

[1] absolutely no reason why I should have asked for a  
 [2] letter about which I knew nothing.  
 [3] **Q:** It is just a coincidence, is it, that, on  
 [4] 28th October, you had written a strong recommendation  
 [5] to Watson and that, two days later, to your own  
 [6] knowledge, he had adopted that proposal and written to  
 [7] Sainsburys, and just a coincidence, as I suggest to you,  
 [8] that Mr Donovan has contended throughout, as you know,  
 [9] that you had the letter on 24th November? That is a  
 [10] coincidence, is it?  
 [11] **A:** I have explained why the Sainsburys briefing document  
 [12] and letter were made by me at the end of October. It  
 [13] was seizing what we perceived as a marketing  
 [14] opportunity, I think. Because Sainsburys - either we  
 [15] had suddenly become aware of them -  
 [16] **Q:** I am not asking that question. Forgive me -  
 [17] **A:** I am trying to explain why we were talking to  
 [18] Sainsburys. We were talking to Sainsburys for the  
 [19] reasons I have explained earlier; because we became  
 [20] aware of them through Comic Relief and/or Air Miles.  
 [21] I mentioned it to David, David asked me to write a  
 [22] strategy document. This was all completely  
 [23] correspondence between David Watson and myself. Whether  
 [24] or not, in a completely unprompted telephone call which  
 [25] Mr Donovan must have made to me some time prior to

Page 173

[1] the Concept Four on 4th June?  
 [2] **A:** On 26th May or beforehand, yes. I mean, we have been  
 [3] through all of this.  
 [4] **Q:** Exactly. You have no recollection at all, is the point,  
 [5] is it not?  
 [6] **A:** About Concept Four and about the Sainsburys letter, no.  
 [7] **Q:** No. You see, I want to understand, if I may, exactly  
 [8] what you are saying about 24th November.  
 [9] (4.00 pm)  
 [10] Page 15 of your witness statement, paragraph 30;  
 [11] "On 24th November I had a meeting with  
 [12] John Donovan."  
 [13] You omit any reference to Mr Sotherton. Do you  
 [14] accept that Mr Sotherton was present?  
 [15] **A:** I do.  
 [16] **Q:** "At this meeting we discussed two new promotions that he  
 [17] put forward; Hollywood Collection and Make Merry. As  
 [18] usual, I made a note of this meeting. I understand from  
 [19] Mr Donovan's Statement of Claim that he alleges he left  
 [20] me a copy of a July 1990 letter he had written to  
 [21] Sainsburys at this meeting. I have no recollection of  
 [22] ever requesting, discussing or seeing that letter."  
 [23] **First proposition:** is that correct? You have no  
 [24] recollection of requesting, discussing or seeing that  
 [25] letter?

Page 175

[1] 24th November, he mentioned a letter or mentioned  
 [2] Sainsburys, I cannot remember what was discussed at that  
 [3] telephone call. I had hundreds of calls every week.  
 [4] But I never knew about this Sainsburys letter.  
 [5] **Q:** Mr Donovan could never have known that Mr Watson had  
 [6] written to Sainsburys, could he?  
 [7] **A:** No.  
 [8] **Q:** He could never have known that, on the 28th, you had  
 [9] recommended to Watson such an approach to Sainsburys,  
 [10] could he?  
 [11] **A:** I do not think there is any way he could, no.  
 [12] **Q:** No. But he has, as you know, asserted throughout this  
 [13] entire proceeding that you asked him to bring a copy of  
 [14] a Sainsburys letter to the meeting on 24th November. He  
 [15] has always asserted that; you know that, do you not?  
 [16] **A:** I do know that.  
 [17] **Q:** You cannot recollect that conversation on the telephone?  
 [18] **A:** I have no recollection of it at all.  
 [19] **Q:** No. Indeed, it is right to say that you have no  
 [20] recollection of the conversation on 12th May about this  
 [21] multibrand loyalty concept?  
 [22] **A:** No. But, as we ascertained earlier on, clearly  
 [23] something was mentioned at some stage. Probably in  
 [24] passing.  
 [25] **Q:** No recollection of any discussion about the receipt of

Page 174

[1] **A:** Correct. I have never seen it.  
 [2] **Q:** That is different from saying "I have no recollection of  
 [3] it". Which is it?  
 [4] **A:** If you compare the Concept Four and the Sainsburys  
 [5] letter, having now poured over Concept Four for some  
 [6] months in preparation for this trial, it seems to jog  
 [7] memories. Nothing more than that. It seems to come  
 [8] back to me that it may have been mentioned in passing.  
 [9] But that is only after pouring over it in the last few  
 [10] months. Nothing has jogged any memories about the  
 [11] Sainsburys letter or even any discussion at all with  
 [12] Mr Donovan about Sainsburys or anything.  
 [13] **Q:** Forgive me, did you have the recollection, dimly  
 [14] stirring, of seeing Concept Four when you made your  
 [15] witness statement?  
 [16] **A:** I do not think I did. It was some months ago when we  
 [17] had to file these. It is only a dim recollection and,  
 [18] as I say, if you look at it, it is a collection of  
 [19] generic concepts or ideas.  
 [20] **Q:** We will come to that. You have no recollection of  
 [21] requesting or seeing the letter?  
 [22] **A:** No.  
 [23] **Q:** Do you say that you did not see the letter, or that you  
 [24] just have no recollection of it?  
 [25] **A:** I did not see the letter. I am quite sure of that.

Page 176