

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN MANCHESTER

Manchester Civil Justice Centre  
1, Bridge Street West  
Manchester M60 9DJ  
Hearing 12,13,14,17,18,19 and 20 October 2022  
Closing written submissions concluded 18 November 2022  
Draft Judgment circulated 16 January 2023  
Judgment handed down 18 January 2023

BEFORE HIS HONOUR JUDGE BEVER  
SITTING AS A JUDGE OF THE HIGH COURT

B E T W E E N

MR ATABEK SUKUROV

Claimant

and

MR SULAIMAN AHMED

Defendant

Micheal Murphy of Counsel and Clarke Willmott solicitors for the Claimant.

The Defendant represents himself.

This judgment was handed down remotely in the absence of the parties, to be circulated to them by email.

### JUDGMENT

#### **A. Introduction**

1. This is a dispute relating to a partnership (**the Partnership**) entered into by the parties to this litigation, namely Mr Sukurov (**the Claimant**) and Mr Ahmed (**the Defendant**) in or around late 2012/early 2013. The main purpose of the Partnership was to offer Islamic education and associated services to the public.

2. The parties' working relationship broke down some years ago and they each seek redress by these proceedings. This is a very acrimonious dispute. The parties make numerous allegations against each other. There are parallel defamation proceedings brought by the Claimant.
3. This judgment determines certain factual issues which are disputed by the parties.

**B. The parties**

4. The Claimant describes himself as a prominent Islamic scholar and an expert in Islamic herbal medicine. He maintains that he has practised in Islamic herbal medicine since approximately 1993 and that, in 2006, after studying at a number of universities around the world, he moved to, and began to teach in, the United Kingdom. He claims to have established two Islamic educational organisations in 2008, namely the Al-Qanun Foundation (**Al Qanun**) and the Afiyah Institute in Rochdale (**the Afiyah Institute**)
5. The Defendant is a qualified Mathematics teacher. He began working at the Afiyah Institute on a voluntary basis in 2012. He subsequently resigned from a senior teaching post at Goole High School in 2014, with a view to devoting his time to the Partnership.

**C. Background**

6. The parties were introduced to each other in 2010/2011 by Moneeb Minhas (**Mr Minhas**), who was then the President of the Islamic Society at Leeds University. At that time, the Claimant was lecturing at that University.
7. In September 2011, the Defendant enrolled on a religious studies course being taught by the Claimant at the Afiyah Institute.
8. The Afiyah Institute was a private educational organisation for Muslims of all ages. It offered and delivered various courses, including Alim (involving a study of Islam and its application) and Herbal (herbal medicine) courses. The students would generally pay for the courses which they attended.
9. The Defendant worked at the Afiyah Institute on a voluntary basis and, from January 2012 onwards, he would drive the Claimant to some of his teaching engagements. At that point, a friendship developed between the parties.
10. In 2012, the parties worked together for a number of weeks at an Islamic institute in Doncaster, at the instigation of the Defendant.
11. In or around November 2012, the parties went on holiday to Turkey with Mr Minhas and the Defendant's brother-in-law, Rouf Ditta (**Mr Ditta**). At that time, Mr Minhas was a friend of the Defendant. The possibility of entering into a partnership was discussed during that holiday and an agreement to do so was reached at that time or shortly afterwards.

12. The Claimant and the Defendant were to be the only partners in the Partnership, and it was to be operated under the name "Avicenna".
13. The funds of the Partnership were to come from: the delivery of educational (including Alim and Herbal) courses which had been taught at the Afiyah Institute; a primary and secondary school in Sheffield ("the Avicenna Academy") to be established by the parties; consultations and treatments offered to the public by the Claimant; the publishing of Islamic texts under the publishing name "Avicenna Publishing", including a text called Hanafi Principles of Testing Hadith; donations from members of the public; and the sale of DVDs of lectures delivered by the Claimant.
14. On 27 March 2013, the Defendant and Mr Minhas had a meeting with two members of the Afiyah Academy to discuss the separation of the organisations. The Claimant was not present at the meeting. An agreement was reached about the assets which would move to the Partnership/the Avicenna Academy and those which would remain with the Afiyah Academy.
15. The Partnership began at the end of 2012/beginning of 2013.
16. The Avicenna Academy opened in September 2013. It was funded by students' fees and by the activities of the Partnership.
17. A charity, Avicenna Global Charity ("the Charity"), was established on 25 June 2013. The Claimant and the Defendant were, at all material times, trustees of the Charity, along with Abdul Qadeer Khan (**Mr Khan**) and his brother, Tauseef. Mr Khan was, and is, a friend of the Claimant. The Charity's objects were educational (with a particular focus on the works of herbalist, scholar and philosopher, Avicenna) and the relief of poverty in the United Kingdom and abroad. Its activities were the Avicenna Academy, the overseas Ghana School project (which was discontinued), overseas herbal consultations, the provision of free lectures and the provision of books.
18. A company, Avicenna Global Limited, was established on 18 February 2014. The Defendant was the sole director of the company and the Claimant was the Company Secretary. They were the only (but equal) shareholders.
19. The following bank accounts were opened to hold the funds of the Partnership.
  - On 27 February 2013, account number 65635753-00 ("Co-op Account 753") was opened with the Cooperative Bank in the name of "Avicenna Welfare". The name of the account was subsequently changed from Avicenna Welfare to Avicenna Academy.
  - In early April 2013, account number 65635740-53 ("Co-op Account 740") and account number 65635766-53 ("Co-op Account 766") were opened in the name of "Avicenna Academy".

- NatWest account numbers 44396899 (“NatWest Account 899”) and 44396880 (“NatWest Account 880”) were opened jointly by the parties in October 2015.
  - NatWest account number 44821875 (“NatWest Account 875”) was opened in September 2017 in the Defendant’s sole name. This was his sole trader account after he regarded the Partnership to be at an end.
20. There were in operation PayPal accounts linked to the email addresses [info@avicennaacademy.com](mailto:info@avicennaacademy.com) and [sulaiman.ahmed@avicennaacademy.com](mailto:sulaiman.ahmed@avicennaacademy.com) and an Amazon account through which payments were made to the Partnership resulting from its business activities.
  21. The parties’ working relationship began to break down in or around 2016.
  22. In 2016, the Partnership ceased to deliver Alim and Herbal courses.
  23. The Claimant established three educational establishments in 2016 and 2017: Alberonius Herbal College in 2016, and Ibn Sina Herbal and Maturidi College in 2017.
  24. The parties met in May, June and July 2017 to discuss the position. They have not been actively involved in any joint enterprise since those meetings took place.
  25. In August/September 2017, the Defendant registered trademarks “Maturidi”, “Maturidi College”, “Maturidi Institute” and “Maturidi Journal”. The Defendant alleges that the Claimant has infringed these trademarks by using “Maturidi College” and “Maturidi Institute” to promote his courses.
  26. From approximately July 2017 onwards, the Defendant ran the Avicenna Academy as a sole trader and then, from September 2020, via a corporate structure.
  27. The Claimant maintains that in March 2018 he asked the Defendant for information relating to the Partnership’s bank accounts, which he says the Defendant refused to provide. On 16 July 2018, solicitors who had been instructed by the Claimant made an application against the Defendant to the County Court at Manchester for pre-action disclosure of bank statements. At the hearing of that application on 5 December 2019, Deputy District Judge Buckley ordered the Defendant to disclose to the Claimant copies of bank statements relating to the accounts of Avicenna Global Limited, Avicenna Education, Avicenna Welfare and Avicenna Academy.
  28. The Claimant subsequently made allegations of fraud against the Defendant to the Police and to the Charity Commission. He alleged that the Defendant had taken approximately £350,000 from the funds of the Partnership/Charity.
  29. No action was taken by the Police. The Charity Commission investigated the matter and produced a report in which the Claimant’s allegations were not upheld.

30. In 2017 and 2018, the Claimant also made allegations against Avicenna Academy to Ofsted and to the Department for Education. Notwithstanding those complaints, the school received a “Good” Ofsted rating in September 2018. The Claimant then made further allegations against the school, leading to a second Ofsted inspection, which resulted in a “Poor” rating being given to the school.

31. The Defendant took out a number of lease cars in his own name during the currency of the Partnership.

32. The Claimant undertook courses at Manchester Metropolitan University and Liverpool University which were to be for the benefit of the Partnership. The Partnership paid for the courses. The Claimant did not complete the courses and apparently secured a refund, although there was a shortfall.

**D. The parties’ rival positions**

(i) Background Issues

33. The Claimant maintains that he not only established Al Qanun and the Afiyah Institute but that, at the same time, he was delivering independent courses nationally on subjects relating to religious and herbal sciences at the invitation of mosques, universities and community centres. He says that he was appearing on a Muslim television channel from 2008 and that, from 2012 onwards, he was appearing on British Muslim TV on Alim and Herbal matters.

34. The Defendant’s case is that the Claimant was an unqualified humanities teacher in Dubai, before he moved to the United Kingdom in 2006, where he taught for 2 years at the Abu Zahra Foundation, which did not renew his contract because he was difficult to work with. The Defendant contends that he only found out about the existence of Al-Qanun when the Claimant served his witness statement in these proceedings. He denies that the Claimant established the Afiyah Institute, and says that the Claimant was only one of a number of teachers working there. The Defendant contends that, in 2012, the Claimant left his employment with his then employer, Sacred Knowledge, following a disagreement and that, at that point, he was dependent on a very modest income from the Afiyah Institute.

35. The Claimant maintains that the Defendant drove him to lectures at the Defendant’s request, whereas the Defendant says that the purpose of the arrangement, which was endorsed by the leadership team at the Afiyah Institute, was to ensure that the Claimant attended the lectures.

36. The Claimant initially alleged that the Defendant had been dismissed from his role as a teacher at Goole High School, although he now accepts that that was not the case.

(ii) The Partnership

37. Each party contends that the other proposed the Partnership.

38. The Claimant's case is that the profits of the Partnership were to be divided equally between the parties, with the Claimant to be responsible for the academic and educational activities of the Partnership, and the Defendant to assume responsibility for its finances. The Defendant's position is that monies generated by the Partnership were to be put towards the provision of Islamic education, with each party being equally responsible for the academic and educational activities of the Partnership. He says that the funds generated by the Partnership were to be put towards the Charity and, in turn, the Academy, although the Academy was loss-making.

(iii) The assets of the Partnership

39. The Defendant contends that the Alim and Herbal courses did not exist before 2012, and that the Claimant did not create them alone, but rather that they were product of the parties working together. He says that they were run by and at the Afiyah Institute, where he taught and led them. According to the Defendant, the unique selling point of the Alim and Herbal courses was that they were digitised and delivered online. He says that the courses drew on the knowledge of both parties, but that it was his idea to deliver them online.

40. The Claimant maintains that he created new Alim and Herbal courses at the Afiyah Institute, having originally taught them online and face to face at Al-Qanun, and that he had established an Alim course at the Sacred Knowledge Trust (to which he moved in 2010) which was used in the Partnership. He says that the Defendant was only involved in the administration of the courses at the Afiyah Institute, principally dealing with collecting fees from students.

41. The Claimant maintains that the Avicenna Academy was funded by the profits of the educational courses and that, from 2015 onwards, the Partnership began to publish Islamic texts via Amazon under the name of Avicenna Publishing, with lectures delivered by the Claimant being sold to the general public. He says that the profits were paid to the Partnership and then split equally between the parties.

42. The Defendant denies that, in 2013, the Claimant started delivering educational courses to raise money for the Partnership and maintains that he failed to account for any monies which he received at that time from giving herbal consultations and treatments.

43. Each party contends that Avicenna Global Limited was set up at the instigation of the other. The Defendant says that the company was set up so that the parties could be paid legally through the income of the Partnership from the Alim and Herbal courses. The Claimant says that it was established to protect the parties from any personal liabilities.

(iv) The Bank accounts

44. In his witness statement, the Claimant maintains that Co-op Accounts 753, 740 and 766 were opened by the Defendant. The Defendant says that they were opened by Mr Khan and that Mr Khan's brother and the Claimant were initially the only people with access to the online accounts.
45. The Defendant's position is that Co-op Account 753 was used for the Charity with Partnership funds being paid into it as donations to the school. He says that later, when the main Partnership account was NatWest Account 899, some students mistakenly paid monies into Co-op Account 753, but that the monies were soon transferred back to the correct NatWest account. He also contends that Co-op Account 740 was initially used for projects such as the Ghana Project, which was subsequently abandoned, and then by Avicenna Global Limited for funds from the Partnership's various activities, before being closed in 2019. The Defendant says that Co-op Account 766 was a savings account in relation to which there was only a limited number of transactions and that it was closed in 2019.
46. The Claimant maintains that Co-op Account 753 was used by the Avicenna Academy, whilst the monies from the Alim and Herbal courses were paid into Co-op Account 740.
47. In his witness statement, the Claimant maintains that NatWest Accounts 899 and 875 were opened jointly by the parties and he gives the impression that he had been unaware of NatWest Account 880. However, in the Claimant's closing submissions, it is acknowledged that NatWest Account 875 was opened by the Defendant alone. The Claimant says that his name was removed from NatWest Accounts 899 and 880 in 2017.
48. The Defendant says that NatWest Account 899 was opened to separate the parties' business activities from the Charity and that it became the main Partnership account, before being closed in April 2018. He also says that NatWest Account 880 (for which only the Claimant had a debit card) only had a small number of transactions, before being closed in 2017. Both accounts were opened in the name of "Avicenna Education".
49. The Defendant accepts that the separate bank accounts were not used in a strict fashion and that the filing of accounts was sporadic. He says that the Co-op accounts were ostensibly charity accounts but that, for a limited period of time, Co-op Account 740 was incorrectly used by the parties as a business account.
50. The Defendant contends that the PayPal accounts were used by the Charity and the Partnership, but were accessed by the parties and members of staff working at the Academy.

(v) The Finances

51. The Claimant complains that the Defendant denied him access to, or insight into, the finances of the Partnership and that he did not share financial documents with him. He recalls that the Defendant would often give him confusing explanations regarding the finances of the Partnership and would tell him that it was running out of funds and could not afford to pay employees' wages.

52. The Defendant's position is that the Claimant had full insight into the finances of the Partnership, and that he received, and had access to, bank statements. The Defendant says that both parties had online access to the Partnership's bank accounts and that the bank statements were sent to the Claimant's home addresses.
53. The Defendant's evidence is that, in or around August 2014, the parties agreed that the Claimant would receive £900 per month, and the Defendant approximately £1200 per month, by way of remuneration for working at the Academy, the Defendant having given up his teaching job and working more hours in the Partnership, whereas the Claimant had other commercial interests, having found a second job during the course of the Partnership. In his witness statement, the Claimant says that he was initially paid £1200 per month "in wages", but that, towards the later years, he would receive nothing or between £400 and £900 per month.
54. The school's staff members largely consisted of members of the Defendant's family. The children of staff members did not pay school fees. The Defendant says that this arrangement was agreed by the parties. The Claimant disputes this and maintains that he was unaware of the salaries of the Claimant's family members.
- (i) Events from 2016 onwards
55. The Defendant says that it was agreed, at the Claimant's request, that the Partnership would cease temporarily to deliver Alim and Herbal courses. His case is that the Claimant began to disengage from the Partnership, stopped attending at the school to teach the students and did not deliver lectures to adults at the weekend.
56. The Defendant characterises Alberonius Herbal College, Ibn Sina College Limited and Maturidi College Limited as rival organisations to the Partnership, designed to move the profitable aspects of the Partnership (namely the Alim and Herbal courses) into the Claimant's sole control. He maintains that the Claimant established Alberonius Limited (relating to the Partnership's Herbal course) without informing him of his intention to do so and that, when he confronted him about the issue, the Claimant agreed to close down the course. He thinks that the Claimant had opened a PayPal account and possibly a bank account for Alberonius Herbal, but that they have not been disclosed in these proceedings. The Defendant alleges that the three colleges were established, using Partnership mailing lists and delivering the content of the Partnership's Alim and Herbal courses.
57. The Defendant's case is that, at the meeting in May 2017, the Claimant promised him that there would be a fair resolution relating to the Partnership's Alim and Herbal courses.
58. The Claimant says that the parties' relationship became difficult when he was informed that the Defendant had made a number of allegations of misconduct against him. He met the Defendant on three occasions to discuss the allegations and he maintains that, following those meetings, he received threatening messages from the Defendant, which he reported to the Police. He says that, on the advice of the Police, he stopped teaching at the Avicenna Academy.

59. The Claimant claims that, when the parties met, the Defendant told him that the Avicenna Academy was in financial difficulties and that, when he asked the Defendant for information about the financial position of the Partnership, he refused to provide it.
60. The Defendant considered the Partnership to have been at an end from 3 July 2017 and he says that the Charity was dormant from around 2017 until it was closed down on 3 September 2021. On 3 July 2017, the Claimant was removed as a trustee of the Charity and he contends that it ceased to operate from that date.
61. It is the Defendant's case that, after the Claimant left the Partnership, it was loss-making, and that he was left to make up shortfalls in the Academy's finances.
62. The Claimant maintains that, once the bank statements had been disclosed by the Defendant in compliance with Deputy District Judge Buckley's Order, it was apparent that: sums had been paid out of those accounts which were unconnected with the business activities of the Partnership; significant sums were paid to the Defendant's family and friends, purportedly as wages, without the Claimant's permission; and the Claimant had been paid significantly less than the Defendant.
63. The Defendant disputes that the Claimant sought information relating to the Partnership's bank accounts in March 2018. He says that he only sought copies of the Charity's accounts and that, at that time, the Claimant was claiming that all entities, including the school and the Alim and Herbal courses, were assets of the Charity, because he was making complaints to the Charity Commission. The Defendant denies preventing the Claimant from having access to the finances of the Partnership and failing to share documents with him and says that the Claimant failed to contribute to the Partnership during the 12 months leading up to July 2017.
- (ii) Other matters
64. The Defendant maintains that he leased hire cars for the Claimant to use to advance the causes of the Partnership, that he paid for them out of his own funds and that there was an agreement that this would be funded by the Partnership. This is denied by the Claimant.
65. The Defendant's (disputed) position is that there was an agreement that the Claimant would reimburse the Partnership for any shortfall in the University fees not reimbursed to the Claimant if he did not complete his courses.
66. The Claimant alleges that the Defendant misused or misappropriated the funds of the Partnership. He seeks Orders dissolving the Partnership, for accounts and inquiries to be taken and for equitable compensation.

67. The Defendant disputes the claim and counterclaims against the Claimant for a declaration that the Partnership was dissolved on 3 July 2017 (on the basis that the Claimant had retired from, or abandoned, the Partnership) or for an Order dissolving the Partnership. He also counterclaims for damages.

**E. The issues to be determined**

68. In order to avoid duplication in this judgment, I shall refrain at this point from setting out the issues which the parties have agreed that I should determine, although they are attached as an appendix to this judgment. I shall address them in detail below.

69. The main thrust of the Claimant's case is that: he was a prominent Islamic scholar before he met the Defendant; he was part of the management team at the Afiyah Institute, unlike the Defendant; he had already produced Alim and Herbal courses before the Partnership began (including online); the Partnership was based on an equal division of profits and it was not intended that such profits would be donated to charity; the Claimant had no insight into the finances of the Partnership and no meaningful access to its bank accounts; the Partnership has not been dissolved, because he has not retired from it or abandoned it; the Claimant is entitled to his share of the profits which the Defendant has derived from the Partnership's assets, namely the school; Alberonius Herbal, Ibn Sina College, Maturidi College and Shukurov Publishing were all established by him independently of the Partnership and accordingly he is not liable to account to the Claimant for any monies which he has derived from those activities; and the Claimant has no liability in relation to unrecovered University fees and the cost to the Defendant of leasing vehicles. Essentially, the Defendant argues the opposite case on each of these points.

70. The revised list of issues is designed to enable me to determine the relevant factual issues at this preliminary stage, which may pave the way for any accounts and inquiries in due course, if need be.

**F. The witnesses' evidence**

71. All of the witnesses' statements are dated 4 March 2022.

72. The Claimant's witness statement addresses many of the key issues in the litigation.

73. His only witness was Faisal Amir (**Mr Amir**). He was a student at Avicenna Academy in 2016 studying the Islamic course. The thrust of his statement is that: he had witnessed students at the Academy paying their fees in cash; Mr Minhas had told him that there was financial mismanagement at the Academy; at a meeting which he had with the Defendant and his brother in August 2017, the Defendant was aggressive and made allegations concerning the Claimant; and that the issues between the parties have had a substantial emotional impact on the Claimant.

74. The Defendant has produced a very extensive witness statement. It is certainly longer than it needed to be, but it is comprehensive and sets out the Defendant's position on the key issues.

75. The Defendant's four witnesses are Mr Ditta, Dr Mohammed Rehan Ullah (**Dr Ullah**), Ms Kirrin Amin (**Ms Amin**) and Ms Aqsa Ahmed (**Ms Ahmed**).
76. Mr Ditta is the Defendant's brother-in-law. He sat next to the Defendant throughout the trial and he essentially supports the Defendant's position in his lengthy statement. He worked for the parties as a volunteer in the Charity/Partnership between 2011 and 2017. He has been involved in supporting the Defendant in this litigation and in his investigations arising out of the parties' working relationship. He had been part of the management team at the Afiyah Institute, at the invitation of the Defendant, where he was tasked with identifying an appropriate online solution for the delivery of the parties' proposed Alim and Herbal courses. His evidence is that the Claimant came to the school unannounced on 29 June 2019.
77. Dr Ullah had been a friend of both parties. He had tried to promote the Claimant as an Islamic consultant, but the lectures which were organised were poorly attended. He knew the Claimant for some years and never saw him pay for anything. He saw the Defendant work tirelessly to help the Claimant. The book "Hanafi Principles of Testing Hadith" was written almost entirely by the Defendant and himself. He regarded the Claimant to be lazy and entitled. Throughout the time he knew the parties, they referred to the Partnership arrangement as being "50:50". Dr Ullah was present at a meeting between the parties held at his house. He was astonished at the Claimant's lack of knowledge of the basic functioning of the school.
78. Ms Amin is the Defendant's sister. The key points in her statement are that her family gave substantial support to the Claimant and his family, that she started teaching at the Academy in 2013, that her children attended the school free of charge, that the Claimant lacked commitment to his role in the school and that the Defendant and a Ms Ashtiaq (the headteacher) were running the school.
79. Ms Ahmed, who is also the Defendant's sister, confirms that she and her family supported the Claimant financially and in other ways, that she left her job in a nursery to work at the school and that the Claimant and his wife behaved in an overbearing and controlling way whilst at the school.

#### **G. The procedural background**

80. The Claimant made an application for Pre-action disclosure on 16 July 2019. As noted above, that application was heard, and an Order was made, by Deputy District Judge Buckley on 5 December 2019.
81. The Claimant made a further application for Pre-action disclosure on 11 June 2020 and the Defendant made a cross-application on 6 August 2020.
82. These proceedings were issued on 14 December 2020. The Defendant subsequently filed his Defence and Counterclaim.

83. There was a Costs and Case Management Conference before HHJ Eyre QC (as he then was) on 23 August 2021. At that hearing, the matter was case managed through to a 7-day trial and a Costs Management Order was made in relation to the Claimant's costs (the Defendant at that point being represented by Direct Access Counsel).
84. In early 2022, the parties served on each other Part 18 requests for further information and each replied to the other's requests.
85. At the PTR on 29 April 2022, which also served as the hearing of the Claimant's application for a split trial and for a specific disclosure order, HHJ Hodge KC ordered a split trial, made a specific disclosure order and vacated the trial which had been incorrectly listed for only 5 days. The hearing, being part-heard, was adjourned until 24 May 2022, when HHJ Hodge KC relisted the trial to be heard between 12 and 20 October 2022. On the same occasion he made an order of Claimant's costs in the case in relation to the specific disclosure application. At a later hearing on 29 July 2022, he ordered the Claimant to pay the costs thrown away by the adjournment of the trial and he made an interim costs award of £19,200 to be paid by 12 August 2022.
86. The Defendant had made an application for specific disclosure dated 17 May 2022. The parties filed a Consent Order, which was approved by District Judge Obodai on 9 August 2022, providing for the Claimant to disclose various documents and for him to pay the costs of the application.
87. The Defendant made three Part 18 requests of the Claimant in August and September 2022, all of which were responded to.
88. On the first day of the trial on 12 October 2022, the Defendant informed me that he was unrepresented because the Claimant had not paid the costs order made by HHJ Hodge KC on 29 July 2022. Mr Murphy, Counsel for the Claimant, told me that the costs order was subject to an outstanding application for permission to appeal, but he acknowledged that the order had not been stayed. Following a brief adjournment, he told me that his client was not in a position to meet the costs order. As far as I am aware, this was the first occasion on which the Claimant raised affordability as the reason for non-payment of the costs order. He continued to be represented by solicitors and Counsel throughout the 7-day trial period.
89. As a consequence of that development, the first day of the trial was, in effect, lost. I allowed the Defendant a full opportunity to take legal advice and, if need be, to apply for an adjournment. The trial began in earnest the following day, 13 October 2022, the Defendant not having applied for an adjournment.
90. The Claimant was cross-examined over 3 days. His witness, Mr Amir, then gave evidence over video-link from Saudi Arabia. The Defendant and his main witness, Mr Ditta, gave their evidence and were subjected to cross-examination. The Defendant's remaining witnesses Dr Ullah, Ms Amin and Ms Ahmed came into the witness box to confirm the truth of their evidence, but Mr Murphy elected not to cross-examine them.
91. A range of factual issues fell to be determined at the trial, which had been set out in a Schedule to the Order of HHJ Hodge KC dated 23 May 2022. The parties acknowledged that

there was a degree of overlap between the issues to be tried and, on the final day of the trial, they proposed to work together to narrow and refine the issues on which they would invite me to make factual findings. I indicated that I was happy to proceed in this way, conditional on both parties being satisfied that the revised list of issues covered all relevant contentious issues on which they sought a determination. I received an agreed revised list of issues from the parties on 21 October 2022.

92. The parties then made written closing submissions sequentially between 28 October and 18 November 2022.

#### **H. Approach to the assessment of the witnesses' evidence**

93. I have read the witnesses' statements and I have listened carefully to the evidence which they gave to me in the witness box. I have reflected on that evidence, and I have taken full account of the written submissions which have been made by or on behalf of the parties. Indeed, those submissions have been comprehensive.

94. I bear in mind that the events about which the parties have given evidence date back over 10 years. Leggatt J (as he then was) sounded a warning in *Gestmin SGPS v Credit Suisse (UK) Ltd* [2013] EWHC 3560 about the interpretation of evidence, especially in the context of the passage of time. He observed that "an obvious difficulty which affects allegations and oral evidence based on recollection of events which occurred several years ago is the unreliability of human memory".

95. He went on to observe that there is "a faulty model of memory as a mental record which is fixed at the time of experience of an event and then fades (more or less slowly) over time. In fact, psychological research has demonstrated that memories are fluid and malleable, being constantly rewritten when retrieved". He went on to observe that "memory is especially unreliable when it comes to recalling past beliefs" and that "civil litigation itself subjects the memories of witnesses to powerful biases... [which is] obvious where the witness is a party or has a tie of loyalty" and that a party's witness statement "is made after the witness's memory has been "refreshed" by reading documents".

96. I, therefore, remind myself to be cautious about the witnesses' oral testimony and to only make any findings of fact, having considered all the evidence, both oral and documentary, and after considering the inherent probability of what I am being told.

97. I also bear in mind the guidance given in *Phipson on Evidence* 20<sup>th</sup> Ed at 45.18, which has been drawn to my attention, namely that, when assessing the reliability of a witness's evidence, I should take account of:-

- (1) the consistency or otherwise of the witness's evidence with what is agreed, or clearly shown by other evidence, to have occurred;
- (2) the internal consistency of the witness's evidence;
- (3) consistency with what the witness has said or deposed on other occasions;
- (4) the credit of the witness in relation to matters not germane to the litigation;
- (5) lies established in evidence or in the context of proceedings;
- (6) the demeanour of the witness;
- (7) the inherent probabilities of the witness's account being true

98. The documentation made available to me for this trial has been extensive. The greater part of it was not referred to during the trial, but nevertheless I have been assisted by those documents to which I have been referred.
99. I am required to make findings of fact. In arriving at those findings, I remind myself that I must only find a fact proven if I am satisfied on the evidence which I have heard and read that it is more likely than not to be true. In other words, each such fact must be established on the balance of probabilities.

**I. My impression of the witnesses**

100. However, before making those findings, I shall make some observations concerning the impression which I have formed of the witnesses' evidence. I do not know the witnesses. My knowledge of them is gleaned from their presentation and demeanour in the witness box, the manner in which they responded to what was, at times, somewhat challenging questioning, and the statements and documentation which have been prepared and filed by them or on their behalf.
101. I did not find the Claimant to be an impressive witness. I make allowances for the fact that he did not always demonstrate a strong command of English, but nevertheless it appeared to me that he understood fully the questions which were being put to him.
102. A number of aspects of the Claimant's evidence have caused me considerable concern. They include, but are not restricted to, the following matters.
103. The Claimant's positions on certain key issues appear to have been subject to regular change, especially as to the ownership of assets. At one point, notably when he was making complaints to the Charity Commission and others, he was contending that all relevant assets belonged to the Charity, but he later maintained that all those assets belonged to the Partnership. His position in his witness statement appears to have been that all assets except the school belonged to him. He told me that these inconsistencies have been attributable to the Defendant's piecemeal disclosure. However, I struggle to accept that explanation, given that the Claimant did not identify the documents which led him to change his stance and given the inherent improbability of there being valid bases for such adjustments to his position on more than one occasion.
104. The inconsistencies in the Claimant's evidence are not confined to issues relating to the ownership of assets. For example, he asserted in his pleaded case that the Defendant had been dismissed from his role at Goole High School, only later to retract that allegation.
105. Perhaps of even greater concern was the information which the Claimant gave to the Charity Commission concerning the establishment of Avicenna Global Limited. The Claimant had attended a meeting on 13 February 2014 at which it was resolved that a company needed to be set up separately from the Charity (5C/91). The Claimant's then

solicitor acknowledged that this company had been incorporated in 2014 (6B/312). An application to Companies House to strike off the company was signed by the Claimant on 29 June 2015 (5D/8). The Claimant acknowledged in his statement prepared for the pre-action disclosure application (6B/345) that he and the Defendant had established the company. However, in an email to the Charity Commission, copied to the Police, he stated “[the Defendant] has opened a limited company...to divert funds from the charity account. He has got my signature as a “secretary” of the company. However, I was not aware of that. As soon as the ex-accountant of the charity has found out of this company [the Defendant] has terminated it and the accountant resigned.” In my judgment, this information was clearly not correct.

106. There are other inconsistencies in the Claimant’s evidence which are referred to elsewhere in this judgment.
107. The disclosure which the Claimant gave to the Defendant following District Judge Obodai’s Order (6C/116) was confusing, disorganised, difficult to follow and incomplete. The Claimant’s response to cross-examination on this point was that he only had two weeks within which to organise the disclosure, whereas it included documents which had been in his possession for a considerable period of time and, in any event, the Defendant’s disclosure application had been made at least 3 months earlier.
108. In his response to the Defendant’s Part 18 request on 8 April 2022, the Claimant maintained that he was unaware of the existence of his earlier witness statement dated 21 October 2019, and yet that statement appears in the bundle and had been relied on by him in the context of his Pre-action disclosure application. In his live evidence, he claimed variously not to have had the document in his email inbox, not to recall having it and to have thought that a reference to the statement had been to one of the Defendant’s statements.
109. In his response to the Claimant’s Part 18 request dated 12 September 2022, the Claimant maintained that he had not disclosed the “S47” document which he had originally submitted to the Charity Commission because he did not recognise it. However, it appears from the Charity Commission’s email to the Claimant dated 22 July 2019 that the document had been sent to him to complete and that he then completed it before returning it to them on 2 August 2019. When he was cross-examined about why he had not disclosed a copy of the document in these proceedings, he said that he had sent it to his solicitors, whereas his solicitors had indicated in correspondence that he had deleted the document. He also suggested that, after the Defendant requested a copy of the document in September 2022, he had looked for it and could not find it, but had emailed the Charity Commission for a copy of it. That document has not materialised. Overall, I found the Claimant’s evidence on this point to be wholly unsatisfactory.
110. There were occasions when I found the Claimant to be particularly evasive. For example, when he was asked about a letter which was to be sent to the Immigration authorities concerning his brother, he initially said that he could not verify the letter and later that he could not recall whether he had written the letter. A contemporaneous email in 2014 suggested that he had amended it. That was some years ago, but I would have

expected him to have remembered the event, especially as his memory would have been refreshed by the disclosure exercise.

111. I was also concerned that the Claimant had alleged that the Defendant had taken approximately £350,000 from the Partnership/Charity and yet appeared to be able to give no credible explanation as to how he had arrived at that figure.
112. I was surprised that the Claimant did not obtain evidence from key witnesses. For example, on any view Mr Khan and Mr Minhas could have shed light on a number of contentious issues. They were key protagonists in the factual background to this case. Indeed, I would have expected to see more extensive disclosure of correspondence passing between them and the Claimant.
113. Similarly, there was no witness called from the Afiyah Institute or from those connected with the Claimant prior to his involvement with the Defendant. The evidence of such witnesses, along with relevant documentation, might well have been illuminating, had they been relied upon.
114. In general, I have been struck by the paucity of documents disclosed by the Claimant in relation to key issues. For example, his disclosure in December 2021 consisted of only 250 documents, a number of which the Defendant would have already had in his possession and some of which were of little relevance. On cross-examination, he unrealistically blamed the Defendant for his limited disclosure. Then, the Claimant accepted in his live evidence that he had not disclosed documents which appeared on his disclosure list and that they were not served on the Defendant until shortly before the trial began.
115. I had particular concerns about the Claimant's dealings with the Charity Commission. For example, having informed the Charity Commission that the Alim and Herbal courses and other assets belonged to the Charity, he did not subsequently tell them that he had changed his stance on the issue, even though he had made serious allegations against the Defendant concerning those assets which the Charity Commission was investigating. Moreover, his email to the Charity Commission following the meeting with them at which he gave evidence on oath generates considerable concern about his confidence in the veracity of the information which he had given to the Commission. I am concerned that the Claimant may have sought to mislead the Charity Commission and other regulatory authorities.
116. The Claimant's evidence on a number of other issues did not stand up to scrutiny, notably concerning the amount which he contended that the Defendant had misappropriated from the Partnership, and the regularity of, and the fees charged for, retreats. His suggestion that he did not respond to questions regarding the Alberonius Herbal because the Defendant had misspelled the name of the enterprise wholly lacked credibility.
117. Lastly, the Claimant repeatedly declined to answer questions on the basis that he did not know the answer to them. In the context of the questions which were put to him, and in light of the number of questions to which he could not respond, my impression was that he was being evasive, rather than anxious to avoid providing me with inaccurate evidence.

118. I have not set out an exhaustive list of the aspects of the Claimant's evidence which troubled me but, in my judgment, his evidence was far from persuasive. In fact, for the reasons I have set out above, I would go as far as to say that I found his evidence in many parts to be unreliable.
119. As an aside, whilst it was not raised with him on cross-examination, I was surprised that the Claimant instructed Mr Murphy to tell me on the first day of the trial that he had not paid the costs order made by HHJ Hodge KC on the grounds of affordability, especially as this had not been communicated to the Defendant. The costs had not been paid and yet the Claimant was able to fund his own representation throughout the 7 days of the trial. Again, there was a change of stance in relation to the costs issue. Initially, it had been suggested on the Claimant's behalf that the costs order had not been paid because it was subject to an appeal, which had not been determined which, of course, of itself would not relieve him of the obligation to make the payment.
120. The Defendant struck me to be an open, honest and impressive witness. He made concessions where it was appropriate to do so. His recollection of events appeared to be very clear indeed. He spoke, and answered questions, without hesitation or prevarication. He had a very thorough knowledge of the background facts. I had no difficulty accepting that he was telling me the truth, as he recalled it, and I found him to be a persuasive witness.
121. The Defendant had prepared very thoroughly for his cross-examination of the Claimant, which took more than three days to complete. Whilst that was perhaps longer than was necessary, as was the witness statement which he prepared for the trial, I appreciate that he was anxious to cover all of the issues which he considered might have a bearing on the outcome of the trial.
122. Without hesitation, I have found the Defendant's evidence to be more reliable than that of the Claimant, although, of course, my findings of fact will reflect inherent probabilities and the totality of the evidence made available to me.
123. I should observe that I found, at times, the Defendant to have formed a stark, and perhaps unfair, view of the Claimant. He repeatedly referred to the Claimant having "followers" and "disciples", which I do not accept are accurate descriptions of the individuals in question or of their relationships with the Claimant.
124. I found Mr Ditta and Mr Amir to be straightforward witnesses, although I recognise that neither of them is wholly independent. They clearly have bonds of loyalty to the respective parties on whose behalf they gave evidence. Nevertheless, I am satisfied that they came to Court to tell me the truth, as they remember it. I have noted that Mr Ditta, in particular, spent a very substantial amount of time assisting the parties in the Partnership, without any remuneration.
125. The remaining witnesses (Dr Ullah, Ms Amin and Ms Ahmed) were not tested by cross-examination and so I have no observations about their presentation as witnesses. Whilst they cannot be described as independent witnesses (Dr Ullah having become disillusioned with the Claimant after they collaborated on projects together, and Ms Amin

and Ms Ahmed being the Defendant's sisters), I found their evidence informative. I also note, of course, that their evidence was not challenged in the witness box.

## **J. Findings**

126. My findings of fact are as follows:-

- - Issue 1. Did the Claimant ever run an Alim course or Herbal course, offered online, before he met the Defendant?

**127. I find that the Claimant did not run an Alim course or a Herbal course, offered online, before he met the Defendant.**

128. If this had been the case, I would have expected the Claimant to have disclosed supporting documentary evidence, such as copies of advertisements, emails, minutes of meetings, digital documents or internet pages, and to have called witnesses such as, for example, former students or colleagues to corroborate his account. These steps would have been simple to take.

129. However, in the Defendant's email to Mr Minhas dated 10 February 2013 (5B/178), he refers to the Avicenna Institute being "the first innovative institute to do online courses".

130. The minutes of the Afiyah Institute meeting on 24 July 2012 (5A/132) refer to "setting up" an Alim course and make no reference to adopting, adapting, or utilising the content of, earlier courses already established by the Claimant.

131. In any event, if there had been previous courses run by the Claimant, I expect that the materials advertising the courses at the Afiyah Institute and the Avicenna Academy would have reflected that experience.

132. The setting up of the courses at the Afiyah Institute involved substantial technical IT input on the part of Mr Ditta (5A/179). If the courses had been run previously, then presumably much of this background work would not have been necessary.

133. In the Ibn Sina Herbal promotional literature, the Claimant, who is described as the Head Herbalist of the organisation, is not referred to as having offered Herbal and Alim courses prior to 2012 (5H/183). Rather, it refers to the Claimant having decided to teach a systemised (herbal) programme in 2012.

134. Even the supporting witness statements which the Claimant obtained from the Afiyah Academy (6B/440) (which are unsigned, in very similar terms and do not contain statements of truth, and the authors of which were not called to give evidence at the trial) do not indicate that he was delivering or offering Alim or Herbal courses before 2012.

135. There is also the unchallenged evidence of Dr Ullah that the Claimant's presentational and organisational skills were very much lacking and that he was dependent on others to arrange his work (2A/93 onwards) and the unchallenged evidence of Dr Ullah, Ms Amin and Ms Ahmed that he was struggling financially, which is perhaps inconsistent with delivering what appears to have been a lucrative programme of education.

136. I make my finding on this issue, having taken account of all of the above factors and of my general observations concerning my impression of the Claimant's evidence.

137. The high point of the Claimant's case on this issue is that his lectures appeared on You Tube, that he was revered by the Defendant (3A/99), amongst others, and that he appeared on a show on British Muslim Television called "Ask the Alim".

138. No evidence of the You Tube lectures was disclosed. I have little doubt that the Defendant did hold the Claimant in very high regard during the early stages of their working relationship and friendship, and that the Claimant appeared on British Muslim Television (although whether he did so before or after he entered into the Partnership is unclear), but those factors do not prove that he had produced Alim and Herbal courses before 2012 and, in any event, they are outweighed by the lack of supporting documentary evidence and the contradictory evidence referred to above.

- - Issue 2. Was the Claimant and/or the Defendant ever part of the management of Afiyah Institute?

139. I am invited by the Claimant to make a finding in his favour on this point, on the basis of the plausibility or otherwise of the parties' respective positions. In particular, he invites me to consider whether it is likely that the Defendant, who was once the Claimant's student, would have "outranked" him at the Afiyah Institute.

140. However, this could and should have been a simple point for the Claimant to prove. There is no corroborative documentary evidence indicating that the Claimant was part of the management of the Afiyah Institute. He has not called witnesses to support his position on this point. Even the unsigned witness statements which he obtained from Afiyah Institute (6B/440) do not state that he was part of the management team at the institute.

141. In fact, the minutes of meetings at the Afiyah Institute, and the associated email correspondence, suggest the contrary.

142. For example, in the email attaching the minutes of the meeting on 27 March 2013 (5A/128), the Claimant is neither referred to as being a founding member nor a new member of the Afiyah Institute. The minutes of the March 2012 meeting (5A/136) set out various members' roles and responsibilities, but they make no reference to the Claimant's position or duties. The minutes dated 23 June 2012 record those who attended and those

who did not, but they make no reference to the Claimant. Even the meeting of 27 March 2013 (when the transfer of courses to the Avicenna Institute was discussed) was not attended by the Claimant and the minutes (5A/129) do not refer to him as being involved in the management of the institute. Lastly, an email from Mr Ditta concerning planning for the Afiyah Institute (5A/187) was not copied to the Claimant.

**143. I am, therefore, satisfied that the Claimant was not part of the management of Afiyah Institute.** I make a finding accordingly.

144. However, the Defendant is referred to in the documents referred to in paragraph 142 above. In the minutes to the March 2012 meeting (5A/136), where individuals' roles and responsibilities are set out, he is described as the "course manager" and, in the minutes to the key meeting on 27 March 2013 (5A/129), he is referred to as "Leader of Afiyah Academy". He is also referred to as attending the various meetings of Afiyah Academy (5A/132 to 135).

145. The Defendant had already achieved a management position at Goole High School, and so appears to have had a track record in management.

146. The Claimant's evidence on this issue is not persuasive, not only for the reasons set out above, but also because of another inconsistency, namely that in the defamation proceedings it is pleaded on his behalf that the Defendant was responsible for "marketing and communications" at the Afiyah Institute.

**147. I, therefore, make a finding that the Defendant was part of the management of Afiyah Academy.**

- - Issue 3. Was the Defendant dismissed from his position in Goole High School?

148. **I make a finding that the Defendant was not dismissed from his position at Goole High School.** This is the Defendant's evidence, which is corroborated by a letter from that school dated 10 May 2021 (5G/67) in which he is referred to as having been "a valued member of staff". This issue is no longer contentious because the Defendant conceded it in cross-examination and in Mr Murphy's Skeleton Argument and closing submissions.

149. However, I must make the observation that the Claimant's concession has not been a timely one. In his Reply and Defence to Counterclaim (1/24), which he signed, and which was footed with a statement of truth, he expressly alleged that the Defendant had been dismissed from his position at the school. This was unfortunate. The Claimant told me in the witness box that the basis of his allegation was that the Defendant had told him that he had been dismissed from his job. I do not accept that explanation. The Defendant had no reason to give the Claimant such misleading information.

- - Issue 4. Did the Partnership entities include: Alberonius Herbal; Avicenna Academy; Avicenna Global Charity; Avicenna Global Limited; Avicenna Partnership; Avicenna Publishing; Donations made by the public; DVD copies of lectures by the Claimant; Educational Courses; Herbal Consultancies and treatments offered by the Claimant; Ibn Sina College; Maturidi College; Sukorov Publishing; Pre-recorded courses; and Retreats.

**150. It now appears to be common ground between the parties that the Partnership entities include: Avicenna Academy (see below); Avicenna Global Limited; Avicenna Publishing; Avicenna Educational Partnership; donations made by members of the public; copies of DVDs of the Claimant's lectures sold to the general public; educational courses and herbal consultations and treatments offered by the Claimant; the pre-recorded courses; and the retreats . It is also common ground that the Charity did not form part of the Partnership. I make findings accordingly.**

151. That said, a number of these (now conceded) findings are inconsistent with the position set out in the Claimant's witness statement dated 4 March 2022. For example, at paragraph 43 of that statement, he states that the terms of the Partnership included that the "education courses, Alim and Herbal courses...would not become the property of the Partnership" (2/9).

152. I make observations and findings below (under the heading "Issue 23") regarding Alberonius Herbal, Ibn Sina College, Maturidi College and Sukurov Publishing.

- - Issue 5. Was the independent school a part of the Charity or the Partnership?

**153. It appears to be uncontroversial that the independent school was part of the Charity until 2015, when it was transferred to the Partnership (albeit that it was not registered with Ofsted or the Department of Education). It was then transferred into the Defendant's sole name in 2017, before being transferred in 2020 to a corporate vehicle, Seraphic Limited. I make a finding accordingly.**

**154.** However, again, the Claimant's position on this issue has been far from consistent. In his correspondence with the Charity Commission, he maintained that the school was charitable and, of course, that appears to have been the basis on which his complaint was made. He adopted a similar position in his Facebook posts (5F/37) and in his witness statement in support of his pre-action disclosure application (6B/345). Even in his solicitors' letter (which is undated) (5F/68), the school is excluded from the list of entities which the Claimant maintained formed part of the Partnership business. It seems that his position may have changed formally for the first time in the Particulars of Claim.

- Issue 6. Was the Partnership intended to generate a profit, or was any money generated by the Partnership intended to be given to the Avicenna Global Charity/ Islamic Education/ the Independent school?

**155. My finding is that the parties intended that the Partnership would generate a profit in the longer term, but that, at the outset, it was their intention to channel the proceeds of its more lucrative enterprises towards the school until it was self-sufficient, which might have been a long-term goal.**

156. I am satisfied that the parties' aim was to make a profit at some point in the future. Otherwise, they would not have entered into a partnership, which, as Mr Murphy points out, is defined by section 1 of the Partnership Act 1890 as being "the relation which subsists between persons carrying on a business in common with a view of profit." This appears to be common ground.

157. However, the basis on which any profits were to be invested or paid out remains in dispute.

158. I have already indicated that I have not found the Claimant to be a persuasive witness, whereas I found the Defendant to be a compelling witness and that is a factor which I have borne in mind when considering the parties' respective positions. However, in my judgment, the Defendant's position is inherently more likely to reflect the true position for the reasons set out below.

159. The Defendant's evidence has the ring of truth about it. He maintains that Mr Khan advised the parties to use a charity as a vehicle to manage the school, to take advantage of the Gift Aid regime, which would enhance the school's income. That is more than credible and is consistent with the school being a dependent entity, and with the parties' approach being one of channelling revenue to fund that entity.

160. The Claimant has been inconsistent on this issue. His open position until 2019 was that all the entities which he now accepts belong to the Partnership were, in fact, charitable. Now he argues that all assets belonged to the Partnership which was concerned with making a profit. The inconsistencies in his developing case have undermined the credibility of his position on this issue.

161. It also appears to me that the school was inevitably going to struggle to survive alone. The rent payable was substantial and yet the school fees were very modest (£1,500 per pupil per year). The school had a limited number of students at the outset. It was paying teaching staff very modest wages. It seems that the reason why the school was transferred out of the charitable structure to the parties in November 2015 was to avoid the trustees acting in breach of trust by making payments of wages to themselves and their family members. The transfer was not effected for financial gain, as the Charity Commission

recognised in their report when it acknowledged that the Charity had not sustained a loss as a result of the transfer.

162. There should be evidence of the nature of the arrangement, even if there is no Partnership deed/written agreement. However, the minutes of the relevant Partnership and Charity meetings have not been made available to me. The Defendant maintains that the Claimant took those documents with him and has failed to disclose them. I have no reason to doubt that that was the case, given the observations which I have made above concerning my impression of his evidence, the inconsistencies in his evidence and his overall approach to disclosure.

163. Light could have been shed on the issue could by Mr Khan, but the Claimant has not produced a statement from him, and did not call him to give evidence at the trial.

164. I have seen no evidence of profits having been shared during the years when both parties were active in the Partnership. Some subsistence payments appear to have been made to the parties (see below), but not on the basis of a formal sharing of profits.

165. The Defendant had every reason to agree to this arrangement. I am satisfied that he agreed to make sacrifices, including giving up a successful teaching career, in order to establish the school. Whilst he may have anticipated that, in due course, the school would succeed and no longer make a loss, I accept his evidence that his motivation was to establish the school as a religious and moral duty. After all, the school was far from a lucrative enterprise: the school fees charged were very modest indeed; the teachers were being paid very low wages; and no substantial revenues were ever received by the parties. I do not accept the Claimant's evidence that the school was "the jewel in the crown" in terms of income potential.

166. My impression of the Defendant's motivation is reinforced by the fact that later, when the Claimant was no longer participating in the running of the school, the Defendant continued to keep it operating.

167. I am satisfied that both parties were aware of this arrangement. Otherwise, the relationship between the parties is likely to have foundered far more quickly than it did.

- - Issue 7. Was there an agreement to split Partnership profits 50/50 or was there an agreement that the parties would be remunerated each month with the Defendant receiving a higher monthly sum than the Claimant?

168. There are several references to a 50/50 split of Partnership profits. For example, in the recording of the parties' conversation which appears in Bundle 5E (5E/22 and 24) and in Dr Ullah's witness statement.

**169. On that basis, I find that the parties had agreed that if, in due course, the Partnership were to generate a profit, they would have divided those profits equally, after deducting whatever they may have paid towards the school and other charitable activities.** I understand that the intended division of any profit share is now uncontentious.

170. However, as noted above, I have not been able to find any written agreement to this effect and, indeed, any calculation by the parties of what they might be entitled to receive or be liable for. The Partnership was being run on a subsistence basis and the Defendant was receiving more than the Claimant, for the reasons set out below.

**171. I find that the arrangement whereby the Defendant received a greater monthly sum than the Claimant was agreed by the parties.**

172. In this regard: I make a finding below that the Claimant had access to, and insight in relation to, the Partnership's bank accounts and finances; the payment arrangement continued for some time, without any apparent objection from the Claimant; and the arrangement is consistent with the Defendant having spent more time working at the school than the Claimant, and having given up his role at Goole High School.

- - Issue 8. Were Co-op account 753, Co-op account 740, and Co-op account 766-53, Partnership bank accounts used to receive and hold funds generated by the Partnership, or were they charitable bank accounts?

**173. It now appears to be uncontroversial that these accounts were set up as charitable accounts, but that the funds of the Charity and the Partnership were not always then kept entirely separate. I make a finding accordingly.**

- - Issue 9. Did the Claimant have access to the charity Co-op bank accounts?

174. I have little confidence in the Claimant's evidence that he had no access to the Co-op bank accounts and to the financial dealings of the Partnership, given the observations which I have made above about the quality of, and inconsistencies in, his evidence and in light of the totality of the evidence on this issue.

175. Moreover, given that the Claimant had the inclination, and sufficient knowledge of the nature of the Partnership's business, to set up Alberonius Limited in 2016, he does not strike me to have been a disinterested or a sleeping partner in the organisation.

176. I also note from the Claimant's correspondence with the Charity Commission that on 14 January 2020 (6B/372) he informed the Commission that "[the Defendant] has provided

only the bank statements he knows I have got”, which would suggest that he had already had access to those statements. This was a reference to the Defendant having provided him with bank statements in compliance with the Order of Deputy District Judge Buckley.

177. A letter sent by the Co-operative Bank to the Defendant dated 6 September 2019 (6B/332) confirms that the Claimant (and Mr T Khan) had “previous on line banking access” to what is described as the “Avicenna Academy” account (presumably Co-op Account 753). That letter also confirms that the Claimant was a previous signatory to the account. In an email on 25 January 2013 Mr Khan asked the Defendant to pass on bank forms to the Claimant (5B/157).
178. In any event, I am satisfied that Mr Khan was responsible for setting up the Co-op bank accounts. The minutes of the meeting on 23 November 2012, which was convened to arrange the formation of Avicenna Welfare, and which was attended by both the Claimant and the Defendant, state that Mr Khan was to “complete all paper work for charity status and setup of accounts by the end of January 2013”. The Claimant accepts that Mr Khan is a friend of his and it is clear that Mr Khan (or his firm) advised the Claimant over a number of years. On the basis that Mr Khan set up the accounts and fulfilled that advisory role, I find it unlikely that the Claimant would have been excluded from access to the accounts.
179. This is especially the case, given that Mr Khan (or his organisation) completed the Partnership’s end of year tax return and the Claimant’s friend, Mr Shahid Ali, organised the monthly wage slips.
180. Moreover, the text messages passing between Mr Khan and the Defendant (5B/157) make it clear that the Claimant was a signatory to the accounts.
181. The Claimant also attended the Partnership meeting on 10 November 2015 (5D/46), when it was resolved that Co-op Accounts 740 and 766 were to be closed and Mr Minhas was provided with a copy of the letter requesting closure of the accounts (5D/45).
182. It also appears that the Claimant was reimbursing the Defendant, Mr Ditta and Mr Minhas from Coop Account 753 (6A/ 81, 86 and 90). The Claimant and/or Ms Nisa also appear to have been making payments to the Claimant from the account.
183. This makes it all the more surprising that, in his email to the Charity Commission dated 6 April 2018, the Claimant stated that he had “found” Co-op Accounts 753, 740 and 766 (6B/244).
- 184. On the basis of the observations I have made, I find that the Claimant had access to the Charity Co-op bank accounts.**

- - Issue 10. Were the NatWest Bank accounts 899 and 880 Partnership accounts, and did the Claimant have access to these accounts? Were the bank statements posted to the Claimant's home address?

**185. The parties now agree that Accounts 899 and 880 were Partnership accounts. I make a finding accordingly.** However, again, I note that the Claimant's position on this issue has been far from consistent.

186. I now turn to the issue of whether the Claimant had access to those accounts.

187. As noted above in relation to the Co-Op accounts, the Claimant wrote by email to the Charity Commission on 14 January 2020, after the Defendant had disclosed a range of bank statements to him, stating that the Defendant had "provided only the bank statements he knows I have got", suggesting that he already had access to some bank statements relating to the accounts referred to in the Pre-action disclosure application (including NatWest Accounts 899 and 880).

188. I also repeat the observation which I have made at paragraph 175 above that the Claimant does not strike me to have been disinterested in the finances of the Partnership.

189. The bank statements relating to NatWest Account 899 (6A/347) bear the Defendant's address. It would be unusual for statements not to be sent to the address recorded on them, unless they are only sent electronically. However, it may well be that the statements which appear in the bundle are those which were sent to the Defendant following the hearing of the Pre-action disclosure application. That is the Defendant's position and, as noted above, I have found him to be straightforward in the information and evidence which he has given to me.

190. The Claimant accepted on cross-examination that he had debit cards for both NatWest Accounts 889 and 880.

191. There is evidence that the Claimant made a number of payments to himself from NatWest Account 899 towards the end of 2015/beginning of 2016 (e.g., 6A/353). He accepts that he had a bank card for the accounts (6B/346).

192. There is a letter dated 7 November 2019 from Nat West Bank relating to Account 899 confirming that the Claimant's address, 144 Lords Street Cadishead, "was updated as mailing correspondence for the business account on 2 November 2016". This would suggest that bank statements were posted to him at that address, and prior to that his previous address.

**193.** The Claimant is not assisted by the inconsistencies in his developing case. For example, he wrote to the Charity Commission on 30 August 2018 saying that he had visited the local NatWest branch and was told that the Defendant had “closed both of the accounts to which I had access” (6B/233). Taking all of the above matters into account, **I find, on the balance of probabilities, that the Claimant did have access to Accounts 899 and 880 and that the bank statements were posted to his home address.**

- Issue 11. Was NatWest 875 account a Partnership account, or an account for the Defendant as a sole trader?

**194.** **It is now uncontroversial that NatWest Account 875 was a sole trader account opened by the Defendant in September 2017.** I make a finding accordingly.

**195.** In his Particulars of Claim, the Claimant had contended that the account had been opened by the Defendant in his sole name in October 2015. However, in his witness statement (2/15), he stated that he **and** the Defendant had opened the account in or around October 2015. The Claimant accepted on cross-examination that his evidence on this point was inaccurate.

- - Issue 12. Did the Claimant have insight into the finances of the Partnership or did the Defendant deny the Claimant insight into the finances of the Partnership?

**196.** For all the reasons set out above in relation to Issues 9 and 10, **I find that the Claimant had access to the Co-Op and Nat West bank accounts, that he had insight into the finances of the Partnership and that the Defendant did not deny him access or insight to them.** I also reach this conclusion for the following additional reasons.

**197.** I find that the school was not, and was unlikely to become, a lucrative asset for the parties. In my judgment, the most likely explanation for the Claimant’s decision to establish rival enterprises is that he considered that the assets which he would take to those organisations would be likely to generate a profit, whereas the school (for the reasons set out above) would not. To arrive at this conclusion, the Claimant must have had insight into the profitability and workings of the assets of the Partnership.

**198.** I am also confident that Mr Khan and his associates (who drew up the Charity’s tax returns) would have ensured that the Claimant had an understanding of the finances of the Partnership/Charity. If that were not the case, Mr Khan could have been called to give evidence to that effect.

**199.** I note that Mr Minhas was involved in handling money for the Partnership/school and that his wife, Mrs Nisa, effected some financial transactions. They are clearly associated

with the Claimant and I am confident that they would have shared their knowledge with him. Again, they have not been called to give evidence to counter the Defendant's evidence.

200. There is also a text message, dated 26 January 2015, in which the sender states "[Mr Khan] rang into school about finances and asked about them and said don't tell [the Defendant] to the receptionist". In a subsequent message sent by the Defendant to Mr Ali, the Defendant stated, "I would like the account information kept private between me, yourself and [the Claimant]". The Claimant was also provided with email correspondence from Footprints Accountancy in 2016, when they were the Partnership's accountants, to enable them to produce wage slips for him. In my judgment, these communications are inconsistent with the Claimant not having, or being deprived of, financial insight into the Partnership.

201. In addition, Mr Amir gave evidence that the Claimant had knowledge of any bank accounts which were opened when they worked together.

202. As noted below, I am also very confident that the Claimant was aware of the position regarding the payment of members of staff who were the Defendant's family members. This is consistent with the unchallenged evidence of Ms Ahmed and Ms Amin.

203. It may, however, be that the Claimant did not pay as much attention as he ought to have done to the school itself and, in this respect, I note Dr Ullah's observation that he was surprised by the Claimant's lack of understanding of the workings of the school.

204. I am unclear as to the Claimant's motivation for making an application to the Court for pre-action disclosure. He did so close to the time when he was making complaints about the Defendant to the authorities. However, he claimed not to have been aware of the witness statement which he filed in support of the application and his account of several aspects of this litigation has been inconsistent. It certainly does not seem to be a straightforward case of an application being made to enable a claimant to consider whether to litigate. It was a far more complex picture. I do not criticise the Defendant for changing the log in details to the Amazon and PayPal accounts after the Claimant had abandoned the Partnership. This seems to have been an understandable step to take. Overall, I do not find that the Defendant has been evasive in presenting evidence and information to the Claimant and to the Court.

- - Issue 13. If the Claimant did have insight, did he consent/ have knowledge of when the Defendant was paid or made payments out of the Bank Accounts?

205. Given my findings in relation to Issues 9, 10 and 12 above, **I find that the Claimant had knowledge of when the Defendant was paid or made payments out of the bank accounts.**

- - Issue 14. Does the Charity Commission report resolve the issue of payment of wages to family members and state that they were paid below the Market Rate?

206. It now appears to be common ground that **the Charity Commission report resolves the issue of payment of wages to family members, stating that they were paid below market rate. I, therefore, make a finding accordingly.**

- - Issue 15. Were the Defendant's family employed and paid with the knowledge and/or consent of the Claimant?

**207.** I have no hesitation in finding that **the Defendant's family members were employed and paid with the knowledge and/or consent of the Claimant.**

208. Firstly, there is the unchallenged evidence of Ms Amin (2/110) and Ms Ahmed. Ms Amin states that she had been approached by the Claimant to work at the school in August 2013 when she was on maternity leave. She goes on to say that "[the Claimant] said that when my children attended Avicenna Academy [they] would be free as I was a teacher in the school" and that "[the Claimant] promised [her] that [she] would later receive a **higher wage**". Ms Ahmed states that "Mr Sukurov managed to convince [her and her] sister...to also leave our jobs and come and work for him". I have no reason to doubt that unchallenged evidence. It strikes me to be very unlikely indeed that the Claimant would have expected Ms Amin and Ms Ahmed to work without being paid when they were already in paid employment.

209. Secondly, Mr Ditta indicates in his statement (2/82/paragraph 37) that the Claimant had given assurances to staff that they would receive improved wages in the future when the school had more money at its disposal. That evidence is entirely credible.

210. Thirdly, as I have already found above, the Claimant had insight into the finances of the Partnership and access to the bank accounts. Despite this, he made no complaint about the Defendant's family being paid until some years after he had disengaged from the school. He also signed off Partnership and Charity accounts which referred to employees' salaries (3A/81 and 82).

211. Fourthly, in my judgment, it is implausible that the Claimant believed that the staff members at a fee-paying school would work for no reward and, in any event, it seems that the Claimant's wife received payment when she worked at the school (albeit for a very short time).

212. Lastly, and perhaps crucially, the Claimant's own three children were being educated at the school free of charge. He accepted in the witness box that he had paid no fees for them. This was evidently part of the remuneration package for those working at the school.

- - Issue 16. Was there a school policy that staff members' children would have a fee exemption due to the below-market rate pay received by them?

213. It would now appear to be uncontroversial that the school's policy was **that staff members' children would have the benefit of a fee exemption**. I make a finding accordingly.

214. I also find it likely that **at least part of the rationale for the fee exemption was that the staff were being paid below market rate**.

- - Issue 17. Did the Defendant take responsibility for the finances of the Partnership or was the responsibility shared?

215. For the reasons set out above in relation to Issues 9, 10 and 12, I have found that the Claimant had insight into the finances of the Partnership.

216. **That being the case, and as the parties saw themselves as contributing equally to the Partnership, I find that responsibility for the finances of the Partnership was shared.**

- - Issue 18. Did the Claimant resign, retire and/ or abandon the Partnership on or around 01 July 2017?

217. As presented to me, these are factual, rather than legal, issues to be determined.

218. There is no evidence that the Claimant formally resigned or retired from the Partnership in writing and/or by giving notice to the Defendant. He indicated by text message to Dr Ullah on 9 and 10 July 2017 (5E/102) that he was intending to leave the Partnership and to move to the Middle East, and he appears to have told Mr Amir that he and the Defendant would be parting company. Dr Ullah also formed the view that the Claimant had ended the Partnership when he listened to the audio recording of the meeting on 1 July 2017, in which the Claimant apparently said that all entities of the Partnership would be run under his name, except the school, which should be closed down. I accept that all this information was probably communicated to the Defendant.

219. However, **I am satisfied, as a matter of fact, that the Claimant abandoned the Partnership in or around June 2017.** The ramifications of this fall to be determined as a matter of law. However, I make this factual finding for the following reasons.
220. Firstly, the Claimant played no part in the Partnership after that date. I do not accept his evidence that he was advised by the Police not to attend the school or that the Defendant intimidated him. Those allegations are inherently improbable, and, in any event, they are at odds with the Claimant's presentation during this litigation and in the witness box.
221. Secondly, it appears that the Claimant did not regard himself to be in the Partnership. Whilst he was writing to the Charities Commission, he was maintaining that the school and indeed all Partnership assets were charitable. It was not until 2019 that he changed his position in this respect.
222. Thirdly, the Claimant did not actively seek to engage in, or to reconcile, the finances of the Partnership until shortly before he brought these proceedings against the Defendant. He had made no attempt to establish the financial position of the school or to contribute to its liabilities.
223. Fourthly, as I have found below, the Claimant was taking steps to have the school closed down after July 2017 by publicly undermining the school and by making complaints to the relevant authorities. In my judgment, he would not have done so in the way he did if he had believed that the Partnership (including the school) was subsisting.
224. Lastly, as I have found below, the Claimant sought to take the more profitable elements of the Partnership under his own control prior to, and after, July 2017.
225. **I am also satisfied that, without the consent of the Claimant, the Defendant transferred the Academy into his sole name in 2017, before transferring it into the corporate structure through which he now runs the Academy.** The Defendant accepted this in cross-examination, and I do not think that it is controversial. However, given my finding at paragraph 219 above, I find that he did so on the basis that he believed (and indeed reasonably believed) that the Claimant had abandoned the Partnership.
- - Issue 19. Did the Claimant fail to contribute to the Partnership and/or the Avicenna Global Charity after 01 July 2017?
226. **I find that the Claimant failed to contribute to the Partnership and/or Avicenna Global Charity after 1 July 2017.** There is no credible evidence to the contrary.

227. Indeed, as I have found below, he actively worked against the interests of the Academy after that date and sought to undermine it.

- Issue 20. Were the PayPal accounts, linked to the email addresses [info@avicennaacademy.com](mailto:info@avicennaacademy.com) and [sulaiman.ahmed@avicennaacademy.com](mailto:sulaiman.ahmed@avicennaacademy.com) and the Amazon account Partnership accounts or Charity accounts?

228. I accept the Defendant's position on this issue.

229. The PayPal account linked to [info@aveicennaacademy.com](mailto:info@aveicennaacademy.com) was linked to (charitable) Coop Account 753 until 28 January 2017, and then to (Partnership) Nat West Account 899.

230. The PayPal account linked to [sulaiman.ahmed@avicennaacademy.com](mailto:sulaiman.ahmed@avicennaacademy.com) was linked to (Partnership) NatWest Account 899.

- Issue 21. Was an Amazon account set up through which payments were made to the Partnership resulting from the Partnership's business activities?

231. This appears to be common ground and to have been admitted by the Defendant at paragraph 44 of the Defence and Counterclaim (1/61). I, therefore, make a finding accordingly.

- Issue 22. Under the Charity rules and/or Partnership was the Claimant permitted to be paid by himself or his proxy / follower?

232. It is common ground that, **under the Charity rules, the Claimant was not permitted to be paid.** I make a finding accordingly.

- Issue 23. Is the nature of the business conducted by and the business connections of Ibn Sina College, Maturidi College, Alberonius Herbal and Shukorov Publishing the same as the Partnership businesses?

233. In his witness statement, the Claimant contends that Alberonius Herbal was established by him independently of the Partnership, that it only existed for one month and that it did not open to the public (2/18).

234. However, in the defamation proceedings, it was pleaded on his behalf (and endorsed with a statement of truth) that Alberonius Herbal “was planned as a venture that was agreed between [the parties]” (5G/156).
235. Then, in his live evidence, the Claimant accepted that he had closed down Alberonius Herbal because the Defendant had been upset when he discovered that it had been established.
236. An email was sent to Avicenna Academy on 31 March 2018 for the Defendant’s attention and the sender was stated to be “Alberonius Herbal” (5E/138). This, of course, post-dated the date on which the Claimant maintains that Alberonius Herbal was closed down. On cross-examination, the Claimant denied having sent the email, even though it appears to refer to him in the first person. In my judgment, his position on that point is untenable. I find that the email was sent by or on behalf of the Claimant. It also appears to have been circulated to people who were originally on the Avicenna Academy mailing list. For example, it and other related emails appear to have been received by Mr Ditta.
237. I have also noted that in the email from Alberonius Herbal dated 30 August 2016 (5D/67) notice of the cancellation of the Herbal Medicine course is given to recipients of the email and it is stated that “all payments made by PayPal will be refunded within the next 7 days”, which is inconsistent with the Claimant’s denial of there having been such an account. Mr Amir, who sent the email, confirmed in his live evidence that no accounts were opened without the Claimant’s knowledge. The email goes on to say that Alberonius’ other services “will continue as normal” which, of course, is inconsistent with the Claimant’s statement that the organisation only existed for one month.
238. These inconsistencies and contradictions wholly undermine the Claimant’s credibility in relation to Alberonius Herbal and suggest that there was more than a clandestine element about the establishment of the organisation. In my judgment, the most likely explanation is that the Claimant was intending to use the Partnership’s herbal course, especially given that in a widely circulated email (5F/67) he described Alberonius Herbal as “a branch of Avicenna Academy”. I also note that in another email from Alberonius Herbal dated 18 July 2016 (5D/61) “Alberonius” is described as being “under the supervision of Avicenna”.
239. The people involved in the administration and teaching at Alberonius Herbal appear to have been the Claimant, Mr Amir, Mr Minhas and Mrs Nisa, who had also been involved at Avicenna Academy.
240. I have seen no reliable evidence that Alberonius Herbal produced any new materials or courses. It would have been a simple matter for the Claimant to have produced such evidence

241. In my judgment, the most persuasive evidence concerning the email circulation list comes from Mr Ditta (2/14 and 15). He had given Mr Minhas access to the Academy's email and contact lists, which he (Mr Ditta) had gathered and maintained. He had broken the list down into three sub-lists and he later received "three copies of the Alberonius emails". I am satisfied that it is likely that Mr Minhas, on behalf of the Claimant, used the circulation lists for the purposes of Alberonius Herbal. Again, I note that the Claimant has not called Mr Minhas to give evidence on this (or any other) point.
242. Taking these factors into account, **I find that the business connections of Alberonius Herbal and the nature of its business were largely the same as those of the Partnership business.**
243. There is also evidence in the trial bundle (5G/136) that typing "alberonius.com" into the search bar takes the searcher to Ibn Sina Herbal and even that the text on the website relating to the course (5G/137) has not been changed, referring still to "Alberonius...offering a once in a lifetime opportunity for students to enrol onto Alberonius Herbal Medicine Program".
244. The Claimant accepted on cross-examination that some of the photographs in the promotional literature (5G/136) had been taken at the Avicenna Academy.
245. There are also references in the literature to herbal consultancies, (5/138) which appear to have been the same as the Partnership assets.
246. I am satisfied that it is likely that emails sent out on behalf of Ibn Sina would have been sent to the circulation list taken from the Partnership/ Avicenna Academy, for the reasons set out at paragraph 241 above. I find it unlikely that a new circulation list would have been prepared and far more probable that Mr Minhas and the Claimant would have used the list obtained from Mr Ditta. It also appears that, until recently, the teaching staff at Ibn Sina remained the same as the Alberonius team. The addition recently of new members of staff and the fact that the course is accredited adds little to the overall picture.
247. I have noted that the promotional literature for the Herbal Medicine courses at Avicenna Academy and Ibn Sina College (5D/13 and 5E/127) are almost identical, even down to the photographs and layout adopted. A common denominator may well be that they were both prepared by Mr Minhas, but that does not reduce the likelihood that they were both advertising what was, to all intents and purposes, the same course.
248. The Claimant has provided me with no persuasive evidence that Ibn Sina has produced a different range of services from Alberonius and/or Avicenna. I am satisfied that it is, in effect, a continuation of Alberonius Herbal.

249. Taking all of these factors into account, **I find that the business connections of Ibn Sina College and the nature of its business are likely to substantially reflect those of the Partnership business.**
250. In relation to Maturidi College, there are many similarities in the promotional literature with the Alim course offered by Avicenna Academy. The length, content and delivery of the course, and even the front page of the website, appear to be the same.
251. The mailing list which was sent by Mr Ditta to Mr Moneeb on 31 August 2015 (5D/14), entitled “Consol-alim-Aug15” also appears to be the list (or one of the lists) referred to by Mr Ditta in his evidence.
252. I note that enquiries about the Avicenna Academy’s Alim course were being received by the Academy during 2016 (e.g., 5D/52 and 65) and yet, on 3 November 2016, the Claimant had acquired the domain name maturidi.co.uk for his new enterprise (5G/88) (as, in fact, had the domain name ibnsina.co.uk).
253. Given the weight of the evidence, and the findings which I have made in relation to Alberonius Herbal and Ibn Sina, I think it likely that the position was similar in the case of Maturidi College.
254. In my judgment, the most likely explanation for the Claimant’s conduct, namely setting up new establishments whilst playing no part in the Academy, is that he intended to benefit from the more lucrative assets of the Partnership, namely the Herbal and Alim courses.
255. **In the circumstances, I am satisfied that the business conducted by, and the business connections of, Maturidi College, are likely to substantially reflect those of the Partnership business.**
256. There is very limited evidence regarding Shukurov Publishing. I am satisfied that “Hanafi Principles of Testing Hadith” was a Partnership asset. This is consistent with Mr Ditta’s evidence on the issue (2/85), which I accept, and with Dr Ullah’s evidence that the Claimant relied on others in his written work.
257. However, there is very little firm evidence about any of the other book titles referred to in the evidence.
258. **That being the case, there is insufficient evidence to find on the balance of probabilities that the business, and the business connections, of Shukurov Publishing are the same as those of the Partnership.**

- - Issue 24. Was there an agreement that any university courses undertaken by the parties must be completed and if they were not completed that any monies spent on those courses would be refunded to the Partnership?

259. No evidence has been produced of any agreement that, if the parties' university courses were not completed, the money spent on those courses was to be refunded to the Partnership.

260. If there had been such an agreement, then I would have expected it to feature somewhere in the extensive documentation and bundles which have been provided to me.

261. When the Defendant challenged the Claimant about his course at Liverpool University, he apparently demanded that the Claimant was to obtain a refund, rather than that he should repay the Partnership for its outlay.

262. Lastly, it would not seem to be in keeping with the general tenor of the running of the Partnership that either party would make refunds for their outlay, especially if the purpose of that outlay was to further the purposes of the Partnership.

**263. In the circumstances, I do not find on the balance of probabilities that an agreement was reached by the parties that any university courses undertaken by the parties must be completed and that any monies spent on uncompleted courses would be refunded to the Partnership.**

- - Issue 25. Were the vehicles hired by the Defendant for the purposes of the Partnership? If so, is the Claimant required to contribute to the cost?

264. I have little doubt that the Claimant encouraged the Defendant to lease and use vehicles for the purposes of the Partnership. He accepted on the witness stand that the Defendant's vehicles had been used for the purposes of European trips and for a trip to London. The Claimant has also openly accepted that the Defendant acted as his driver.

**265. I, therefore, find that vehicles which were leased by the Defendant were used for the purposes of the Partnership.**

266. However, there is no evidence that the vehicles were purchased to be used exclusively for the purposes of the Partnership.

267. They were acquired in the Defendant's sole name and the hire purchase agreements were also taken out in his sole name. I have been referred to no evidence of the Defendant having been reimbursed out of Partnership funds for the monies which he spent leasing the vehicles during the time when the parties were working together. Moreover, I have seen no

documentary evidence to the effect that the Defendant was taking on the expense of the vehicles on behalf of the Partnership.

**268. I, therefore, do not find that there was an agreement that the Partnership would assume the financial burden of the hire purchase agreements.**

- Issue 26. Did the Claimant work actively against the school to have the school closed and did the Claimant's actions cause a loss to the school from 01 July 2017 onwards?

269. I have no hesitation in finding that **the Claimant was actively working against the school, with a view to having it closed.**

270. This is amply demonstrated by the fact that the Claimant was contacting numerous regulatory and enforcement authorities, including the police, raising very serious complaints against the school.

271. The Claimant's unfounded allegations against the school led to an investigation by the examination boards. Investigations and inspections were carried out, but the school was exonerated. It appears likely that, had the outcome been different, then the school would not have been able to put students through their examinations which, without question, would have jeopardised the viability of the school.

272. In 2017 and 2018, the Claimant made serious allegations to the Department for Education and Ofsted (6B/249 and 250 and elsewhere in 6B). Those allegations did not prevent Ofsted from giving the school a "Good" rating in September 2018 and yet, in December 2018, the Claimant again contacted Ofsted, asking them to review the position and suggesting that they had not taken seriously his complaints about "sexual harassment, child abuse, bullying the pupils, parents, teachers and staff members including the director" (6B/298).

273. I am satisfied that these allegations (and various other allegations made by the Claimant) were entirely unfounded, and that there was no substance to them. For example, the Claimant's allegation of sexual harassment made against the Defendant's brother wholly lacked credibility. He did not make a complaint against the Defendant's brother in 2014 when the incident allegedly occurred, but rather waited for several years when he raised it with the educational authorities.

274. The various incidents alleged by the Claimant are undocumented. Given the centrality of the welfare of children and staff in educational settings, I would have expected any such serious incidents to have been reported to the appropriate authorities as soon as they came to light and to have been documented extensively.

275. I am not satisfied that the incidents referred to the authorities by the Claimant happened as alleged, or at all.
276. The Claimant also claimed in his complaint to Ofsted to have reported the issues to local and national newspapers (5E/299). It is not clear whether or not he did so.
277. However, it appears that on 31 March 2018 the Claimant circulated an email headed "AVICENNA SCHOOL EXPOSED PART 1" (5E/138). He was also posting messages on Facebook and I am confident that they were intended to refer to the school and that they would have been interpreted as such by many of those who read them. For example, the message headed "child suicide" (5F/16) does not refer to the school by name but makes clear references to the organisations to which the Claimant had made complaints.
278. At the same time, the Claimant was complaining to the Charities Commission about the Defendant and, as I have noted elsewhere in this judgment, the account which he gave to them was far from consistent with his current position.
279. In short, I find that the Claimant was campaigning to undermine the school and I have seen no legitimate justification for his having done so. I think it most likely that he was inspired by his understanding that the Defendant was making allegations against him or by a desire to damage the Defendant and/or his reputation.
- 280. I find that these steps were being taken with a view to the school being closed down.** The Claimant must have appreciated that, if his allegations were accepted by the authorities as being truthful, the viability of the school would have been damaged irreparably.
281. I expect that the Claimant's conduct had the potential to impact on the appeal of the school to prospective parents and students. It may be that it resulted in reduced numbers of students or in fewer students attending the Academy than would have been the case in the absence of his efforts to undermine the school.
282. However, there is no clear evidence of any losses suffered as a consequence of the Claimant's conduct. Even if student numbers were affected adversely, the reasons behind that trend are likely to have been multifactorial.
- 283. I, therefore, do not find that the Claimant's actions caused a loss to the school from 1 July 2017 onwards, although his allegations are likely to have damaged the school's reputation.**
- - Issue 27. Are the Trademarks valid for the purposes of the Trademarks Act 1994? If they are, is the Defendant entitled to any damages for infringement, and if so, in what amount?

284. For the reasons I have already raised with the parties in Court, and subject to any further submissions to the contrary, I am not satisfied that this Court is the most appropriate venue to determine whether the trademarks are valid and/or whether they have been infringed.

**APPENDIX**

Claim Number: BL-2020-MAN-000121

IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS IN MANCHESTER

**B E T W E E N**

**MR ATABEK SUKUROV**

*Claimant*

and

**MR SULAIMAN AHMED**

*Defendant*

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**REVISED LIST OF ISSUES**

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Number	Issue
1	Did the Claimant ever run an Alim course or Herbal course, offered online, before he met the Defendant?
2	Was the Claimant and/or the Defendant ever part of the management of Afiyah Institute?
3	Was the Defendant dismissed from his position in Goole High School?

4	<p>Did the Partnership entities include:</p> <p>Alberonious Herbal;  Avicenna Academy;  Avicenna Global Charity;  Avicenna Global Limited;  Avicenna Partnership;  Avicenna Publishing;  Donations made by the public;  DVD copies of lectures by the Claimant;  Educational Courses;  Herbal Consultancies and treatments offered by the Claimant;  Ibn Sina College;  Maturidi College;  Sukorov Publishing;  Pre-recorded courses; and  Retreats.</p> <p>Was the independent school a part of the Charity or the Partnership?</p>
5	<p>Was the Partnership intended to generate a profit, or was any money generated by the Partnership intended to be given to the Avicenna Global Charity/ Islamic Education/ the Independent school?</p>
6	<p>Was there an agreement to split Partnership profits 50/50 or was there an agreement that the parties would be remunerated each month with the Defendant receiving a higher monthly sum than the Claimant?</p>
7	<p>Were Co-op account 753, Co-op account 740, and Co-op account 766-53, partnership bank accounts used to receive and hold funds generated by the partnership, or were they charitable bank accounts?</p>
8	<p>Did the Claimant have access to the charity Co-Op bank accounts?</p>

9	<p>Were the NatWest Bank accounts 899 and 880 Partnership accounts, and did the Claimant have access to these accounts?</p> <p>Were the bank statements posted to the Claimant's home address?</p>
10	<p>Was NatWest 875 account a Partnership account, or an account for the Defendant as a sole trader?</p>
11	<p>Did the Claimant have insight into the finances of the Partnership or did the Defendant deny the Claimant insight into the finances of the Partnership?</p> <p>If the Claimant did have insight did he consent/ have knowledge of when the Defendant was paid or made payments out of the Bank Accounts?</p>
12	<p>Does the Charity Commission report resolve the issue of payment of wages to family members and state that they were paid below the Market Rate?</p> <p>Were the Defendants' family employed and paid with the knowledge and/or consent of the Claimant?</p> <p>Was there a school policy that staff members' children would have a fee exemption due to the below-market rate pay received by them?</p>
13	<p>Did the Defendant take responsibility for the finances of the Partnership or was the responsibility shared?</p>
14	<p>Did the Claimant resign, retire and/ or abandon the Partnership on or around 01 July 2017?</p> <p>Did the Claimant fail to contribute to the Partnership and/or the Avicenna Global Charity after 01 July 2017?</p>

15	<p>Were the PayPal accounts, linked to the email addresses <a href="mailto:info@avicennaacademy.com">info@avicennaacademy.com</a> and <a href="mailto:sulaiman.ahmed@avicennaacademy.com">sulaiman.ahmed@avicennaacademy.com</a> and the Amazon account Partnership accounts or Charity accounts?</p> <p>Was an Amazon account set up through which payments were made to the Partnership resulting from the Partnership's business activities?</p>
16	<p>Under the Charity rules and/or partnership was the Claimant permitted to be paid by himself or his proxy / follower?</p>
17	<p>Is the nature of the business conducted by and the business connections of Ibn Sina College, Maturidi College, Alberonius Herbal and Shukorov Publishing the same as the Partnership businesses?</p>
18	<p>Was there an agreement that any university courses undertaken by the parties must be completed and if they were not completed that any monies spent on those courses would be refunded to the Partnership?</p>
19	<p>Were the vehicles hired by the Defendant for the purposes of the Partnership? If so, is the Claimant required to contribute to the cost?</p>
20	<p>Did the Claimant work actively against the school to have the school closed and did the Claimant's actions cause a loss to the school from 01 July 2017 onwards?</p>
21	<p>Are the Trademarks valid for the purposes of the Trademarks Act 1994? If they are, is the Defendant entitled to any damages for infringement, and if so, in what amount?</p>

