how much information you would want to share”.

65. There are agreed recordings of the Meeting both in the form of audio visual recordings (one video recording for each for the cameras worn by Mr Calvert and Ms Blake) and in the form of the Transcript. The Transcript runs to 82 pages. I have prepared this section of the judgment by comparing the Transcript with the video recording. The most important passages of the video recording were played in court, with the images from the two cameras shown side by side. The relevant parts of the Transcript, together with findings that I have made about them, are set out in Appendix II to this judgment.

TRUTH AND THE FIRST MEANING “CASH FOR ACCESS”

The meaning of “access” and “influence”

66. At the centre of this issue are the different usages which are made of the word “access” and “influence”. In one usage they connote something which is proper, but in another usage they connote something which is improper. The possibility for confusion is made clear in paragraph S.4 of the Fifth Report of the CSPL cited in para 16 above:

“It is a small step from the thought that money buys access (encouraged by some party fundraisers) to the widespread public perception that money can buy influence. This accusation is denied by politicians on all sides in respect of their own parties”

67. There can be no dispute that in the Brochure David Cameron seeks to induce the public to join the Leader's Group by offering access to himself and other senior ministers:

“Members are invited to join David Cameron and other senior figures from the Conservative Party at dinners, lunches, drinks receptions, election result events and important campaign launches”

68. The Brochure also invites all donors, not just to meet himself and other key party figures, but also to question them and challenge them with the donors' ideas. The Brochure reads:

“MEET the key party figures and supporters; QUESTION the Party on how we intend to clean up Labour’s mess; CHALLENGE us with your ideas

69. In his speech of 8 February 2010 Mr Cameron explained that for him to give access to donors and to be influenced by them could be proper:

“It’s important that businesses, charities and other organisations feel they can make sure their voice is heard. And indeed, lobbying often makes for better, more workable, legislation.”

70. In that sense Mr Cameron (and other party leaders) welcomed influence from the public. That is how a representative democracy with political parties functions. What all politicians deny (and what Sir Christopher found no evidence for) is that money can buy influence which is corrupt.

71. But it is not, and was not, true, as Mr Rampton submitted, that the Party line was that donors could expect nothing in return for a donation other than success for the party in political and electoral terms. That is the opposite of what is stated in the Brochure.

72. Mr Cameron had explained in his speech that it is proper for organisations or individuals to lobby ministers for policies and legislation which will confer an advantage upon themselves or some group whom they claim to represent, including a commercial advantage. Trade unions may lobby for policies with a view to increasing the pay of their members, and financiers may lobby for policies, such as privatisation, because they believe that they will make money from buying privatised assets. They may also lobby altruistically for policies which would not benefit them. This is so whether or not the same opportunities for lobbying are available to ordinary citizens. But in the United Kingdom elected representatives, including ministers, do provide access to themselves to ordinary citizens. They regularly hold surgeries which their constituents attend, and they receive large volumes of mail from constituents, upon which the representatives act when they consider that they can and should. The constituents do not have to have voted for the elected representative, and they do not have to have made a donation to a political party.

Passages in the Articles

73. In relation to the first meaning it is helpful to refer to the passages in the Articles that Mr Browne relied on as set out in paras 31 and 32 of my judgment of 5 June. Mr Browne started by referring to the headline on the front page "Tory Treasurer charges £250,000 to meet PM". What was allegedly being sold was secret meetings: see First Article para 1 ("selling secret meetings") and para 16 ("secret corporate lobbying") and the Second Article paras 8 ("secret world"), and para 30 ("secretive grouping"). The meetings are also private and personal: First Article ("dinner with Cameron and Samantha") in a "private apartment" (para 26) or "private venue" (Second Article para 8). As to the benefit that the donor would receive in exchange for the money, Mr Browne referred to the Claimant's words "it will be awesome for your business" (First Article para 1, and repeated more than once), "lobby the prime minister directly on business issues" (First Article para 10), "business clients" (First Article para 13), and "information" (First Article para 11 and Second Article para 37). This is said to be a "scandal": it is what Mr Cameron in 2010 had referred to as "the next big scandal

waiting to happen" (First Article para 16 and Second Article para 15). As explained in the Editorial to any reader who did not recall 2010, it was to be compared with the "cash for peerages" scandal under the previous Labour Government, over which the then prime minister had been questioned by police. It contradicted not only what Mr Cameron had said in 2010, but also what Lord Feldman had said did not happen when, the previous November, he had spoken to the CSPL, as set out in the Second Article paras 16-17 ("individuals either influencing policy or gaining unfair advantage by virtue of their financial contributions to the party"). It is "money buying power" and "individuals ... influencing policy ... by virtue of their financial contributions to the party..." (Second Article para 16).

74. The further passages I referred to in my judgment at para [20] were:

“In the First Article the explanation for the apparent discrepancy is at para 20 "Cruddas initially gave them the party line that it was not possible to buy access to the prime minister, but then went on to suggest the opposite". In the Second Article at para 52 the same contrast is made: "Asked whether a donation would buy the right to influence government policy, Cruddas again began cautiously but went on to assure the reporters that the prime minister 'does tap into us on a regular basis'".”

75. So what the Articles alleged is that Mr Cruddas was acting corruptly because he was acting contrary to the publicly stated positions of Mr Cameron and Lord Feldman, not that the Party line was itself corrupt.

76. On numerous occasions during the trial the Defendants through their witnesses and through Mr Rampton criticised the publicly stated positions of the Party (and for that matter other parties as well), because they offer access to party leaders and other senior figures to donors when they do not offer the same access to ordinary members of the public. This was an attack on the present system of party funding. Mr Rampton put to Mr Cruddas: “What I am suggesting to you is that you were a big wheel in a rotten system”. When Mr Cruddas said: “I am not here to defend political donating”, Mr Rampton replied “I am afraid, in a way you are”. He went on: “Do you understand the case against you, not that it [the donation system] is illegal, but that it is morally unacceptable?”

77. According to the Reports of the CSPL, this is a point of view that is shared by many members of the public at large. Mr Browne submits that it does not assist the Defendants in this libel action. I agree. As Mr Rampton put it: “At the heart of the defence is what Mr Cruddas said at the Meeting”.

What Mr Cruddas said at the Meeting

78. What Mr Cruddas said and meant to say at the Meeting is a question of fact for me to decide. As Mr Rampton put it: “The witnesses’ own views as to how the words spoken at the Meeting should be interpreted is irrelevant”. The only defence to the libel action is truth, so for the libel action it would not matter if the Journalists thought that Mr Cruddas had said or meant something which is different from what I have found.

79. It might be thought that the Journalists were in a better position to judge this than the court, because the Journalists were at the Meeting. I have certainly had regard to what the Journalists have said about the Meeting. But whatever advantage the Journalists had from being present at the Meeting must be balanced against the fact that the Journalists entered the Meeting, not with an open mind, but with the intention of proving a case. They used leading questions, and provoked Mr Cruddas into saying things that they wanted to hear, but which he would not have said if he had not been provoked. In their evidence to the court they were claiming that Mr Cruddas had given them encouragement that as donors they would get what they had been asking for, in cases where, in my judgment what he had been doing, was lowering their expectations, not assenting to what they asked.
80. The passage of the Transcript at pp13-14 has been referred to as the international financiers' "shopping list". In that passage Ms Blake spoke clearly and it can be seen from the recording that from time to time Mr Cruddas nodded or said "yeah" to indicate that he is following what she was saying. What she was saying in summary, and what I find was the gist of Mr Cruddas's response, is as follows:
- i) She and Mr Calvert needed to be able to look their foreign clients in the eye and say they had spoken to Mr Cameron and that he was aware of Global Zenith and what Global Zenith are trying to do. The gist of his response was that as members of the Leader's Group, they would be able to tell their foreign clients that they had spoken to Mr Cameron, because he would probably greet them, and because they would have photographs of themselves with him. But Mr Cruddas gave them no indication that they would be able to tell their clients that Mr Cameron was aware of what Global Zenith were trying to do to any extent that would be material to influencing Government policy. Mr Cruddas confirmed that, as members of the Leader's Group, they would not have a long meeting with Mr Cameron, except in the context of a social dinner, and in the presence of at least ten or so other donors.
 - ii) They would like to have enough contact with the Party to have an opportunity to have a say in policy areas which affect Global Zenith's business in the UK. Mr Cruddas made clear that they would not be able to influence policy which affected Global Zenith's business specifically, eg as a prospective contractor with the Government, but that if they were unhappy about anything their feedback would be fed into a policy unit with the feedback of others.
 - iii) They would like to move in circles where they would meet people who were in a similar field of business to their own and where they would pick up information or intelligence. Mr Cruddas gave them encouragement that they would meet, at private dinners, and at large fund-raising events, and other similar events, business people who were in charge of very large companies.
81. What the Transcript demonstrates beyond doubt is that, at the Meeting, Mr Cruddas was describing how the Leader's Group works, and the access he was offering to Mr Cameron and to other senior ministers. And what he described was the kind of access which Mr Cameron was advertising in the Brochure, and of which he had explained the benefits in his February 2010 speech.

82. If the Defendants had chosen to defame Mr Cruddas for doing no more than raise funds in accordance with the law, and with the publicly stated positions of Mr Cameron and Lord Feldman, then they could have done so. The CSPL Reports show that many people regard the present practice as discreditable. And if they had defamed Mr Cruddas solely on that basis, they might have been able to raise a defence of honest opinion (provided the opinion they expressed was an opinion which they honestly held). But they could not defend such a case by the defence of truth. And the Defendants have accepted, as they must, that their defence cannot rest simply on what the Party does or offers to do for donors such as members of the Leader's Group. Their defence must be based on what Mr Cruddas did or offered to do at the Meeting, because that is how the Articles are written.
83. The present system of party funding, whether desirable or not, is lawful and practical, whereas other possible systems, such as funding out of taxation, or mass membership of political parties, are either not provided for by law, or not in practice available to the parties, however much they might wish that they were. This court cannot declare to be corrupt, as a matter of fact, the system of party funding authorised by Parliament and adopted by the Conservative and other parties. That may or may not be an opinion which people may honestly hold. It is not true as a matter of fact that the system is corrupt.

Misreporting of the Meeting

84. When Mr Cruddas said: "when you give to the Conservative Party it doesn't buy you access to anybody" and when he went on to describe the dinners with Mr Cameron and Mr Osborne, he was not "contradicting himself", as the Articles alleged (eg First Article para [20], Second Article para [49]). He was explaining what he meant. If he were understood to be contradicting himself, it would be the statement that a donation does not buy access that would contradict "the party line", and it is the statements that donors dined privately with Mr Cameron and others that would be consistent with "the party line". So even on such a reading of what Mr Cruddas is reported as saying, the Articles have the position the wrong way round. However, I repeat, the Articles were wrong to state that he was contradicting himself. He was not. The reference to access in the resignation letter drafted by Lord Feldman must be read with the same distinctions in mind.
85. Mr Cruddas was also explaining both the kind of access that was being offered, and the kind that was not being offered. Mr Cruddas made clear what was not permitted at the private occasions on which donors met ministers. He said that it was not permitted for them to attempt to obtain commercial benefits specific to their particular businesses. He said (in a passage from the Transcript omitted from the Articles):
- "if you've got someone who's got a big government contract coming up and they want to talk to the Prime Minister about the contract terms that ain't gonna happen... I said to you that there's no cash for access, there's no cash for honours the Party is really clean".
86. "The party line" also includes (as Mr Cameron had set out in his speech in 2010), that it is wrong for money to buy power and for people to use their contacts and

knowledge gained while being paid by the public to serve the public for their own private gain.

87. The false impression conveyed to readers by the Articles was accentuated by the way in which the Leader's Group was referred to, and by the omission of statements which Mr Cruddas had made at the Meeting, which would have made clear what he was explaining to the international financiers, and that he was not contradicting himself.
88. The words "leader's group" appear in the Articles more than once, but without explanation that that is a reference to the public Brochure, and without capital letters or any other indication that it is a group officially set up and advertised by the Conservative Party. See First Article, paras [14] and [21], which reads:

"He said the reporters could join the leader's group for £50,000, but that would not get them into the "premier league" of donors with special access."

89. Mr Calvert had used capital letters for "Leader's Group" in the drafts of the Articles. His explanation for what he called the "capping down" was that it was done by sub-editors to conform to house style. That was no explanation at all. He had read the Articles in the form in which they were to be published, and corrected at least one inaccuracy he found in the first edition (in the First Article para [33] the words "work around" had been put in inverted commas, falsely attributing them to Mr Cruddas). If lower case letters really is house style (and Mr Browne pointed to later issues of the paper where capital letters had been used for "Leader's Group"), then the Journalists needed to use some other means to convey the truth, namely that the "secretive grouping of donors who pay £50,000 a head to attend dinners with Cameron in private houses" (see the Second Article, para [30]) was a publicly advertised group of donors. Without such an explanation, that reference to the Leader's Group would mislead the readers. Instead they repeatedly referred to "secret meetings". The Articles do not explain that the fact that such meetings took place was public knowledge, as are the identities of large donors, and that what was secret was the identities of the particular donors who attended particular meetings, and what was said at those meetings.
90. The misleading impression created by the Articles is increased by the use of the phrase "premier league". In the First Article it is stated:

"[9] Donors who want to be "taken seriously" are told they should give £250,000 to join the "premier league", and then "things will open up for you". Cruddas warned that nothing could be gained by "scratching around" giving £10,000 a time.

[10] The "premier league" can lobby the prime minister directly on business issues and their views are "fed in" to the Downing Street policy machine."

91. In fact Mr Cruddas used the words "premier league" to refer to those members of the Leader's Group who contributed six figure sums. He did not say that there was a separate "premier league" that a donor could join. And the things that he explained would "open up" were not information from, or private access to, the Prime Minister, but opportunities to buy tickets for expensive events where hundreds of other people

would be present. The Brochure and Mr Cruddas made clear that any member of the Leader's Group could expect to dine with the Prime Minister. And Mr Cruddas made clear that any donor who was unhappy could give feedback which would be fed into the policy machine. He did not say that anyone could lobby the prime minister directly on issues that would give his business an unfair advantage.

“Insider intelligence”

92. The First Article states:

“[30] You do really pick up a lot of information... You are not seeing the prime minister, you're seeing David Cameron. But, within that room, everything's confidential and you will be able to ask him practically any question you want.”

93. The Second Article states that:

“[4] They had come to the co-treasurer with a shopping list. In exchange for a large donation they wanted "face time" with David Cameron and his top team, insider intelligence and the opportunity to influence policy for their business.

[37] There was insider information up for grabs as well. "You do really pick up a lot of information ... You're not seeing the prime minister, you're seeing David Cameron ... But within that room everything's confidential and you will be able to ask him practically any question that you want," Cruddas said.”

94. What Mr Cruddas repeatedly stated at the Meeting was one of the benefits that donors could expect from making very large donations was that they would be invited to events which were attended not just by Mr Cameron and ministers, but also by other business people in a position to make similarly large donations. He was explaining the benefits by way of networking that membership of the donor groups could confer. This is one of the benefits which the international financiers had specifically asked about. They said they wanted “connections” and “to move in the kind of circles where ... you know what's going on and pick up the kind of intelligence”. At no point in the Meeting did Mr Cruddas suggest that any information that the large donors might expect to learn was confidential information, or information of any other kind, which those giving the information could not properly give.

95. The Articles did not refer to the networking benefits, and the information that the donors might expect to learn, properly, from fellow donors. Instead, the Articles misled the readers by conveying the meaning that the benefits for their business will be benefits that come from meeting and lobbying Mr Cameron and other ministers.

96. But the word “insider” was not used in the Meeting, and Mr Cruddas made no statement that there was “insider information up for grabs”. It is the Journalists' inference that Mr Cruddas was referring to insider information. The inference could be their opinion, but it is not fact.

97. What Mr Cruddas said about confidentiality was what is quoted in the Second Article para [37]:
- “you’re not seeing the Prime Minister, you’re seeing David Cameron... but within that room everything is confidential and you will be able to ask him practically any question that you want”.
98. The distinction he was drawing was between Mr Cameron in his capacity as Prime Minister and in his capacity as Leader of the Party. But the fact that a donor is attending a dinner with the Prime Minister at which everything said is confidential, does not mean, as a matter of fact, that the Prime Minister will answer a donor’s question by giving away insider or confidential information, and Mr Cruddas did not say that that is what the Prime Minister has done, or would do.
99. But the Corruption meaning in the Articles is that the small dinners in private houses attended by Mr Cameron were the secret occasions on which insider, or confidential, information was improperly disclosed to donors by the Prime Minister or the Chancellor of the Exchequer (thereby according them unfair advantages), and improper influence was secured by donors. That is a slur on the Prime Minister and Mr Osborne. But it is not a slur on them made by Mr Cruddas. Mr Cruddas made no such suggestion in the Meeting. The suggestion is an inference drawn by the Journalists, and falsely attributed by them to Mr Cruddas. The falsity is contributed to by the references in the First Article, paras [12] and [26] to dinners at No 10, without adding Mr Cruddas’s explanation that those were rare occasions at which Mr Cameron thanked those who had given large donations over five years. To the same effect, the Defendants referred to the event at Chequers, without adding Mr Cruddas’s explanation that it was a charity event in a marquee. And it was the Defendants who added to those paragraphs the words “They could ask the prime minister anything they liked about issues affecting their business”. Mr Cruddas had not added those words: he had not claimed to have attended such a dinner.
100. A defamatory inference of that kind might, in principle, be defended by a defence of honest opinion (if the Defendants honestly held that opinion). It might in principle be defended by a defence of public interest, or a *Reynolds* defence, (provided that the Defendants could demonstrate that they acted responsibly). It cannot be defended by a defence of truth, without any evidence to support it.
101. The only examples of information conveyed to a donor which Mr Cruddas gave were examples which were not related to any specific business, and most of them were not related to business at all. None of them could be understood as information which Mr Cruddas was saying had been improperly disclosed by the Prime Minister or anyone else.
102. They included a forthcoming meeting between Mr Cameron and Mr Salmond, Mr Cameron’s view of the likelihood of the Tobin tax being introduced (referred to in the first Article, para 27), gay marriage, the litigation about the wearing of religious symbols, general questions about the privatisation of Royal Mail, Scottish independence and the level of the top rate of income tax. In speaking about information about the Budget, which Ms Blake had said was a “tease”, Mr Cruddas did not state that he had received that information from any minister, and it was, in

any event, not information which could plausibly be said to be likely to affect the international financiers' business or clients, nor to be a "key bit of information that [they could] use".

103. In giving as an example of the type of thing she would want to ask Mr Cameron, how he would feel about Global Zenith taking an interest in the Royal Mail (para 337), Ms Blake was giving to Mr Cruddas the first indication of the scale of the business of Global Zenith. The privatisation of the Royal Mail was a topical issue because the Postal Services Act 2011 had raised the prospect that that might happen. While no figure was mentioned for the value of the Royal Mail business, the exchanges between the parties, and the position in life which each of them either occupied, or pretended to occupy, made clear that they all understood that any relevant figures would probably be in billions of pounds, or at least in hundreds of millions of pounds. The international financiers had in fact told Ms Southern earlier that they managed assets valued in billions of pounds (as is reported in the Second Article, para 3, "two international financiers representing a multi-billion-pound wealth fund"), but no one had stated that expressly to Mr Cruddas. However, he was obviously not surprised at the suggested question concerning the Royal Mail. He did not expect Ms Southern to introduce to him as a prospective donor anyone who was not dealing in very large sums of money.
104. A second significant implication of the reference by Ms Blake to Global Zenith taking an interest in the Royal Mail, is that it identified her and Mr Calvert as supporters of a policy which was characteristic of the Conservative Party, namely privatisation of state assets. This was not a policy supported at that time by the Labour Party under the leadership of Mr Miliband. Global Zenith's supposed investment strategy in the UK could not be directed towards state assets such as the Royal Mail unless a government was in power which was dominated by members of the Conservative Party.
105. I mention this because Mr Cruddas said he thought that they were supporters of the Party, but during their evidence the Journalists did not accept they had given to Mr Cruddas any indication that they were supporters of the Conservative Party. It is true that the support implicit in their wish to invest in privatised state assets is support motivated by business self interest, but it is in my view nevertheless clearly support for Conservative Party policies. Mr Cruddas had every reason to believe that they were supporters, and no reason to believe that they were not.

"Awesome for your business"

106. The way in which the Articles report the words "Awesome for your business" gives the main thrust of the Articles. On the front page there appears

"200 GRAND IS PREMIER LEAGUE... IT'LL BE
AWESOME FOR YOUR BUSINESS"

107. The First Article includes:

"[1] A CO-TREASURER of the Conservative party was forced to resign early today after being filmed selling secret meetings

with the prime minister in return for donations of £250,000 a year and boasting: "It will be awesome for your business."

108. The Second Article includes:

"[10] Their clients would be introduced to George Osborne, the chancellor, and their views would be fed into the Downing Street policy machine. It would be, Cruddas said, "awesome for your business"."

[30] "You do really pick up a lot of information... You are not seeing the prime minister, you're seeing David Cameron. But, within that room, everything's confidential and you will be able to ask him practically any question you want."

[31] The reporters could also impress clients with their top contacts. 'It'll be awesome for your business. You'll be ... well pleased. Because your guests will get photographed with David Cameron,' he said".

109. I have found that the words "Awesome for your business" were spoken in the immediate context of Mr Cruddas describing the photograph taken of him with Mr Cameron. They were a response to a specific leading question. Mr Calvert provoked Mr Cruddas into linking the benefits of the photo opportunity to business. He asked the leading question: "And it's good for business?" Ms Blake had also said at p23 of the Transcript that "our photo with David Cameron ... would be very helpful for our purposes". Mr Cruddas made clear at the Meeting that he does regard signed photos of himself with prominent people as good for his business, because he directed attention to his display of such photographs and spent many minutes with his guests explaining his photographs at the end of the Meeting.
110. But the context of "Awesome for your business" is not explained in the Articles (although in one paragraph there is a reference to the photograph). The Defendants argue that Mr Cruddas was referring to much more than a photograph. That is not what I find. But, even if it were true that he was referring to the passages of the Transcript that precede the remark, it would make no difference.
111. The words appear at the bottom of page 59 of the Transcript. The last preceding reference to what the Journalists say is a secret dinner with Mr Cameron (with 10 or 12 guests) had been at the bottom of page 46 (and that is the sort of access which the Articles say Mr Cruddas was offering for £250,000). In the middle of page 58, after discussing the routes by which the donation might be paid, Mr Cruddas started to talk about events at famous venues attended by large numbers of people ("the places you go, the people you meet"), including fund raising events for charities. He explained that at this type of function, where the ticket might cost £5,000, the most access that donors could expect would be a greeting and a photograph. The only benefit for the business that Mr Cruddas was suggesting was the photographs and the networking.
112. It is true that at a different meeting (see para 230 below) Ms Southern had given to the international financiers one example of an occasion when a client of hers had thought he had obtained a specific commercial advantage from a greeting (he had managed to

tell the Prime Minister that his company employed more people in the UK than in the USA), but Mr Cruddas did not suggest any such advantage could be obtained from a greeting lasting seconds rather than minutes.

113. The Second Article, para [30], associates information that a donor may be given in answer to a question at a confidential meeting with Mr Cameron and Mr Cruddas's words "Awesome for your business". That association is misleading, unfair, and unwarranted by the records of the Meeting.
114. In the Second Article para [10] Mr Cruddas's words "Awesome for your business" are associated with his statement that donors' views would be fed into the Downing Street policy machine. This association is also misleading, unfair and unwarranted.
115. In fact those two statements were not associated with one another at all at the Meeting: the reference to the policy unit was at page 32 of the Transcript, and the "Awesome for your business" is at the bottom of page 59. On the contrary, Mr Cruddas spoke of the policy unit as a way of explaining how little donors should expect, not how much. He was responding to what they asked for, which was "an opportunity to some extent to have our say in policy areas which we feel affect our business in the UK and our investment strategy". He said:

"... Unfortunately donating to a party is not the most effective way to get your voice heard... [...] ... if you're unhappy about something you can, we can, we'll listen to you and we'll put it into the Policy Committee at Number 10. We feed all feedback into the Policy Committee... [...] But just because you donate money it doesn't give you a voice at the top table to change policy, that doesn't happen."
116. No one could interpret that answer as Mr Cruddas saying that feeding their feedback into the Policy Committee would be awesome for their business. He was lowering their expectations, not raising them. It could be that the Journalists have an opinion as to the value of feeding donors' feedback into the Policy Committee which is different from what Mr Cruddas said. But in quoting the words "Awesome for your business" they were not telling the reader that that was their opinion. They were falsely attributing to Mr Cruddas an opinion which he had not expressed on that topic.
117. The short video compilation of the undercover footage which the Defendants sent to broadcasters at about 6pm on the Saturday 24 March, and to which they referred the reader of the Articles by giving a web address, makes the same false point. In the first seconds it shows passages in which Mr Cruddas is shown to link the £200-£250,000 donation, the information, the confidential dinners with Mr Cameron and Mr Osborne, and the feedback to the Policy Unit. These quotes are followed by the video of Mr Calvert provoking Mr Cruddas with the words "And it's good for business I mean". Mr Cruddas answered "It'll be awesome for your business". The video goes on to show the viewer that Mr Cruddas said that the donor would get a photograph with David Cameron. But the video omits the next sentence in which Mr Cruddas made clear that the photograph was "part of the ticket" which the donor would buy to get an invitation to a charity or fund raising event.

Conclusion

118. For these reasons I find that, in relation to the first meaning, the Corruption meaning, the defence of truth fails. The Articles are untrue in relation to this meaning.

THE EVIDENCE ON THE BREACH OF ELECTORAL LAW MEANINGS

119. Whereas the question whether the first meaning is true or not depends upon the Transcript and the audio visual recordings of the Meeting, there is additional evidence that is relevant to the truth or falsity of the Breach of Electoral Law meanings. This additional evidence includes the e-mails sent between 15 and 24 March, and the evidence of the witnesses.

The E-Mails Between 15 and 24 March

120. On 16 March, the day after the meeting, Ms Southern sent an e-mail to Mr Cruddas which included:

“Thank you for taking the time to meet with Hayley and John. They thought it was a very productive meeting and are even more keen to support the Party.

I am going to arrange a meeting with CCHQ to ensure all compliances bases are covered. I will let you know the outcome and no doubt arrange another meeting between the four of us”.

121. Mr Cruddas replied:

“Really good to see you and thanks for the introduction. Bit of work still to be done but I can really see the benefits of them donating to the Party.

Don’t let any body hijack them at CCHQ. They need to operate at a high level. I will do everything through you and make sure if they donate you get the credit you deserve.

You can contact me any time”.

122. On 22 March a series of e-mails were exchanged. At 10:51 Ms Southern wrote:

“Good news. Seems a donation is imminent. I would imagine two donations of £50k to the Leaders’ Group. I know that they are having a meeting tomorrow morning to work out what other donations they want to make for the rest of the year but I believe it will be close to £250k in total. I think another meeting with you would be helpful in the next couple of weeks. When would be best for you?”

123. At 10:55 Mr Cruddas replied:

“Good news all round by the sounds of it.

Let me know when you want to meet up...

Make sure you liaise with me on this, I do not want them to be swallowed up by the party machinery as they will need managing through the process and I want to make sure that their expectations are properly managed. I will see to this personally.

Let me know once you hear something

Yipppeeeee you are a star. If this comes off I will make sure you get invited to some nice things”.

124. At 11:00 Ms Southern wrote that she would get some dates. At 11:04 he wrote to her:

“I will take really good care of them because you introduced them. I also want them to feel that you have a direct route to the top of the party which will be good for your consultancy business. Let them feel we are close and once they join Leaders they will feel that they have the right connections.

Just keep referring anything about the party to me through you. In effect by coming to me you are by-passing the troops at HQ which is very powerful for you in your new role. I will include you in everything that is going on and I will get you along to some events that they are attending so they can see you are well connected.

Anyway lets get them over the line but I do think this is the right thing for them and their company”.

125. On 23 March there were further series of e-mails. At 13:56 Ms Southern told Mr Cruddas that they had just called to say that they would be donating £250k, £100k in the first instance “two Leaders’ Group memberships”, followed by £150k later in the year and they would be keen on sponsoring the Summer Party. She suggested a meeting on Friday 30th and Mr Cruddas e-mailed back agreeing to that date.
126. At 14:08 Mr Cruddas wrote an e-mail to six people within the Party including Lord Feldman and Mr Chattey. He wrote:

“Following a meeting recently (arranged through Sarah Southern, we worked together on No to AV) I have had a pledge of £250,000 from Global Zenith a private equity group. They will join Leaders for two people and pay the balance of £150,000 over the next six months. They would like to attend various events and come to conference.

They intend to do more. They are due to meet up with Mike Chattey about being compliant and as they have UK business this should not be an issue. The good news is they now have board approval and want to go ahead. I will be meeting them next Friday to finalise some details. I will refer them to CCHQ

for compliance checking which I understand should not be an issue.

I think it is time for a yippee but lets get them over the threshold first.

Oh sod it yippeeeee”.

127. Lord Feldman and some of the other addressees wrote congratulating Mr Cruddas. On 22 March Ms Southern told Ms Blake that by this time she had already spoken to Mr Chattey about compliance, and that they would not accept a donation from a company that was not trading properly in the UK. But Mr Cruddas did not know that. I have heard no evidence of what passed between Mr Chattey and Ms Southern, and it is not relevant to any issue I have to decide. But the upshot was that what Ms Southern had been referring to in her e-mail at 10:51 was a proposal that the two international financiers would make donations as individuals.
128. On Saturday 24 March after 3pm Ms Blake sent an e-mail to Mr Cruddas about the article *The Sunday Times* was proposing to publish. At this stage of this judgment the relevance of this is Mr Cruddas’s reaction, as expressed in an e-mail to his colleagues within the Party (Mr Cruddas did not send a response to Ms Blake). It contains four paragraphs which are a summary of the Meeting, and it has not been suggested that they are inconsistent with anything he has said subsequently.
129. After the first edition of the newspaper had appeared on 24 March at 23:50 Lord Feldman informed Mr Cruddas that he was expected to resign. He sent a draft of a resignation letter. Mr Cruddas duly signed this that night. The text read:
- “As you know, I only took up the post of Principal Treasurer of the Party at the beginning of the month and was keen to meet anyone potentially interested in donating. As a result, and without consulting any politicians or senior officials in the party, I had an initial conversation with Zenith. No further action was taken by the party.
- However, I deeply regret any impression of impropriety arising from my bluster in that conversation. Clearly there is no question of donors being able to influence policy or gain undue access to politicians. Specifically, it was categorically not the case that I could offer or that David Cameron would consider any access as a result of a donation. Similarly, I have never knowingly even met anyone from the number 10 policy unit. But in order to make that clear beyond doubt, I have regrettably decided to resign with immediate effect”.
130. The words “I deeply regret any impression of impropriety” may be the source of the words “impression of impropriety” in the first meaning attributed to the Articles in para 7(1) of their Defence, and which were adopted by the Court of Appeal as the explanation of the first meaning.

131. However, as he explained in evidence, Mr Cruddas regrets signing that letter, and does not admit that he did give an impression of impropriety.

Witness Evidence Relevant To The Electoral Law Meanings

Mr Cruddas

132. Mr Cruddas was born in 1953 in a poor household. He left Shoreditch Comprehensive school aged 15 with no qualifications. He worked for Western Union for about 2 ½ yrs and for two different banks from the age of 18 to 35. At that age, in 1989 he set up his own business Currency Management Corporation later to be called CMC Markets Plc (“CMC”). He did that with £10,000 of his own money. That was the first internet online trading system. By 2007 Goldman Sachs valued that company at over £1 billion. Mr Cruddas still owns 87% of the share capital, having sold 10% to Goldman Sachs and donated 3% to the employees. CMC operates in most of the developed world and employs 500 people. It has clients in 100 countries around the world, and holds clients funds of approximately \$500,000,000. Its UK trading subsidiary is regulated by the Financial Conduct Authority (“FCA”), formerly the Financial Services Authority. Mr Cruddas is the Executive Chairman to regulated businesses.
133. The Defendants have expressly stated that Mr Cruddas is a man of “total integrity”. Apart from the matters which are the subject of this action, it has not been suggested that Mr Cruddas has ever broken any law or regulation, or that there has ever been any grounds to suspect or believe that he might have done that, or might have been willing to do that. An unblemished reputation for honesty and integrity is, as is well known, of considerable importance to anyone engaged in providing financial services in the UK and elsewhere.
134. Mr Cruddas has been a life long supporter of the Conservative Party. In 2007 he wished to become involved in supporting the party but, as a non resident at the time, he was not able to donate money to the Party. However, he has established a charitable foundation and has stated that his intention is ultimately to give £100,000,000 to charitable causes. Some of those causes, and the sums he has donated, are set out in his witness statement. Some of the causes are related to politics. By 2009 he had returned to reside in Britain and started to make six figure donations to the Party. In February 2011 Mr Cruddas was asked by Lord Feldman, the Party co-chairman, to be the treasurer to the “No to AV” campaign, in preparation for the referendum that was to take place in May 2011. He accepted that position and made a very substantial six figure donation to that campaign.
135. It was while working on that campaign that he met Sarah Southern, who was the Operations Director for the campaign. They had business meetings through to May 2011, but no other contact. Mr Cruddas did not see Ms Southern again until 15 March 2012, at the Meeting at the centre of this litigation, and he had no communication from her in the interval.
136. On 7 May 2010, immediately after the referendum, Mr Cruddas received a personal call from the Prime Minister, thanking him for helping to win the campaign, and stating that he was looking forward to Mr Cruddas taking over as Party Co-Treasurer. His appointment as Co-Treasurer was confirmed by letter from Lord Feldman on 6

- June 2011. He was required to step down from other charitable roles in order to avoid any conflict of interest, one such role being trustee of the Prince's Trust.
137. The roles of Co-Treasurer and Treasurer of the Party are neither full time nor remunerated. On the contrary, Mr Cruddas increased his donations to the Party while in that role. The function he fulfilled was to encourage donations to the Party and introduce new donors, as well as continuing to make his own large personal donations.
 138. It is not the role of a Treasurer of a Party to vet prospective donors to ensure that they and their donations are lawfully made. That is the responsibility of Conservative Campaign Headquarters ("CCHQ"), which employs full time and qualified staff to carry out all compliance checks. Although the "No to AV" campaign had been a cross-party campaign in which the Party had collaborated with the Labour Party, all compliance checks for that campaign had been carried out by CCHQ.
 139. Mr Cruddas explained that, since a donation was required to have been vetted before it was actually made, the preferred method for receiving donations was in the form of a cheque. The necessary vetting could then be conducted before the cheque was banked. While Mr Cruddas was familiar with the legal requirements for political donations, he had had no training, and was not required to have any training, in the technical procedures for vetting compliance. The person responsible for that at CCHQ was Mr Chattey. He was the head of fundraising at the Party and handled matters of compliance.
 140. In his witness statement Mr Cruddas gives two examples of occasions when he dealt with prospective donors who also had a business interest in large contracts. He explained how he had advised them to concentrate on the business and not to approach the Party. He also gave an example of how, on 14 March 2012, he had met a person who wanted to make a large donation to the Party, but he had not been able to progress that until the prospective donor had submitted documentation in a form required by CCHQ.
 141. Mr Cruddas described in his witness statement a number of events which he had attended in his capacity as Co-Treasurer and major donor to the Party. In September 2011 he attended a dinner at a private house in London with some members of the Leader's Group. The dinner was attended by Mr Cameron. There were about 20 people around the table.
 142. In October 2011 he had sponsored an event at Chequers, which was hosted by Mr and Mrs Cameron, for the purpose of raising money for charities of Mrs Cameron's choice. The event was not held in the house, but in a marquee in the grounds of the house. The event was purely social. The money raised was not for the Party. This was the only occasion on which he has been to Chequers. In recognition of his sponsorship he was placed next to Mrs Cameron at the event, which was an opera. Mrs Cruddas sat at the same table as Mr Cameron. About 200 people attended by buying tickets for some £25,000 per couple. Each of Mr and Mrs Cameron made a speech. People who bought tickets for the event had their photographs taken with Mr and Mrs Cameron, and the photograph of Mr Cruddas on that occasion is displayed in his office.

143. In January 2012 Mr Cruddas was appointed Treasurer of the Party. At the same time he became a full board member of the Party. Before that he had been a member of the Finance Committee and had attended three meetings of that Committee. The business of that Committee was to appoint auditors and discuss the financial state of the Party and the use of its resources. Mr Cruddas's predecessor in the office of Treasurer, Lord Fink, had held the position for over three years, and Mr Cruddas was given to understand that he would be invited to be Lord Fink's successor. The reputation of a deputy Treasurer of the Party is of critical importance and Mr Cruddas was informed that his background had been checked and nothing adverse had been found.
144. Mr Cruddas's reputation was, of course, also of importance in connection with the other charities and national institutions with which he became associated as a large donor. This is particularly true of his position with the Prince's Trust, in which role he had been invited to attend the Royal Wedding in 2011.
145. From 17 to 29 February 2012 Mr Cruddas had been travelling in Australia and Singapore on business and family matters. He kept in touch with his PA. She informed him that Ms Southern wanted a meeting on 15 March at the offices of CMC in London to introduce two potential donors. Mr Cruddas remembered who Ms Southern was, but he knew nothing about the two potential donors, and was not accustomed to meeting potential donors at their request in his office. He normally met donors by going to see them, or by meeting them in the course of his business and charitable activities. Since he did not know who the potential donors were, he asked his PA to clear the meeting with CCHQ. He understood that Ms Southern confirmed to his PA that CCHQ had given the clearance. All arrangements were made through Mr Cruddas's PA and he had no conversations or communications with Ms Southern before the meeting. He was surprised to be approached by a prospective donor in this way.
146. In oral evidence in chief Mr Cruddas said that he had thought the donation that the international financiers were proposing to make would be made through a British company. And he expected them to have cleared it with Mr Chattey. That is why had written his e-mail to Lord Feldman after the Meeting in the words that he did write.
147. Mr Rampton repeatedly challenged Mr Cruddas's evidence that he believed that it was a British company that they were talking about at the Meeting when they were talking about a company joining the Leader's Group. But Mr Cruddas was adamant that that is what he believed at the Meeting. They had said that Global Zenith was British owned, and that they were setting up in Britain and had a British investment strategy. Ms Southern had said "So, it's basically a British firm...", and she was working for them. He did not know what their structure was. A British company can have operations in Liechtenstein. It was not for him to check that, it was for Mr Chattey to check all the details. That is why he referred them to the Compliance Department on many occasions at the Meeting.
148. In cross-examination Mr Cruddas said that he considered the law to be clear: you were either eligible to make a donation to the Party or you were not, that would have to be cleared by the Party. He had never come across a situation where there was a UK subsidiary of a foreign company making a donation in circumstances which Mr Rampton had referred to as being a loophole in the law. He had never seen a case of a foreigner making a donation to the Party. Nor had he seen a donor who expected to

get from the Party in exchange for a donation something to advance his private commercial interests. He had not offered the international financiers anything to advance their private commercial interests.

149. Mr Cruddas said that he did not know the personal circumstances of the international financiers (other than what they told him) and if the donation were to be made by them as individuals, then it would be the Party that would check that they were making the donation with their own money. That was why he had referred them to Mr Chattey in relation to that suggestion as well. He said that nothing suggested at the Meeting was a concrete proposal, and that is another reason why he referred them to the Compliance Department. He said:

“I don't have the time or the expertise to compliance check anybody. That's why I offered to facilitate a meeting with Mike Chattey and I told him very clearly when they wanted to employ Sarah Southern through this fictitious company I told them very clearly that you cannot make, you cannot use Sarah Southern as a proxy donor. I said you cannot do third party payments full stop. End of. That's it. I didn't know these people were filming me. I didn't know they were trying to coerce me into doing something wrong. I played it with a straight bat, ...”.

150. Mr Cruddas said that at the events that he had described at the Meeting he had only seen British people, and he had not seen foreigners at all.
151. Mr Cruddas had not seen Ms Southern since the referendum campaign in 2011, he knew nothing about the prospective donors, he had not spoken to anybody at CCHQ or otherwise about the meeting in advance and he had made no preparations for the meeting. His assumption at the start of the meeting was that this would be an initial opportunity for him to be introduced to potential donors, to talk generally about political donations to the Party and the various donors clubs which existed and that there would be further meetings, if needed, at which details could be discussed. He was prepared to embark upon the meeting in those circumstances because he trusted Ms Southern's judgment that anyone she sought to introduce to him as a prospective donor would be someone contemplating a donation which he, Mr Cruddas, would regard as large.
152. Mr Cruddas's evidence is consistent with what he wrote to Lord Feldman, Mr Chattey and others on 23 March. At that time he was expecting that a donation by a British company would be given clearance by the Compliance Department. He had no reason at that stage to say anything other than what he truly believed. Mr Cruddas had repeatedly emphasised in the Meeting that if a donation was to be made by a company it had to be a bona fide company. With his experience of establishing his own company's international operations, he was well placed to judge whether a bona fide British operating company was likely to be part of Global Zenith's structure. He was better placed to understand the implications of the Journalists' cover story than they were.

Mr Calvert and Ms Blake

153. There was no evidence or suggestion at any stage of the case that Mr Cruddas had ever considered a donation to the Party from a foreign source before the Meeting. The evidence in the case included evidence as to how the Journalists had obtained editorial approval for the use of subterfuge, in accordance with the PCC Code. If the Journalists had had such evidence, and had not been merely fishing for evidence of a possible offence under PPERA s.61, then they would have been expected to produce that evidence in order to obtain approval of the proposal to use covert methods to investigate Mr Cruddas.
154. Mr Calvert explained in his witness statement the reason for choosing Liechtenstein as the supposed base of Global Zenith. The reason had nothing to do with investigating a possible breach of PPERA s.61. It was because there is a paucity of public information available on companies registered there and it would be difficult for Ms Southern (who was the target of the investigation) to check out the fake company. The subsequent use of the foreign origin of the fake company to suggest a breach of PPERA s.61 was not planned until late into the investigation. It was opportunistic.
155. Mr Calvert said in his witness statement that “As co-treasurer of the Conservative Party ... he had a duty to ensure all donations are within the law and I expected him to ask more about this secretive and complex web of international money we proposed to use for the donation, but he did not do so”. However, this simply demonstrates that Mr Calvert did not know what were Mr Cruddas’s duties, and what were not. Mr Rampton did not challenge Mr Cruddas’s evidence that checking compliance was the duty of CCHQ, and not part of his duties. Responsibility for Mr Calvert’s ignorance is not relevant to the truth of what he wrote, and falls to be considered in relation to other issues which I have to resolve.
156. An important passage in Mr Calvert’s witness statement is similar to corresponding passages in the witness statements of Ms Blake and Mr Witherow. He referred to what he had written in a memorandum “Cash for Cameron”, which he and Ms Blake had prepared, and which he e-mailed to Mr Hymas and Ms Blake on 19 March at 18:04. They wrote:
- “He sailed close to suggesting a breach of electoral law but did say the reporters would have to check their arrangement with someone in the party who dealt with compliance”.
157. He returned to the topic in his witness statement, referring to the morning of 23 March:
- “I did not believe that Mr Cruddas had done something illegal by discussing the possible ways of donating with us because he had left the final advice to come from the party’s compliance team, he had stressed the need for our donation to be compliant and it was, after all, a hypothetical newspaper operation in which no donation would ever be made to test out whether the Conservative Party would accept overseas cash. But I wanted to better understand the option Mr Cruddas suggested that a donation could be made by a UK subsidiary of a foreign company, as my understanding at the time was that it was not

permitted [he accepted later in the statement that on 23 March he knew that understanding was erroneous]. I wanted to know whether the Electoral Commission would confirm my view that Mr Cruddas should not even have contemplated taking our donation” (emphasis added)

158. When the Defendants raised the possibility of applying to plead justification to the second and third meanings, pursuant to the order of the Court of Appeal, Mr Browne had raised an issue. He submitted that the existing particulars under para 7 of the Defence would not suffice to prove the truth of the second and third meanings, and that the Defendants ought not to sign a statement of truth to the effect that the second and third meanings were true. That is one reason why there was discussion before me on 26 June as to why the draft amendment to para 7(2) did not use the full words in the second and third meanings which the Court of Appeal had found the Articles to bear, but only the summary version including the word “countenancing”.
159. Mr Calvert said in cross examination that he did not know what the Editor meant when on 30 November 2011 he said to the Journalists to be mindful of not being in any way an *agent provocateur*. I did not believe that answer, and Mr Calvert did act as an *agent provocateur*, in relation to both Ms Southern and to Mr Cruddas. By his repeated suggestions and leading questions he did provoke them into saying things that they would not otherwise have said, including the words “Awesome for your business” to which the Defendants gave such prominence in the Articles. He did this notwithstanding that he had no evidence that Mr Cruddas had ever before done anything along the lines alleged in the Articles. (Because Ms Southern is not a party to this action I say nothing about any evidence against her, but I should not be understood as finding that there was any credible evidence against her).
160. In his witness statement Mr Calvert had said:
- “On 23 March Mr Hymas had made a suggestion about some side panels for inclusion with the main articles. One of these was a panel on previous donor scandals including the Abrahams matter. I discussed this with Mr Hymas and we agreed that a panel on this was not suitable as it was not the same situation as we had here, because Mr Cruddas had not arranged to accept a donation via a proxy and it would have been unfair to compare him, even by inference, to someone who had”.
161. Mr Browne cross-examined Mr Calvert on how he reconciled this statement with the statement of truth that he had subsequently signed verifying the re-amendments made to the Defence after the judgment of the Court of Appeal. Mr Browne put it to him that if Mr Cruddas had been countenancing the receipt by himself as Treasurer of a donation which he knew to be being made by a proxy, then that was the same arrangement that Mr Abrahams had made. Mr Calvert accepted that. He agreed that “The device is the same; it’s a donation by proxy, yes”. But he sought to reconcile this answer with his witness statement by saying that the difference was that Mr Abrahams went further than willingness, because he did it. This distinction is one that in this context I regard as being without a difference. In my judgment Mr Calvert has simply changed his evidence to verify in the re-amendment something which in his

witness statement he had said he did not believe to be true, namely that Mr Cruddas had at the Meeting showed himself willing to accept a donation made by the proxy for a third party.

162. Later, in his cross-examination, Mr Calvert declined to state whether he believed that Mr Cruddas was willing that the international financiers should make an illegal donation. When Mr Browne asked: “Are you saying, yes or no, that Mr Cruddas demonstrated on 15 March a willingness to commit an offence under s.61?” Mr Calvert replied: “I’ve just explained, I don’t want to answer that question yes or no”. Mr Browne, and I myself, had asked the question a number of times before Mr Calvert finally said he did not want to answer.

163. In her witness statement Ms Blake wrote that:

“Given that electoral law is designed to prevent foreign money entering the British political system at all, I was surprised that he did not rule this out altogether as the Treasurer of the governing party ...”

164. Her summary of the law is consistent with her being under the same misunderstanding of the law as Mr Calvert admitted that he had been until 23 March (namely that UK subsidiaries of foreign companies could not lawfully make donations). She wrote in her witness statement that she did not realise at the time that the requirement for a company to make donations only using money generated from profits in the UK had been omitted from PPERA.

165. Ms Blake went on to write that when Mr Cruddas told them that they should talk to Mr Chattey in the party’s compliance team that

“ I took him to mean that the compliance process was a box that we had to tick but was not going to present us with a major obstacle...”

166. She made clear that she was accusing Mr Cruddas of treating the compliance process as a sham. The necessary implication of this is that she was also accusing Mr Chattey and others in his department of operating a sham. Although this would obviously be a very serious breach of electoral law, if Mr Cruddas, Mr Chattey and others were all treating compliance checking as a sham, Ms Blake nevertheless wrote in her witness statement that the “Cash for Cameron” memo that Mr Calvert e-mailed to her on 19 March was jointly written by herself and she quoted the passage which is quoted in para 156 below.

167. In addition to confirming what Mr Calvert had written about what they had said to Mr Adams on 20 March, Ms Blake wrote this:

“Though he had been willing to consider ways in which we might donate foreign money, the conversation had been about options that we could discuss further after talking to the compliance team. We explained all this to Mr Adams, but he was of the view that the very fact that Mr Cruddas had been prepared to contemplate accepting a foreign donation might

constitute a breach of the law and could also indicate that the Conservative Party had broken the law in the past. We told him that was not our understanding, and that we would not be making such allegations in the newspaper... We had never believed that Mr Cruddas had done anything illegal because everything he said was hypothetical and subject to compliance”.

168. Referring to the time on 23 March after Mr Calvert had spoken to the Electoral Commission Ms Blake wrote:

“It was clear then that Mr Cruddas had been prepared to consider using methods which the official watchdog was actively trying to have banned, and were therefore against the spirit of the law. We therefore reviewed our articles to ensure that there was no suggestion of illegality, but that the reports reflected the fact that Mr Cruddas had discussed breaching the spirit of the law”.

169. Mr Calvert claimed to attach significance to Mr Cruddas’s words “yeah, I’m sure” (see the end of the part of the Transcript set out at para 383 below). But as I have already stated, all that Mr Cruddas was doing by those words was indicating that he was following what the others were saying. A view of the video makes that clear. Mr Calvert and Ms Blake did not include this, or any, footage relating to the foreign source of any proposed donation in the video clips they prepared and sent to broadcasters and others.

Mr Witherow

170. Mr Witherow had been equally clear in his witness statement exchanged in May that he was not seeking to prove the case that was first raised on 26 June by the amendment to para 7(2) of the Defence. He had written:

“[Mr Cruddas] explored ways by which the party could accept the donation from a foreign fund which, although not illegal, undermined the spirit of the electoral laws...”

171. Pressed by Mr Browne, Mr Witherow recognised that this was inconsistent with his saying at trial that Mr Cruddas was willing to commit an offence under s.61. He chose to resolve the inconsistency by stating that his witness statement was inaccurate.

172. Mr Browne then asked Mr Witherow to reconcile that answer with para 31 of his witness statement:

“[Mr Cruddas] did not say anything which made the reporters believe he was prepared to act illegally so the articles did not make that suggestion”.

173. Mr Witherow replied: “I think that is accurate, yes. He didn’t say anything”.

TRUTH AND THE ELECTORAL LAW MEANINGS

174. Passages from the Articles which give rise to the Electoral Law Meanings were conveniently summarised by Mr Browne, as set out in para [35] of my 5 June judgment. The “problem” that the funds originate from abroad non-British investors is one that the Journalists are recorded as making clear in a number of passages (First Article paras [3], [33], Third Article para [1]). The Claimant is said to know that that was “banned under British election law” (Third Article para [2], and other passages). But the Claimant was said to be willing to proceed with the proposal because, as Ms Southern is recorded as having told the undercover reporters, “the party don't pry as to where the money comes from” (First Article para [36] and title to the Third Article), and because he was said to be “happy for the reporters to find a way round” (First Article para [33], Second Article paras [2], [7], [59], Third Article para [2]). Given the description of themselves and their clients that the Journalists are recorded as having given to the Claimant, the Articles state that any way round the election law envisaged by the Claimant, such as the donations being given by the undercover reporters themselves, must be a sham.
175. I have set out what in my judgment is the true meaning of what was said at the Meeting, which I have found after viewing the audio visual recordings.
176. As to the oral evidence, I accept the evidence of Mr Cruddas. Where it conflicts with his evidence, I reject the evidence of the Defendants’ witnesses. In reaching this decision I have taken into account matters referred to below in this judgment.

The implications of the cover story

177. The suggestion that Mr Cruddas should not even have contemplated (in the sense of discussing) a donation from a UK subsidiary of Global Zenith, or from the international financiers as individuals, does not fit well with the cover story that the Journalists were using to deceive Mr Cruddas. The cover story was that Global Zenith’s end, or objective, was to implement its UK investment strategy of buying state assets, for example by buying Royal Mail when it was privatised. In March 2012 it was much less likely that the Royal Mail would be privatised if the Prime Minister ceased to be a member of the Conservative Party.
178. The proposed donation to the Party was put forward as a means of furthering that end, not as an end in itself. That is what Mr Cruddas understood. But the suggestion that Mr Cruddas should have shown them the door elevates the donation to the status of the end, not the means. It elevates the proposed donation to the equivalent of offering money for the supply of prohibited drugs: an act necessarily illegal. If Mr Cruddas ought to have understood that an illegal donation from a foreign source was the end, then indeed he should have refused point blank to discuss it. But since he understood that the donation from a foreign source was the means to the end, then there was nothing wrong in his exploring ways in which that end might be achieved through a donation made lawfully and consistently with the letter and spirit of the law.
179. Although the international financiers asserted an intention to use foreign funds, it would not be reasonable to expect Mr Cruddas to understand (and he did not understand) that their intentions were so fixed that they would persist in that intention, notwithstanding that they were being told that it might be possible to advance their declared end (achieving their UK investment strategy) by a donation which could be made lawfully. There was nothing wrong, and it was perfectly sensible, for Mr

Cruddas to discuss lawful means of making a donation, whether through a bona fide British company or individuals. In my judgment he did not know that the money for any donation was going to come from a foreign source. But such knowledge is an essential ingredient of an offence under s.61.

180. As to the alternative possibility of individual donations, the international financiers were posing as managers of funds holding assets valued in billions of pounds, who were contemplating buying UK assets also worth billions of pounds. Such people are notoriously highly paid, and notoriously prone to limiting their tax liabilities by operating in tax havens like Liechtenstein (as Mr Cruddas observed by saying “For tax, for tax”). Mr Cruddas was entitled to say, as he did, that he did not know their circumstances. They might well have been able to make such a donation individually from their own funds, even if they would have preferred to use their clients’ funds. This possibility was raised at the Meeting when Ms Southern said: “obviously if you two were to make a donation of 50 grand to – for the Leader’s Group it would not be beyond the realm...”
181. Unless they made explicit their intention to lie to CCHQ, the international financiers could not reasonably be understood as having so fixed an intention to use their clients’ funds that they would be willing to attempt to deceive Mr Chattey. They did not make clear to Mr Cruddas that they intended to lie. I have no doubt that if they had made that clear, he would have shown them the door: he clearly told them at the Meeting that they could not make third party payments and repeatedly stressed the need for compliance. There is no analogy between undercover journalists discussing with a party treasurer an offer to make a donation from foreign funds (where that is the means suggested to advance the different and lawful end of achieving a UK investment strategy) and an undercover journalist offering money to a dealer for drugs (where an illegal deal is the end sought to be achieved by the proposed transaction). It is not credible that, not knowing that he was being covertly filmed, he should have agreed, or contemplated, that the two total strangers in his office should lie to CCHQ, and that he should do so without anyone in the room giving any indication by word or gesture that that is what they understood he was doing. His own account (at para 149 above) is entirely credible.
182. The suggestion that Mr Cruddas might have been offering to arrange for the Party to receive a donation from donors engaged in an illegal transaction is all the more surprising and improbable in that there was no suggestion that he had ever done such a thing before, and because there was no plausible motive suggested as to why he might have been willing to do that on 15 March 2012. He told the Journalists, that he had made a number of six figure donations himself, and that there were other people who were accustomed to doing the same, all of them lawfully. He had not sought the Meeting with the international financiers, and, as he told them, he did not normally have people come to him as they did.
183. The witness statement of the Defendants’ three witness statements were all prepared to support a plea of truth to the original version of para 7(2) of the Defence, namely that the Articles meant no more than that Mr Cruddas “was prepared to contemplate ways in which donations ... could be made to the Party ... contrary to the spirit of the law...” But the Court of Appeal has determined that the Articles are not capable of being understood as alleging no more than that. These witness statements are incapable of supporting a defence that any more serious meaning is true. And there is

no other evidence to support the more serious meanings, namely the second and third meanings, which the Court of Appeal has held that the Articles do actually mean.

184. Mr Cruddas had made it abundantly clear that third parties could not lawfully make third party payments. That would apply just as much whether the person purporting to make the donation was an individual or a company. He had made it equally clear that a bona fide operating company could lawfully make a donation, even if it was the subsidiary of a foreign company. He also made clear that any question of whether a proposed donation could be lawfully accepted would be a matter for CCHQ to decide, and not himself. I do not accept that he failed to make these matters clear to the Journalists at the Meeting.
185. At the times when I and the Court of Appeal were considering the meanings of the words complained of, the only defence of truth to the Breach of Electoral Law meanings which the Defendants had raised was that pleaded in their Amended Defence at para 7(2). By that defence they sought to justify only a meaning that what Mr Cruddas offered to do was “contrary to the spirit of the law”.
186. It followed that, as soon as the Court of Appeal had held that the Breach of Electoral Law meanings meant that Mr Cruddas was willing that there should be an actual breach of electoral law, and not just something which was contrary to the spirit of electoral law, then the plea in para 7(2) of the Amended Defence became irrelevant: it did not meet the gravity of the charge.
187. However, the Court of Appeal decided to give the Defendants an opportunity to find a way out. Although the Defendants had not asked for permission to re-amend their Defence, the Court of Appeal took the unusual step of giving them permission to do so in principle. This is the paragraph of that court’s order:

“6. The Defendants have permission, (if so advised) to amend paragraph 7(2) of the Amended Defence and the particulars thereunder to justify the allegation that the Claimant had countenanced an offence under the Political Parties, Elections and Referendums Act 2000, the wording of such amendment (which is to be submitted forthwith) and the terms on which such amendment is to be granted to be determined by the trial judge.”

188. On 26 June the matter came back before me in accordance with that order. The Defendants applied for permission to amend. The original pleading and the amendments are shown by deletions and underlining, in the following form:

“7(2) That the Claimant, when faced with the prospect of donations being made to the Conservative Party from an overseas fund (which he knew was not itself eligible to make donations under the relevant law), ~~was prepared to contemplate~~ countenanced ways in which donations from that source could be made to the Party, namely;

(a) Through using a legal loophole that would permit a UK company, carrying on business within the jurisdiction, to make

donations from such a source, that is he countenanced a course of conduct that was contrary to the spirit of the law and discreditable; and or

(b) By having individuals on the UK electoral register make donations in their own name, that is he countenanced an offence under s61(1) of the Political Parties Elections and Referendums Act 2000;

even though the use of either route would result in the concealment of the true source of the donation, ~~contrary to the spirit of the law which was intended to ensure that the source of any donation over £7,500 would be made public.~~”

189. There was some discussion before me as to how the Court of Appeal came to make the order in the form that they did, and what the order meant. As a first instance judge I could not resolve any differences between the parties on those issues. And at that stage neither party wished to make further submissions to the Court of Appeal. In the event I made an order which included the following:

“3. The Amendment Application is granted to the extent that (1) the wording of the re-amendment for which the Court of Appeal gave permission in para 6 of their Order of 21 June 2013 shall be the wording of the said draft provided by the Defendants on 26 June; and (2) the terms on which such re-amendment is granted are as follows:

a. It is without prejudice to the Claimant’s contention that the re-Amendments to the Particulars of Justification do not justify any of the meanings set out in Paragraph 3(1) to (3) of the Order of 5 June 2013 [that is a reference to the first second and third meanings, and to the order which I had made] as varied and affirmed by the order of Court of Appeal ;

b. Para 7(2) of the Re-Amended Defence is to be interpreted in accordance with para 16 of the Defendants’ Skeleton Argument dated 26 June and the first sentence of para 15 of the Claimant’s Skeleton Argument of his Skeleton Argument of 25 June; [which had made clear that the word “countenanced” connoted a summary form of the second and third meanings]...”

Conclusion

190. The defence of truth to the Electoral Law Meanings (the second and third meanings which the Court of Appeal found the Articles to bear) is without foundation and I reject it.

MALICIOUS FALSEHOOD

The Law

191. In *Tesla Motors Ltd v British Broadcasting Corporation* [2011] EWHC 2760 at para [5] I set out the law as follows. The four essential constituents of the tort of malicious falsehood, and further information about it, were set out by Glidewell LJ in *Kaye v Robertson* [1991] FSR 62 at 67 as follows (the numbering is added):

"The essentials of this tort are that the defendant has [1] published about the plaintiff [2] words which are false, [3] that they were published maliciously, and [4] that special damage has followed as the direct and natural result of their publication. As to special damage, the effect of Section 3(1) of the Defamation Act 1952 is that it is sufficient if the words published in writing are calculated to cause pecuniary damage to the plaintiff. Malice will be inferred if it be proved that the words were calculated to produce damage and that the defendant knew when he published the words that they were false or that they were reckless as to whether they were false or not."

192. The 1952 Act s.3 reads:

"(1) In an action for ... malicious falsehood, it shall not be necessary to allege or prove special damage—

(a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or

(b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication."

193. In the present case no actual damage is pleaded. Mr Cruddas relies on 3(1) of the 1952 Act. In *Tesla Motors* it was common ground that the words "calculated to cause pecuniary damage" mean "more likely than not to cause pecuniary damage". See *IBM v Websphere Limited* [2004] EWHC 529 (Ch) at para 74. This was because, as Gray J noted in *Ferguson v Associated Newspapers Ltd* unreported 3 December 2001, ECHR Art 10 requires that any restriction of the right to freedom of expression must be strictly justified as necessary in a democratic society. An interpretation of the word "calculated" which permitted an action to proceed where the likelihood of any pecuniary damage was less than "more probable than not" would not be compatible with the Convention. Such an interpretation would therefore be precluded by the Human Rights Act 1998 s.3.
194. However, in the present case Mr Browne submits that "likely" does not mean "more likely than not". He refers to an earlier decision of mine, but on a different section of the Act, *Andre v Price* [2010] EWHC 2472 at para [97].
195. Mr Rampton submits that the meaning of "likely" given in *Tesla* is correct. I did not hear oral submissions on the law. I adopt that meaning for the reasons given in that case.

196. A claimant who is unable to prove actual damage and who relies on s.3 may still recover substantial damages and is not restricted to a nominal award: *Joyce v Sengupta* [1993] 1 WLR 337, 347.

Falsehood

197. Mr Cruddas claims that the Articles and video extracts published by *The Sunday Times* bear the same meanings for the purposes of the claim in malicious falsehood (with one exception) as they do for the purposes of the claim in libel. He claims that these meanings are all false, and that they were published maliciously, and that they were calculated to cause pecuniary damage to him in respect of his profession and business as Executive Chairman of an FSA-regulated on-line trading company.
198. For the purposes of the claim in malicious falsehood the Court of Appeal has confirmed that a substantial number of reasonable readers would have understood the Articles to bear all the three meanings, and that for the purposes of the first meaning, the Corruption meaning, the allegation of corruption would have been understood by such a number of readers to include corruption contrary to the criminal law.
199. The Defendants have never sought to suggest that Mr Cruddas was guilty of corruption contrary to the criminal law. They therefore did not resist a finding by the court that the first meaning is false in so far as it was understood in that way.
200. I have already held that all three meanings were untrue in the meanings which the Court of Appeal held they bore for the purposes of the claim in libel. I recall that in libel the burden of proving truth lies on the defendant, whereas in malicious falsehood the burden of proving falsity lies on the claimant. So it would be theoretically possible for the Defendants to have failed in proving truth for the purposes of the libel claim, and for Mr Cruddas to fail in proving falsehood for the claim in malicious falsehood.
201. However, it is the experience of judges in practice that the burden of proof is very rarely decisive of the outcome of an action. In the present case it is not because of the burden of proof that I have decided that the defence of truth failed for the purposes of the libel action. I would have reached the same conclusion if the burden of proof had lain on Mr Cruddas. Mr Cruddas has more than satisfied me that the three meanings were all false.
202. So Mr Cruddas has succeeded on the first stage of his case in malicious falsehood, that is, in proving the falsehoods.
203. The two remaining issues on the question of liability in the malicious falsehood claim are whether the Journalists were malicious, and if so, whether (since Mr Cruddas does not claim that he suffered any actual damage) he can satisfy the requirement of the Defamation Act 1952 s.3.

Malice – the law

204. Mr Rampton has submitted, and it has not been disputed, that for the purposes of malicious falsehood malice means the same as it does in libel in relation to qualified privilege: *Spring v Guardian Assurance plc* [1993] 2 All ER 273 (CA), and *Gatley* para 21.7.

205. On this definition a claimant is required to prove that the defendant was actuated by some wrong or improper motive, and knowledge that the words complained of were false will generally be conclusive of malice (other than in those exceptional cases where a person may be under an obligation to pass on information which he knows to be false or does not believe to be true). See *Horrocks v Lowe* [1975] AC 135, 149-151.
206. In cases where a defendant did not know that he had conveyed a meaning which the court has found the words complained of to bear, it is the subjective understanding of the meaning on the part of the defendant which is relevant to determining whether he or she knew the words to be false. See *Loveless v Earl* [1999] EMLR 530, 538-541.
207. This last point would have been more significant in this case if I had not found for the purposes of libel that the three single meanings were each of them true. There would then have been a significant difference between the libel action and the malicious falsehood action. It was to guard against that eventuality, amongst other reasons, that Mr Cruddas brought his claim in malicious falsehood as well as in libel. See my judgment of 5 June at paras [50] to [53].
208. But the subjective understanding of a defendant is not a point that can be pressed too far. The Privy Council had to consider this point in *Bonnick v Morris* [2002] UKPC 31; [2003] 1 AC 300, a case concerned with *Reynolds* privilege. The advice of the Board delivered by Lord Nicholls included:

“24. ... Their Lordships consider it would be to introduce unnecessary and undesirable legalism and rigidity if this objective standard, of responsible journalism, had to be applied in all cases exclusively by reference to the “single meaning” of the words. Rather, a journalist should not be penalised for making a wrong decision on a question of meaning on which different people might reasonably take different views. Their Lordships note that in the present case the selfsame question has resulted in a division of view between members of the Court of Appeal. If the words are ambiguous to such an extent that they may readily convey a different meaning to an ordinary reasonable reader, a court may properly take this other meaning into account when considering whether *Reynolds* privilege is available as a defence. In doing so the court will attribute to this feature of the case whatever weight it considers appropriate in all the circumstances.

25. This should not be pressed too far. Where questions of defamation may arise ambiguity is best avoided as much as possible. It should not be a screen behind which a journalist is “willing to wound, and yet afraid to strike”. In the normal course a responsible journalist can be expected to perceive the meaning an ordinary, reasonable reader is likely to give to his article. Moreover, even if the words are highly susceptible of another meaning, a responsible journalist will not disregard a defamatory meaning which is obviously one possible meaning of the article in question. Questions of degree arise here. The

more obvious the defamatory meaning, and the more serious the defamation, the less weight will a court attach to other possible meanings when considering the conduct to be expected of a responsible journalist in the circumstances.” (emphasis added)

Malice – the consequences of the decisions on meaning and truth

209. It is to be recalled that the Defendants have sought to justify the Breach of Electoral Law meanings on the basis that they meant no more than that Mr Cruddas had been willing to countenance what was no more than a breach of the spirit of the law, rather than an actual breach of the law. The Court of Appeal confirmed that that is a meaning which no reasonable person could attach to the Articles.
210. Mr Rampton has emphasised that the meanings determined by the Court of Appeal are not meanings which import that Mr Cruddas committed a criminal offence. He emphasised that if a donation were made by a British operating company which was the subsidiary of a foreign parent company there would be a breach of the spirit of the PPERA, but not an actual breach of it by anyone. So, he submitted, it is only if the donation were to have been made from money owned by a foreigner and a third party, but the true donor was concealed behind a shell UK company or individuals, that an actual breach of electoral law would be committed.
211. I accept Mr Rampton’s analysis so far as it goes. But for the purposes of this claim, which is about Mr Cruddas’s reputation, I see no material distinction between an allegation that he showed himself willing to provide access to the Prime Minister to a donor who he knew had made a donation in breach of PPERA s.61, and an allegation that he himself had committed the offence contrary to PPERA s.61.
212. What the Journalists knew at the time was what they wrote in the memorandum “Cash for Cameron”, which they had prepared, and which Mr Calvert e-mailed to Mr Hymas and Ms Blake on 19 March at 18:04. They wrote:
- “He sailed close to suggesting a breach of electoral law but did say the reporters would have to check their arrangement with someone in the party who dealt with compliance”.
213. They also knew that he had repeatedly stressed that any UK company donor would have to be “bona fide” (paras 344 and 379 below), and that “you can’t do third party payments” (para 379 below) and that donations had to be compliant. But the point they were correctly making, albeit it on the limited basis that he said they would have to check their arrangements with the Compliance Department, was that Mr Cruddas did not suggest a breach of electoral law be committed (whether by himself or by the international financiers).
214. I find that the Journalists knew that Mr Cruddas had not suggested any breach of electoral law or shown himself willing to commit an offence, or to provide benefits to them if they committed an offence.
215. I also find that they knew that the Articles did bear the meanings which the Court of Appeal has determined that they bore. As stated in *Bonnick*, in the normal course a

responsible journalist can be expected to perceive the meaning an ordinary, reasonable reader is likely to give to his article. And I would add that the same applies to an irresponsible journalist in the position of the Journalists. First, there is nothing to take this case outside the normal course to the benefit of the Journalists. On the contrary they have been contending that the words did not bear the meanings found by the Court of Appeal, but only a meaning which that Court has held no reasonable reader could understand the words to bear. Secondly, the evidence of Mr Calvert and Ms Blake was not frank. In relation to the Breach of Electoral Law meanings, I have not found credible their denials that they understood the meanings of what they wrote.

216. The Defendants' case that they did not know that the Corruption meaning imported an allegation of criminality is in a different category, because the Court of Appeal has held, reversing my decision, that that allegation is not "the (or a) dominant one" (para [32]). Nevertheless, it is a meaning which the Court of Appeal has held would have reasonably been understood by a substantial number of people. Nor is it a difficult meaning. To those who understood this meaning, the gist of the title to the First Article, which captures the gist of the Articles as a whole, is that a donation of £250,000 is in substance a bribe to persuade the Prime Minister to meet the donor secretly. The implication of criminality comes from the statement that such meetings are to enable the donor "to influence policy or gain unfair advantage in return for cash" (First Article para 14), in particular by learning from the Prime Minister "insider information" (Second Article paras [4] and [37], see para 93 above) which will be of commercial advantage to his business.
217. Whether a reader would understand the less serious single meaning as found by the Court of Appeal for the purposes of libel, or the more serious meaning of criminality, which that Court found as one meaning for the purposes of malicious falsehood, might depend upon whether the reader was one of those members of the public who were referred to by the CSPL with the words: "There is much public cynicism about political parties." (13th Report of CSPL para 1.3, see para 37 above).
218. Journalists as a profession are very alert to detecting cynicism and hypocrisy. They understand how cynics and hypocrites behave and think. I think it more than probable that the Journalists understood that cynics would understand that the Articles meant that Mr Cruddas had been seeking to induce the international financiers to make very large donations to the Party by representing to them that these donations would be bribes that would enable them "to influence policy or gain unfair advantage in return for cash", in particular by learning from the Prime Minister "insider information" which would be of commercial advantage to their business.
219. And as I have already recorded, the Defendants have accepted that that meaning is false, that is to say that it was untrue to accuse Mr Cruddas of doing that. There are set out below the passages from the Transcript in which Mr Cruddas made clear during the Meeting that the dinners and events to which donors were invited were not opportunities to seek improperly to influence Government policy or to obtain from Ministers insider information which they could not properly disclose and that any donation had to be compliant with the law.

Malice on other bases

220. Mr Cruddas pleaded his case in malice on a number of bases. The first is that the Journalists knew that the Articles were false in the meanings in which a substantial number of readers would understand them (as I have already found). In addition Mr Cruddas submits that there is other evidence that the Journalists intended to injure him.
221. Mr Cruddas relies on a large number of matters, including: (a) the delight that they manifested when Mr Cruddas resigned immediately upon the publication of the Articles; (b) the way in which the Articles had been edited through at least five different drafts, including the omission of passages from the Transcript that made clear that what Mr Cruddas had been doing was in accordance with the Party's public stance, and in accordance with what was stated in the 13th Report of the CSPL (which Sir Christopher Kelly had repeated in substance on 23 March 2012 in a telephone call with Mr Calvert), and the omission of Mr Cruddas's statement that a donor company had to be "bona fide"; (c) the association of the quote "Awesome for your business" with other statements made by Mr Cruddas which they knew were not in fact associated by him with that quote; (d) the unsuccessful attempts by the Journalists to provoke Mr Cruddas to make compromising statements, during the meeting, and to provoke Sir Christopher Kelly in a telephone call after the Meeting to make statements supporting the allegations in the Articles; (e) the statement at the end of the Third Article that it was "unclear what [Mr Cruddas's] view was" on a suggestion that the international financiers make individual donations by falsely claiming that the money was their own, when Mr Cruddas had made clear at the Meeting that donations had to be compliant and could not be made through proxies, and when they did not offer him an opportunity to comment upon that particular allegation before publication of the Articles; (f) the editing of the video extracts sent to broadcasters to make it appear that Mr Cruddas was guilty of the conduct alleged against him; (g) the covert recording of Mr Cruddas when the Journalists knew that there was no justification for doing so, and no evidence that Mr Cruddas had ever done any of the things that the Journalists alleged in the Articles that he had done; (h) the knowingly false statement made by the Journalists to the Editor in a memorandum dated 6 March 2012 in order to induce the Editor to give to them authorisation (in accordance with the PCC Code) for the use of subterfuge, namely the statement "Southern says Cruddas will also advise us on how to get round rules which ban foreign companies", when Ms Southern had not said that to them at all; (i) the decision not to give Mr Cruddas the opportunity to comment upon the allegations until after 3pm on the Saturday afternoon preceding the publication at about 10pm that evening of the edition of *The Sunday Times* dated 25 March 2012, and what they did tell him about the Articles at that time was too vague to enable him to comment effectively; (j) the decision not to give an opportunity to Mr Cruddas to state his position was motivated by the desire of the Defendants that he and the Conservative Party should not have the opportunity to correct the falsehoods in it, and so spoil the story; (k) the failure to discourage Mr Adams from asserting, as he did, that the Articles demonstrated that Mr Cruddas had committed criminal offences (Mr Cruddas had to sue Mr Adams to make him stop making allegations of illegality: (*Cruddas v Adams* [2013] EWHC 145 (QB) (04 February 2013)); (l) the failure by *The Sunday Times* to publish, at any time (and in particular after the judgment of the Court of Appeal) that they were not alleging that the corruption that Mr Cruddas had engaged in was criminal; (m) that in the issue of *The Sunday Times* dated 2 September 2012 there was an editorial comparing Mr Cruddas to Lance Armstrong. Mr Armstrong had successfully sued the

Third Defendant, but subsequently had been proved to have lied in denying that he took drugs to enhance his performance as a cyclist.

222. The greater part of the trial was devoted to a detailed investigation of the matters relied on to show that the Defendants intended to injure Mr Cruddas by publishing what they knew to be false. Since I have already decided that the claim in libel succeeds, it would be disproportionate for me to make findings on each of these many allegations of malice. I shall limit my findings to the following.

The origins of the Articles

223. The foundation of the *Sunday Times* investigation was Ms Blake's claim that she had been told by Mark Adams that Ms Southern was "willing to set up meetings with the PM directly in exchange for payment". Ms Blake made this claim in a document headed "Lobbying investigation proposal" which she drafted with Mr Calvert and e-mailed to Mr Hymas and Mr Calvert on 29 November 2011. That was at the very start of her employment with *The Sunday Times*. There was no mention of Mr Cruddas at this stage of the history. The proposal ends:

"An undercover operation is the only way to gain hard evidence that Miss Southern is willing to set up meetings with the PM directly in exchange payment, and to establish whether it is in fact possible for such a meeting to be successfully arranged for a fee."

224. At a meeting on 30 November 2011 the Journalists obtained authorisation to use covert recording of meetings with Ms Southern. On this occasion, Mr Hymas recorded the upshot of the meeting that considered that proposal. Mr Witherow, Mr Hymas, Miss Sarma, *The Sunday Times* senior in-house lawyer, and the two Journalists were present. The decision was that there was an overwhelming public interest and there was not another way of exposing Ms Southern's boasts. The Editor told the Journalists to be mindful of not being in any way an *agent provocateur*. It was agreed that the subterfuge should be progressed on a step by step basis.
225. On 15 December 2011 Mr Adams was the first person to meet Ms Southern as part of the investigation. He is a former civil servant who served as private secretary to two Prime Ministers. He was also engaged in advising clients about engagement with the **politics**. He made a false business proposal as a cover. Ms Southern did not get on well with Mr Adams for both business and personal reasons with which Ms Blake sympathised. Mr Adams played no further part in the investigation as a result. The Journalists regarded him as unreliable after this meeting.
226. That meeting produced no evidence to support his allegation, and strong evidence to refute it. She was scornful of a suggestion that someone might meet the Prime Minister for more than 45 seconds at a social event. She said: "If people are wanting to get a handshake with the Prime Minister the best way to do it is to buy a table at the Conservative Black and White party or the Conservative Summer Party". And she was emphatic that donors had to comply with the law.
227. The Journalists then used against Ms Southern the cover story, which Mr Adams had suggested, and which they later used against Mr Cruddas. They had a series of

meetings and telephone calls with Ms Southern, in Zurich (including a dinner) and in London. The telephone calls were all between Ms Southern and Ms Blake. But at the meetings with Ms Southern. Mr Calvert was present, as well as Ms Blake. These meetings and conversations also produced no evidence to substantiate Mr Adams' allegation against Ms Southern.

228. On 18 January 2012 at a meeting in a hotel in Zurich Ms Blake raised the subject of obtaining access to the Prime Minister to influence policy to the commercial advantage of her supposed company. She said "having face time ... is important to us" Ms Southern's responses to a number of questions included:

"In terms of face time that is obviously more difficult. It's not impossible, but it is more difficult. The Prime Minister is obviously a very busy man. He's not going to meet with everyone. [...] But there are certain ways of meeting him. It's not completely off the radar [...] for example as leader of the party... I mean all firms have done this, when Labour was in power [...] which is why a lot of firms give huge donations to each political party, so they are then able to interact with the political party, which I actually think is quite a good thing, because ultimately policies don't just, you know, chip up out of the civil servants, they come from manifestos that are written at the heart of each political party, and kind of the more you engage the political party from the beginning of the electoral cycle, the more influence you can have on policy. So at the moment there's something called the Conservative Policy Forum, where they take submissions from across the board [...] But obviously there are other things that political parties do, so if you donate money to a political party you will be invited to various events. [...] then it goes up incrementally until you get to the Leader's Club, which I think is £25,000, and that is obviously more high level dinners to which you be more inclined to meet with members of the cabinet, especially the PM."

229. Ms Southern went on to describe what happened at occasions when people met the Prime Minister. She said "it's not a cash for access thing". Speaking of the Black and White Party she said "They're a great event to have a bit of a chit chat with MPs, with a member of the Cabinet, it is possible that the PM will come to your table and have a chat, but again that is 45 seconds face time, it's not a longer conversation". Ms Southern explained the effect of PPERA, and the fact that all donations over £5,000 were made public. Mr Calvert asked "Is there a way round it?" Ms Southern replied "No [...] the rulings on it are very strict and I really wouldn't advise about trying to find a clever way round it, because it would end badly".
230. Ms Blake returned to the question of having a chat with the Prime Minister at an event. Ms Southern said:

"... well I wouldn't want to 100pc promise because you never can tell what happens on the evening, but certainly I was hosting a client at party conference this year and I was able to

introduce them to the PM at a business lunch [...] he was especially delighted as the PM had visited their office in New York previously and repeated the line that we'd drafted in London back to us: So he was like 'He's got the message that we wanted him to get'. [...] It was to do with numbers of people employed here versus the US operation of this company. And he said oh I was at your offices in New York, but I can't believe that there's more people employed here in London than there is over there; which is one of the big things that we were trying to say, that you think this is a foreign company, but actually they are a huge British interest [...] And that was perfect. And it was a, you know, one minute conversation, but he got exactly what he wanted from it and left very satisfied. So that was good, I was quite chuffed with that [...] I would certainly do my best to ensure that introductions took place, but again you can't guarantee these things. You just don't know how things are going to play out in the evening. [...] There was a client I was speaking with, um about three months ago who wanted to make a donation of about £100,000, and frustratingly someone talked them out of it at the last minute and when I spoke to the party I said 'Look, this person wants to donate incrementally, they want to make sure they get as much bang for their buck, as they want to basically attend as many events as possible, but the main reason they are donating this £100k is because they actually think that the Conservative party best represents their business interests'.

231. Ms Southern also said:

"If you donate £100,000 and you're expecting a reward in return then that's when things go wrong, but if you donate expecting nothing in return... you're not expecting... I mean that's where the Labour Party went wrong. They said if you donate £150k you'll get an MBE, if you donate half a million you will get a peerage...

What I'll do is I'll put together what I would call kind of political engagement with the people I think you could, the types of events I think you could go to where people are, 'cause I don't think I'd ever want to quote a meeting with the Prime Minister for x amount. I mean I can't promise that!"

232. On 18 January, at the dinner in Zurich there was a discussion of a donation to the Conservative Party. The conversation included:

"Ms BLAKE: So presumably [...] if we were gonna make a donation, is it worth talking to the treasurer of the party and saying 'how much do you need? What can we do for you? And essentially what can we get? What you do for us? Is that the kind of conversation we could have?"

Ms SOUTHERN: The current treasurer is Peter Cruddas, who is a great guy [...] I'm sure I could arrange to meet him, I know Peter from the No campaign, he's a very good guy but they employ a department of people who deal with different levels of donations. So for example if someone is gonna donate 10 grand they speak to one person, if they are gonna donate 50 grand it's a different person."

233. Ms Blake said in evidence that the suggestion for meeting Mr Cruddas had come from Ms Southern. But in fact it originated with herself.

234. Mr Calvert accepted in evidence that by the end of the meetings in Zurich they had not found evidence of impropriety on the part of Mr Cruddas. Nevertheless they decided to make him the subject of covert recording.

235. On 20 January in a telephone conversation Ms Blake took up that suggestion: saying:

"Ms SOUTHERN: But as I'm going to a function on Monday evening um where I think the party treasurer will be at so I'm going to try and have a little quiet word in his ear um about you know ways in which you know we, we could donate amd-, and such like and-, and what kind of events we'd be able to go to from that [...] I'm not mentioning any names... [...] it's just finding things out.

Ms BLAKE: Fantastic [...] I don't know if you're able to set it up, but a meeting with, with the party treasurer might be an interesting way of just [...] exploring with you and-, with him avenues that we could donate through and-, what that might mean for us and how, you know, how we could sort of engage that way".

236. On 22 January Ms Southern sent to the Journalists a formal document headed "Global Zenith Political Engagement and Insight Proposal". It summarised what she had been asked to advise upon: "political engagement with senior Conservative figures; a broader introduction into the political landscape and influence makers throughout the government in addition to detailed political analysis and insight of ongoing regulation and legislation in the UK". She explained that political engagement would include meetings with ministers, MPs, special advisers and others. She referred to the number of Conservative groups that could be joined, including the Leader's Group, and events such as the Black and White Party in February at which 900 people had attended the previous year. She quoted a monthly fee. It is not suggested that there is anything improper in anything that she set out in that Proposal.

237. On 30 January, in another phone call with Ms Blake Ms Southern said:

".... I thought it would be good for an opening meeting to take place [...] and then for a more kind of informal chat to take place over coffee er with either one of the senior people within the um department or indeed with um Peter Cruddas who I

mentioned is the co-treasurer of the Conservative Party and then we can see what options we want to go ahead with.

Ms BLAKE: Okay well I think yeah I think we mentioned before that a meeting with er, Peter Cruddas would be pretty interesting I think or as you say someone senior but obviously going to the top is always nice isn't it?"

238. On 1 February 2012 there was a meeting for which Ms Blake prepared a document headed "Memo on discussions with Sarah Southern, a lobbyist selling access to the Prime Minister". There was in fact no evidence that that was what Ms Southern was doing. However, this case is not brought by Ms Southern, but by Mr Cruddas, and I shall confine what I say to what relates to Mr Cruddas. Ms Blake e-mailed the document to Mr Hymas on 1 February at 11.45. The document records:

"She has suggested that we 'have a cup of tea' with Peter Cruddas, the party's deputy treasurer, to discuss 'getting as much bang for your buck as possible' in return for making a political donation..."

239. That report of what Ms Southern had said was not a true or fair account of what Ms Southern had said, as appears from the citations set out below from the relevant parts of the conversations between Ms Southern and Ms Blake. The words "bang for their buck", when used by Ms Southern, had not related to Global Zenith or to Mr Cruddas. That phrase came from what Ms Southern had said to the Party in relation to another client, and "the bang" that that client wanted was to attend as many events as possible. And that client was proposing to donate because they thought that the Conservative Party best represented their business interests. Ms Blake's explanation for this inaccuracy is that she did not have the transcript of the conversation until later, that is until 14 February. But she still did not accept that the inaccuracy was misleading, which it clearly was.
240. Nevertheless, authorisation was given to the Journalists for the use of subterfuge and covert recordings of meetings with a number of people, including Mr Cruddas. There is no memorandum of that meeting of 1 February from anyone representing *The Sunday Times*.
241. On 9 February Ms Southern e-mailed to the Journalists that she was preparing a full briefing document, which she provided to them in due course.
242. On 24 February Ms Blake spoke by telephone with Ms Southern to urge her to set up a meeting with Mr Cruddas and Ms Southern's other connections "anyone who you think would be useful to our general project of trying to build, you know, useful contacts for what we're trying to do". Ms Southern replied that she could probably arrange meetings with MPs, but not with the Ministers. She explained: "Obviously now that they're in Government I don't really meet them for coffee".
243. On 29 February Ms Blake spoke by telephone with Ms Southern about donating. Ms Southern noted that the Journalists were on the electoral roll and went on:

“Obviously because Global Zenith is not operating within the UK, there is obviously an issue there and I think that's something that you guys need to think about, how you are going to become members of these organisations, whether you want to do it as a kind of personal donation or how, but we can, you know, we can discuss that face to face and work out the best way forward ... [...] I think the kind of outcome of that meeting is for you guys to get a better feel of the different opportunities you can get to engage with the party, to put your message across, and also to kind of find out what the party's doing through their various events”.

244. There is nothing in the transcript of this conversation to suggest that Ms Southern was contemplating anything which was not completely lawful. In evidence Ms Blake said:

“She is proposing an illegal method of donating of the money. She knows very well that it is not ours. When I am saying, ‘What could we talk to Mr Cruddas about?’, she says, ‘It’s a bit of a problem that you are a foreign company’. At this stage, we assumed that she had, when she had spoken to Mr Cruddas’s secretary, that she filled him in a little bit on who we were... The only possible way forward for us to make a donation would be a way round the rules. There is no other way for it to be done. That is the impression I formed. I thought I cannot understand why she thinks we can discuss this with Mr Cruddas. It has to be either a loophole or illegal. That was my impression”.

245. She repeated that this was her impression and her assumption on several occasions under cross-examination about the conversation of 29 February and the document dated 6 March.

246. Ms Southern prepared a ten page brief headed “UK Government Asset Sale: Royal Mail” and a four page brief headed “Meeting with Peter Cruddas: 15 March 2012”, both of which were provided to the journalists the day before the Meeting. The one including the name of Mr Cruddas included a biography of Mr Cruddas, a summary of the legal framework for donations to political parties and a list of upcoming events. The page relating to the legal framework gave the list of “permissible donor” classes and added the following:

“Due diligence will be done by the Conservative Party to ensure that any donation made if [sic] from a permissible donor. Any donation that is made above £500 will be declared to the Electoral Commission. Each quarter the donations are declared to the Electoral Commission who then publish them online via their website [and the address is given]”.

247. The brief on the Royal Mail included information about the recent enactment of the Postal Services Bill in June 2011 which provided the framework for the privatisation of Royal Mail. There was a summary of the business of the Royal Mail and the problems associated with it, including the deficit said to be £8 billion in its pension

fund. There is a summary of the legislation and of EU State Aid Rules. On a page headed Support/Opposition describing the attitude of the trade unions and others there is the following paragraph:

“During the Committee Stage of the Bill the Labour Party tried to add a time caveat to the Bill. They wanted the sale to happen within twelve months or the Bill would have to be reintroduced to Parliament. This would have led to the failure of the Bill and the sale. This amendment was defeated. ... The main union, the Communications Workers Union (CWU) ... are against privatisation and would welcome any opportunity for the Royal Mail to remain state owned...”.

248. There follow lists and information about key influence makers both amongst politicians and others, and a summary of the media coverage that had occurred up to that point.

249. On 1 March the Meeting was arranged: see para 63 above.

250. On 6 March the Journalists wrote a memorandum for Mr Hymas headed “Update on Insight Investigation of Sarah Southern, a lobbyist selling access to the Prime Minister”. It included:

“The purpose of the meeting is to discuss what we will get in return for a six figure donation, in terms of access to ministers, influence over policy and membership of networking clubs. Southern says Cruddas will also advise us on how to get around rules which ban foreign companies from donating”.

251. The last sentence referring to Mr Cruddas was false. Ms Southern had said nothing of the sort. In her evidence Ms Blake explained: “That sentence derives from a conversation we had on 29 February and it was the impression I had formed about what Miss Southern was saying to us”.

252. I have set out my findings as to what Mr Cruddas did and did not say at the Meeting.

Events between 15 March and 24 March

253. I have set out above the e-mails that Mr Cruddas sent and received. I also read documents and received evidence about what passed between Ms Southern and the Journalists in this period. This period is the subject of those parts of the Third Article after para [8] which Mr Cruddas does not complain about. He does not complain about them because they relate to Ms Southern.

254. As I have already noted, Ms Southern is not a party to this action, she has not given evidence, and I have not listened to the audio recordings of the conversations between her and the Journalists, and I have heard no submissions on her behalf. I make no findings about Ms Southern. It would be unfair for anyone to interpret anything in this judgment as an expression by me as something adverse to her. The same applies to Mr Cameron and other persons named in this judgment who are not parties and who have not given evidence.

255. On 19 March the Journalists wrote the memo from which I have quoted in para 156 above.
256. On 22 March Ms Southern told Ms Blake in a telephone conversation:
- “I do think, having spoken with people at the Conservative Party yesterday, the only way that we’re going to be able to give legitimately is through, erm, an individual or individuals, who are on the electoral roll, as they will not take money from a company, erm, that isn’t trading properly within the UK”.
257. There then followed a discussion as to how that might be done. In a subsequent telephone call on 23 March Ms Blake asked whether Ms Southern had mentioned this discussion to Mr Cruddas. She replied that she had just told him that she was still discussing things with the international financiers, and that they could have any discussion with him at the next meeting which was arranged for the following Friday. The Defendants do not suggest that Ms Southern had discussed the matter further with Mr Cruddas.
258. The Journalists decided not to ask Mr Cruddas directly before publication. They already knew that he had said at the Meeting that they could not make third party payments, see paras 379 and 383 below.
259. In the course of the telephone conversation with Sir Christopher Kelly Mr Calvert gave a summary of what he said Mr Cruddas had said at the Meeting. That summary is not consistent with what I have found Mr Cruddas said. It is closer to what the Articles attributed to Mr Cruddas. Nevertheless, Sir Christopher said: “I mean the truth is that what you’ve discovered isn’t a secret is it?” and Mr Calvert replied “No it isn’t”. Mr Calvert started by asking Sir Christopher to keep the conversation between themselves, and he confirmed that he was speaking “off the record”. I see no need to set out more of what he said in a transcript that covers 7 pages, save the following.
260. Mr Calvert reported in the Second Article:
- “[18] However, Sir Christopher Kelly, chairman of the committee, said on Friday that this newspaper’s investigation was further evidence that there was a “significant risk of both influence and access being granted in return for donations”.
261. Sir Christopher had not said the newspaper’s investigation was further evidence that there was a “significant risk of both influence and access being granted in return for donations”. He preceded the words in quotation by saying that he knew nothing about the details of the newspaper’s investigation, and went on to make a general point unrelated to the newspaper’s investigation. He said that
- “it is no secret that the three main political parties are dependent for their financial existence on donations from very wealthy individuals or organisations and for as long as that continues there is a significant risk both of influence or access being granted in return for those donations on the one hand and on the other hand suspicion and mistrust on the part of the

general public and stories like yours will simply fuel that suspicion”.

262. In cross-examination Mr Calvert did not accept that he had given a misleading impression in the Articles about what Sir Christopher had said. In my judgment he had given a misleading impression. Sir Christopher had been talking of the system generally, as applied by all the main parties, and was not commenting upon anything said by Mr Cruddas. He did not say that the newspaper had produced “evidence” of a risk. I take the point he had made about “stories like yours” in the sentence in question to be the same point as he had made in his Report at para 1.20 (para 37 above):

“Public suspicion about party funding might partly reflect the way some donations are reported in the media.”

Other points relied on as showing malice

263. It is not necessary, and it would not be proportionate, for me to make specific findings in relation to all the points which Mr Cruddas relies on support of his case that the Journalists were malicious.

The Defendants’ witnesses

264. It is very surprising that the Journalists should so consistently and seriously have misled the Editor as to the basis on which they sought authorisation for the use of subterfuge. Whether and if so how much Mr Hymas was misled is not something on which I can make a finding. The Journalists claimed in evidence that he had been kept fully informed. But since I find much of their evidence incredible, I doubt that too. And it would be unfair to Mr Hymas if I were to say that I accepted that they had kept him informed. On the other hand he has not been called to give evidence, notwithstanding that he gave a witness statement, and attended the first day of the trial. Since he is not a party the decision whether he would give evidence was not his, but the Defendants’ to make.
265. In the case of Ms Blake it should have been all the more surprising, since she had been one of the journalists whose conduct had been the subject of the Adjudication made upholding the complaint of the Liberal Democrats (para 51 above). But in her evidence Ms Blake showed why I should not be surprised. She said: “I actually don’t personally agree with that judgment by the PCC”. This answer was typical of her manner in giving evidence. This was a prolonged demonstration of self-assurance and unwillingness to accept that anything she had done would have been better done differently or not at all.
266. Ms Blake knew about the Leader’s Group, and what the response of the Conservative Party was to allegations which she had published in *The Daily Telegraph*, because she had published that information in her article in September 2011 (see para 40 above).
267. This case for the Defendants is built on what are said to be the Journalists’ assumptions and impressions, instead of on facts. However, errors, however careless and irresponsible, are not proof of malice. Malice is a form of dishonesty.

268. There certainly have been errors on the part of the Journalists. As noted above (paras 157 and 164 above), both Mr Calvert and Ms Blake recognised in their evidence that their understanding of the law was mistaken until after the Meeting, and was only put right between the Meeting and publication, when they learnt that a UK operating subsidiary of a foreign company could make a donation, provided that it was not being used to hide a third party donation. Parliament had chosen not to adopt the Recommendation of the CSPL and the Electoral Commission that would have made this impossible, unless the subsidiary generated sufficient revenue of its own.
269. I have no doubt that Ms Blake was out of her depth on other matters too, such as whether a company such as Global Zenith could be expected to set up a bona fide British subsidiary in order to carry out or facilitate the carrying out the UK investment strategy which she was pretending that it wanted to do.
270. But ignorance of electoral law, and of how financial services companies operate, is not an excuse or justification for recording in reports to her superiors as facts matters which were not facts, but were in truth only her impressions and assumptions. If she had wanted to inform her superiors what were her impressions and assumptions, and what were facts, she could easily have done so. She knew what she was doing in confusing the two. She was not being honest with her superiors.
271. In order for a court to find that a witness has been untruthful it is not necessary to find a motive. But a motive, or the absence of a motive, may provide some support for a finding. I have noted the absence of any plausible motive that could explain the very serious allegation the Defendants have made against Mr Cruddas.
272. Ms Blake made a number of remarks which suggest that she did have a motive to injure Mr Cruddas. She expressed strong disapproval of the present system of party funding. She said it was “quite shameful for the Prime Minister to tout himself to businesses who pay to have their photograph taken, it’s demeaning to his office”. She also expressed the scepticism of the motivation of donors which, according to the 5th and 13th Reports of the CSPL is a scepticism shared by many members of the public. But disapproval of the present system of party funding is not an excuse for misreporting impressions and assumptions as facts. Ms Blake is entitled to express the opinions which she did express, if she honestly holds those opinions. But such opinions are not facts.
273. I have not found a motive why Mr Calvert did what I have found that he did. He is an experienced investigative journalist. So far as the telephone conversations were concerned, he was not a party, and was dependent upon what Ms Blake told him Ms Southern said, at least until the transcripts of those calls became available. The investigation was also a project initiated by Ms Blake, and her first project in her new job. She may well have been very enthusiastic and persuasive. Her evidence was not persuasive under cross-examination, but she was very persistent and self-confident.
274. By 15 March 2012 the Journalists had no evidence upon which to suspect Mr Cruddas personally of impropriety or of misleading the public, whatever views they held about the present system of party funding. The information that they had received from Mr Adams about Ms Southern, and which had led them to start their investigation in November 2011, had not been supported. It is difficult to prove a negative, but all that Ms Southern had said to them in meetings and phone calls prior to 15 March 2012

came as near as possible to proving that she was not making the claims which Mr Adams had alleged that she was making. So it is impossible to understand why the Journalists persisted in the investigation for as long as they did. By 15 March 2012 it had become a fishing expedition.

275. Mr Witherow had not read the Transcript or watched the audio visual recording. It is far from clear whether Mr Hymas had either. Anyone who read the Transcript and did not listen to and watch what had actually happened could easily be misled as to what Mr Cruddas was really saying. However, that does not apply to Mr Calvert because he was at the meeting.

Finding on malice

276. In my judgment, for the reasons stated above, Mr Calvert and Ms Blake did know that the Articles were false in the meanings which they knew them to bear. They did have a dominant intention to injure Mr Cruddas, and they expressed delight when they learnt that they had caused his resignation. Mr Calvert nominated himself for a prize with Private Eye, and did so in terms which led the editors of Private Eye to report the matter in terms that caused further damage to Mr Cruddas, saying that he was “was even prepared to receive a donation illegally from a Liechtenstein fund”.
277. The Journalists have done nothing to limit the damage to his reputation by making clear that the Corruption meaning was not intended by them to impute criminality, until after my 5 June judgment in which I had found that that was a meaning which a substantial number of reasonable readers would understand. As set out below, it soon became clear that many readers had understood the Articles in that way.
278. I find that Mr Calvert and Ms Blake were malicious, and the Third Defendant is vicariously liable for their malice.

DAMAGES IN LIBEL

The law

279. There is no dispute as to the applicable law. It was recently summarised in *Cairns v Modi* [2013] 1 ELR 1015 as follows:

“21 It is trite law that an award of compensation in a defamation action is required to serve one or more, and usually all, of three interlocking purposes. As it was put by Sir Thomas Bingham MR in *John v MGN Ltd* [1997] QB 586, 607E-F:

"The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name; and take account of the distress, hurt and humiliation which the defamatory publication has caused."

22 These distinct features apply to every defamation case, but the emphasis to be placed on each will vary from case to case. Sometimes, for example, there may be relatively little demonstrable damage to reputation, but serious emotional

distress; on other occasions, the need for public vindication will predominate; in yet other cases the financial consequences of damage to the reputation of the individual may represent the most serious feature....

27 ... we recognise that as a consequence of modern technology and communication systems any such stories will have the capacity to "go viral" more widely and more quickly than ever before. Indeed it is obvious that today, with the ready availability of the world wide web and of social networking sites, the scale of this problem has been immeasurably enhanced, especially for libel claimants who are already, for whatever reason, in the public eye. In our judgment, in agreement with the judge, this percolation phenomenon is a legitimate factor to be taken into account in the assessment of damages.

28. Libel damages are intended to compensate the victim rather than punish the perpetrator. Where the court wishes to take account of aggravation on the defendant's part in arriving at the appropriate sum, as in the case of *Cairns v Modi*, it is compensating the claimant for additional hurt to his feelings, or in the context of vindication, injury to his reputation, brought about by the defendant's conduct over and above that caused by the publication itself....

31 ... but it is perhaps worthy of note that most lay observers or "bystanders" would be unlikely to read a detailed judgment and would be rather more interested to find out what sum the court, whether judge or jury, had awarded the claimant. Given the wholesale attack on Mr Cairns' reputation in the course of the trial, as reproduced in the media around the world, it is safe to assume that such a person would only be convinced by an award of some magnitude. Without adding to the judicial observations on this topic, we reject the submission that the present award should be reduced merely because Bean J's judgment contained express elements of vindication of Mr Cairns' reputation.

32 In any event it cannot be right in principle for a defendant to embark on a wholesale attack on the character of a claimant in a libel action heard by a judge without having to face the consequences of the actual and potential damage done to the victim both in the forensic process and as a result of further publicity. There will be occasions when the judgment will provide sufficient vindication, but whether it does so is always a fact specific question. The judge will be well placed to assess whether the terms of the judgment do indeed provide sufficient vindication in the overall context of the case. In the present case, we think it unlikely that cricket fans will have downloaded the judgment of Bean J and read it with close

attention. It is more likely, as in so many cases, that the general public (or rather, interested "bystanders" who need to be convinced) will be concerned to discover what might be called the "headline" result. What most people want to know, and that includes those who read the judgment closely, as Mr Caldecott submitted, is simply "how much did he get?"

280. The main factors to be taken into account are the position and standing of the claimant, the gravity of the allegation, the extent of publication, the identity of the publishers and the degree of distress caused the claimant. Damages must be no more than are necessary and proportionate to compensate the claimant.

The facts

281. As already recorded, Mr Cruddas issued a resignation letter immediately after the first edition of *The Sunday Times* had appeared late on Saturday 24 March. Lord Feldman had called him to say that the Prime Minister was "very upset" and that he had "destroyed seven years of good donor relations".
282. Mr Cruddas said he was in a state of shock, and more concerned for his wife and children than anyone else. He felt physically sick. On the Monday he wanted to go away, but his wife told him that he had 700 people working for him with mortgages and children to support and he had to go to the office to hold his head high. He did, but felt ashamed, seeing his head on the TV screens there which were playing the video Extracts. The references to him in Parliament were also shown on TV.
283. Mr Cruddas describes in his witness statement the distress and embarrassment he and his family have suffered as a result of the Articles. These included humiliating remarks made to his adult daughter. This was the incident that upset him more than anything to do with his business.
284. He also described in his oral evidence that he became disillusioned with his charity work. He would have felt embarrassed to be meeting people like Prince Charles, who he had been meeting through the Prince's Trust and the Duke of Edinburgh Award scheme, and he did not wish to bring embarrassment on such a person by appearing in public with him. He is still not as active in his charity work as he had been. He was also angered by the decision of the Defendants to re-amend in June to seek to prove true the allegations of criminality which, until then, they had not alleged to be true.
285. The circulation of *The Sunday Times* both in the print edition and online is very large. The readership of the Articles was probably in millions. The story had been trailed by the video Extracts which the Defendants sent to broadcasters for the purposes of advertising the Articles. The Articles were not taken down from the Defendants website until 6 June, the day after my 5 June judgment.
286. There was a media storm over the weekend and the following week. Some of what was published is set out in my judgment of 5 June 2013 at para [74]. It is not necessary for me to repeat that in this judgment.
287. On the Sunday the Prime Minister gave an interview on TV in which he said that "what happened was completely unacceptable. This is not the way we raise money in

the Conservative Party. On the Monday the Prime Minister was due to give a speech to the Alzheimer's Society. He took the occasion to state the following:

“Yesterday I said that what the former Treasurer of The Conservative Party, Peter Cruddas, said was completely unacceptable and wrong.

I want to make clear that no money was accepted from the exchange he had and of course he has now resigned from his post.

We have a robust and sensible system for raising money in the Conservative Party, all donations to the party centrally above £7,500 are declared to the electoral Commission and must comply with electoral law.

No donation is accepted before going through very thorough compliance procedures. But as I said yesterday, in light of these events I have ordered a full party inquiry.

This will be led by the Conservative peer Lord Gold – a distinguished lawyer and a former senior partner at Herbert Smith – but let me deal with some of the specific points.

There has been much speculation about dinners in my flat in number 10 Downing Street. The position is this, in the two years I have been Prime Minister there have been three occasions on which significant donors have come to a dinner at my flat.

In addition there was a further post-election dinner which included donors in Downing Street itself shortly after the General Election.

We will be publishing full details of all these today.

None of these dinners were fundraising dinners, and none of these dinners were paid for by the taxpayer. I've known most of those attending for many years.

Let me add that Peter Cruddas has never recommended anyone to come to dinner in my flat, nor has he been to dinner there himself.

I already publish details of my external meetings as Prime Minister – the first Prime Minister ever to do so – and I also publish all meetings I have with media editors and proprietors.

From now on the Conservative Party will publish details every quarter of any meals attended by any major donors whether they take place at Downing Street, Chequers or any official residence.

The conservative Party is funded by private citizens. I inherited a party that was tens of millions of pounds in debt and dependent on a tiny number of big donors.

Since I've been leader we've significantly broadened the Conservative Party's funding base to many more significant donors.

One way we do this is through the Leader's Group, where donors pay £50,000 a year and there are regular dinners attended by myself or other senior ministers. This fact is already known and transparent and any donations are declared to the electoral commission.

However from now on, the Conservative Party will in addition publish a register of those donors who actually attend these fundraising dinners.

On policy, let me make clear, no one in the number 10 policy unit has met anyone at Peter Cruddas' request.

Peter Cruddas spoke about passing requests to a policy committee at number 10 Downing Street – there is no such committee.

However, to avoid any perception of undue influence from now on we'll put in place new procedures in which if any ministerial contact with a party donor prompts a request for policy advice the minister will refer this to his or her private office, who can then seek guidance from the permanent secretary.

Clearly there is still an urgent need for party funding reform in this country. I've consistently argued this over the last six years.

No party is immune from these problems, and indeed the leader of the Labour Party has himself encountered some controversy in recent days.

That is why the Government has invited Labour to restart cross-party talks on reforming the current rules, but today I make this offer once again to the Labour Party. ”

288. The Prime Minister did not know what Mr Cruddas had said. All he knew was what *The Sunday Times* had reported. This speech by the Prime Minister was a massive public humiliation for Mr Cruddas.

289. On the Andrew Marr show David Miliband said:

“The idea that policy is for sale is grotesque. I think that David Cameron is going to have to, if not today, then in the next few

days publish the list of policies that have been sent from these dinners...”

290. On 26 March Ed Miliband raised the matter in Parliament:

“It is illegal to solicit donations through overseas companies and illegal to disguise those donations, yet there are allegations that this was exactly what Mr Cruddas was suggesting...”

291. The Defendants did nothing to inform the public that this was a misrepresentation of the Articles, and that they had made no such allegation. This is to be contrasted with the Saturday morning, when Mr Adams had sent an e-mail saying the Conservatives may have broken electoral law and suggesting that he should make a complaint to the police. Mr Calvert replied, with a copy to Ms Blake, telling him to wait and read the Articles. He explained: “we are not going as far as alleging anything”.

292. Mr Adams did report the matter to the police on the Sunday, with as much publicity as he could generate, giving interviews on Radio 4 and Radio 5 Live, and saying he thought a crime had been committed. The only comment Ms Blake made was a text saying “You were great” referring to his appearance on TV. As already noted, Mr Adams continued with the allegations of illegality until Mr Cruddas sent him the Transcript, following which, on 2 November 2012, he said he did not defend the action Mr Cruddas had brought. Judgment was entered against him by default.

293. On 29 March Mr Cruddas’s solicitors asked the Defendants for a copy of the covert recording. The next day the Defendants refused on the spurious ground that it was confidential. It was over two months later, on 14 June 2012, and after Mr Cruddas’s complaint to the PCC made on 5 April, that the Defendants allowed him to watch the covert recording. Even then they would not provide him with a copy until 14 June. The Defendants have complained that Mr Cruddas had himself covertly recorded a copy when he viewed the video on 14 June.

294. In delaying that, the Defendants prolonged the period during which Mr Cruddas was unable to demonstrate what he had said at the Meeting, and this increased the injury to reputation and his feelings.

295. The Defendants had given a viewing of the covert recording to the Electoral Commission and to the police, who cleared him on 3 September 2012. And Mr Cruddas provided a copy to Mr Adams, as recorded by Eady J, as a result of which Mr Adams ceased to defend that action. But they did their best not to provide a copy to Mr Cruddas.

296. In the next issue of *The Sunday Times* the Defendants published an editorial “A corrupt system badly in need of reform”:

“Anybody in politics who doubts the seriousness of the party funding scandal should look at our YouGov poll today. Carried out in the wake of last Sunday’s Insight exposé of Peter Cruddas, the Tory party co-treasurer, it shows voters believe corruption in British politics is rife.”

297. On 29 June Mr Cruddas sent a detailed letter before action. On 13 July the Defendants wrote that if he sued “a number of substantive defences would be available, including justification, fair comment and the *Reynolds/Jameel* public interest defence”.
298. On 2 September they published the editorial referred to at the end of para 221 above. The editorial referred to the remarkable record of achievement on the part of the Insight team of *The Sunday Times* in the field of investigative journalism. But the editorial went on to compare Mr Cruddas with Lance Armstrong. Mr Armstrong had undoubtedly taken performance enhancing drugs, and had lied to the court and many others in denying it (Mr Witherow said the Defendants were expecting to recover money back from Mr Armstrong on account of that). They wrote that they would “robustly defend” Mr Cruddas’s action, but they did not say that they would defend it on the basis that they had not alleged against him any criminality, or anything more than a breach of the spirit of electoral law.
299. On 3 September the police wrote to Mr Cruddas a letter clearing him, which he sent to the Defendants, and which the Defendants did not report, in spite of the fact that Mr Cruddas’s solicitors requested that they publicly state that Mr Cruddas was not guilty of any criminal conduct. The police wrote there was
- “no evidence of any criminal conduct on the part of yourself or Ms Sarah Southern, either directly or by implication during the course of The Sunday Times investigation. I also conclude that no inchoate offences have been committed”.
300. Asked why the Defendants had not publicly stated that no criminality was alleged, Mr Witherow said he was no longer the Editor of *The Sunday Times* and the Journalists said they had nothing to correct. They were not responsible for what so many readers had said they understood the Articles to mean.
301. The cross-examination of Mr Cruddas was as robust as it could be. Mr Cruddas found it offensive, and it was. He was strongly challenged on the truthfulness of his answers. Although Mr Rampton started by acknowledging that Mr Cruddas was a man of integrity, he made no allowance for that in his cross-examination. Mr Rampton, instructed late as he was, said that he had not found the time to look at the whole of the audio visual recording. He accepted that Mr Cruddas appeared sincere, but submitted that that was only an appearance.

Conclusion on damages for libel

302. The Articles received the maximum possible publicity. The allegations are very grave, although not the gravest that comes before the courts. They go to Mr Cruddas’s personal honour and integrity.
303. Mr Cruddas has suffered great personal distress, both directly, and through his family and the employees of his company. He has suffered public humiliation from the Prime Minister. He had a high standing in society, both for his business success and his charitable work, all of it earned by him personally through his own efforts, and from a disadvantaged start. The conduct of the Defendants in contesting the action both before and at the trial has been offensive.

304. It may be a small consolation to him that the trial has received almost no publicity in the media, so far as I am aware. So the damaging allegations against him have not received wider circulation in that way, as often happens in libel actions that go to trial. But that makes it all the more important that the award of damages should be one that will receive publicity.
305. In my judgment the sum which is necessary and proportionate to mark the vindication that Mr Cruddas is entitled to, and compensate him for his distress and humiliation is £180,000. That includes £15,000 for aggravated damages.

DAMAGE IN MALICIOUS FALSEHOOD

306. As noted above, either actual damage, or damage as referred to in the Defamation Act 1952 s.3, is an essential constituent of this tort. If that were not the case, there would be little point in my considering damages for malicious falsehood, because they would not increase the damages which I have already assessed for the libel. There cannot be double recovery.
307. The issue between the parties is an unusual one. The claim in respect of likely damage under s.3 is in respect of Mr Cruddas's profession and business as Executive Chairman of what was at the time a company regulated by the Financial Services Authority (now replaced). In summary he claims that the falsehoods meant that it was likely that he would not continue to be considered a "fit and proper person" to be concerned in the management and control of a company carrying on a regulated activity. Alternatively, Mr Cruddas's case is that it was likely that the authorities would investigate the allegations, and he would have felt obliged to pay personally the costs relating to any such investigation, because the investigation would have arisen out of personal activities, not any activities on behalf of his company. Loss of approval by the regulator would have led to loss of his very substantial salary, amongst other financial consequences.
308. The Defendants' case is that, if the allegations were indeed false (as I have found them to be), then it would not be likely that the regulatory authority would sanction Mr Cruddas in any way. This is because there are elaborate provisions as to the conditions to be fulfilled before any sanction can be imposed, and in the course of fulfilling such conditions the regulator would have discovered the truth. This is an unusual argument, because in most malicious falsehood cases the publishee is not under any obligation to investigate the truth of the allegation, and will be likely to proceed on the footing that the falsehoods were true.
309. A vast amount of effort has been dedicated by the Defendants to establishing their case. In my judgment it was that was likely that there would be an investigation and that Mr Cruddas would incur substantial costs in dealing with that. That is sufficient to satisfy the jurisdictional requirement of s.3. It would be disproportionate, and is unnecessary for me to explain this conclusion in any detail. I do not need to address Mr Cruddas's primary case at this stage. If for some reason it becomes necessary to deal further with the parties' respective cases in relation to s.3, then I can do that on some later occasion. The parties rightly made only the briefest oral submissions on this part of the case.

310. If Mr Cruddas had succeeded only on malicious falsehood, and not in libel, then I would have gone on to consider all the issues in relation to damage. As it is there is no point, and I will make any necessary findings separately at a later date, should that become necessary for any reason.

CONCLUSION

311. For these reasons the claim succeeds both in libel and in malicious falsehood. There will be judgment for the Claimant for damages in the sum of £180,000 and such other orders as may be agreed between the parties or settled by me after further submissions on the form of the order.

ANNEX I

312. The First Article reads:

Tory treasurer charges £250,000 to meet PM

[1] A CO-TREASURER of the Conservative party was forced to resign early today after being filmed selling secret meetings with the prime minister in return for donations of £250,000 a year and boasting: “It will be awesome for your business.”

[2] Peter Cruddas, the multimillionaire Tory fundraiser, offered a lobbyist and her two overseas clients direct access to David Cameron if they joined a “premier league” of donors who give six-figure sums.

[3] The offer was made even though he knew the money would come from a fund in Liechtenstein that was not eligible to make donations under election law.

[4] Options discussed included creating a British subsidiary or using UK employees as conduits for the donation.

[5] Cruddas resigned within hours of this newspaper publishing details of its investigation.

[6] The overseas clients he met were, in fact, undercover reporters posing as wealth fund executives who had made clear they wished to develop contacts with the prime minister and other senior ministers to further their business.

[7] During a three-month investigation they had hired Sarah Southern, a former Cameron aide now working as a lobbyist, who advised them that making a “huge donation” was the best way to gain access to senior government figures.

[8] Her connections led to a two-hour meeting with Cruddas this month in which he laid bare the extent to which the party has been prepared to sell access to Cameron in exchange for cash. He revealed:

[9] ■ Donors who want to be “taken seriously” are told they should give £250,000 to join the “premier league”, and then “things will open up for you”. Cruddas warned that nothing could be gained by “scratching around” giving £10,000 a time.

[10] ■ The “premier league” can lobby the prime minister directly on business issues and their views are “fed in” to the Downing Street policy machine.

[11] ■ The party makes “well over” £5m a year selling private dinners with Cameron to its biggest donors, who can pick up “key bits of information” by asking him “practically any question that [they] want”.

[12] ■ The prime minister entertains big donors at No 10 and Chequers, his official retreat. Donors are also invited to soirées at the Downton Abbey location, Highclere Castle.

[13] ■ Big donors are invited to bring their most important clients to exclusive events, where they can be introduced to ministers such as George Osborne, the chancellor, and William Hague, the foreign secretary.

[14] The disclosures appear to contradict claims by the Tory party that its high-value donor groups, such as the “leader’s group”, are for genuine supporters who do not seek to influence policy or gain unfair advantage in return for their cash.

[15] Last night a spokesman said the party would launch an urgent investigation.

[16] The revelations also raise questions about the role of the prime minister. Months before taking office, Cameron warned that this type of “secret corporate lobbying” was the “next big scandal waiting to happen”.

[17] The meetings at which “premier league” donors could lobby the prime minister directly have not been declared to the public.

[18] Cruddas, who is 90th in The Sunday Times Rich List after building a £750m fortune through financial spreadbetting, was one of the party’s co-treasurers and a member of its controlling board.

[19] The undercover reporters told him that they were British expats working for a company incorporated in Liechtenstein but they wanted to do business in the UK, buying up government assets such as the Royal Mail. They said their wealthy Middle Eastern funders expected them to have contacts with the prime minister and other key government figures.

[20] Cruddas initially gave them the party line that it was not possible to buy access to the prime minister, but then went on to suggest the opposite.

[21] He said the reporters could join the leader’s group for £50,000, but that would not get them into the “premier league” of donors with special access.

[22] The reporters were told they had to come into the party at a “high-level” with a big donation. “Hundred grand [a year] is not premier league. It’s not bad. It’s probably bottom of the premier league. Two hundred grand, 250 is premier league.”

[23] The reporters said that the sum was in their budget. The conversation continued:

[24] Reporter: “If we do become premier league, what would we get in addition?”

[25] Cruddas: “... The first thing we want to do is get you at the Cameron and Osborne dinners.”

[26] He added later: “In fact, some of our bigger donors have been for dinner in No 10 Downing Street, in the prime minister’s private apartment, with Samantha.” They could ask the prime minister anything they liked about issues affecting their business. Told the reporters wanted to raise with Cameron the prospect of an overseas firm buying the Royal Mail, Cruddas responded: “Spot on ... You could ask him about that. That would be a very good thing.”

[27] Cruddas, who has given £1.2m to the party, said he had used his access to Cameron to object to the Tobin tax on financial transactions: “He said don’t even worry about it...”

[28] Cruddas said that big donors could not determine policy, but he would make sure that their suggestions were fed into the No 10 policy unit. “If you are unhappy about something ... we’ll listen to you and we’ll put it into the policy committee at No 10. We feed all feedback into the policy committee,” he said.

[29] The meetings were also good for intelligence. “It’s key bits of information that you can use ... Frequently I say, well, I was with the prime minister last week and he told me this.

[30] “You do really pick up a lot of information... You are not seeing the prime minister, you’re seeing David Cameron. But, within that room, everything’s confidential and you will be able to ask him practically any question you want.”

[31] The reporters could also impress clients with their top contacts. “It’ll be awesome for your business. You’ll be ... well pleased. Because your guests will get photographed with David Cameron,” he said.

[32] Business clients could also meet the chancellor. “If you ring me up ... and [say] I’ve got this really important guy coming to this event, you know, really need to make sure

George Osborne says hello to him, and I'll make sure that happens, okay?"

[33] There was still one problem, however. The proposed donation was being paid from a Liechtenstein fund and belonged ultimately to Middle Eastern investors. It was a foreign donation. Cruddas was happy for the reporters to find a way around this and said he'd arrange a meeting with the party's "compliance people" to check that it was legitimate. One option was to create a UK company to donate the money.

[34] He said: "Set up a company, employ some people to work here."

[35] Later, though, the reporters' lobbyist spoke to party officials and returned. As the reporters, posing as executives, were British, the money could be channelled through them.

[36] "[The company] would have to donate through an individual (perhaps a director of the company) who is registered on the UK electoral roll," Southern wrote. She later claimed on the phone: "[The party] don't pry as to where the money comes from, at all."

[37] Cruddas and Southern declined to comment.

[38] A Conservative party spokesman said none of the donations was ever formally considered and that donations had to comply with electoral law, which was strictly enforced by the party's compliance department. "Donations to the Conservative party do not buy party or government policy," he added. "We will urgently investigate any evidence to the contrary."

[The First Article included a large picture of the Claimant with the caption:]

"Peter Cruddas, main picture, and, inset, with the prime minister, said: 'You will get to meet George Osborne, you will get to meet David Cameron'"

[Inset with the picture on the front page was a large quotation:]

"200 GRAND IS PREMIER LEAGUE... IT'LL BE AWESOME FOR YOUR BUSINESS"

Peter Cruddas, the Conservatives' co-treasurer

[On page 2 of the print edition, another large "pull-quote" was included in the text of the article:]

“BIGGER DONORS HAVE HAD DINNER WITH
CAMERON AND SAMANTHA”

313. The Second Article reads:

Cash for Cameron: cosy club buys the PM’s ear

An undercover investigation reveals the hollowness of Tory pre-election promises to clamp down on lobbying. Insight reports

[1] IT WAS a sunny morning in the City of London and the co-treasurer of the Conservative party reclined on a chair in his plush glass office overlooking a sprawling trading floor.

[2] Through the glass Peter Cruddas could see the ranks of traders working hard for CMC Markets, his spread-betting firm. He, however, could afford to take a couple of hours out to devote to politics.

[3] Across the table were two international financiers representing a multi-billion-pound wealth fund based in the tax haven of Liechtenstein, accompanied by their lobbyist.

[4] They had come to the co-treasurer with a shopping list. In exchange for a large donation they wanted “face time” with David Cameron and his top team, insider intelligence and the opportunity to influence policy for their business.

[5] Cruddas, who with his co-treasurer Michael Farmer is in charge of filling the coffers of the Tory war machine and sits on the controlling party board, was the right man to ask.

[6] Pushing aside his iPad and leaning confidentially across the table, he explained how, for £250,000 a year, the financiers could join what he called the “premier league” of Tory donors who are able to lobby the prime minister directly.

[7] The Liechtenstein company was not eligible to make donations because it was based outside the UK. But Cruddas was confident that such problems could be circumvented.

[8] Cruddas told the financiers their cash would be the key to a secret world of soirees with Cameron at private venues which might include No 10 and even Chequers, the prime minister’s country house.

[9] They would be allowed to ask the prime minister “practically any question that you want” and pick up “key bits of information that you can use”.

[10] Their clients would be introduced to George Osborne, the chancellor, and their views would be fed into the Downing Street policy machine. It would be, Cruddas said, “awesome for your

business”. He added: “When we talk about your donations, the first thing we want to do is get you at the Cameron and Osborne dinners.”

[11] Asked what they needed to give, Cruddas said: “Minimum 100 grand a year.” He went on: “Hundred grand is not premier league. It’s not bad. It’s probably bottom of the premier league. Two hundred grand, 250 is premier league.”

[12] He explained: “Things will open up for you but ... it’s no good scratching around and, ‘here’s 10 grand now and then we’ll send you five grand’. Minimum 100 grand ... But the nearer you can get to 200.”

[13] The two financiers were in fact undercover reporters who were secretly filming Cruddas as he laid bare the extraordinary extent to which the Conservative party is willing to work hand-in-glove with lobbyists to sell access to the prime minister and his cabinet.

[14] Whereas the last Labour government was accused of taking cash for peerages, the Tories are making £5m a year by taking cash for Cameron.

[15] The revelations are particularly damaging in the light of comments made by Cameron himself, just months before he was elected in 2010, in which he warned that “secret corporate lobbying” was the “next big scandal waiting to happen” in British politics.

[16] “It arouses people’s worst fears and suspicions about how our political system works, with money buying power, power fishing for money and a cosy club at the top making decisions in their own interest. We must be the party that sorts all this out,” he said. The issue of party funding came to the fore last November when the committee on standards in public life warned that big donors were being given “preferential access to political decision makers” and recommended that donations should be capped at £10,000. Their report has so far been ignored.

[17] Giving evidence before the committee, Andrew Feldman, the Tory co-chairman, insisted: “There is no question of individuals either influencing policy or gaining an unfair advantage by virtue of their financial contributions to the party.”

[18] However, Sir Christopher Kelly, chairman of the committee, said on Friday that this newspaper’s investigation was further evidence that there was a “significant risk of both influence and access being granted in return for donations”.

[19] The undercover investigation began after a tip-off from a lobbyist that a former Cameron aide was selling introductions to her old boss.

[20] Mark Adams, a former private secretary to John Major and Tony Blair, had met Sarah Southern, the former aide, at the Tory party conference. He said she had boasted that she had just made a “tidy sum” out of introducing a client to Cameron. Her brazen sales pitch included handing out a business card with a photograph of herself with Cameron.

[21] Two undercover reporters posing as overseas financiers met Southern in a hotel overlooking Lake Zurich. They explained that their clients intended to buy distressed government assets, such as Royal Mail, and wanted to make some political connections.

[22] Southern, who had set herself up as a “political consultant” after seven years at the Tory party, told them she was uniquely well placed to arrange introductions to Cameron.

[23] “I spent more time in the first third of [2010] with DC than I did with anybody else in my life,” she said. “I am friends with all the people who are now his closest advisers. I’m friends with the people who are chiefs of staff to members of the cabinet. I’m also friends with a number of people in the cabinet,” she added.

[24] Such was Cameron’s confidence in Southern that he entrusted his pregnant wife to her care on the 2010 election day. They had spent the day shopping, Southern boasted over dinner. She had introduced a client from an American firm to the prime minister at the party conference. The businessman was “especially delighted” because Cameron had “got the message that we wanted him to get”, she said.

[25] For a fee of £15,000 a month, Southern promised to introduce the undercover reporters to top politicians, including the prime minister, and gather intelligence on policy. No fee was paid by The Sunday Times.

[26] In the following weeks she invited her new clients to exclusive donor lunches and dinners with eight ministers including Theresa May, the home secretary, Philip Hammond, the defence secretary, Eric Pickles, the communities secretary, and Michael Gove, the education secretary. She also said she had reserved a £10,000 table at the Conservative Black and White Ball in February and promised Cameron would be brought over to meet them. The reporters were unable to attend because of security protocols.

[27] However, the best way to gain access and influence, she advised, was to make a “huge donation”. She proposed a meeting with Cruddas to discuss how the reporters could gain by donating to the party. She said Cruddas was a man tipped for greatness. “As far as I’m aware all treasurers at the party have always been given peerages as a thank you,” she said.

[28] On March 15 the two undercover reporters were ushered into the co-treasurer's office, past photographs of the tycoon beside Cameron, the Prince of Wales and a host of royals.

[29] Southern sat next to the Tory grandee, nodding keenly as he explained to her clients how paying for a place at Cameron's top table would benefit their business. It was access that only money could buy.

[30] The first step was to join a secretive grouping of donors who pay £50,000 a head to attend dinners with Cameron in private houses. But Cruddas added that "if you really want to be taken seriously" it is necessary to donate a far larger sum.

[31] A gift of £250,000 would propel them into the "premier league" of businessmen who enjoy an astonishing amount of access to the prime minister.

[32] Cruddas said he had seen Cameron twice in the past month at an exclusive lunch and a dinner and was looking forward to a third meeting at a private dinner on March 29.

[33] Four of the party's biggest benefactors had even dined with the prime minister and his wife in their private apartment in Downing Street, Cruddas said. So close was Cameron to his top donors that he had seen in his birthday with a select group of them last October. The businessmen had presented him with a cake in the shape of the Commons.

[34] Cruddas assured the undercover reporters that their cash would buy far more than just hot dinners and social chit-chat. In return for large sums of money beyond the means of ordinary voters their views would be "fed in" to the policy unit at No 10. He described how he had used a party at Woburn Abbey last year to make sure Cameron knew he opposed the European Union-wide Tobin tax on financial deals.

[35] "I knew he was seeing [Angela] Merkel the next day, so when I'm having my photograph done I said, prime minister, for God's sake, don't let them bring in the Tobin tax where they tax financial transactions. He said, 'Don't even worry about it, don't even think about it, it ain't going to happen, not on my watch'. Thank you prime minister ... Bosh. Off we go."

[36] Cruddas said he was the Tories' biggest donor last year, having given £1.2m to the party and its No2AV campaign. He had also discussed the issue of Scottish independence with Cameron. They had jokingly described Alex Salmond, Scotland's first minister, as "the mad Scotsman", Cruddas said.

[37] There was insider information up for grabs as well. "You do really pick up a lot of information ... You're not seeing the prime minister, you're seeing David Cameron ... But within that

room everything's confidential and you will be able to ask him practically any question that you want," Cruddas said.

[38] When the reporters asked whether they could use the dinners to question Cameron on the government's plans to sell off Royal Mail, Cruddas told them that would be "spot on".

[39] "You could ask him about that. That would be a very good thing," he said.

[40] The co-treasurer promised they would be invited to receptions at Downing Street and said that once they had become "part of the system" they could be invited to Chequers.

[41] Their new-found political connections could also be exploited to impress clients who could come to parties at stately homes such as Highclere Castle, the setting for the ITV drama Downton Abbey.

[42] So it was quite apt that Ed Miliband, the Labour leader, last week used the costume drama to joke about how the party is "out of touch".

[43] Cruddas would also make sure Osborne greeted the reporters personally and they could have their photographs taken with the prime minister. "If you want important clients to be at the Cameron dinners then ... we can easily get you to meet Cameron and Osborne and Hague and Gove, people like that, Theresa May," he said.

[44] He added: "There's a lot you can do from your clients' point of view."

[45] He later promised: "If I know what your expectations are, I can manage those. And I'll make sure, if you ring me up [or] Sarah rings me up one day and says I've got this really important guy coming to this event, you know, really need to make sure George Osborne says hello to him, and I'll make sure that happens ... not officially, but I'll make sure it happens."

[46] His willingness to put the cabinet up for sale was not for nothing. He said he was building a war chest to defend the proposed changes to constituency boundaries, which he said could gift the party an extra 50 seats.

[47] The reporters were then invited to sponsor the Conservatives' summer party for about £150,000. In return they could fill three tables with their clients and sit next to the prime minister.

[48] Last week Southern said she was negotiating the sponsorship deal with the party. She reported back that in exchange for the cash the reporters could host private drinks

beforehand with their clients, Cameron and 20 members of the cabinet.

[49] Cruddas had started the meeting with the reporters on a cautious note, insisting there was “no cash for access”, but he repeatedly contradicted himself by explaining exactly how much access they could get in return for their cash.

[50] “Because we depend on donors so much, we have to be very careful what we say. It sounds a lot worse than it is, I promise you ... You cannot buy access to the prime minister, full stop,” he said.

[51] He went on: “If you donate, you will be invited to events where the prime minister is there. And frequently, if you get into the right club and I can advise you, you could well be at a private house having a private dinner with the chancellor, William Hague, David Cameron, Michael Gove, all the top ministers, the chairman of the party, where around that table there will be very distinguished business people.”

[52] Asked whether a donation would buy the right to influence government policy, Cruddas again began cautiously but went on to assure the reporters that the prime minister “does tap into us on a regular basis”.

[53] “If you’re ... unhappy about something ... we’ll listen to you and we’ll put it into the policy committee at No 10. We feed all feedback into the policy committee. But just because you donate money doesn’t give you a voice at the top table to change policy. That doesn’t happen,” he said.

[54] Cruddas said the party was having to fend off anger among donors about its proposals to legalise gay marriage and disclosed that one donor had written a paper on the subject for the No 10 policy unit.

[55] “We’ve fed that back into the party and there are some brilliant points in it and his voice has been heard. But it’s been heard by a committee that will analyse his points against other points, but at least it’s getting in there,” he said.

[56] Giving an example of the kind of “key bits of information” they could pick up in discussions with politicians, he said he had been told that a tax cut which was good news for high earners was due to be announced in the budget the following week.

[57] The following day it emerged that Osborne was planning to scrap the 50p top rate of tax.

[58] Cruddas, who said he was dashing off that evening to have drinks at St James’s Palace with Prince Charles, even offered to make sure the fake financiers and their clients were invited to

events at Buckingham Palace and Windsor Castle if they made a donation.

[59] Only one problem remained. The money on the table came from a foreign wealth fund, which is not eligible to make political donations under UK law. But Cruddas and Southern were prepared to discuss a range of ways that the money could be brought onshore (see below).

[60] After the meeting Southern sent the reporters an encrypted document advising them how to make their donation. In a section titled “Worst case scenario”, she warned that journalists were especially interested in those who had “donated huge amounts of money”.

[61] She cautioned: “It should be considered that wider media interest into lobbying and what cash changes hands is the next ‘MPs’ expenses’.” She was right to be concerned.

[The Second Article included another picture of the Claimant with the caption:]

“Peter Cruddas The Conservatives’ co-treasurer who donated £1.2m to the party last year”

[underneath a pull-quote:]

“If you’re just going to give 10 grand a year, then it ain’t gonna open up for you”

314. The parts of the Third Article complained of are:

Pay the money this way and the party won’t pry

[1] THE undercover reporters had told Peter Cruddas they wanted to buy access to the prime minister using cash from a foreign wealth fund that they managed in Liechtenstein on behalf of Middle Eastern clients.

[2] It should have been impossible to pay the cash to the Tory party because foreign donations are banned under British election law. However, Cruddas did not seem unduly perturbed by this or the fact that the money would be coming from a tax haven. He was sure there were “ways to work around it”.

[3] He offered one solution: the reporters should establish a subsidiary company in the UK that could be used to give the cash. “Set up a company, employ some people to work here. They could be events people, they could be people that are making sure that your company is represented properly,” he said.

[4] Though it is illegal for parties to receive donations from foreign firms, a loophole in electoral law means they can

take money through functioning British subsidiaries. The Electoral Commission has proposed a change in the law to block this back-door route for UK political parties to bring in foreign cash.

[5] A second solution had been suggested earlier by Sarah Southern, the lobbyist employed by the undercover reporters. She suggested that they make the donation themselves as British citizens using money drawn from their Middle Eastern clients' fund.

[6] Donors are not supposed to hide the true source of the cash. It was proposed as an idea in the meeting with Cruddas, who agreed it could be "the answer", but warned it "might be an issue" because it would mean "funnelling money" through a third party.

[7] He then told the reporters to discuss the issue with Mike Chattey, a Conservative party compliance officer. "My advice to you is that by meeting me you're in a very high level. Don't get swallowed up by the party," he said.

[8] "Go and see Mike Chattey, talk to him about compliance and then come back to me . . . If you want to operate at a higher level, then you've got to write a bigger cheque, but I'll make sure you'll get through."

ANNEX II

315. The audio visual recordings are in six files, and my references to timings below are taken from Mr Calvert's camera. In the extracts from the Transcript that I cite, the dots (...) are in the Transcript to mark pauses in the speech. Where I have omitted words which are recorded on the audio I have indicated that by inserting square brackets round the dots, thus [...]. What I have omitted consists largely of the sounds and words used by listeners to indicate they were following what the speaker was saying, or digressions of no relevance to the issues I have to decide. I have also used square brackets to add some findings of my own relating to particular passages in the transcript, mainly to indicate the tone or audibility of what was said, and such like matters. Words in round brackets are in the Transcript, eg "(Laughter)". The underlining is added to make it easier to identify passages which are important to the issues I have to decide. It does not refer to the emphasis given to those passages in the audio visual recordings.
316. The first audio visual file commences about a quarter of an hour before the Meeting started, as the Journalists set themselves up and walked to Mr Cruddas's offices. When they arrived Mr Cruddas set the tone of the Meeting with a joke, by offering them at that early hour not only tea or coffee but also whiskey or beer. There are a number of jokes in the course of the meeting. I shall also refer to the Journalists as "international financiers", because that is the term they used in evidence to describe the cover role which they assumed for the Meeting.
317. Both Journalists were smartly dressed. Mr Calvert appeared to be aged in his 40s and Ms Blake in her late 20s. Ms Southern is in her late 20s.
318. After greeting the two international financiers and Ms Southern, Mr Cruddas said "normally as the Treasurer I have to travel to you, so ... thank you for coming to me". Mr Calvert interrupted Mr Cruddas with a voice expressing surprise saying "Oh is that right?" The next five minutes of the Transcript are devoted to small talk, some of it about a painting which Mr Cruddas had commissioned of David Cameron.
319. After saying how talented the artist is, Mr Cruddas embarked on the business of the meeting for the first time. He said:
- "Mr CRUDDAS: Let me give you my card. Anyway thanks for coming in, so you are in the City?
Ms BLAKE: Oh, great, nice to see you.
Mr CRUDDAS: Local, or?
Ms BLAKE: No, we're not.
Mr CALVERT: No, we're not at all we're in Liechtenstein.
Mr CRUDDAS: Oh really ? so...".
320. At that point it appears from the Transcript (although it is not audible to me on the tape), that Ms Blake handed over her business card. What that card tells the reader is the undercover names of the company "Global Zenith", and herself "Hayley Harris", her job title ("Director of Public Strategy"), an address and telephone number in Vaduz, Liechtenstein, and a website and e-mail address including the name of the company.

321. She then told Mr Cruddas that although their offices were in Vaduz, they lived up the road in a town called Schaan. After a further minute or so of personal talk (at the bottom of page 6 of the Transcript) Mr Calvert stated:

“...we run a private wealth management company called, um, Global Zenith, which is ... [...] and its got, its got two, um major funds um ...”.

322. It is at this point that Mr Calvert’s video recording first becomes visible. The three visitors and Mr Cruddas can be seen settling down round a table in his office, with Mr Cruddas and Ms Blake talking at the same time as Mr Calvert is attempting to explain to Mr Cruddas about their company. Mr Cruddas immediately made another joke, saying he had a Zenith watch, and he asked if they made it. There followed more joking as Mr Calvert stated that the town of Schaan is the capital of false teeth, which led Mr Cruddas to embark on a digression about teeth which covers four pages of Transcript.

323. Just after 3 minutes into the video tape (page 10 of the Transcript) Mr Cruddas returned to business and stated:

“Mr CRUDDAS: ... can I just say to you today, you can ask me anything you like about the party. I know all the structure I’m on the Board... [...] I’m the Treasurer. I know Sarah through ‘No to AV’ which was probably the best thing we’ve ever done for the country, I think, constitutionally...”.

324. A digression on that campaign extended for about two minutes, and then there was the following important exchange:

“Mr CALVERT: Well, let’s just explain where we’re coming from then... [...] we’re a private wealth management company... [...] We run two funds and what, one that invests in equities, the other was, after the financial crisis was, invests in, um, infrastructure projects and distressed assets and...”

Mr CRUDDAS: And who owns the company?

Mr CALVERT: It’s partly owned, well mostly owned by, er a chap called, who is our chairman, a chap called, Mr Edwards, who erm is, I mean he’s, he’s got a long history of in finance, over the years and has created the company back”.

325. There then followed words which appear on the Transcript, but which are barely audible on the recording, when the speakers are all speaking at the same time. As they appear on the Transcript at p12 -13 they read:

“Mr CRUDDAS: Is he Swiss or British?

Mr CALVERT: No, no.

Ms BLAKE: He’s British as well. Yup. [which is clear from the audio recording]

Ms SOUTHERN: So it’s basically a British firm that operates within ...

Mr CALVERT: From ... yeah.

Ms BLAKE: It's British owned, yeah [those words are clear as well]

Mr CRUDDAS: [inaudibly] For tax, I guess. For tax.

Ms BLAKE: Well yeah, exactly.

Mr CALVERT: Well, we are ... I don't know what Sarah's told you but we do like to operate under the radar erm and ...

Mr CRUDDAS: She said you've got deep pockets. [Ms Southern had not in fact said that to Mr Cruddas: they had not spoken at all]

(Laughter)

Mr CALVERT: Well, our clients certainly have....

Mr CRUDDAS: yeah

Mr CALVERT: And our clients, we've got some high net worth clients, and they like to keep their affairs private, so...

Mr CRUDDAS: Absolutely

Mr CALVERT: So, and we'd like to talk frankly here but obviously we'd like it to be confidential.

Mr CRUDDAS: Yeah. Of course. Of course.

Mr CALVERT: [speaking clearly] Because, especially, we're at the moment we're just, we're pursuing this UK investment strategy, which is a brand new strategy to us. And, erm this strategy is, er, is basically looking at opportunities to invest in Government assets. Erm, and our problem at the moment is that, erm, we've been out of the UK for ten years, we've been in mainland Europe for ten years and we just don't have any connections, erm and that's how it's...

Mr CRUDDAS: Yeah".

326. The two international financiers then explained the reason why they engaged the services of Ms Southern. In the course of that Mr Cruddas praised Ms Southern, and he explained how it was because of her that he was willing to see the two international financiers. Mr Calvert stated "We're aware she has worked with the Conservative Party closely for a number of years..." Mr Cruddas said she was well connected and "a good recruit for you" (which he repeated).

327. Ms Blake then took up the conversation, the Transcript pp13-14:

"Ms BLAKE: Well we're thrilled with the work she's done so far, its been absolutely brilliant, and er, and we really need those connections in the UK, as John's explained and to an extent we need them more now than ever because we have in recent years taken on a sort of growing number of clients from all sorts of parts of the world especially the Middle East, where these people are just used to being able to sort of go to the top and do business.

Mr CRUDDAS: Deal with people, yeah.

Ms BLAKE: At the top. And obviously we understand it works slightly differently in the UK than it does in Qatar but, erm.

(Laughter)

Mr CRUDDAS: Slightly.

Ms BLAKE: Slightly differently.

Mr CRUDDAS: Well they've got money we haven't.

(Laughter)

Ms BLAKE: Yeah.

Mr CRUDDAS: That's the major difference.

Ms BLAKE: That's one difference, yeah, but I mean our clients do expect us to have connections at the top and we need to be able to look them in the eye and say, ["W]e've spoken to Mr Cameron, we've represented your concerns["], or ["Y]ou know we've seen him, he's aware of, er of our company, he knows what we are trying to do["] erm, and so in order to achieve that I think we need to have some contact with people er at the top of the party, and obviously Sarah's explained to us that you don't get a sit down meeting for an hour with David Cameron but there are ways of meeting him and becoming sort of a player, erm in the UK. And so we'd like to have some of that contact, we'd like to have an opportunity to some extent to have our say in policy areas which we feel affect our business, er in the UK and our investment strategy, and er we'd sort of like to be moving in the kinds of circles where you, you sort of know what's going on and you pick up the kind of intelligence...[...] that we need to ... [...] progress our business strategy here. Erm, and so we've talked to Sarah about that, that's [...]... what we've put to you and Sarah's come up with a load of brilliant ideas about ways we can do that. One of them was that we could think about making a donation erm and that would be a good way of getting ourselves noticed, erm.

Ms SOUTHERN: Because, especially with all of the different donor groups... [...] that are in existence.

Mr CRUDDAS: Yeah, yup. There are.

Ms SOUTHERN: Erm, you know, I thought it would be a great opportunity for them to engage with the Party, you know, meet other people who are in a similar field". (emphasis added)

328. There is no suggestion in the tone of voice or body language that Ms Blake was giving Mr Cruddas to understand that the "say in policy areas" was to be corrupt, or that the "intelligence" was to be confidential or inside information which she could not properly be told.
329. Much of the rest of the conversation was clearly a reference back to what Ms Blake said she wanted in this "shopping list", as it has been referred to. Mr Cruddas's remarks were largely a response to that. There is nothing to suggest that he had himself prepared anything specific to say at the meeting, or that he would have said what he did say otherwise than in response to what Ms Blake said they wanted.
330. The first thing that Mr Cruddas did specifically in response to Ms Southern's reference to the different donor groups was to reach into his briefcase and take out a copy of the Brochure. He pointed to it and said: "These are the various clubs".
331. Adopting a serious voice Mr Cruddas said the following, in clear words, Transcript p15:

“...the first thing to say is that when you give to the Conservative Party it doesn’t buy you access to anybody... [...] ok, it doesn’t work like that... [...] The Conservative Party relies primarily on donations, we have no funding from outside individuals, other than we have a lottery fund, which local er constituencies, local offices...

Mr CALVERT: Right.

Mr CRUDDAS: ... flog tickets on a Friday night, you pay a pound a ticket.

Ms BLAKE: Right.”.

332. He then explained for two or three minutes the different sources of funding that the Party received and the amount that it needed to raise each year. He gave some examples of what the Party needed the money for. He referred to Mr Boris Johnson’s campaign for election as Mayor of London the previous year and what he called “the Scottish thing” (the referendum) for the future.
333. Mr Cruddas then embarked on a description which included a description of the first of a number of different types of events. One was a lunch event which had been held two weeks previously at the Halcyon Gallery in New Bond Street. Mr Johnson and the Prime Minister had been present. Other people paid to buy tickets to attend. He said these cost £5,000 each or two tickets for £7500. People there would have heard the Prime Minister speak and may well have been on his table.
334. After suffering from a cough, Mr Cruddas explained that he had been travelling in Australia. He then returned to what he wanted to say to the international financiers at Transcript pp18-20:

“Mr CRUDDAS: Because we depend on donors so much, we have to be very careful what we say. It sounds a lot worse than it is I promise you.

(Laughter)

Mr CRUDDAS: [in a serious voice] We have to be careful. You cannot buy access to the Prime Minister, full stop. If you donate you will be invited to events where the Prime Minister is there, and frequently, if you get into the right club, and I can advise you, you could well be at a private house, having a private dinner, with the Chancellor, William Hague, David Cameron, Michael Gove, all the top ministers... [...] the Chairman of the Party, where around that table there will be very distinguished business people. For example there’s a big commodities erm merger going on at the moment that you may or may not know of, but one of the people involved with that was sitting at the table... [...] I was at the table, big hedge fund guys, ex bankers, current bankers... [...] ... the Prime Minister, they’re at the table and we get a chance to ask the Prime Minister questions... [...] ... and we can say well what do you think about trade between blah blah blah. What do you think we’re going to do about the top rate of tax? [...] And I tell you something, for me, you meet a lot of interesting people,... [...] a lot of interesting people and you do get to hear a lot of things.

[...] A lot of things that are kind of semi public... [...] Erm and you know at the last dinner I went to about a month ago and I've got one coming up in a couple of weeks, erm, we were talking about Scotland and what effect that, they would have and the Prime Minister said ["O]h well I'm meeting ... [""] I said to him, "When are you meeting the mad Scotsman?"

(Laughter)

... He said 'I'm meeting the mad Scotsman, er, in about a month's time', and I said ["W]hen["?"] and he said ["W]ell not don't fix the date yet but February["?"]. Lo and behold at the beginning of February he met Alex Salmond, I think it was the 10th ... [...] But a couple of days later I went up to a luncheon for the Party... [...] and I was at the luncheon I said 'Oh yeah, the Prime Minister told me he's meeting Alex Salmond in February', so it's key bits of information that you can use, you know,... [...] when you, you know frequently I say ["W]ell I was with the Prime Minister last week and he told me this["?"]... You know and they said, ["W]ell does he want to pull out of Scotland["?], I say ["W]ell actually, he told me that he wants to fight to keep the Union["?"] and then they said ["W]ell is that the official line or his true feelings["?"] And I said he told me that was, those were his true feelings, however, even if they're not we as a Party must be seen to be fighting to keep the Union together. Even if we don't agree with it, because at the end of it all, if the Scots say ["W]e're out of here["?"] and they want to go independent, we can turn round and say ["I]t's not what we wanted, it's not what we campaigned for... [...] ... you can't have this, you can't have that, and you can get on with it["?"]...so you do really pick up a lot of information and when you see the Prime Minister, you're seeing David Cameron, you're not seeing the Prime Minister, you're seeing David Cameron... but within that room everything is confidential and you will be able to ask him practically any question that you want".

335. All that took about four minutes. Mr Calvert and Ms Blake can be heard making sounds to indicate they are following what he is saying. Mr Cruddas's manner and speech appear entirely straightforward.

336. There then followed this exchange:

"Mr CALVERT: Well that's quite handy.

Ms BLAKE: Ok

Mr CRUDDAS: Well you know what would be the type of question you would want to ask him for example?

Ms BLAKE: Well, we're, for example we're interested in, at the moment our investment strategy in the UK is in its very early stages and we're just sort of kicking around ideas but one thing is that we might say we want, we wanted to take an interest in an asset like the Royal Mail, we'd, we'd like to ask him 'How do you feel["?"]....".

337. However, these words were spoken by Ms Blake without emphasis and consistent with her saying that they were just “kicking around ideas”. There then follow words that appear on the Transcript. But since the speakers were all speaking at the same time, and softly, it is not possible to hear what is on the Transcript from my copy of the audio visual recording. It reads:

“Mr CRUDDAS: Spot on spot on. [Those are the words that I could not hear at all, but Mr Cruddas can be seen on Ms Blake’s camera making a gesture with his hands]

Mr CALVERT: What the strategy would be...

Mr CRUDDAS: You could ask him about that ... [...] You could ask him about that, that would be a very good thing [...] In fact the Royal Mail [...] the UK [sic] could potentially be a very good thing for the British Government... [...] I heard at one of these dinners I mean I, if I was you I would ask him a question about their pension fund. [...] And I will support you if you come on board, you’ll have contact with me and I can help you and I can try and attend some of the dinners, because I get to see and hear a lot of things. I mean part of your contact is also using me... [...] because I get to go to more dinners... [...] You know you might go to two or three dinners a year, I might go to ten...

Ms BLAKE: Brilliant.

Mr CRUDDAS: And I get to hear. But for example, the Royal Mail has a pension fund... [...] which is a big issue. And that’s stopping the company being privatised because the debt in the pension fund. [...] However, the government will have to take on the pension fund, [...] It’s obligated, but actually it’s not a bad thing, I tell you why... [...] because within the pension fund there’s say 20 billion pounds...”

338. He then went on for a minute or two explaining his opinion of why taking on the pension fund liabilities and assets would be a good thing for the Government.
339. After about two minutes of discussion of what is referred to as the “topical” subject of the privatisation of the Royal Mail, there follow about ten minutes of discussion transcribed on pages 22 to 30 of the Transcript. These are amongst the more important passages in this case. They include the following:

“Mr CRUDDAS: Honestly, if I, you know, I mean, I’m heavily involved with the Party and I am passionate about it, but my best advice to anybody is that [‘C]ome into the Party at a high level[. Y]ou will get to meet George Osborne, you will get to meet David Cameron[’], I can advise you some of the events to go to where you should be contributing, you will get to be able to ask questions you will be able to have your photograph taken, so when clients come in you can be ... you’ve seen all my photographs and stuff like that... [...]

Ms BLAKE: So we could have our photo with David Cameron for example that sort of thing? That would be, that would be very helpful for our purposes.

Mr CRUDDAS: Sure. Sure”.

340. In saying “you have seen all my photographs and stuff like that” Mr Cruddas was referring to the display cabinet of photographs of himself with Mr Cameron and others, such as the one he described had been taken at the charity event he had sponsored in the marquee in the grounds of Chequers. Ms Blake returned to the topic of how helpful to her business a photograph would be at a later stage, prompting a reply from Mr Cruddas which included the words “Awesome for your business”. Since those words appear four times in the Articles, including prominently on the front page, it is important to note how they came to be said, and in what context.

341. After Ms Blake’s remarks about a photograph with David Cameron the conversation continued as follows:

“Mr CALVERT: And what do you regard as a high level?

Mr CRUDDAS: Look the, erm, well we’ll start with seven figures and work down (Laughter) [Mr Cruddas said those words with a big smile on his face] I don’t know how much potential you’ve got”.

342. At that point Mr Calvert started to answer saying “Well, we’ve got actually...” but Ms Blake intervened as follows:

“Ms BLAKE: I was, we were going to say at this point that taking, given that this is all confidential, we have, we are, we were telling Sarah last night, we’re setting up a third fund at the moment ... [...] which will be a closed fund, and will deal specifically with investments in the UK, and it’s not... arrangements aren’t quite settled yet, we’re still looking for a few more investors to complete the fund. But what we have decided is that within that we’ll ring fence, erm, at this stage a sum of about 1.8 million Euros, erm and we will just ring fence that to set ourselves up in the UK essentially, and so our, any any money that we chose to donate or invest in the Party ... would come from that fund [during this Mr Cruddas nodded and interjected to show he understood that Ms Blake was saying that any donation would be coming from that sum].

Mr CALVERT: It would come out of that. Yeah, I mean obviously we’re not going to spend all of that on...

[and Mr Cruddas made another joke] Mr CRUDDAS: No, no, no 1.7 is fine (Laughter)

Ms BLAKE: You’d be all right with that?

Mr CRUDDAS: You can get serviced offices down the road you know ” [and everybody laughed].

343. The conversation continued:

“Mr CALVERT: But we want that’s what we really wanted to discuss with you, I mean we’ve had the sign off from our clients to spend, invest some of it in erm ... the question is really, erm, and we wanted to get a sense from you at this

meeting about, about how we should spend it and where it should spend and sort of then we could sort of work out what the amount would be [...] and we you know would be guided on you and what you say.

Ms BLAKE: And also sort of what essentially we need to be able to talk to our clients about, [‘W]ell if we invest this much this is what [...] we’re getting, this is why its beneficial to you[’] [referring to Global Zeniths clients]

Mr CRUDDAS: You’re definitely speaking to the right person. Um, I think the way you should approach it, and I’m, I’m actually kind of, what my attitude to this is, that we have to get the donors happy... and manage their expectations [...].”

344. Mr Cruddas then embarked on an attempt to lower the international financiers’ expectations. He went on:

“Mr CRUDDAS: And that’s why I said to you that there’s no cash for access, there’s no cash for honours the Party is really clean ... [...] And as donors and Treasurers, well as Treasurer and a board member my job primarily is to protect David Cameron. [...] He’s our leader, he’s doing a fantastic job, we’re all behind him. If we bring on one bad donor it affects all of us [...] And we are over cautious we actually turn down money as well. [...] But we can’t afford to turn down too much money. The first thing is you have to be compliant. [...] So you have to be compliant either as a British tax payer on the electoral roll ... [...] or you have to be on the electoral roll in Britain... [...] or you have to have a UK company that is a bona fide, bona fide UK company operating here, it’s not a shell, you know, so if you’re setting up here [that is a reference to what the international financiers said that they were doing], you’re employing people here, you can have a UK registered company... [...] then that company can make the donations, that’s the first thing. The second thing is that you could um our top table event, our top table is the Leader’s Group and its £50,000 per person ... [...] and what happens is, this is the big one where you will get invited and I’ll give you this to take away with you ...

Mr CALVERT: Great.

Mr CRUDDAS: (gesturing at the brochure) There’s lower ones and there’s top ones ... so £50,000 per person ... [...] you pay and you -, that’s when you get invited, and there are no freebies, there’s no potential donors, you get invited and you’ll get invited to meet -, a dinner with George Osborne, William Hague and David Cameron [...] and possibly Michael well and Michael Gove. I’ve been to dinner with all of these people ... [...] and there are various events throughout the year. I would thoroughly recommend coming to the Party Conference ... [...] which you would pay for in addition, and attending some Prime Ministerial events. I mean for example...”

345. He then gave examples. While speaking these words Mr Cruddas leant forward. He spoke clearly and emphatically, and emphasised what he was saying with his hand gestures. Mr Calvert can be heard saying “Right”, and otherwise indicating that he was following what Mr Cruddas was saying. There is nothing in Mr Cruddas’s body language to suggest that he meant something different from what he said, or that he was not being entirely straightforward in what he said. Since the video cameras were trained only on him, and not on Mr Calvert or Ms Blake, it is impossible to see their body language on the recording. But the sounds that they made appear to indicate that they were indicating to him that they were also being straightforward and understanding that he meant what he said.
346. There then followed about five minutes of conversation, covering pages 26 to the top of page 29 of the Transcript, in which Mr Cruddas described how the Leader’s Group works, and what happens at the events. Apart from interjections by Mr Calvert and Ms Blake, in which they indicated they were following what he was saying, that conversation went as follows:

“Mr CRUDDAS: ... last year I hosted a drinks party whereby, you know, the Prime Minister comes and George Osborne comes, and you would be invited to that type of event. [...] If you wanted to bring some clients along you could bring them along, maybe you’d have to buy the tickets, whatever, but there’s a lot you can do [...] from your clients’ point of view. So for example if you wanted one or two of your clients to come along you can’t pay 50,000 and [...] bring ten different people along... [...] it’s really 50,000 per person... [...] but you could, you could nominate some people to attend the event, and we need to get into the detail of that. So for example if you had an important client coming, say you had two Leader Groups [...] so you could nominate one, you could attend or you could attend... [...] and then um and then you could come along with one of your clients um, you know, could be, you know, um to come along. If that client -, but when, you know, there’s a lot of options open.

Mr CALVERT: I mean I’m sure they’d ...

Ms BLAKE: They’d love that.

Mr CALVERT: They’d love that.

Ms BLAKE: Yeah. Be fabulous.

Mr CRUDDAS: But there are lots, for example, I mean there’s other events as well that could be really interesting for you... we had what we call Heritage House event at Downton Abbey, you know a big British ...

Ms BLAKE: Oh fabulous.

Mr CRUDDAS: It’s Highclere Castle [...] and last year we had an event at Downton Abbey or Highclere, and the Chancellor was there [...] and you bought a ticket or you bought a table, but you have to be compliant.... I guess if your compliant, your’re company is compliant you could buy the table in the name of your company that’s a British company then invite your guests along”.

347. In his remarks about the need for compliance Mr Cruddas spoke emphatically, again emphasising his words with hand gestures. When he said “you could buy the table in the name of your company that’s a British company and invite your guests along” Mr Calvert interjected clearly to say “Yeah”. It is apparent from the video that Mr Cruddas was referring back to the bona fide British company operating in the UK which he understood they were, or would be, setting up, not just for the purpose of making a donation, but for the purpose of implementing their investment strategy in the UK, which was intended to involve Global Zenith taking an interest in an asset like the Royal Mail.
348. At no point did the international financiers interpose to correct Mr Cruddas’s impression that a bona fide British company was envisaged. Nor did they, or anyone else at the Meeting, say anything precise about the timing of the strategy. They said various things about the timing of the proposed donation, generally to the effect that it might be in 2012, but some of them to the effect that it might be later, or not at all. There is nothing which made clear to Mr Cruddas how imminent either the setting up of a British company, or the donation, were expected to be.
349. Nor was anything said to indicate in which order the international financiers were proposing to implement the strategy and make the donation. All that was said was that they were at the stage of “kicking around ideas”. Ms Blake had said that the arrangements were not quite settled, and they were still looking for a few more investors to complete the fund.
350. The conversation then continued as follows at page 27 of the Transcript:
- “Mr CRUDDAS: So that way you would be able to invite some high profile guests and I would make sure that George Osborne comes to your table and says ‘Hi’, and I, you know, what I did with William Hague this year, ‘cause they see lots of people, but I was at our Black and White Party [that is an event that was held in February 2012]... [...] and I said to William Hague ‘Come to see Bill please’, ‘Oh yeah’ and they’re very good, they’re very good the politicians... [...] they understand about raising money. They have not got their heads up their backsides thinking that the money grows on trees because they’ve all been in opposition, they’ve all had to fight ... [...] And the Party I should say financially is in very good shape, doesn’t have any surplus but it doesn’t have any debts either, it’s in good shape ... [...] There’s a little bit of debt and a little bit of asset but nothing worth worrying about. And I went up to, and I got William Hague just before he met this guy I stood behind him, I said ‘William, his name’s Bill, he’s your long lost friend’ [at this point Mr Cruddas was jokingly acting the role he is describing and everybody at the meeting laughed] ‘Hey! Hello Bill, how’s it going?’ you know ‘How’s the wife and kids and - ,’ so he played, he played - a table, you know, you know ... [...] and then [‘]William[’], I said ‘Thanks William great’, ‘Yeah no problem’ and off he goes, you know they do they do respond very well.

351. In this passage Mr Cruddas was lowering expectations. Mr Cruddas explained how the international financiers and their guests could at most expect a minister to come over to their table (which they had paid for) and greet them. He indicated that there was no opportunity for receiving information from a minister on such an occasion, or communicating information to a minister. Mr Cruddas then continued with his explanation on page 28 of the Transcript:

“Mr CRUDDAS: So there’s the Party Conference, we have a business day at the Party Conference where the Chancellor has a lunch, you can bring clients to that, there’s a dinner and last year’s dinner was fantastic. Liam Fox spoke um and the chairman was hosting it, you know, there’s lots of things for you to engage in [...] What you need to do is put your foot through - into the door [...] Now you could um so you have to think about what you want to achieve out of this. ... [...] You clearly want to mingle with the right people [that is a reference back to Ms Blake’s having said that they would like to be moving in the kinds of circles where you know what’s going on] [...] that’s okay, we can arrange that. You don’t need to join one of these clubs to do that, we can flog you tables at various events and I’ll guide you on that. ... [...] And I’ll say to you ‘Look, this is a good one. Can’t tell you who it is it’s top top secret... [...] but this is one that if you want to be with the Chancellor, get a table”, and what you would do is probably get a premium table and I’ll make sure you get in a good location... [...] and possibly try and get the Chancellor on your table, you know...

Mr CALVERT: That’d be great.

Mr CRUDDAS: You could sponsor an event [...] You could sponsor, for example, and there is an opportunity, I think we’ve got a sponsor lined up, if you’re quick I could find out, but you sponsor the summer, the Summer Party [This is one of the references to a possible imminent date for a donation, but Mr Calvert does not respond clearly one way or the other on the imminence of the donation, he says]

Mr CALVERT: Oh right.

Mr CRUDDAS: You get the Prime Minister on your table and you can invite your guests on the table.

Mr CALVERT: Ah that’d be

Ms BLAKE: That would be fabulous

Mr CALVERT: What sort of ...

Mr CRUDDAS: You get like ten ten guests

Mr CALVERT: What sort of sum?

Mr CRUDDAS: Last year I sponsored it for 150 grand... [...] But you get you get a programme you get your name in it and you get I think three tables... [...] The people you invite you have to, they have to be vetted. [...] You can’t have some Saudi arms dealer on the Prime Minister’s table (laughter) because they’ll be photographed and everything, so everybody you nominate, if you give us the names we’ll check them out for compliance... [...] and if they’re a bit dodgy you know then...

Ms BLAKE: We don't deal with dodgy people (laughter)

Mr CRUDDAS: I'm not saying that your clients are dodgy...

Mr CALVERT: No no I know and exactly

Ms BLAKE: Of course no.

Mr CRUDDAS: I'm saying to you, that you know if they're involved, I mean they might've been involved in supplying

Mr CALVERT: Something political or something like that

Mr CRUDDAS: ... arms to Syria or something you know?

Ms SOUTHERN: With the sponsorship though, um it doesn't have to be a named sponsorship, so they could sponsor it but actually their logos don't have to appear on it though

Mr CRUDDAS: do you not, do you not want your logo to be on it?

Ms SOUTHERN: Our aim is to remain quite under the radar.

Mr CALVERT: No we don't really.

Ms BLAKE: We do like to stay under the radar if possible, yeah.

Mr CRUDDAS: Okay then, sponsorship is not good for you then".

352. That exchange clearly ended any hope Mr Cruddas might have entertained that there would be a donation to pay for the 2012 Summer Party.
353. In saying "our aim is to remain quite under the radar", Ms Southern identified herself with Global Zenith. However, Mr Cruddas went on to say that his company, CMC Markets, sponsored the previous year's Summer Party and for the next two or three minutes, pages 30 to 32 of the Transcript, he talked about his company CMC. There then follows this passage which was emphasised at the trial:

"Mr CRUDDAS: ... the thing about this industry is, it's like, it's like the Party, you know you've got, you, you just can't have a conveyor belt of donors coming in and writing a cheque out, 'Next please next please'... [...] you know because people give for, to politics primarily 'cause they're passionate... [...] and they want they want their voice heard, [...] ... Unfortunately donating to a party is not the most effective way to get your voice heard... [...] ... if you're unhappy about something you can, we can, we'll listen to you and we'll put it into the Policy Committee at Number 10. We feed all feedback into the Policy Committee... [...] But just because you donate money it doesn't give you a voice at the top table to change policy, that doesn't happen. And primarily

Mr CALVERT: But at least it gets into the Policy Committee at Number 10.

Mr CRUDDAS: Oh it goes yeah, yeah, yeah... [...] I mean, any, like at the moment you've got gay marriage and there's lots of donors unhappy about that. [...] and we're having to fend that off because what the party are saying is that 'We can't discriminate against gay people... [Mr Cruddas then gives another example of feedback namely, the decision of the European Court of Human Rights on wearing a cross in a public place, and, returning to the feedback he says on page 34 of the transcript]

Mr CRUDDAS: But it's been heard by a committee that will analyse his points against other points, but at least it's getting in there... it's getting in there

Ms BLAKE: Absolutely, well we obviously don't expect to be able to write the government's policy for them it's just, it's just being able to have a say.

Mr CRUDDAS: Well that might cost you a few quid if you want to (laughter)... no sorry no we don't do that, yeah but the Party is incredibly clean, incredibly clean... [...] and it's really been you know, it gets frustrating at times..."

354. The international financiers intervened to indicate by occasional words that they followed what he was saying. There is nothing to indicate that they were disappointed with what he was saying.
355. When Mr Cruddas said "unfortunately donating to a party is not the most effective way to get your voice heard... we'll listen to and we'll put it into the policy committee at Number 10 ..." he was again lowering the expectations of the international financiers. That was the effect of his tone of voice and his body language, as well as his words. This is confirmed by the examples which he gave in relation to gay marriage and the Court of Human Rights decision on wearing a cross in public places. Neither of these are examples of the sort of business information which Ms Blake had indicated she might wish to communicate to a minister.
356. In the next part of the conversation Mr Cruddas informed the international financiers that he had given £1.2 million the previous year. Then he and Ms Southern exchanged remarks about the work they had done together in the No to AV referendum campaign. Mr Cruddas then returned to business. At page 36 of the Transcript he said:

"Mr CRUDDAS: ... Look, you're on the right track, so honestly um, you know, if you really, if you join the Leader's Group as one person, and that has to be a named person, then you'll get invited to two, three or four events a year... [...] in a private house I've got one coming up in two weeks time [...] ... with David Cameron ... [...] I think its on the 29th, but you would get, if you put £50,000, one person, you'd have to nominate, we'd have to clear them, they'd get invited to that. [...] ... in addition throughout the year, once you've, once you've done that throughout the year you will get invited to lots of other events, [...] ... and I could help you with the conference, Sarah knows all what to do really,... [...] I mean you've got the right person, you, you can always call me as well Sarah... but [...] you'll get invited to other events like Downton Abbey, in November there's a Downton Abbey event, we've also [...] got another one coming up, we had Woburn last year it was fantastic. You come to this big stately home, Friday night I'm up at, er, Wynyard Hall, Sir John Hall's place... [...] in Newcastle a big stately home ... [Mr Cruddas then made a joke about himself and his brother] but Woburn

was fantastic ‘cause you came in, Cameron’s there, Samantha’s there, you get to meet Samantha as well.

Ms BLAKE: Ah the lovely Samantha.

Mr CRUDDAS: She looked fabulous I thought in Washington... [...] and then we got, we got funnelled through, we had our photograph taken as a couple with the Prime Minister, you pay, I don’t know, five grand a ticket, ... [...] you get your photograph taken with the Prime Minister at Woburn, there’s a little crested thing at the bottom of it, looks fantastic, [...]... with Samantha and David Cameron. We then get funnelled through into the Canaletto room [...] where there were about 15, 20 Canalettos in Woburn [...] And then we went through to the dining room and we had dinner and I was on the top table with David Cameron.

Ms SOUTHERN: how many people attend that kind of event, Peter?

Mr CRUDDAS: Less than a hundred. That was quite a big one, Heritage House, Downton... Highclere Castle... I think was about 60, 70 people...

Ms SOUTHERN: So its quite a good number in terms of, you know, the PM being able to you know work the room and actually speak with people

Mr CRUDDAS: You will at the at the Heritage House event providing your guests are compliant, now... [...] they don’t need to be British voters on the electoral roll, they can be overseas nationals but they can’t be selling arms to, I’ll give you an example... [and he did].”

357. During this talk of events at Highclere House and other houses Mr Calvert can be heard interjecting words indicating that he is following what Mr Cruddas is saying, and not querying it in any way. The conversation then continued:

“Mr CRUDDAS: Last, the last big event was the Black and White Party, if you had a table there, George Osborne’s there Boris is there, Boris comes to a lot of these events.. [...] you will definitely be rubbing shoulders with the right people... [...] So my advice is that, take up all the offers throughout the year, conference, business day, you can bring people [...] you pay for the tickets separately”

358. Mr Cruddas then gave a further warning by way of lowering expectations:

“...If you want to be under the radar then, um, the donor list is public knowledge... its public knowledge... [...] seven and a half thousand gets you under the radar but if you’re going to come to these events then you’re going to spend more than seven and a half thousand [...] Um anything above 100 to 200 grand, what you could do is make a commitment over three years. I had lunch with someone a couple of weeks ago in Sydney actually and he said, ‘I’m going to give you this this

year, this next year, and then at the election I'm going to give you this.

Ms BLAKE: Right

[...]

Ms SOUTHERN: which is I think what we've discussed, the incremental giving.

Mr CALVERT: Discussed yeah".

359. The discussion about "incremental giving", and the possibility of a commitment over three years, which Mr Calvert explicitly assented to, demonstrated to Mr Cruddas that the donation that was being contemplated was not necessarily one that Mr Cruddas should expect to be made in the immediate future.

360. This was then picked up as follows:

"Ms BLAKE: 'cause, yeah, as you said, when we told you what, what the pot is, essentially what we've got on the table and we can, -

Mr CRUDDAS: Well obviously you've got to, you've got to develop an office here and stuff like that but I, I would say to you commit something over three years, [...] ...get something in the pot and get to some of these events... [...] and if you like them, and if it works for you, then you can you can follow up the following years.

Ms BLAKE: Okay

Mr CRUDDAS: 'Cause you're not held to the commitment but we do expect it if you give the commitment".

361. When Mr Cruddas said "you've got to develop an office here and stuff like that" he was not suggesting that there was a need to develop an office here in order to make the donation, but rather that he understood that the international financiers and Global Zenith had to implement their strategy, including setting up an office in the UK for the purpose of doing that. He was envisaging that the payment might take some time, even if the commitment were made imminently.

362. That is how the international financiers made clear that they understood it:

"Ms BLAKE: And what do you think I mean if, say, we were to make a commitment now or in a couple of weeks time to donate, over, say two years, what do you think if we really want to get ourselves noticed and get, get ourselves invited to the very top level so that we would be taken seriously when we meet Mr Cameron at Downton Abbey for example what do you think is a suitable amount for us to give to -

Mr CRUDDAS: minimum of hundred grand a year, minimum. [...]

Ms BLAKE: Hundred grand a year. What do you think, I mean, what's a kind of, what would you say was a suitable amount if a hundred grand is a minimum?

Mr CRUDDAS: Hundred grand probably isn't really enough if you really want to be taken seriously. You've got to be compliant.

Ms BLAKE: course.

Mr CALVERT: Yeah.

Mr CRUDDAS: You've got to um I mean, I could, I would, I'm just trying to think. See, I'm, I was the biggest donor last year, individual donor... [...] and I gave 600 grand but actually you don't need to give that much... [...] I'm the Treasurer [...] ... and they expect me to write big cheques... [...] and, you know, I wanted to balance the books a bit last year. Honestly, a hundred grand is nice but it's not premier league.

Ms BLAKE: So what's premier league? What do we need to do?

Mr CRUDDAS: We do get some big donors [...] we've had some guy give us five million.

Mr CALVERT: God... [...] what in one?

Mr CRUDDAS: ... he's he pledged five, he gave four, and he gave it over three years".

363. It is in this passage the words "premier league" were used for the first time, although the word "premier" is used in the Brochure in relation to the Leader's Group. It is clear from the context that Mr Cruddas and Ms Blake were using those words, not to refer to any specific or formal group of donors, but to those individuals who were the donors of the largest donations.

364. The discussion continued at the bottom of page 40 of the transcript:

"Mr CRUDDAS: Yeah. People tend to up um during the election year, election year 2015, actually, my advice to you is people tend to say, 'Right well I'll give this now and then in the election year -', this guy has offered £1 million at the election year. But you know what? We get a lot of money in the election year you kind of do get noticed but you'll get outbid in the election year... [...] So the impact is probably now we're mid term and it's harder to get money now mid term, so from an impact point of view I think you need to come above the radar now and not necessarily pledge a big pledge for the election year... [...] And a hundred grand is not premier league it's not bad it's probably bottom of the premier league. 200 grand 250 is premier league [...] but anything between a hundred and two fifty, and what I would suggest, is that, what do you feel comfortable with? Because you need to leave, to leave something back for the party conference so

Mr CALVERT: Yeah

Ms BLAKE: Of course and things like that

Mr CALVERT: Well we have that within our budget um,

Ms BLAKE: Yeah".

365. Again in this part of the conversation the international financiers interjected from time to time to indicate that they were following what Mr Cruddas was saying, and

not dissenting from it or querying it. They made clear that they have not yet made a decision about whether or when to donate or make a commitment.

366. The discussion continued:

“Mr CALVERT: Well, we have that within our budget... it’s a question of, I mean, and the question for us really I suppose is if we pay, if we do become premier league what, what would we get in addition?”

Mr CRUDDAS: Well what you would get is um the first thing that you, when we talk about your donations the first thing we wanna do is get you at the Cameron and Osborne dinners.

Mr CALVERT: Right.

Mr CRUDDAS: William Hague last year was almost unaccessible, he was travelling, travelling cause of Libya and stuff like that. But what you need, what you do is you get premier tables.

Mr CALVERT: Right, I see”.

367. At this point Mr Cruddas was in effect answering the question “what would they get in addition?” by saying that the answer is that they would get to the Cameron and Osborne dinners and get premier tables at those dinners. These are dinners of the kind referred to in the Brochure. However, Mr Cruddas again returned to the question of timing:

“Mr CRUDDAS: Okay. So what I would say to you is that if you have a budget, you don’t give all the money up front. What you say is that you will commit, let’s say that you committed quarter of a million for the next year, but you’ll give 125 grand now [...] or when it gets approved. But you intend to top it up with events throughout the year”.

368. Mr Cruddas was there again making it clear that the donation would have to be approved, that is to say compliant and approved by CCHQ. He then explained what happens if you get a really good table:

“Mr CRUDDAS: So for example, Carlton Political, we get you a really good table at Carlton Political. ... we make sure the Prime Minister comes over and shakes, I’ll make sure, I’ll make sure ...[Mr Calvert then asked what the Carlton is and Ms Southern explained it is a private members club in St James’s and Mr Cruddas said he is not a member and]...

Ms BLAKE: Oh we could take you.

Mr CRUDDAS: Well I’ll tell you last year there are half a dozen events like this that you could go to... and that’s where you top up. So at the Carlton Political you make sure you get a premier table [...] or you might have two premier tables and it might cost you 10 grand each [...] So you’ve paid 20 grand there, you might bid at an auction on the night. But I’ll give you – last year’s Carlton Political erm the Prime Minister was late, and he turned up, and I’ll tell you why he was late. So

Michael Gove stood in for the Prime Minister and gave a speech. The Chairman of Carlton Political was Mick Davies head of Glencore... [...] or Xstrata the big you know the big commodities [...] Mick Davies was the sponsor, he's a donor, it's public knowledge. Mick Davies was the big guy at the Carlton Political. So he stood up gave his little speech. Michael Gove stood up and said 'Look I'm very sorry but the Prime Minister is coming tonight he's just a little bit late, he's on his way back from Libya' [...] You remember when he was there in the square with Sarkozy [...] he got off the plane and he came to the Carlton Political and he walked in the door with Andrew Feldman, William Hague and David Cameron. And that day he'd been on the telly he'd flown back from Libya that day and the place erupted. The nice thing about it was that he was wearing a 'Free Libya' hat that was given to him. (Laughter) I said to them 'Why didn't he sign it and we could have auctioned it off, we'd have got 100 grand for that' [...] But he came round to every table [...] he came round to my table, 'Peter', you know and I had some of my important people there on the table he was brilliant... So Carlton Political Heritage House events, you've got some distinguished people they come to the stately home, they'll meet George Osborne".

369. Thus Mr Cruddas's answer to the question "What would we get in addition?" was that the prospective donors who were "premier league" would get tables at events, and the Prime Minister or the minister attending the event would come over to their table and greet them. Also they could expect to meet at such functions businessmen as prominent as the Head of Glencore or Xstrata. This was in response to Ms Blake's statement at the beginning of the Meeting about wanting to move in the right business circles.

370. The discussion continued:

"Mr CRUDDAS:... and I'll steer you through those events because I'll work with you and Sarah [...] you tell me what you want to achieve [...] and I'll tell you the best way to do it [...] Or you could give a hundred grand now say, 'I'm gonna give...' and I want two, I want two, Leader's Groups [...].

Ms BLAKE: Yeah that would be good to have two places.

Mr CRUDDAS: Two places, but you have to nominate somebody [...] so maybe it could be your boss [...] and he'll get invited. We may allow, we may have to be a little bit flexible, we may allow someone to step in if he can't make it [...] You won't get invited every month, there'll be two or three events. And in fact we've got, it's top, top secret, we've got an event coming up whereby the people that have been in the Leader's Group for five years, there's a private dinner, um I know where it is, the Prime Minister's there, all the top people are there to thank them for 5 years of support... because they've given 50 grand a year for the last 5 years... and in fact

some of our bigger donors have been for dinner in number 10 Downing Street in the Prime Minister's private apartment... with Samantha there were eight people there four couples and the Prime Minister. They had a private dinner there.

Ms BLAKE: Wow

Mr CRUDDAS: But they have been loyal supporters over a period of time.

Ms SOUTHERN: But that's like a thank you isn't it for their continued support[?]

Mr CRUDDAS: I have to say and Sarah I'm sure will bear me up [...] the party really has tried to take care of its donors you know, in a nice way [...] ... you know, if you're supportive we will we won't desert you, if you stop giving we won't stop inviting you, [...] donors go up and down, sometimes people get donor fatigue, they've done enough, they need a little bit of a break, but we don't cut you off. The only thing we will do is not invite you to a Leader's Group, the 50 grand membership thing, if you don't pay, because it's not fair on other people".

371. In this passage Mr Cruddas was explaining that if the prospective donors pay £250,000 in donations spread evenly over five years they might expect at the end of it to be invited to a thank you dinner at Number 10 Downing Street (no doubt assuming that there were still a Conservative occupant at that point).

372. In response to a question from Mr Calvert, Mr Cruddas then gave an indication of the numbers of people that might attend the events for members of the Leader's Group. He referred to one held at a house in Chelsea where there were 25 or 26 people around the table, which he said was the biggest he had ever been to. It was the Prime Minister's birthday, the guests got him a birthday cake of the Houses of Parliament and sang happy birthday to him. He said Leader's Group dinners would normally be about 12 people, and there would be drinks receptions at Number 10, where there would be a lot of people. Speaking of one of the dinners he said:

"Mr CRUDDAS: There were 10 or 12 people around a table, the food's good, it's David Cameron's show, you know, you can ask him any questions you like really.

Mr CALVERT: Mmm sounds like a great opportunity to get to know people [...] and move around.

Mr CRUDDAS: And around a table you'll meet business people [...] people from the City, top top people, I'm talking about top top people at these events".

373. Ms Blake asked how many people were in the Leader's Club that year, to which Mr Cruddas said it was private information, but that the Leader's Group was the biggest source of donors and raised over £5,000,000 a year, and that some members might pay not £50,000 but £100,000. Ms Southern said some people could be paying a quarter of a million pounds. Mr Cruddas said that if the international financiers wanted to get noticed, they would be new donors, everyone would be pleased at new donors who are serious professional people, and it would be a win-win for both sides. He then embarked upon explaining what the Conservative Party expected to need to

spend money on. He said that an early general election was not expected, but there would be a boundary review (and he explained at some length of what that involved).

374. After some minutes of discussion of that, the discussion of the international financiers' requirements resumed at page 52 of the Transcript (over 10 minutes into the audio visual file):

“Mr CALVERT: ... one of the things we were wondering is whether we ought to get to know the Liberal Democrats as well and whether we ought to make a donation to them. Or do you think, I mean – do you think that’s worthwhile? I mean, as they’re your Coalition partners.

Mr CRUDDAS: Um

Ms SOUTHERN: I would be inclined to say at the minute, you know, let’s focus on where we know we can definitely get wins

Mr CALVERT: Yeah

Mr CRUDDAS: The Lib Dems, Nick Clegg’s not going to do anything for you, because he’s not in power, I mean he’s in power but Cameron’s the main man. I mean we’re biased conservatives.

Mr CALVERT: Of course.

Mr CRUDDAS: But I think you also have to be a little bit careful. You need to nail your colours to the mast and say, ‘We’re gonna back the Conservatives’.

Mr CALVERT: Because it wouldn’t look good if we did both

...

Mr CRUDDAS: It probably wouldn’t.”

375. I note that at this point, in response to Mr Cruddas saying he should nail his colours to the mast and say ‘We’re gonna back the Conservatives’, Mr Calvert said that it would not look good if as donors they backed both parties. He said nothing to suggest that he and Ms Blake were not going to, or did not, back the Conservatives.
376. Mr Cruddas gave Easyjet as an example of a company that he said did give to all three main political parties. But he said that the international financiers probably would not get invited to the exclusive events to which he had been referring to if they did that.
377. There is then a passage in which Ms Southern intervened and identified herself again as being a member of the Global Zenith team:

“Ms SOUTHERN: I think also because, erm all departments have ministers of all colour, political colour that is, um in them, you know, if there’s, if there’s a person that we want to speak to and let’s say we wanted to influence within business, obviously we don’t necessarily need to speak to Vince Cable but we can speak to [...], you know, [...]’s obviously one of ours. So there are ways we can do that without it being an issue. And obviously there are only 5 Lib Dems in the Cabinet [...]

Mr CALVERT: And one assumes they are probably not, there’s not going to be a coalition for the next election is there?

Mr CRUDDAS: that's what we're hoping for.

Ms SOUTHERN: Let's hope we win outright and then we don't need it".

378. So, in addition to identifying her as one of the Global Zenith team, Ms Southern also used the word "we" to refer to Conservative supporters. She refers to another minister in the same department as Vince Cable as "one of ours". Mr Calvert and Ms Blake did not intervene to give a different impression, or to disassociate themselves from the expressed wishes of Ms Southern and Mr Cruddas for a Conservative election victory at the next general election. This was notwithstanding that Mr Cruddas gave them an opportunity to show their political colours:

"Mr CRUDDAS: We need an outright victory, yeah. But if you just gave to all political parties then, from the Conservative point of view we could not allow you into these exclusive events.

Ms BLAKE: Okay.

Mr CALVERT: Right, okay.

Mr CRUDDAS: Because, you know you would just be treated as a general donor.

Ms BLAKE: Mmm.

Mr CALVERT: Part of our – it was just an idea, it was just a, yeah.

Mr CRUDDAS: It was a good - that's why you're here to ask these questions. But from the Party's point of view, we just could not, we would just look at you, oh they just donate like [...] to all three parties. They're very nice, thank you very much, we'll see you at the conference. But you're not going to get in front of people that actually are not like you giving to all three political parties, they're giving to the Conservative [...] Party, and they're passionate. They wanna support the Party.

...."

379. Mr Cruddas then returned to talk of what happens at the events attended by Mr Cameron. He said people can ask questions and challenge him, and that if you are passionate about something you can bring it up, but you have to be respectful as well. Ms Southern then intervened to indicate for the first time that the meeting might be drawing to an end. She said:

"Ms SOUTHERN: Is there anything else you guys want to ask us?

Mr CALVERT: Well the other thing we haven't quite worked out is that, I mean obviously our company is based in Liechtenstein er... what, I mean we are UK citizens but I'm not sure that erm...

Ms BLAKE: How does it work, because obviously I don't think you can accept donations from a foreign company is that correct?

Mr CRUDDAS: No no. Yeah.

Ms BLAKE: So how would you normally do it?

Mr CRUDDAS: You have to have a UK company. The company that's making the donation has to be a bona fide UK company. So you can't set up a shell company, put some cash into it and say er 'Right, here's a political donation'.

Mr CALVERT: Right.

Mr CRUDDAS: It has to have people working for it, you have to have infrastructure, it has to be a bona fide UK company.

Mr CALVERT: Right.

Mr CRUDDAS: ... paying UK employees.

Ms BLAKE: Okay. Is there a number of employees you have to -?

Mr CRUDDAS: I don't think so, no.

Ms BLAKE: So if we had say Sarah operating out of a UK office?

[Ms Southern and at least one other person laughed at this suggestion]

Mr CALVERT: Sarah? [speaking at the same time]

Mr CRUDDAS: Yeah, Sarah would er, yeah you know

Ms BLAKE: So we could set up a company, employ Sarah through that company.

Mr CRUDDAS: What you couldn't do is give Sarah the money to donate.

Mr CALVERT: Right.

Mr CRUDDAS: ... you can't do third party payments. So you would set up, erm are you -, do you work for the company now or are you - ?

Ms BLAKE: Freelance at the moment.

Ms SOUTHERN: No I'm a consultant.

Mr CRUDDAS: Consultant.

Ms BLAKE: But we could presumably, I mean if you'd be happy, to come to some kind of arrangement could we, where - ?

Ms SOUTHERN: I think we need to kind of work this through.

Mr CALVERT: Work out...

Ms BLAKE: yeah

Ms SOUTHERN: My other thought was, I mean is David erm - ?

Mr CALVERT: He is but he doesn't want, he doesn't want his name to be going onto the ...

Ms SOUTHERN: I think this is something that we need to -, because we've gone through the ... all the legal side of it [...] erm and obviously we're aware that it is a little bit of a flag, but I think there is a way that we can work this through. I don't

...

Ms BLAKE: Okay.

Ms SOUTHERN: I mean obviously it is a slight hurdle".

380. Ms Southern wanted to change the subject at this stage of the conversation, and showed she would prefer that the issue be worked through, but not in the presence of Mr Cruddas. But Ms Blake persisted:

“Ms BLAKE: What would you suggest Peter? What would you normally do, I mean in a situation like this? Because obviously we – we’re British citizens, er John and I. David is, David doesn’t really want his name attached to anything.

Mr CALVERT: [speaking clearly and emphatically] But it’s the company’s money”.

381. Although nobody responded to this statement by Mr Calvert, I find it confusing. It had previously been said by the international financiers that the money was the customers’, coming from one of the funds under management. It was now said that it was ‘the company’s’. But it was not said which company, whether it was Global Zenith, or whether it was the company which Mr Cruddas had referred to being the company that he envisaged would be set up to carry forward the proposed UK investment strategy. Instead of clarifying the point Ms Blake turned to another suggestion:

“Ms BLAKE: Is there a way? I mean could we give the money?
Mr CRUDDAS: What, as individuals?”

382. In asking this question Mr Cruddas’s tone and manner indicated that he was simply asking for clarification. His tone of voice and body language did not suggest that he would have found it surprising that the Chief Executive and another executive of this wealth management company should be able to make personal donations. The discussion continued:

“Ms BLAKE: As ind... It would, the thing is obviously it’s not sitting in our current accounts so it would be coming from a fund.

Mr CRUDDAS: But you’re on the electoral roll here?

Ms BLAKE: Yeah.

Mr CRUDDAS: Okay, then yes the answer is yes. Erm but we would let, you know, probably what I would do is take you to HQ and you could talk to the compliance people there.

Mr CALVERT: Right.

Mr CRUDDAS: That way – or Sarah will take you there. I’ll facilitate a meeting.

Ms BLAKE: Mm-hmm.

Mr CRUDDAS: Yeah you probably co – as individuals yes ...”

383. At this point Mr Cruddas interrupted himself appearing to have second thoughts. He then went straight on and says:

“Mr CRUDDAS: ... but then if people are funnelling money through you then that, that could be an issue.

Ms SOUTHERN: There was a situation about three years ago where a labour donor called David Abrahams who was from Durham gave his secretary, who would have probably been on, you know, 20 grand a year he gave her quarter of a million, but not like bang on the dot of a quarter of a million, it was a weird number, through her account and then that exact amount was donated from her to the Labour Party.

Mr CALVERT: Oh right.

Ms SOUTHERN: It was obvious that she did not have the means.

Mr CALVERT: Mmm.

Ms SOUTHERN: ... in which to make that kind of donation on the salary that she's had.

Mr CALVERT: Hm-Mmm.

Ms SOUTHERN: ... now I think obviously if you two were to make a donation of 50 grand to – for the Leader's Group it would not be beyond the realm...

Ms BLAKE: No.

Ms SOUTHERN: ... you know, with the industry and, you know.

Mr CALVERT: Right yeah.

Ms SOUTHERN: ... the ... the money that you have behind you. So I think there is, there is that, but obviously if we are wanting to make bigger donations, like for example sponsoring, bigger events, then I think we need to just work that through. But I'll speak with Mike Chattey, arrange a meeting at HQ with the compliance people.

Mr CRUDDAS: Yeah speak to Mike yeah.

Mr CALVERT: But the two options would be that either we gave a smaller amount or we'd have to set up a company in the UK.

Mr CRUDDAS: Yeah, but it has to operate, the company.

Mr CALVERT: Oh it has to operate?

Mr CRUDDAS: Yeah, it has to operate.

Mr CALVERT: So it has to have – provide, file accounts -.

Mr CRUDDAS: Anyone can set up a UK company. Yeah. It has to file accounts and erm – Yeah, I mean we had a company yesterday where they... they're very good, I mean they've taken two Leader's Groups ... but they had to get a letter from their finance director to say, because they hadn't filed their first accounts,

Mr CALVERT: Right.

Mr CRUDDAS: ... that they are a bona fide company and this guy is employed by them.

Mr CALVERT: Mm-hmmm.

Ms BLAKE: Right.

Mr CRUDDAS: And that was fine, you know. But we can't sail close to the wind because anything bad, it's just not worth the issues.

Mr CALVERT: no.

Ms BLAKE: sure.

Mr CRUDDAS: So you just have to work out how...

Mr CALVERT: A way of doing it. It may well be that we set up a company here.

Ms BLAKE: Yeah.

Mr CALVERT: I mean as we are, we've got...

Ms BLAKE: Lots of options.

Mr CALVERT: It makes sense yeah?

Mr CRUDDAS: Set up a company, employ some people er to work here. They could be events people, they could be people that are making sure that your company is represented properly.

Ms BLAKE: Mmm.

Mr CALVERT: Mmm yeah.

Mr CRUDDAS: Anything like that you know.

Ms SOUTHERN: Yeah, I think we need to take a little bit more ... we need a little bit more advice on this and then I think...

Mr CRUDDAS: Sarah has got all the contacts she's got better contacts than me.

Ms BLAKE: Great.

Ms SOUTHERN: ... we need to have quite a good discussion on it.

Ms BLAKE: I'm sure there is ... I think there is lots of ways we can deal with it.

Mr CALVERT: Ways around it. Mmm, yeah.

Ms SOUTHERN: Absolutely.

Mr CRUDDAS: Mmm yeah, I'm sure. [I note this answer because Mr Calvert attached particular significance to it] But look, I think it would be exciting if you come on board.

Ms BLAKE: Yeah.

Mr CRUDDAS: I think you'll find it exciting."

384. In the passage where Ms Southern said "it wouldn't be beyond the realm" and Ms Blake said "no", I find that they were agreeing that it would not appear to anyone that each of these two executives of this wealth management company would be unable to make a donation of £50,000 from their own personal resources as individuals. I would add that that is the impression I myself would form, if faced with two individuals claiming to be the chief executive and another executive of a wealth management company which managed billions of pounds worth of assets. I would expect such people to have salaries and bonuses or incentive schemes that would permit them to make such donations, to achieve what they wanted to do.
385. In the passage where Mr Calvert said they have two options, the second of which was "we'd have to set up a company in the UK", it appears that he may have been referring to a company which was to be set up just to make a donation, rather than to a company which was to implement the investment strategy, such as by acquiring the Royal Mail for billions of pounds. Mr Cruddas appeared to understand it that way as well, because he stated clearly and emphatically, as he had stated before, that it had to be an operating company, and a bona fide company. In saying "we can't sail close to the wind", when Ms Blake said "I think there are lots of ways we can deal with it", and Mr Calvert added "ways around it", and Ms Southern said "absolutely", they were all speaking quickly. They were speaking in a manner which indicated, not that they are making any decision, but that they wished to bring this part of the conversation to an end, and move on to something else. When Mr Cruddas said "yeah, I'm sure", all he was doing was indicating that he was following what the others were saying.

386. This section of the video and audio recording was played in court, and I have viewed it and reviewed it several times. I am quite satisfied that no reasonable person would understand from these passages that Mr Cruddas was doing anything other than emphatically stating that he and the Party could not sail close to the wind, and that any company making a donation would have to be a bona fide UK registered operating company. He was also making clear that he was not the person who was going to decide whether the donor was compliant with the electoral laws. He was making clear that that was a matter for the compliance people at CCHQ, including Mr Chattey.
387. The Journalists also state that the words at the start of this passage “if people are funnelling money through you then that could be an issue” are insufficiently clear or emphatic. I reject this. These words were a repetition of the point that he had already made perfectly clear. He had already said “you can’t set up a shell company, put some cash into it and say er ‘Right, here’s a political donation’”, “you can’t do third party payments”, and he went on to say “we can’t sail close to the wind because anything bad, it’s just not worth the issues”. In any event, for reasons explained below, the criticisms of Mr Cruddas do not fit well with the cover story that the Journalists were putting forward.
388. The foregoing discussion ends at pages 58-59 of the Transcript. After saying “Mmm, yeah I’m sure” Mr Cruddas changed his tone of voice to a firm one. He resumed the discussion as follows:

“Mr CRUDDAS: But look I think it would be exciting if you come on board. [...] I find it exciting. [...] I love it. I mean people have said to me you know, “Congratulations being the Treasurer” and I said “No, first of all the word is commiserations, it costs me a lot of money”.

Ms BLAKE: Yeah (Laughs)

Mr CRUDDAS: You know, we they don’t – they don’t pay me and I don’t want them to pay me, and I give them money. But the places you go, the people you meet, the events you go to. And you know, like the other day I was at a charitable foundation.... [and he went on to describe how he spoke to Joan Collins and Mr Cameron, and he repeated how, by buying a ticket for £5000 for two people, the international financiers could be attending fantastic events at Heritage Houses. But Mr Calvert led the conversation back as follows]:

Mr CRUDDAS:... you can bring your husband and wives along ,you know, if you buy a ticket you can, you know, five grand I think for two people for the Heritage House, and you know they’re fantastic events.

Mr CALVERT: Yeah, and it’s ...

Mr CRUDDAS: I think we’ll do Hatfield House this year. We’re gonna do Highclere.

Ms SOUTHERN: Oh good.

Mr CALVERT: And it’s good for business?

Ms SOUTHERN: Yeah.

Mr CRUDDAS: It’ll be awesome for your business.

Mr CALVERT: Yeah.

Mr CRUDDAS: You'll be, you'll be well pleased because your guests will get photographed with David Cameron.

Mr CALVERT: Yeah.

Mr CRUDDAS: We do that, you know, and part of the ticket, you get your photograph, fantastic.

Mr CALVERT: Yeah.

Mr CRUDDAS: ... you know. And I'll show you some of them [At the end of the Meeting did show the international financiers his photos]".

389. In describing the events at which he had met Joan Collins and the Prime Minister, in the passage set out above, Mr Cruddas was speaking in a jovial and relaxed mood. He was turning smiling towards the other people at the Meeting visibly enjoying his reminiscences. If Mr Calvert had not turned the conversation back and said "and its good for business?" there is nothing to suggest that Mr Cruddas would have said anything about business at all. It is clear that, in one sense, Mr Cruddas does think and did think that having photographs taken of himself with the Prime Minister was good for business. He must have done, because he had a range of such photographs in a display cabinet on the way into his office. He proudly pointed these out to his guests at the end of the Meeting. But there was nothing in his voice or manner which suggests that his mind was on business at all at this point in the conversation. Having said the words "awesome for your business", he immediately went on to explain that it is the photograph with David Cameron which is included as part of the £5000 ticket which he regarded as fantastic.
390. Mr Cruddas then continued the conversation in his relaxed jovial tone, without giving any indication that he was aware that he might have said something significant. Mr Calvert and Ms Blake allow him to proceed in that way, and they themselves gave no indication that he might have said anything significant. Nor did they ask him to explain what he meant by answering Mr Calvert's question in the way that he did. On the contrary, there then followed several minutes of conversation about Boris Johnson and London politics and London Transport facilities. This runs from the top of page 60 of the transcript to the middle of page 64, and just at the start of the last audio visual file.
391. At this point Ms Southern intervened for the second time to indicate that the Meeting might have come to an end. She said:

"Ms SOUTHERN: Well if everyone's kind of said everything they -

Mr CALVERT: Is there anything else we wanted to -?

Mr CRUDDAS: Well you have to decide what you want to do.

Mr CALVERT: We want to go away and decide what level we want, he made it quite clear as to what - [I do not understand, what he was starting to say with the words ' but he made it quite clear as to what']

Mr CRUDDAS: Look, I - and also I think, you know, because of Sarah, I'll steer you okay?

Mr CALVERT: Yeah.

Mr CRUDDAS: I won't steer you to make, to get money out of you, I'll, you know, if I know what your expectations are I can manage those.

Mr CALVERT: Right.

Mr CRUDDAS: And I'll make sure, if you, if you - ring me up, or Sarah rings me up one day and said 'I've got this really important guy coming to this event', you know, 'I really need to make sure George Osborne says hello to him'.

Mr CALVERT: Yeah.

Mr CRUDDAS: I'll make sure that happens.

Mr CALVERT: Brilliant.

Mr CRUDDAS: Okay? I'll make sure it happens, not officially, but I'll make sure it happens, because I can't say to George Osborne before the event, 'George there's a really good guy, he's blah blah blah, you've got to meet him got to meet', no it doesn't work like that. But on the night -

Ms SOUTHERN: The magic happens [there was laughter which I take to be from Mr Calvert and Ms Blake]

Mr CRUDDAS: I'll grab him [Mr Cruddas made a gesture as if he was grabbing Mr Osborne's collar] and I'll kick him over there and say 'Oh this is Fred I told you about', 'Oh Fred, how are you going? how's your wife?' and you know we'll play the game.

Mr CALVERT: They'd really appreciate that.

Ms BLAKE: They'd love that yeah it would really help us [Mr Cruddas goes on to describe an example of an instance when something like that happened]".

392. In this passage Mr Cruddas did as he had before. He lowered the expectations of his prospective donors by making clear that he was not pressing them for money, that they should make up their own minds, and that, if they did make a large donation, then what they would get for it would be the opportunity to attend events at which, if they forewarned Mr Cruddas through Ms Southern, Mr Cruddas would do his best to make sure that Mr Osborne (or whoever was the minister present) would go to their table and greet them or their guest. Nothing more.
393. There then followed several minutes when Mr Cruddas described how he obtained a signed birthday card for a donor from Mr Cameron. This covers pages 65 to near the end of page 67 of the Transcript. At that point Mr Calvert returned to his theme:

"Mr CALVERT: That's one of the great benefits of course, you go, you go to the top people rather than have to deal with their officials in between all the time.

Mr CRUDDAS: Yeah. The thing is the balance. I don't want to abuse it. I don't have a cup of tea with David Cameron and discuss Libya with him. But I have a cup of tea with him now and again, that's fine you know I don't expect to be called in every week...[...].

Mr CRUDDAS: So when I'm at these events I'm not looking, I'm not standing in line waiting to shake his hand, I say, 'Come

on come here', you know, get them there get in front of the Prime Minister, shake hands and stuff like that. So I like doing that sort of stuff because they may not see the Prime Minister for a year [referring to donors] [...].

Ms SOUTHERN: But for some people it's a once in a lifetime thing...[...]

Mr CRUDDAS:... but you'll all get a chance to meet him.

Mr CALVERT: yeah that would be great

Mr CRUDDAS: I'll take care of you with Sarah. I won't promise you everything, but I'll try and do my best for you to facilitate, you know -, if you've got someone who's got a big government contract coming up and they wanna talk to the Prime Minister about the contract terms that ain't gonna happen

Mr CALVERT: Mmm.

Mr CRUDDAS: ... but if they wanna ask general questions and then they can ask specific questions about the Post Office and stuff like that [...] he'll come back to you, you know, [...] you can ask him, you can ask him difficult questions.

Ms SOUTHERN: He likes a difficult questions.

Mr CRUDDAS: He likes it, yeah.

Mr CALVERT: It would be ,, very good to have that sort of, yeah. And I suppose presumably you can also give him the benefit of your business advice can't you?

Mr CRUDDAS: Yeah, and he's surrounded by good business people.

Mr CALVERT: Yeah yeah.

Mr CRUDDAS: ... and he does tap into us on a regular basis. Er and he will, you know. Like I saw him at Woburn and I said to him, someone said to me 'Oh he's off to Germany tomorrow to see Merkel' by the way, I go to Chequers, the weekend house not all donors get invited to that, it depends. And erm he likes to keep that private. But I knew he was seeing Merkel the next day. So when I'm having my photograph done [this makes it clear that Mr Cruddas is referring to the charity event in the marquee at Chequers which he had sponsored] I said 'Prime Minister,' I said 'For God's sake, don't let them bring in the Tobin, I know you're seeing Merkel tomorrow, please we don't want the Tobin tax', where they tax financial transactions. He said, 'Don't even worry about it. Don't even think about it, it ain't gonna happen...not on my watch.' 'Thank you Prime Minister' [Mr Cruddas made sounds and gestured as if he was kissing someone on both cheeks] 'Hello Sam, how are you'? [Everyone laughed] Get your photograph done and bonk, off we go.

Ms BLAKE: Brilliant.

Mr CRUDDAS: Sam she's lovely, she's lovely... [and the conversation went on about other people] ”.

394. In this passage, in response to Mr Calvert's suggestion that donors can give the benefit of their business advice to the Prime Minister, Mr Cruddas gave an example of

what it is that donors can say in the few seconds which it takes for the photograph to be taken. The Tobin tax is, as is well known, a topic which has been discussed publicly at very great length, and upon which politicians have repeatedly expressed their views.

395. After Mr Cruddas had spoken for a minute or two about the kind of donors the Party did not want to be associated with, Ms Blake brought the discussion back to the business of the meeting. This was at page 71 of the Transcript and nearly twelve minutes into the fifth audio visual file. The discussion went as follows:

“Ms BLAKE: What about, I mean Chequers, I just think that sounds fabulous. I think David would absolutely love to go to Chequers, don’t you think?

Mr CALVERT: Yeah.

Ms BLAKE: What do you have to do to get yourself to Chequers? How -, is there something that’s only a select few donors, or -?

Ms SOUTHERN: I think that’s a long term in the future thing to aim for.

Mr CRUDDAS: I think what you need to do, you need to be part of the system [...] And the way to do that is to come on board the way we’ve described today and then things will open up. [...] If your just going to give 10 grand a year then it ain’t gonna open up for you. But there are events that come up that you would be invited to come on. Now you may have to pay [...]

Ms BLAKE: That’s fine.

Mr CRUDDAS: But that event I’m talking about was a big charitable event, there were no freebies, you bought a ticket, you weren’t invited. And I’ll tell you, we had an operatic evening. We sat in Chequers, which is a fantastic place, and there was all sorts of memorabilia that belonged to the nation that were at Chequers. I think there was Wellington’s sword and Nelson’s personal compact or something, you know cigarette case or something, you know. Really interesting stuff. But we sat there, we sat, enjoyed the opera and I was sitting next to Sam because I sponsored the evening, and there were really good business people there. And the opera was there and Cameron’s kids were on the balcony [...] the stairwell, looking down and it was the chair – the chairman- Lord Feldman, Andrew Feldman is best friends with David Cameron. And Andrew Feldman had stayed there for the weekend with David [...] and his kids and Cameron’s kids were in the stairwell in their pyjamas watching the opera [...] It was fantastic, fantastic. Then we went through and had dinner afterwards. But that was a charitable event. But if you’re, if you’re in the Leader’s Group and you’re a donor you’ll be invited. Not everybody will be invited, you won’t be invited to come but you’ll be invited to buy a ticket [...] and the money would actually go to charity in that situation [...] actually we asked,

what we did was we had John Major there [...] and we had erm his wife [...] Norma and then we had erm Samantha and we asked them, we raised about a million quid [...] and they could give the money to their two, their charities. We gave them the money to give to their charities [...] We did it for Sam and Norma. And John Major was there. You'll get to meet John Major".

396. All that was in response to Ms Blake's question of "what do you have to do to get yourself to Chequers"? The answer, given first by Ms Southern, and then at greater length by Mr Cruddas, was that that is something to aim for in the long term in the future. When Mr Cruddas said "and then things will open up", he was speaking in a soft voice, which conveyed that he understood that what he was saying might not be what Ms Blake wanted to hear. But his voice picked up when he said "and then things will open up". He went on to describe how donors got to the event at Chequers, and exactly what was involved. His detailed description made clear that it was a charitable event and not an event for which the ticket price would count as a donation to the Party. He made clear that donors to the Party would not get an invitation to apply to buy a ticket unless they had been in the Leader's Group for some period of years. And when they did give money to the event, then the sort of people they would meet would be Mr and Mrs Major and Samantha Cameron, as well as the other members of the Leader's Group who had been invited to buy a ticket. In other words, it was clearly being stated that this was not an opportunity to visit the Prime Minister for a face to face meeting at Chequers.

397. Mr Cruddas then gave another example of what he meant by things "opening up":

"Mr CRUDDAS: I had lunch last week in the city with Norm -, er Nigel Lawson, Michael Spencer the owner of ICAP invited me to his offices [...] we had lunch there. Nigel Lawson was there and some business people. You, things will open up for you [...] but you need to go in with a bit of, you know its no good scratching around here's ten grand now and we'll send you five grand, minimum a hundred grand, minimum, minimum [...] but the nearer you can get to two hundred grand and hold back for the events so what you do is say 'we're gonna give a hundred and fifty grand or whatever, two hundred grand plus' I would say hold a hundred grand back [...] over the year what you can say is, yeah, because we want to come to some of the other events [...] so you say, right we're gonna do the Heritage House event, we'll have a table there, we'll have a table at, I'll tell you all the events you should go to [...] we'll have a table a the Carlton Political, we'll have a table at the Black and White, which has just gone [...] we'll do the Summer Party, we'll have a table at the Woburn event or the Highclere event. We'll do something on the business day at the Party Conference which is in Birmingham this year. So you can easily spend another fifty grand, sixty grand. You might want to bid at some of the auctions [...] where you'll get – you'll bid for an auction prize which, David Cam, which you

can be photographed with David Cameron accepting, stuff like that, or George Osborne at Heritage at Highclere. So I would say at least hold a hundred grand back, ...

Ms BLAKE: Right.

Mr CRUDDAS: ... because then, what you can do is extend the reach of your donation. [...] ...So you make a donation to the Party, that's for the Party and we get you two Leader's Group seats, may be three, maybe four, depends how much. And then, you can donate for some of the other events, where you can invite non donors, clients [...] and they can come along, I mean you can introduce them to George Osborne and stuff like that. If you want important clients to be at the Cameron dinners then we have to look at the compliance issues, who's going to make the donations and stuff like that.

Mr CALVERT: Yeah.

Ms BLAKE: Course.

Mr CRUDDAS: But we can easily get you to meet Cameron and Osborne and Hague and Gove, people like that, Teresa May we can easily get you at those events. We sometimes have lunches as well, what we call er, like Eric Pickles prospect' lunches [...] Prime Minister's question time, you can come along we have them at HQ it's a buffet lunch, you sit down, you can here about um, Prime Minister's question time and stuff like that [...] there's lots of events, it depends how you want to use it".

398. In this passage again Mr Cruddas was trying to lower the expectations of the two prospective donors. He was saying that what they could expect was a table at a large event, where some of the money that they were being advised to hold back would be spent, not on donations to the Party, but on charitable events or donations. He was explaining that there were some events to which non donors such as clients could be invited, where Mr Cameron would be present, but then the Party would have to look at the compliance issues. But all of this would flow from having become a member of the Leader's Group. At the end of the passage quoted above Ms Blake added 'Fantastic'.

399. Ms Southern then intervened in a passage at the top of page 75 of the transcript, about 18 minutes 30 seconds into the fifth audio visual file:

"Ms SOUTHERN: I'll arrange a meeting for them to meet with Mike Chattey and we can go through the compliance issues [...] and then we can come up with a plan of the best way we can

Ms BLAKE: Fantastic

Mr CALVERT: I'm sure we can find a way round it."

400. When Mr Calvert said 'I'm sure we can find a way round it' his voice was clear and straightforward. There was nothing untoward implied by his voice. There was no implication that the way round the compliance issues might be unlawful or a deceit. At no point in the whole meeting did anybody use a tone of voice or body language to

suggest that they knew that what they are talking about was something that would be unlawful. The voices are all perfectly straightforward throughout.

401. The discussion continued:

“Mr CRUDDAS: All I -, my advice to you is that by meeting me you’re in you’re in at a very high level. [...] Don’t get swallowed up by the Party, you go and see Mike Chattey [...] talk to him about compliance and then come back to me. [...] Because if you want me to steer you in the right direction you know, there’s, Mike will be dealing with a hundred people in a month, oh yeah blah blah blah. I can, I can facilitate a decent table at the right event and stuff like that. You know.

Mr CALVERT: Yeah.

Ms SOUTHERN: Absolutely.

Ms BLAKE: Fantastic.

Mr CRUDDAS: Whereas Mike doesn’t have the au -, I mean Mike’s employed by the Party [...] top guy, really good guy, will look after you [...] will take care of you, but if you want to operate at a higher level, then you’ve got to write a bigger cheque, but I’ll make sure you get through.

Ms BLAKE: Brilliant”.

402. When Mr Cruddas said “But I’ll make sure you get through” he was not saying that he would make sure they got through compliance. He was saying that they would get a decent table at the right event. That’s what he was explaining he means by “operate at a higher level”.

403. Ms Southern then intervened again:

“Ms SOUTHERN: Once we’ve met with Mike and worked out the exact way we’re going to structure it, I’ll give you a call Peter and we’ll arrange another meeting.

Mr CRUDDAS: Yeah yeah

Ms BLAKE: Oh fantastic.”

404. The video at this point is clearer than in some other places. Whereas at some points in the video from Mr Calvert’s camera all the viewer can see is the head, or the top of the head, of Mr Cruddas (and sometimes not even that), at this point the viewer can see all of Ms Southern and Mr Cruddas that is visible above the table at which they are seated. When Ms Southern said “once we’ve met with Mike and worked out the exact way we’re going to structure it” Mr Calvert’s camera shows that she was first looking at Ms Blake straight into the eye (Ms Blake’s camera is trained on Mr Cruddas at this point), and then quickly turning and looking to Mr Cruddas again, straight into his eyes. There is no suggestion at all in Ms Southern’s voice or body language that she was hinting at, or understanding, that what might be worked out might be in any way unlawful or improper. And there is nothing in Mr Cruddas’s demeanour to show that he understood anything improper was being suggested.

405. There then followed about five or six minutes of chatter, of the kind people engage in at the end of a meeting which they consider has gone well. This is at pages 76 to the

top of page 81 of the Transcript. It is the last five minutes of the fifth audio visual file, and the first minute or so of the sixth and last audio visual file. During this chatter Ms Blake said “that’s been really helpful” and Mr Calvert said “we’re delighted to come in at this level with you rather than... yeah”. Mr Cruddas gave another impersonation of what happened at the Black and White party when the Prime Minister went over to a table and greeted someone. Mr Calvert said “brilliant” and Ms Blake said “fantastic wonderful”. She took a copy of the Brochure and said “that would be great to have a look at thank you”.

406. Mr Cruddas also spoke flatteringly of Ms Southern in a way which indirectly explained how it was that the two international financiers had been able to come to a meeting with Mr Cruddas in the way that they had. He said:

“Mr CRUDDAS: Well Sarah wouldn’t have had you in here if you weren’t serious [...] you know she wouldn’t waste my time if she knew that ... you know she, she wants you in at the right level. You’ve done well to get Sarah because she is very well connected, seriously, I’m not just boosting her, [...] but, I mean on No to AV she’s a tough cookie at times. (Laughter) We had a few run ins. I wasn’t sure if we were still friends [...]”

407. Everybody can be heard laughing at this friendly banter. Everybody can then be seen getting up and walking out of Mr Cruddas’s office, and stopping in front of the display cabinet where he has all the photographs of himself and the various events. There were also other photographs, such as a signed photograph of Mrs Thatcher and Mr Cameron, which he had bought at an auction. There was a picture of Mr Cruddas with Bill Gates. There was a picture of him at the Spring or Summer Party which he said he sponsored. There was a picture of Mr Cruddas with Prince Charles which he explained was taken at a drinks party at St James’s Palace.

408. Ms Blake drew attention to Christmas cards from Prince Charles and a number of other members of the Royal Family. Mr Cruddas volunteered that because of his charitable activities he would be able to take the international financiers and some of their guests to events at Buckingham Palace or Windsor Castle. Mr Calvert asked how long Mr Cruddas had been working for charity and for the Conservative Party. He said about 10 years for charity and about 5 years at a level which he called being involved with the Conservative Party. He stated that he had left school at 15 with no qualifications but he now had a degree from Oxford University and a doctorate from Loughborough, that he was a trustee of the Royal Opera House, and he had been a trustee of The Prince’s Trust until he had to step down when he became Party Treasurer. All this discussion took place on the way out of Mr Cruddas’s office as he accompanied them.

409. During this part of the conversation, on the way to the door, Mr Cruddas said this:

“Mr CRUDDAS: Well you know, you have to know a little bit about what’s going on because you know people ask you, donors ask you, and you have to, you have, but also you pick up so much when you go to some of these events you will hear stuff that, I mean I heard something about the budget yesterday but I can’t, I won’t say.

Ms BLAKE: Oh you can't tell us?

Mr CRUDDAS: I won't even tell the wife you know.

Ms BLAKE: What a tease.”

410. Those words were said as the group reached the street door. The recording of Mr Cruddas ended about three minutes into the 6th and last audio visual file. When Mr Cruddas said “I heard something about the budget yesterday” he said nothing to indicate that he had heard it from a member of the Government. And when he gave evidence he stated specifically that he had not heard it from a member of the Government and he said where and from whom he had heard it.

SUMMARY

411. This Summary is to be read subject to the full reasons set out in this judgment. Mr Cruddas brought two claims against the Defendants in respect of the Articles in *The Sunday Times* dated 25 March 2012, one in libel and one in malicious falsehood.
412. For the purposes of the claim in libel, the Court of Appeal has ruled that the Articles bore the following three natural and ordinary meanings:
- “1) In return for cash donations to the Conservative Party, Mr Cruddas corruptly offered for sale the opportunity to influence government policy and gain unfair advantage through secret meetings with the Prime Minister and other senior ministers. “Corruptly” here means “inappropriate, unacceptable and wrong and gave rise to an impression of impropriety”.
- 2) Mr Cruddas made the offer, even though he knew that the money offered for secret meetings was to come, in breach of the ban under UK electoral law, from Middle Eastern investors in a Liechtenstein fund; and
- 3) Further, in order to circumvent and thereby evade the law, Mr Cruddas was happy that the foreign donors should use deceptive devices, such as creating an artificial UK company to donate the money or using UK employees as conduits, so that the true source of the donation would be concealed.”
413. I have found that each of those meanings is untrue: para 118 above. Truth is the only defence which the Defendants have raised to the claim in libel. Although they had said in correspondence that they could raise defences of honest comment and *Reynolds* privilege, or responsible journalism, they chose not to do so.
414. For the purposes of the claim in malicious falsehood the Court of Appeal has held that the Articles would have been understood by a substantial number of readers to have borne a more serious form of the first meaning, namely that “Corruptly” meant corruption contrary to the criminal law. I have found this meaning to be false as well.
415. To succeed in a claim in malicious falsehood, unlike libel, a claimant has to prove that the Defendants were malicious. I have found that they were: para 276 above.
416. I have awarded Mr Cruddas £180,000 in damages for libel: para 311 above.
417. For the malicious falsehood claim I have not addressed all the issues of damage. I have held that the Articles were likely to cause him pecuniary damage in respect of his profession and business. A claimant cannot recover twice for the same damage. The further issues relating to damages for malicious falsehood can be considered at a future hearing, if for some reason that becomes necessary.
418. The only claimant in this action is Mr Cruddas. A number of other people are named in this judgment, principally Mr Adams, Ms Southern, The Prime Minister and the Chancellor of the Exchequer and Mr Hyams. None of these, nor anyone else named

(other than the Defendants and Mr Witherow), has given evidence or been represented in court. Nothing in this judgment should be taken as a finding by me which is adverse to anyone who did not give evidence.