Neutral Citation Number: [2015] EWHC 65 (Ch)

Case No: HC-2013-000082

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice
Rolls Building, Fetter Lane, London, EC4A 1NL

Date: 20/01/2015

Before :

MR JUSTICE MORGAN

- -

Between :

GORDON JAMES RAMSAY	**Claimant**
- and -	
GARY LOVE	**Defendant**

- -
- -

Jonathan Seitler QC and Benjamin Faulkner (instructed by **Mishcon de Reya**) for the **Claimant**
Romie Tager QC and Alexander Goold (instructed by **Jeffrey Green Russell**) for the **Defendant**

Hearing dates: 20, 21, 24, 25, 27, 28 November and 1, 2 December 2014

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Approved Judgment

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

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MR JUSTICE MORGAN

Mr Justice Morgan:

Introduction

1. On 18 February 2008, Northam Worldwide Ltd ("Northam"), the then freehold owner of premises at 127 and 129 Parkway London, NW1 ("the premises"), granted a lease of those premises to Gordon Ramsay Holdings International Ltd ("GRHI"). The terms of the lease provided for the obligations of the lessee to be guaranteed by Gordon Ramsay Holdings Ltd ("GRH") and by Mr Gordon Ramsay. On completion, Northam as the lessor was provided with the counterpart lease which appeared to have been duly executed as follows. The counterpart appeared to have been duly executed by GRHI (as lessee), by being signed as a deed by Mr Ramsay as a director of that company with Mr Ramsay's signature being witnessed by Mr Christopher Hutcheson, another director of that company. The counterpart also appeared to have been duly executed by GRH (as guarantor), again by being signed as a deed by Mr Ramsay as a director of that company with Mr Ramsay's signature again being witnessed by Mr Christopher Hutcheson, another director of that company. Further, the counterpart also appeared to have been executed by Mr Ramsay (as guarantor) by being signed by him personally with his signature being witnessed by a Mr Kevin Fung.

2. Following the grant of the lease, the lessee commenced to fit out the premises and eventually began to trade from the premises as a restaurant and a small hotel. The lessee continues to trade in that way up to the present time.

3. On 6 July 2011 as a result of court proceedings brought by Mr Love against Northam, Mr Love became entitled to acquire the reversion on the lease and on 7 November 2012, the reversion was assigned by Northam to Mr Love.

4. In September 2011, Mr Ramsay told Mr Love that he was not bound by the guarantee apparently signed by him.

5. Initially, the position of GRHI and GRH in relation to the lease and guarantee was not clear but it is now accepted by both these companies that each of them is bound as lessee and as guarantor, respectively. Mr Love asserts that Mr Ramsay is bound by the guarantee which was apparently given by him. But even if it should be held that Mr Ramsay is not bound by that guarantee, Mr Love accepts (and indeed asserts) that there has been an effective grant of a lease of the premises and that he has the benefit of the covenants given by GRHI and GRH (as lessee and as guarantor) respectively.

6. The issue which I am asked to decide is whether Mr Ramsay is bound by the guarantee apparently given by him. Mr Ramsay says that he is not so bound because he did not sign the counterpart lease. He says that his apparent signature was placed on that document by means of a signature writing machine which was operated by or under the direction of Mr Christopher Hutcheson (to whom I will refer as "Mr Hutcheson" to distinguish him from his son, Adam Hutcheson, to whom I will refer as "Adam"). Mr Hutcheson is the father in law of Mr Ramsay and in February 2008 was the Chief Executive Officer of GRH. Mr Ramsay says that Mr Hutcheson did not have any authority to commit Mr Ramsay to the guarantee in this case and did not have authority to place Mr Ramsay's apparent signature on the document. The principal dispute in this case is one of fact as to whether Mr Hutcheson did or did not have actual authority to commit Mr Ramsay to the guarantee in this case. If Mr

Hutcheson did not have actual authority to act in that way, Mr Love contends that Mr Ramsay is estopped from denying Mr Hutcheson's actual authority in that respect.

7. For the avoidance of doubt, I will refer to certain matters which were not argued in this case. It was accepted that for the purpose of signing a document (and, in particular, a deed) creating a guarantee, it was not necessary that the guarantor should sign the document with a pen held in his own hand. It was accepted that if Mr Ramsay had himself operated the signature writing machine to place his signature on the deed, then the deed would have been effectively signed by him. Similarly, it was accepted that if Mr Ramsay had expressly authorised another person to operate the signature writing machine to place Mr Ramsay's signature on the deed, then the deed would have been effectively signed by Mr Ramsay. Section 1(3) of the Law of Property (Miscellaneous Provisions) Act 1989 states that a deed must be "signed" by an executing party. There are statements in the authorities which suggest that a document is only "signed" by an executing party when he signs it with a pen in his own hand: see Firstpost Homes Ltd v Johnson [1995] 1 WLR 1567 at 1575 and 1577, citing Goodman v J Eban Ltd [1954] 1 QB 550 at 555 and 561. However, those statements were not designed to distinguish between signing by use of a pen held in the executing party's hand as distinct from the use of a signature writing machine. Further, no point was taken as to the requirement in section 1(3) of the 1989 Act that the deed be signed by the executing party in the presence of an attesting witness. In any case, a guarantee can be entered into otherwise than by deed. Initially, counsel for Mr Ramsay did refer to section 4 of the Statute of Frauds Act 1677, which states that a guarantee must be evidenced in writing by a document which is "signed" by or on behalf of the guarantor and some point was sought to be made about the application of section 4. However, it was pointed out that the disputed "guarantee" in this case was a guarantee and indemnity and that it has long been established that section 4 did not apply to a contract of indemnity (see Chitty on Contracts, 31st ed., paragraph 44-043), so any possible point under section 4 fell away. At this point, I should explain that I will for convenience in this judgment refer to the disputed obligation in this case as "a guarantee" even though, more technically, it is a contract of indemnity.

8. Mr Seitler QC and Mr Faulkner appeared on behalf of Mr Ramsay and Mr Tager QC and Mr Goold appeared on behalf of Mr Love.

An overview of the evidence

9. The principal dispute in this case, as to Mr Hutcheson's authority to act on behalf of Mr Ramsay in relation to the giving of a guarantee by Mr Ramsay, is essentially a dispute of fact. I was given both oral and documentary evidence as to the factual matters in dispute. However, both the oral and the documentary evidence tendered at the trial are known to be incomplete. So far as the oral evidence goes, the central issue relates to the relationship between Mr Ramsay and Mr Hutcheson. While Mr Ramsay gave evidence, Mr Hutcheson did not. Other persons who might have given highly relevant evidence were not called. One such non-witness was Mr Hutcheson's son, Adam, who was closely involved in the negotiations which led to the grant of the lease in this case.

10. As regards the documentary evidence, I was told that when Mr Hutcheson was dismissed as Chief Executive Officer of GRH in October 2010, he removed large

quantities of documents from that company's offices and he deleted emails from the company's computers. Accordingly, while it is possible that there might have been emails between Mr Ramsay and Mr Hutcheson which could have thrown light on the issues in this case, hardly any such emails have been disclosed. Indeed, it is not possible to know with any degree of confidence whether relevant emails once existed and have since been deleted and lost or whether there were never any such relevant emails. In this context, I should add the further fact that whilst it is clear that Mr Ramsay and Mr Hutcheson spoke on the telephone several times every day on average, there is no record of the contents of those calls. Yet further, although Mr Love applied for extensive disclosure of documents from Mr Ramsay, the latter successfully opposed the width of the disclosure sought but nonetheless, in the course of the trial, began to volunteer documents which had not been disclosed earlier, no doubt in the belief that the volunteered documents would assist his case.

11. The result of the evidence taking the form it did is that the court has a difficult jigsaw puzzle to solve but it knows that it does not have all of the jigsaw pieces which once existed and it does not even have all of the jigsaw pieces which still exist and which could have been supplied.

12. Naturally, the question was raised at the trial as to the court's response to the fact that it was not being given all of the available and potentially relevant evidence. I consider that the starting point is that the court has to do the best it can with the evidence it has been given and it has to decide the case on that evidence. Plainly, the fact that potentially relevant evidence had been destroyed by Mr Hutcheson cannot be relied upon to draw inferences against Mr Ramsay or, indeed, against Mr Love. Further, it was not suggested that the fact that Mr Ramsay had successfully resisted an order against him for wider disclosure should be the basis of any adverse inference against him. The stance he took was almost certainly on legal advice, was upheld by the Master at the hearing of an opposed application for disclosure and there has been no appeal against the Master's decision.

13. However, Mr Seitler did submit that the absence of Mr Hutcheson and his son Adam from the trial was attributable to the decision of Mr Love not to call them and that the court should draw adverse inferences against Mr Love on that account. Mr Seitler relied on the statement of principle by Brooke LJ in Wisniewski v Central Manchester Health Authority [1998] PIQR P323 at P340 where he said:

> "In R v IRC ex parte T. C. Coombs & Co [1991] 2 AC 283 Lord Lowry explained at p. 300 the benefit which a court may be willing to confer on a silent defendant who gives some sort of explanation for his failure to give evidence, even if it is not a very good one. He said:
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> "In our legal system generally, the silence of one party in face of the other party's evidence may convert that evidence into proof in relation to matters which are, or are likely to be, within the knowledge of the silent party and about which that party could be expected to give evidence. Thus, depending on the circumstances, a prima facie case may become a strong or even an overwhelming case. But, if the silent party's failure to give evidence (or to give the necessary evidence) can be credibly

> explained, even if not entirely justified, the effect of his silence in favour of the other party may be either reduced or nullified."
>
> From this line of authority I derive the following principles in the context of the present case:
>
> (1) In certain circumstances a court may be entitled to draw adverse inferences from the absence or silence of a witness who might be expected to have material evidence to give on an issue in an action.
>
> (2) If a court is willing to draw such inferences, they may go to strengthen the evidence adduced on that issue by the other party or to weaken the evidence, if any, adduced by the party who might reasonably have been expected to call the witness.
>
> (3) There must, however, have been some evidence, however weak, adduced by the former on the matter in question before the court is entitled to draw the desired inference: in other words, there must be a case to answer on that issue.
>
> (4) If the reason for the witness's absence or silence satisfies the court, then no such adverse inference may be drawn. If, on the other hand, there is some credible explanation given, even if it is not wholly satisfactory, the potentially detrimental effect of his/her absence or silence may be reduced or nullified."

14. There is no doubt as to the principle. It was recently invoked by the Supreme Court in Prest v Prest [2013] 2 AC 415 at [44] per Lord Sumption.

15. It will be noted that Lord Lowry in R v IRC ex parte T. C. Coombs & Co referred to the court's response to "a party" not giving evidence whereas Brooke LJ in Wisniewski referred to the court's response to "a witness" not being called by a party.

16. Mr Seitler submitted that the present case was one of the clearest and strongest cases for applying this principle, so as to require the court to draw powerful inferences adverse to Mr Love and in favour of Mr Ramsay. Mr Tager submitted that if I had regard to certain matters which were in evidence, which showed the unco-operative attitude adopted by the Hutchesons, I would understand the reasons why Mr Love was not calling either of the Hutchesons as a witness in this case.

17. My reaction to these submissions is as follows. I find that Mr Ramsay has raised a case which requires to be answered as to Mr Hutcheson having no authority to commit Mr Ramsay to the guarantee. This is not a case of a party with obviously relevant evidence to give declining to give evidence. This is a case where neither party has called either of the Hutchesons. There was no suggestion that I should draw any adverse inference against Mr Ramsay for failing to do so. Mr Ramsay has very good reasons for not calling either of the Hutchesons. Both of the Hutchesons were dismissed from their employment with GRH in or after October 2010. There followed acrimonious litigation between Mr Ramsay and the Hutchesons, where serious allegations of wrongdoing were made by Mr Ramsay against them. Those

proceedings were later settled on confidential terms but I know enough of the terms to tell me that they involved a complete severance of the relationship between those parties.

18. It would have been open to Mr Love to take steps, or to try to take steps, to call one or both of the Hutchesons. Not long after Mr Ramsay first raised with Mr Love his contention as to Mr Hutcheson's want of authority, Mr Love contacted the Hutchesons and, initially at any rate, they co-operated with Mr Love and provided him with information which Mr Love used to seek disclosure of documents from Mr Ramsay. Further, the Hutchesons appeared to be willing to say that Mr Ramsay did know of, and did approve, the giving of the guarantee. However, the Hutchesons' attitude to Mr Love later changed. Mr Love applied for a non-party disclosure order against them and although documents were obtained, Mr Love found, to his great surprise, that his application was opposed by the Hutchesons and they applied for an order that he pay their substantial legal costs.

19. On the material before me, I consider that it is unlikely that the Hutchesons would have been prepared to give evidence voluntarily at this trial. One reason for thinking that is that Mr Ramsay reported Mr Hutcheson to the police for alleged criminal behaviour and Mr Ramsay has been interviewed by the police on more than one occasion in relation to that report. Mr Ramsay understands that the resulting police investigation is continuing. It would not be surprising if the Hutchesons did not wish to have their conduct investigated at a civil trial in advance of a decision being made as to a possible criminal prosecution. Further, Mr Seitler submitted that the Hutchesons were "admitted perjurers" and any evidence they might give would be unreliable. Not having heard the Hutchesons, I am not in a position to make any findings as to their reliability. I can speculate however in this way. It is entirely possible that if the Hutchesons came to give evidence that I would have been cautious before I accepted their evidence, in view of the allegation of previous perjury and in view of the fact that they are not disinterested witnesses. If I were to feel cautious about their evidence, that would not mean that I would automatically accept all and any evidence from Mr Ramsay to the contrary. In such a case, it would still be necessary for me to consider his evidence and assess it in the light of any contemporaneous documents and the inherent probabilities of the case.

20. My overall conclusion on the submission, that I should draw an adverse inference against Mr Love by reason of the fact that he has not called either of the Hutchesons as a witness, is that any potentially detrimental effect on Mr Love's case by reason of the Hutchesons not being called as witnesses is significantly reduced but possibly not wholly eliminated.

21. I have one further comment to make on the absence of the Hutchesons as witnesses. When Mr Ramsay came to give his evidence, he knew that the Hutchesons were not being called to give evidence. Mr Ramsay was asked many questions in cross-examination about his dealings with the Hutchesons in circumstances where the facts would really only be known to Mr Ramsay and to them. For some witnesses there might have been a tendency to give self-serving evidence in the expectation that no one would be called to contradict it. I bear that possibility in mind although in the event I have not given any real weight to it. In the event, I have been able to accept a great deal of Mr Ramsay's evidence. There are parts of his evidence which I am not able to accept but I have reached my decision in that respect without giving any real

weight to the fact Mr Ramsay knew when he gave his evidence that the Hutchesons were not being called as witnesses.

Further comments on the witnesses

22. The principal witness as to the relationship between Mr Ramsay and Mr Hutcheson was Mr Ramsay himself. I can accept, without hesitation, a great deal of his evidence as to that relationship. Indeed, much of that evidence would support a finding that Mr Hutcheson had extensive authority to bind Mr Ramsay contractually in a wide range of contractual matters, although not in relation to Mr Ramsay's domestic affairs or his private life. There are issues as to the extent of Mr Ramsay's knowledge of certain matters, notably, the extent to which the signature writing machine was used to place Mr Ramsay's signature on legal documents and whether Mr Ramsay knew that he was to be a guarantor in relation to the lease of the premises. I will make specific findings on those matters in due course. However, I accept Mr Ramsay's evidence that he did not generally know the detail of business transactions entered into by the group companies, nor even by Mr Ramsay personally. Those matters were handled on behalf of the companies, and on behalf of Mr Ramsay personally, by Mr Hutcheson. Mr Hutcheson did not routinely inform Mr Ramsay of matters of detail, even important matters of detail. Mr Ramsay did not expect Mr Hutcheson to keep him informed of such matters and Mr Ramsay knew that he was not being kept informed.

23. Mrs Ramsay also gave evidence. She referred to the fact that her father sometimes asked her to sign documents and when he did she would sign the document without questioning him or reading the document. That was because she trusted her father completely. She did not always discuss these documents with Mr Ramsay. She referred to a document dated 12 July 2007, referred to in paragraph 79(4) below which she signed by her own hand. The machine was used to place Mr Ramsay's signature on that document although Mrs Ramsay did not recall whether Mr Ramsay's signature was on the document when she was asked to sign it. Her father had told her that the document was "a banking document" which she signed because she trusted him. I add at this point that Mr Ramsay gave evidence that he had not seen this document at the time and did not know of its existence until matters were investigated for the purpose of the present proceedings. This is therefore an example of Mr Hutcheson using the machine to place Mr Ramsay's signature on a document involving a substantial personal guarantee by Mr Ramsay without (on Mr Ramsay's evidence) Mr Ramsay being asked to give his approval. However, I do not consider that it can be said that this was done deceitfully to defraud Mr Ramsay because Mr Hutcheson also asked Mrs Ramsay to sign the document and she did so. In relation to the lease of the premises the subject of these proceedings, Mrs Ramsay said that Mr Ramsay did not tell her he was giving a guarantee but, equally, she said that she had no discussion with him about the terms on which the premises was being taken.

24. Mrs Ramsay (and Mr Ramsay) sought to give the impression that whenever Mr Ramsay was personally committed whether as a tenant or joint tenant of any premises or as a guarantor of a lease of any premises, the matter was carefully considered by both of them and was discussed by them before Mr Ramsay made his decision to make such a commitment. They both referred in their evidence to certain transactions where Mr Ramsay gave a guarantee in relation to a lease where the matter was discussed between them. It was then suggested that because there was no such discussion in relation to the premises in dispute in this case, that showed that Mr

Ramsay did not know that he was being committed as a guarantor of the lease of those premises.

25. I am prepared to accept that Mr and Mrs Ramsay did not have a discussion about Mr Ramsay being a guarantor of the lease under the disputed guarantee. However, I am not able to accept that that fact by itself demonstrates that Mr Ramsay did not know that he was giving that guarantee; I will make a specific finding on that matter in due course. I consider that the evidence, taken as a whole, showed that Mr Ramsay took on extensive personal commitments, whether as a tenant or joint tenant or a guarantor, where there was no evidence that the matter had been specifically discussed between Mr and Mrs Ramsay.

26. It seems that by September 2011, following a review of documents carried out by Mr Ramsay's solicitors, that Mr Ramsay was undoubtedly aware of the existence of the disputed guarantee. Mrs Ramsay gave evidence of a conversation with her husband after he became aware at that stage of the disputed guarantee. She said that Mr Ramsay was shocked by the existence of the disputed guarantee and in particular that his signature had been placed on the document by the machine. It was submitted that this shock showed that Mr Ramsay could not have been aware at the time the lease of the premises was entered into that he was entering into the disputed guarantee. I will make a specific finding later in this judgment as to whether Mr Ramsay knew of the guarantee before the lease was entered into. However, I am cautious about this evidence as to Mr Ramsay's shock when he says he discovered the guarantee because I regard it as an exaggerated reaction and therefore not the likely reaction to finding out about the guarantee. The guarantee could be removed by putting up two years rent, amounting to £1.28 million (in the period before the initial yearly rent of £640,000 was reviewed), and by the time that Mr Ramsay says he found out about the guarantee, Mr Ramsay had already put substantial sums into the business to cover losses.

27. I consider that whatever conversation took place between Mr and Mrs Ramsay in 2011 about the disputed guarantee was more to do with the fact that in 2011 Mr Ramsay regarded the whole transaction in relation to these premises as a very bad loss-making deal. He almost certainly thought in 2011 that Mr Hutcheson had been unwise in committing GRHI and GRH and Mr Ramsay to the transaction. However, that does not throw any light on what Mr Ramsay's attitude was (or would have been) to the transaction in 2007 and early 2008. Between taking the lease of the premises in early 2008 and 2011 a lot had happened. Although the business was initially expected to be profitable it turned out that it made heavy losses which Mr Ramsay personally had to fund.

28. Ms Aves-Elliott was employed by the Gordon Ramsay group of companies since November 2008 and gave evidence at the trial. Her principal duties were to act as an executive assistant to Mr Hutcheson. She confirmed that Mr Ramsay gave significant responsibility to Mr Hutcheson in relation to the operation of the business of the group. Mr Ramsay was rarely at the company's office. She explained that she did not know what authority Mr Hutcheson had to act on behalf of Mr Ramsay personally. She also explained the use which was made of the machine to place signatures on documents. It seems to have been used fairly frequently to place Mr Hutcheson's signature on documents. It was also used to place Mr Ramsay's signature on documents. Ms Aves-Elliott also remembered the machine being used to place Mr

Ramsay's signature on a cheque or cheques. She was also asked about the circumstances in which Mr Ramsay's signature was placed on a power of attorney and a declaration of trust on 11 August 2010. Ms Aves-Elliott had purported to witness Mr Ramsay's signatures on these documents. I will make specific findings about that matter later in this judgment as it is suggested on behalf of Mr Love that these events showed that Mr Ramsay was aware that the machine was being used to place his signature on legal documents. Ms Aves-Elliott was over-eager to avoid criticism of her position in relation to her use of the machine to sign legal documents. She gave evidence that she felt some concern at the time as to the propriety of what she was doing. Whether or not she was concerned in the way she described, as to which I make no finding, she wanted in her evidence to emphasise the way in which Mr Hutcheson ran the office and she suggested that Mr Hutcheson was secretive and wished to make sure that Mr Ramsay did not know everything that was going on. It may well be that Mr Hutcheson was secretive in relation to certain personal matters which I need not describe but I do not consider that Ms Aves-Elliott's evidence would justify a finding that Mr Hutcheson deliberately kept Mr Ramsay in the dark about the details of the negotiations for the premises in 2007. Ms Aves-Elliott also gave evidence (which I accept) that she had a discussion with Mr and Mrs Ramsay in the Autumn of 2010 in which she referred to the extent to which the machine was used to place signatures, including that of Mr Ramsay, on legal documents. She stated that she had little recollection of the discussion but she seemed sure that such a discussion had taken place. Although she could not remember the detail of the discussion she suggested that Mr Ramsay had been shocked by what she told him. Mr Ramsay did not have a clear recollection of this discussion in the Autumn of 2010.

29. Mr Ramsay also called Ms Angela Hartnett as a witness. At the time of the negotiations for the agreement for lease in 2007, GRH and Mr Ramsay intended that Ms Hartnett would be the chef responsible for operating the restaurant and hotel business run from the premises and that she would have a 10% shareholding in that business. Ms Hartnett visited the premises at that time and in due course she was responsible for that business until late 2011. Ms Hartnett's evidence went to background matters only rather than to the issue of Mr Hutcheson's authority.

30. Mr Love's evidence in chief took the form of a lengthy witness statement supplemented by a second shorter statement. Much of that evidence was not directly relevant to the issue which I have to decide as to Mr Hutcheson's authority. Mr Love was cross-examined at length about his conversations with the Hutchesons after Mr Ramsay had asserted that he was not bound by the guarantee apparently signed by him. I have taken that evidence into account when holding that the Hutchesons were, ultimately, not prepared to co-operate with Mr Love by giving evidence at this trial. Mr Love also gave evidence about a conversation he had with Mr Ramsay at the premises before the agreement for lease was entered into. I consider that Mr Love's evidence exaggerated the degree of enthusiasm which Mr Ramsay communicated to Mr Love in that conversation.

The matters dealt with in the remainder of this judgment

31. There were inevitably many matters of fact discussed in the evidence and examined at the trial. It may be that not all of those matters contribute to my decision on the ultimate issue as to Mr Hutcheson's authority to commit Mr Ramsay to the disputed guarantee. However, I have been able to form a fairly clear view on the disputed

matters and I have decided to set out my findings on them, even if some of my findings are not, or might not be, essential to my ultimate decision. In that way, I will now consider the following matters before reaching my conclusion on the ultimate issue. Those matters are:

(1) the agreement for lease;

(2) the lease;

(3) the negotiations;

(4) the need for a guarantee in this case;

(5) other examples of Mr Ramsay's liability under a guarantee or other personal liability;

(6) the use of the machine;

(7) Mr Ramsay's knowledge of the use of the machine;

(8) the relationship between Mr Ramsay and Mr Hutcheson: general findings;

(9) Mr Ramsay's knowledge of the disputed guarantee;

(10) Mr Hutcheson's authority to commit Mr Ramsay to the disputed guarantee;

(11) other matters.

The agreement for lease

32. On 21 December 2007, Northam, GRH and (apparently) Mr Ramsay entered into an agreement for lease in relation to the premises. The agreement provided for Northam to grant to GRH a lease of the premises for a term of 25 years from the date of the lease, at an initial yearly rent of £640,000, subject to upwards only review every five years during the term. Clause 2.4 of the agreement provided that Mr Ramsay was to execute and deliver a counterpart lease which was to contain (at clause 35 and the schedule) a guarantee of the lessee's obligations under the lease. Clause 35.5 of the draft lease provided that Mr Ramsay would be released from his guarantee upon the lessee providing the lessor with a rent deposit equivalent to two years' annual rent under the lease. The agreement for lease was apparently executed on behalf of GRH, and Mr Ramsay personally, by being signed by Mr Ramsay. Those signatures were placed on the agreement for lease by or at the direction of Mr Hutcheson, using the machine.

The lease

33. On 18 February 2008, Northam, GRHI, GRH and (apparently) Mr Ramsay entered into a lease of the premises for a term of 25 years beginning on 18 February 2008 and ending on 17 February 2033 at an initial yearly rent of £640,000 subject to upwards only review every five years during the term. Under the lease, the lessee was GRHI and the lessee's obligations were guaranteed by GRH and (apparently) Mr Ramsay. Clause 35.5 of the lease provided that Mr Ramsay (but not GRH) would be released

from his guarantee upon the lessee providing the lessor with a rent deposit equivalent to two years' annual rent under the lease. The counterpart lease was apparently executed by the placing of Mr Ramsay's signature three times on the counterpart. One signature was as director of GRHI; a second signature was as director of GRH and the third signature was in relation to Mr Ramsay personally. Those signatures were placed on the counterpart lease by or at the direction of Mr Hutcheson, using the machine. Mr Hutcheson also executed the counterpart lease as a director of GRHI and GRH. Mr Ramsay's signature as guarantor was stated to have been witnessed by Mr Kevin Fung.

The negotiations

34. The parties have been able to collect a substantial quantity of documents which show the essential steps in the negotiations which took place in relation to the premises. Much of what follows in relation to the negotiations is taken from those documents.

35. On 12 January 2006, Mr Love acquired the freehold of the premises for £1.8 million. The premises were said to be in poor condition at that time. Mr Love embarked on a redevelopment of the premises to create a restaurant and a small hotel. On 6 December 2006, Mr Martini of Fleurets, a firm of estate agents, emailed Mr Hutcheson and Adam stating that the freehold of the premises was available for purchase. Fleurets stated that they were not acting for Mr Love and would look to Mr Hutcheson and Adam for payment of a fee (on behalf of the purchaser of the premises) if they were to purchase the same.

36. In February 2007, Mr Martini negotiated on behalf of GRH to buy the freehold of the premises from Mr Love. By 9 February 2007, there was an agreement in principle on draft heads of terms, pursuant to which GRH would buy the freehold for £8 million. Mr Love was to complete the development of the premises. The heads of terms also provided for a deferred completion of the sale but with the purchaser going into possession from practical completion of the development pursuant to a lease at a rent of £500,000 per annum.

37. In mid-February 2007, GRH instructed a surveyor to inspect the premises and he prepared a preliminary report which was sent to Mr Love. By 28 February 2007, the proposed purchase had stalled. GRH was concerned about certain matters raised by the surveyor. It appeared that GRH required to be satisfied of a number of matters as to which Mr Love was not then able to satisfy GRH. Mr Hutcheson stated that he was not happy about the purchase at a time when the development was not complete.

38. In the period to the end of February 2007, the documents do not show any involvement by Mr Ramsay himself.

39. In the period from December 2006 to the end of February 2007, Mr Love was running out of money to complete the development of the premises. He approached a friend, Mr Fawcett, for assistance. On 13 March 2007, Mr Love entered into a contract with Northam, a BVI company connected with Mr Fawcett. The contract took the form of a contract for the sale of the freehold of the premises to Northam for £4 million. The contract was completed on 21 May 2007 and on 4 June 2007 Northam was registered at the Land Registry as proprietor of the freehold of the premises.

40. I interpose at this point, that Mr Love, Mr Fawcett and Northam later disagreed as to the effect of these arrangements. Northam contended that they amounted to a straightforward sale and purchase so that Northam was the absolute owner of the freehold of the premises. Mr Love contended that Northam was not a purchaser but a lender of funds to Mr Love so that the transfer of the freehold to Northam was by way of security for the repayment to Northam of those funds, plus interest. Mr Love contended that he was entitled to redeem the security on repayment of the funds together with interest. Mr Love brought proceedings against Mr Fawcett and Northam on 17 February 2010 and, on 6 July 2011, on the first day of a trial of those proceedings, they were settled on terms whereby Northam was to transfer the freehold to Mr Love. The terms of settlement suggest that Mr Love's contentions were considered to be stronger than those of Northam. The transfer of the freehold back to Mr Love was subject to a condition which took some time to fulfil and, eventually, the freehold was transferred to Mr Love on 7 November 2012 and he was again registered as proprietor of the freehold at the Land Registry on 16 November 2012.

41. I now return to the course of the negotiations which led to the entry into the agreement for lease on 21 December 2007. The documents for the period up to 21 December 2007 include two emails that were sent to Mr Ramsay personally. The first of these was dated 7 May 2007. This was an email from Adam to Mr Ramsay, Mrs Ramsay and Mr Hutcheson providing an update on public houses which were available to be acquired on freehold or leasehold terms. The premises was included in the list. Adam stated that he had been to see Mr Love at the premises and that there were other persons interested. The second email was dated 7 June 2007 when Adam forwarded to Mr Hutcheson and Mr Ramsay an earlier email from Mr Martini of Fleurets. Mr Martini's email referred to the premises and a number of other available properties. His email referred to "your pub acquisition drive". There is another document, which was not sent to Mr Ramsay, but which appears to have been the basis of some information which Mr Ramsay accepted that he was given at the relevant time. This document is a page of calculations on Fleurets' file. There was no specific evidence about this document but some of its contents are self explanatory. What the document seems to show is a calculation of the revenue and the profit which could be generated in relation to the hotel bedrooms, assuming a certain occupancy rate, and assuming a certain return from the restaurant. Fleurets then seemed to use the profit figures to calculate the rent which might be justified. As I understand the document, the rent which was justified in this way was £560,000 or, on an alternative basis, £670,000. The document is undated but is in the trial bundle with documents dated 18 May 2007. It seems likely that this exercise was done before GRH bid for a lease of the premises on 16 July 2007. I refer to this document because Mr Ramsay told me that he had been advised by those within GRH that the rent which was offered for the premises was affordable as the rent would be paid if the hotel bedrooms achieved 90% occupancy, without taking into account the revenue and profits from the restaurant. Apart from these documents, the other documents in the trial bundles do not reveal that Mr Ramsay was shown the documents at the time.

42. I will refer to some more detail of the negotiations which led to the agreement for lease on 21 December 2007. One reason for doing so is because Mr Seitler on behalf of Mr Ramsay submitted that what Mr Hutcheson had done, by committing Mr Ramsay to a guarantee of the lease, amounted to a fraud on Mr Ramsay and Mr Ramsay was an innocent victim of that fraud.

43. In summary, the negotiations in relation to the agreement for lease of the premises involved (or were certainly believed to involve) stiff competition from other bidders for the premises. GRH was keen to secure the premises. I find from Mr Ramsay's own evidence that he also was keen for GRH to secure the premises. On 18 July 2007, the landlord's solicitor requested the potential bidders to give details of their bids, including the identity of a guarantor. On 19 July 2007, Mr Hutcheson stated that the tenant would be guaranteed by Mr Ramsay. On 24 July 2007, GRH increased its rental offer. GRH was treated by the landlord as the successful bidder. On 14 August 2007, the landlord's solicitors asked for references for Mr Ramsay. GRH agreed to obtain a bank reference. Adam spoke to Mr Ramsay's bank which wished to know the extent of the commitment being undertaken by Mr Ramsay as guarantor. On 6 September 2007, Adam took advice from Mr Miller of Joelson Wilson, solicitors, who were handling the transaction on behalf of GRH. Mr Miller advised that the guarantee could be limited by restricting the exposure under the guarantee to financial matters, rather than extending to the performance of all the lessee's covenants. Mr Miller also referred to the possibility of capping the liability in relation to rent and/or providing for the guarantee to be released against a profits test, for example, where the lessee achieved pre-tax profits for three consecutive years in excess of three times the current rent. Following this advice, Joelson Wilson wrote on 6 September 2007 to the lessor's solicitor proposing limitations on the proposed guarantee. One proposed limitation was a cap on liability at a figure of two years' rent. The lessor's solicitor protested at this attempt to re-negotiate the terms which had initially been offered by GRH. On 17 September 2007, there was a discussion between Mr Miller and Fleurets as to why it would be unreasonable for Mr Ramsay to be liable under an unqualified guarantee and as to alternative options including the guarantee being released in return for a deposit of two years' rent. Eventually, on 3 October 2007, the lessor's solicitor was persuaded to accept that the proposed guarantee could be released on provision of a two year rent deposit. On 5 October 2007, Fleurets explained the position in relation to a two year rent deposit by saying "all we do is pay £1.2 million and the personal guarantee is gone". Fleurets then recorded that Mr Hutcheson agreed to this proposal in relation to the guarantee. The agreement for lease and the lease were then drafted and amended and the agreement for lease was entered into on 21 December 2007.

44. There are three other documents from this period which contain references to Mr Ramsay. The first is Mr Miller's attendance note of his conversation with Adam on 3 September 2007. Mr Miller told Adam that Mr Ramsay should take independent advice because Mr Miller was aware of the commitments that Mr Ramsay was entering into as lessee and guarantor on other projects. Adam told Mr Miller that he was sure that Mr Hutcheson would keep Mr Ramsay fully advised about this. The second document is Mr Miller's attendance note of his conversation on 10 September 2007 with the lessor's solicitor. Mr Miller told the lessor's solicitor that Mr Miller was not advising Mr Ramsay personally on the guarantee. The third document is Mr Miller's letter of 21 December 2007 to Adam enclosing the draft agreement for lease for signature by Mr Ramsay and GRH. Mr Miller wrote:

> "As mentioned on previous occasions, Gordon will be committing himself to a very onerous liability and should take independent advice. I know that Chris is aware of this and I understand that he has brought Gordon's attention to this. From

> the company's point of view, it can bring about the release of the personal guarantee by providing the agreed rent deposit."

45. I note at this point that Mr Ramsay's evidence was that he was not told at any time during the negotiations for these premises that he had been put forward as a guarantor. He said that Mr Hutcheson had not passed on to him what Mr Miller had said in the three documents referred to in the last paragraph. Mr Seitler submitted that I should accept Mr Ramsay's evidence on this and, if I did, this evidence showed that Mr Hutcheson deliberately concealed from Mr Ramsay the fact that his guarantee was being offered and further concealed Mr Miller's advice. It was submitted that this deliberate concealment showed that Mr Hutcheson knew that he was effectively defrauding Mr Ramsay in this respect. I will make a specific finding later as to whether Mr Ramsay knew of the guarantee before the grant of the lease. However, even if he did not know of the guarantee before the lease was granted, I do not think that the explanation for Mr Hutcheson not informing Mr Ramsay was an attempt to defraud Mr Ramsay. From the conduct of the negotiations, as revealed by the documents, and from the general evidence as to the relationship between Mr Hutcheson and Mr Ramsay, I consider that the explanation is almost certainly that Mr Hutcheson thought that he would be the best judge of the commercial consequences of entering into the transaction and of Mr Ramsay giving a guarantee and that it was not necessary for Mr Ramsay to have separate advice on whether he should give a guarantee. I do not consider that there was any attempt by Mr Hutcheson to defraud Mr Ramsay in this respect.

46. Immediately following the exchange of the agreement for lease on 21 December 2007, Adam informed Mr Ramsay of this by email. By 14 January 2008, it was being proposed that the lessee under the lease when granted should be GRHI rather than GRH. On 1 February 2008, the lessor's solicitor agreed that GRHI could be the lessee under the lease when granted, that GRH and Mr Ramsay should be guarantors and the provision for the release of Mr Ramsay's guarantee, in return for a rent deposit, should not apply to the guarantee given by GRH. That proposal was accepted and the lease was drafted accordingly. On 12 February 2008, a Ms Hood of Joelson Wilson wrote to Adam stating that "Gordon himself was informed before exchange that he was entitled to seek separate legal advice". Ms Hood did not give evidence and there was no explanation as to the basis of her statement in this letter. It may be that she based her statement on her reading of Mr Miller's letter of 21 December 2007.

47. I find, largely based on Mr Ramsay's own evidence, that he was not really involved in the detail of the negotiations to acquire the lease of the premises. He had driven past the premises on one occasion in order to have a look at them. He went to see the premises on one occasion during the negotiations although the date, or even the month, of that visit is not clear. I also find that Mr Ramsay was enthusiastic about the premises. He liked them and their potential. He also knew that Angela Hartnett liked the premises. Mr Ramsay very much wanted the premises so that it would provide her with an opportunity on which she was keen. I am not able to find that Mr Ramsay said the precise words to Mr Love which Mr Love alleges but I do find that Mr Ramsay was enthusiastic about the premises and Mr Love understood that was the case.

48. Mr Ramsay's evidence was not clear about what he knew as to the detailed terms of the proposed lease before the lease was granted. His evidence would support a finding that he did know the amount of the proposed rent. I think I can also find that he was

told during the negotiations that the revenue from the bedrooms would cover the rent. I am not clear on his evidence whether he knew the duration of the proposed lease. I will make my findings later as to whether he knew that he was to be a guarantor under the lease.

49. I also find that the fact that GRH, or an associated company, was to take on a major commitment of this kind, in circumstances where Mr Ramsay was not involved in the detailed negotiations and did not know all of the principal terms was not unusual. Indeed, this was the normal position as regards GRH and Mr Ramsay in that Mr Ramsay left all matters of that kind to the judgment of Mr Hutcheson. Mr Ramsay did not profess to have any expertise in relation to those matters. His expertise lay in relation to the operation of the kitchen and the chefs and the choice and presentation of menus and such like.

The need for a guarantee in this case

50. Mr Ramsay was asked in cross-examination about which of the published accounts of GRH were available in July 2007 (when Mr Hutcheson offered Mr Ramsay as a guarantor) and whether a prospective landlord would have been satisfied with the covenant strength of GRH as shown in those accounts. In July 2007, the most recent available published accounts of GRH were the accounts for the year ended 31 August 2005. Those accounts showed an operating loss for the year of just over £2.5 million and an overall loss for the year of just under £2.5 million. The balance sheet for that year showed net current liabilities of some £5.5 million and overall assets of some £260,000. The relevant accounts included a note that the operating profit for that year included a charge of some £3.1 million which was said to be "an exceptional item". That note was not explored in the evidence so I was not told what the exceptional item was and whether that might affect the attitude of a landlord reading those accounts.

51. As at July 2007 when Mr Hutcheson offered Mr Ramsay as a guarantor, there were no published accounts for the year to 31 August 2006 nor the year to 31 August 2007. Mr Ramsay did not refer to any management accounts of GRH which might have been shown to a prospective landlord. The trial bundle did contain the accounts for 2006 and 2007 as later published. The 2006 accounts, signed as approved on 24 October 2008, showed a small profit only and the 2007 accounts, signed as approved on 27 February 2009, showed a modest profit.

52. The accounting evidence to which I have referred suggests to me that it would have been difficult for GRH in 2007 to persuade a prospective lessor to accept the covenant of GRH alone in relation to the lease of the premises, without a guarantee or a substantial rent deposit.

53. When cross-examined, Mr Ramsay gave the following evidence as to the circumstances in which he would be expected to give a guarantee of the obligations of a group company (Day 1, page 109-110):

> "Q. Now, you've thought of another example over the short adjournment of a lease where you've given a personal guarantee. My question to you is, between 1998 and 2014, other than possibly the Savoy renewal, which no doubt we'll be seeing that document tomorrow, can you think of a single lease

> you've taken on in all those 15 years where you were not either the tenant, the co-tenant or the personal guarantor?
>
> A. No, I can't, my Lord.
>
> Q. Did you ever have a conversation with Mr Hutcheson about when he could or couldn't offer you, offer a personal guarantee on your behalf when negotiating the terms of a new lease?
>
> A. Mr Hutcheson, my Lord, was very maverick in keeping those contracts and those kind of conversations to pretty much himself and –
>
> Q. You're now answering a different question. I didn't ask you why you didn't have the conversation.
>
> A. I was just about to finish.
>
> Q. I'm going to ask you again, did you -- the answer is either yes or no or I can't remember -- did you ever have a conversation with Mr Hutcheson at any time about offering a personal guarantee on your behalf when negotiating a new lease?
>
> A. My Lord, I instructed Mr Hutcheson that it was necessary for me to be a guarantee on a lease, but not a personal guarantee outside of the business.
>
> Q. I'm so sorry, say that again.
>
> A. If I go back to Claridges –
>
> Q. No, don't go back to Claridges. Just repeat what you just said.
>
> A. I did say to Mr Hutcheson, my father-in-law at the time, that if the business can't be substantially supportive on that lease, then I would give a personal guarantee."

54. If one combines that evidence with the above assessment of the accounts of Gordon Ramsay Holdings Ltd at the relevant time, this was clearly a case where Mr Ramsay would be expected to give a personal guarantee.

Other examples of Mr Ramsay's liability under a guarantee or other personal liability

55. Mr Ramsay was cross-examined as to the frequency with which he gave a guarantee, or otherwise took on personal liability, when a company controlled by him took on a new restaurant. He was asked a large number of questions about this and his evidence was generally consistent. For instance, he was asked if he could recall a single case between 1998 and June 2007 when a landlord had been prepared to let a restaurant to such a company without Mr Ramsay being a tenant or a joint tenant or a guarantor.

Mr Ramsay said that he could not think of an example of that having occurred: see, by way of an example, the evidence quoted in paragraph 53 above. Mr Ramsay agreed that it was standard and known and went without question in the period 1998 to 2007 that if Mr Hutcheson was going to negotiate a new restaurant deal that Mr Ramsay would undertake to pay the rent either as a tenant or a joint tenant or as a guarantor.

56. In re-examination, it was suggested to Mr Ramsay that perhaps he did not know the position as to his personal liability in relation to leases or operating agreements of his companies' restaurants. Further, Mr Seitler introduced a schedule which had been prepared to throw more light on the position as to guarantees, as shown by certain documents. Some of the documents relied upon in the schedule had earlier been disclosed by Mr Ramsay but others were disclosed for the first time with the schedule.

57. The schedule listed transactions involving Mr Ramsay or one of his companies in the period from 19 October 2001 to 8 June 2014. I consider that the period which is principally relevant is the period up to the time of Mr Hutcheson's agreement in July 2007 that Mr Ramsay would act as guarantor or possibly up to completion of the lease of the premises on 18 February 2008. In the period from 2001 to February 2008, the schedule suggested that there were a number of transactions where Mr Ramsay was not required to enter into a lease as a tenant or joint tenant or to give a guarantee for the obligations of the tenant. I will refer to the principal transactions referred to in the schedule.

58. The first transaction was dated 19 October 2001, in relation to Claridge's, where Mr Ramsay was a joint tenant under the relevant lease.

59. The second transaction was dated 9 April 2002, in relation to GRH's offices at 1 Catherine Place. The schedule states that the lessee was GRH and the lease did not contain provisions as to a guarantee. However, it so happens that the trial bundle contained an attendance note dated 6 September 2007, prepared by Joelson Wilson in relation to the negotiations about the need for a guarantee on the York and Albany. That note referred to a guarantee in relation to the lease of 1 Catherine Place and to the fact that the terms of the guarantee provided for it to be released if the lessee achieved certain profits for three years. This note suggests that there was a guarantee in relation to the lease of 1 Catherine Place and that a copy of it was likely to be obtainable from Joelson Wilson. No such guarantee was disclosed as part of the voluntary disclosure at the time the schedule was submitted. In the light of the attendance note, I cannot find that there was no guarantee in relation to 1 Catherine Place as the schedule sought to suggest and indeed on the balance of probabilities I find that there was such a guarantee. I cannot make a finding as to who was the guarantor under that guarantee. There must be a real likelihood that Mr Ramsay was the guarantor or one of the guarantors.

60. The third transaction in the schedule was dated 28 February 2003 in relation to Foxtrot Oscar. However, the lease of that date was not granted to a Gordon Ramsay entity. It was granted to Foxtrot Oscar Ltd with which Mr Ramsay had no connection when the lease was granted. The shares in that company were later acquired by a Gordon Ramsay entity in 2007.

61. The fourth transaction was dated 1 June 2005 in relation to the Marriott Hotel, Grosvenor Square where Mr Ramsay became a joint tenant under the lease.

62. The fifth transaction was dated 18 October 2005 in relation to Royal Hospital Road where Mr Ramsay gave a joint guarantee.

63. The sixth transaction was dated 24 February 2006 in relation to The London, New York. The lease was not produced. Mr Ramsay said that he thought that he gave a guarantee. The only document produced in relation to this property was dated 19 February 2009 where it was proposed by the landlord that Mr Ramsay give a joint guarantee in relation to the lease.

64. The seventh transaction was dated 12 May 2006, in relation to a concession at Terminal 5, Heathrow Airport where the lessee was GRH and there was no guarantee.

65. The eighth transaction was dated 9 November 2006 in relation to The Narrow. The schedule stated that the lessee was GRH and the lease did not include provisions as to a guarantee. However, it so happens that the Joelson Wilson attendance note dated 6 September 2007, to which I referred above in relation to 1 Catherine Place, also referred to the lease of The Narrow and stated that there was a guarantee in relation to The Narrow and referred to the fact that the terms of the guarantee provided for it to be released if the lessee achieved certain profits for three years. This note suggests that there was a guarantee in relation to the lease of The Narrow and that a copy of it was likely to be obtainable from Joelson Wilson. No such guarantee was disclosed as part of the voluntary disclosure at the time the schedule was submitted. In the light of the attendance note, I cannot find that there was no guarantee in relation to The Narrow as the schedule sought to suggest and indeed on the balance of probabilities I find that there was such a guarantee. I cannot make a finding as to who was the guarantor under that guarantee. There must be a real likelihood that Mr Ramsay was the guarantor or one of the guarantors.

66. The ninth transaction was dated 29 November 2007 in relation to the Marriott Hotel, Grosvenor Square where Mr Ramsay became a joint tenant under the lease.

67. The tenth transaction was dated 2 January 2008 in relation to offices at Wandsworth Road where Mr Ramsay indemnified Mr Roux in relation to a guarantee which had earlier been given by Mr Roux.

68. The eleventh transaction was dated 14 January 2008 in relation to Murano. This transaction was proceeding at around the same time as the transaction in relation to the York and Albany. Both transactions shared the feature that a Gordon Ramsay entity was taking on restaurant premises which were intended to be an outlet for Ms Angela Hartnett who was being strongly supported and encouraged in these ventures by Mr Ramsay. When cross-examined, Mr Ramsay said that he thought that he had given a guarantee in relation to the Murano. The schedule states that the lease of Murano does not have provisions as to a guarantee and suggests that the position is therefore not clear.

69. I will refer more briefly to transactions after February 2008 which are mentioned in the schedule.

70. The transaction dated 19 March 2008 in relation to Tante Marie was a business purchase. The transaction dated May 2008 related to The London, in West Hollywood. The transaction dated 15 February 2009 relating to The London, West

Hollywood, concerned a lease termination agreement. The transaction dated 15 February 2008 relating to The London, New York was an amendment to the existing lease. The transaction dated 26 February 2010 relating to Petrus involved Mr Ramsay being personally liable as a joint tenant; however, clause 55.2 of the relevant lease restricted the liability of the tenant to the net assets of the GRHI Ltd Pension Scheme. The transactions dated 12 May 2010 related to the Maze Grill where Mr Ramsay became a joint tenant. The transactions dated 6 August 2010 and 28 October 2010 related to Bread Street Kitchen where Mr Ramsay gave a guarantee. The transaction dated 22 September 2010 related to Union Street where Mr Ramsay gave evidence that he thought he was a guarantor and the disclosed documents include a rent deposit deed. Further transactions in 2010 related to The Savoy and Claridge's where Mr Ramsay became a joint tenant. In 2012, in relation to The Fat Cow, the evidence was that Mr Ramsay was a joint tenant. Finally, the schedule refers to transactions in 2013 and 2014 but I consider transactions in that period are somewhat late to be of any real help in the present context.

71. In addition to these specific property transactions there was also evidence as to the circumstances in which Mr Ramsay entered into guarantees in relation to substantial borrowings from the bank.

72. My conclusions based on Mr Ramsay's evidence and on the documents as to the circumstances as to when Mr Ramsay was expected to take on personal liability or to give his guarantee in relation to the obligations of a group company taking on a restaurant are as follows:

(1) in the majority of cases Mr Ramsay was required to take on personal liability either as a tenant or a co-tenant or as a guarantor;

(2) Mr Ramsay's evidence, in which he agreed that he was always required to take on personal liability or act as a guarantor, overstated the position and can be explained by the fact that Mr Ramsay was not always aware, or did not attach great importance to, whether he had taken on personal liability;

(3) the circumstances of the present case were such that it was to be expected that Mr Ramsay would be required to give a personal guarantee.

73. Mr Ramsay says that he was not expressly asked to give a personal guarantee in relation to the lease of the premises and he did not know that such a guarantee had been offered. I will make a specific finding on that matter later in this judgment. However, at this point, on the assumption that Mr Ramsay was not in fact asked to give a guarantee, I will make my finding as to what he would have done if he had been asked to provide a personal guarantee. In accordance with my earlier findings, this was a case where neither the covenant of GRH nor of GRHI would be sufficient to persuade the landlord to grant a lease without a personal guarantee from Mr Ramsay. I also find that Mr Ramsay was sufficiently enthusiastic about a group company taking a lease of the premises that he would have offered his personal guarantee if he had been asked by Mr Hutcheson to do so.

The use of the machine

74. The signature machine is called a Ghostwriter Manual Feed Signature Machine. The word "Ghostwriter" is a trade mark. Although the word "Ghostwriter" conjures up some element of mystery, there is in fact no mystery as to the working of the machine and I have referred to it in a more prosaic way as simply "the machine".

75. GRH bought two of the machines for writing signatures. The first machine was delivered to GRH on 7 February 2007. It is not clear when the second machine was delivered. To use the machine, an operator needed a number code, to be tapped into the machine by use of a key pad, and a signature card. The signature card identified the signature which the machine would produce. It was also necessary to fit a pen to the machine. In this case, the pens which were used included a pen which produced the result of using a felt tip pen and another pen which gave the appearance of a pen with a fine knib being used. The felt tip signature was suitable for signing books or photographs and the fine knib pen was suitable for signing legal documents and cheques.

76. At least two (possibly three) signature cards were delivered with the first machine. There were certainly two signature cards for Mr Ramsay. One related to the signature "Gordon" and the other related to the signature "Gordon Ramsay". The first signature was suitable for signing books or photographs. The second signature could also, no doubt, be placed on books or photographs but it is likely that it was intended for another purpose, for example, signing legal documents and cheques. It certainly seems that from an early stage, the second signature was so used.

77. I was not told why a second machine was obtained. One machine was kept in the basement of GRH's offices and the second machine was kept on the fifth floor of those offices. The machine in the basement was used for signing books and photographs and the machine on the fifth floor appears to have been used for signing legal documents and cheques and the like. It seems likely that a second machine was obtained because it was considered to be convenient to have a machine in the fifth floor offices as that was where the legal documents and cheques were to be signed.

78. The machine was used to sign legal documents from a time shortly after the machine arrived at GRH's offices. The first such document in the trial bundles was a publishing agreement dated 19 February 2007. Given that this document was signed so soon after the machine arrived at GRH's offices and given that there were two signature cards, one of which was in connection with Mr Ramsay's full signature, it must have been the intention from the outset to use the machine to sign legal documents on behalf of Mr Ramsay. That must have been the intention of Mr Hutcheson, in particular. I will make my findings later in this judgment as to what Mr Ramsay himself knew about the use of the machine to sign his name on legal documents.

79. I was given evidence as to a number of documents where Mr Ramsay's signature was placed on the document using the machine. Mr Love instructed a hand writing expert to consider some 48 documents. That expert expressed his conclusions as to whether Mr Ramsay had signed the document with his own hand or whether his signature had been placed on the relevant document by the machine. That evidence was not challenged. After the expert had prepared his report, further documents were disclosed by Mr Ramsay. I consider that it is possible for me to tell, by looking at the form of the signature, which documents were signed by Mr Ramsay personally and

which were signed using the machine. In some cases, the document was purportedly signed by him as a director of a company. In other cases, the document was purportedly signed by him in his personal capacity. Some documents are signed in more than one capacity. I will now make my findings as to those documents, which have been disclosed, where Mr Ramsay's signature was placed on the document by the machine. These documents were:

(1) 19 February 2007 – publishing agreement between Mr Ramsay and HarperCollins Publishers Ltd;

(2) 22 March 2007 – guarantee by Mr Ramsay in relation to a facility letter from Kaupthing Singer & Friedlander Ltd to GRH;

(3) 31 May 2007 – letter from Mr Ramsay to Ron Dennis of McLaren Group Ltd;

(4) 12 July 2007 – guarantee by Mr Ramsay in relation to amendment and restatement agreement between (1) Kaupthing Singer and Friedlander Ltd (2) Gordon Ramsay Pubs Ltd and (3) Mr Ramsay, Mrs Ramsay, Mr Hutcheson and Mrs Hutcheson; Mrs Ramsay also signed this agreement;

(5) 27 July 2007 - advertising and sponsorship agreement between (1) Mr Ramsay, (2) GRH and (3) Diageo Brands BV;

(6) 15 October 2007 – Mr Ramsay's consent to act as director of Foxtrot Oscar Ltd;

(7) 29 November 2007 - operating agreement between (1) Lomar Hotel Company Ltd, (2) Gordon Ramsay (Maze) Ltd and (3) Mr Ramsay;

(8) 29 November 2007 - employment transfer agreement between (1) Lomar Hotel Company Ltd, (2) Gordon Ramsay (Maze) Ltd and (3) Marriott Hotel Ltd;

(9) 21 December 2007 – agreement for lease of the premises with Mr Ramsay as guarantor;

(10) Undated (probably 2007) - performance guaranty between (1) Mr Ramsay, (2) Upper Ground Enterprises Inc and (3) Gordon Ramsay Entertainment Holdings US LP;

(11) 2 January 2008 - deed of indemnity between (1) Albert Henri Roux, (2) Gordon Ramsay Holdings International Ltd, (3) The House of Albert Roux Ltd and (4) Mr Ramsay;

(12) 2 January 2008 - letter from House of Albert Roux Ltd to Mr Albert H Roux;

(13) 14 January 2008 - rent deposit deed between (1) Paprika Ltd and (2) Gordon Ramsay (Queen Street) Ltd;

(14) 13 February 2008 - deed of guarantee between (1) Mr Ramsay and (2) Kaupthing Singer and Friedlander Ltd;

(15) 18 February 2008 – lease of the premises;

(16) 12 March 2008 - photographic schedule of condition relating to the Tante Marie School of Cookery;

(17) 19 March 2008 - business purchase agreement between (1) Tante Marie Ltd, (2) Tante Marie Acquisition Ltd and (3) Gordon Ramsay Holdings International Ltd;

(18) 31 March 2008 - deed of goodwill between (1) Tante Marie School of Cookery Ltd and (2) Tante Marie Acquisition Ltd;

(19) 31 March 2008 - deed of assignment of intellectual property between (1) Tante Marie School of Cookery Ltd and (2) Tante Marie Acquisitions Ltd;

(20) 31 March 2008 - deed of assignment of intellectual property rights between (1) Tante Marie Ltd and (2) Tante Marie Acquisition Ltd;

(21) May 2008 - master trademark agreement between (1) Gordon Ramsay Restaurant Holding US LP and (2) BRE/Wind Hotels Holdings II LLC;

(22) 8 May 2008 – machine written signature given to RBS as Mr Ramsay's specimen signature in relation to accounts of GRH and Gordon Ramsay Holdings International Ltd;

(23) 22 May 2008 - termination agreement between (1) THI III New York LLC, (2) GRH and (3) Mr Ramsay;

(24) 22 May 2008 – 16 separate board minutes for 16 companies, namely, Gordon Ramsay (Queen Street) Ltd, Foxtrot Oscar Ltd, Gordon Ramsay at the Savoy Grill Ltd, Gordon Ramsay Versailles Ltd, Gordon Ramsay Prague Ltd, La Noisette Restaurant Ltd, GRH, Gordon Ramsay Holdings International Ltd, Gordon Ramsay (Maze) Ltd, Gordon Ramsay at Claridge's Ltd, Foxtrot Oscar Holdings Ltd, G R Logistics Ltd, Gordon Ramsay Plane Food Ltd, Gordon Ramsay (Devonshire) Ltd, Gordon Ramsay (Narrow Street) Ltd, Gordon Ramsay (York and Albany) Ltd;

(25) 19 June 2008 - licence to underlet between (1) A J Garnett Ltd, (2) G R Logistics Ltd and (3) Albert Henri Roux;

(26) 7 July 2008 - notice of assignment to Channel Four Television Corporation from the Royal Bank of Scotland plc and Mr Ramsay;

(27) 7 July 2008 - notice of assignment to HarperCollins Publishers Ltd from the Royal Bank of Scotland and Mr Ramsay;

(28) 24 October 2008 – GRH annual report for year to 31August 2006;

(29) 15 February 2009 – guarantee by GRH in relation to lease termination agreement between W-Bel Age LLC and Gordon Ramsay Los Angeles LP;

(30) 27 February 2009 – GRH annual report for year to 31 August 2007;

(31) 7 April 2009 – Mr Ramsay's consent to use of his name in Canadian trade mark – referred to in email of 7 April 2009;

(32) 29 June 2009 - machine written signature given to RBS as Mr Ramsay's specimen signature in relation to account of Petrus (Kinnerton Street) Ltd;

(33) 30 June 2009 – GRH annual report for year to 31 August 2008;

(34) 3 July 2009 - irrevocable transferable standby letter of credit from La Noisette Restaurant Ltd to Kaupthing Singer and Friedlander Ltd (in administration);

(35) 24 August 2009 - agreement between (1) GRH, (2) Mr Ramsay and (3) WWRD United Kingdom Ltd;

(36) 29 September 2009 - deed of variation between (1) GRH and (2) Proven Products Ltd;

(37) 30 September 2009 - trade mark licence between (1) GRH and Mr Ramsay and (2) Norbert Woll GMBH;

(38) 10 June 2010 – lease of Woodham House between (1) Woodham House Ltd and (2) Tante Marie Ltd;

(39) 22 July 2010 – GRH annual report for year to 31 August 2009;

(40) 11 August 2010 - power of attorney by Mr Ramsay;

(41) 11 August 2010 - deed of trust by Mr Ramsay;

(42) 9 September 2010 - power of attorney by Mr Ramsay.

80. It seems that there was no signature card for Mr Hutcheson's signature when the machine first arrived. By April 2007, Mr Hutcheson was eager to obtain a signature card for his signature and a card for his signature arrived in early May 2007. He was eager to obtain such a card for the purpose of signing cheques, in particular.

81. There does not appear to have been any secret within GRH's offices about the existence of and the extent of the use of the machine. The documents in the trial bundle show a series of personal assistants for Mr Hutcheson being involved in this use of the machine. However, Mr Ramsay himself rarely went to the office. He did not have his own desk or computer at 1 Catherine Place.

82. The machine was obviously very useful for the purpose of placing Mr Ramsay's signature on legal documents. Mr Ramsay did not go to the offices at 1 Catherine Place. Indeed, Mr Ramsay was often working abroad for many days at a time (or even longer). I also consider it is likely that if Mr Ramsay had been asked to sign a document, he would not be expected to study its contents or to ask questions about it. Instead, he would expect to rely upon the recommendation of Mr Hutcheson that the document was an appropriate one for Mr Ramsay to sign. Accordingly, it could have been thought that nothing was lost, from Mr Ramsay's point of view, by Mr Ramsay's signature being placed on a document by the machine and without Mr Ramsay being consulted or even informed.

Mr Ramsay's knowledge of the use of the machine

83. As I have explained, the machine was used extensively, from early 2007 until the departure of Mr Hutcheson in October 2010, to place Mr Ramsay's signature on legal documents. I find that there was no particular reason for Mr Hutcheson to conceal this use from Mr Ramsay. In due course, I will make my finding as to whether Mr Ramsay knew of this use. If he did know of this use, he never objected to it. But even if he did not know of this use, because he knew so little of what was happening in the office, I do not think that Mr Hutcheson would have felt any need to keep the facts from Mr Ramsay nor that Mr Hutcheson would have felt that there would be any difficulty if Mr Ramsay did become aware of the use.

84. The extensive use which was made of the machine to place Mr Ramsay's signature on legal documents makes it inherently likely that Mr Ramsay knew of this use. It seems very likely that he would have been aware of the fact that before the machine arrived he had to sign many documents and after it arrived he signed many fewer documents.

85. Despite the inherent likelihood that Mr Ramsay knew of the use being made of the machine, Mr Ramsay gave evidence that he did not know of this use. There was no oral evidence from anyone else to the effect that he did know of this use. Nonetheless, Mr Tager submitted that the documents before the court showed that Mr Ramsay did know of this use and that I should reject his evidence to the contrary.

86. Mr Tager submitted that there were two events in particular, recorded in the documents, which showed that Mr Ramsay knew that the machine was being used to place his signature on legal documents. The first was an email dated 9 October 2007 sent to Mrs Ramsay, but not to Mr Ramsay. The email concerned a proposed agreement about a sponsored holiday for the Ramsay family in Thailand. The email enclosed a draft of the agreement. Mrs Ramsay was asked to check certain matters. The email also asked her in relation to the draft agreement: "Can I get a Gordon signature on it and send it back." It was put to Mrs Ramsay, and to Mr Ramsay, that this phrase was significantly different from asking: "can you get Gordon to sign it". It was suggested that the wording of the email showed that the intention was to use the machine to place Mr Ramsay's signature on the agreement and that Mrs Ramsay must have understood that. It was also suggested that, if Mrs Ramsay would have understood that, then it was almost inevitable that Mr Ramsay also would know that the machine was being used to place his signature on legal documents.

87. I agree that the language of the email of 9 October 2007 does suggest the possibility that the intention was to use the machine to sign the agreement and that Mrs Ramsay would have understood that. However, Mrs Ramsay denied that she had understood the email in that way. My assessment of this point is that the language of the email is not sufficiently clear on the point to enable me to make a confident finding based on this email alone that Mrs Ramsay knew that the machine was being used to place Mr Ramsay's signature on legal documents.

88. The second event which is evidenced by the documents concerns what happened in August 2010 in relation to signing documents in respect of a transaction involving One Potato Two Potato Ltd. There were three relevant documents. One was a power of attorney to be executed by Mr Ramsay in favour of his solicitor, Mr Sheldon Cordell of Joelson Wilson. The circumstances of the transaction were that the transaction had to be completed in a very short space of time. I infer that the reason that a power of attorney was needed was that Mr Cordell knew that Mr Ramsay was at

the time in the United States. The second document was a power of attorney to be executed by Mr Hutcheson in favour of Mr Cordell. The reason for this power of attorney was apparently that Mr Hutcheson was not immediately available in person in London at the time. The third document was a deed of trust to be executed by both Mr Ramsay and Mr Hutcheson whereby Mr Ramsay declared a trust of some shares in favour of Mr Hutcheson.

89. The first of the three documents to be drafted was the deed of trust which an assistant solicitor at Joelson Wilson sent to Mr Hutcheson on 6 August 2010. On 9 August 2010, Mr Hutcheson sent an email to Mr Ramsay which was copied to Mrs Ramsay. He asked Mr Ramsay: "Are you OK for me to arrange your signature on the Deed of Trust and return it to Sheldon?" An explanation as to why Mr Hutcheson was asking for specific authority to execute the document on Mr Ramsay's behalf is that the document was a deed of trust in favour of Mr Hutcheson. There is no record of any response from Mr Ramsay. However, the evidence was that Mr Hutcheson and Mr Ramsay spoke on the telephone very frequently. The later events of 11 August 2010 (to which I refer below) show that Mr Hutcheson proceeded on the basis that it was permissible for him to arrange for Mr Ramsay's signature to be placed on the deed of trust by use of the machine. I find that it is more probable than not that Mr Ramsay did respond to the email of 9 August 2010 by agreeing that Mr Hutcheson could place Mr Ramsay's signature on the deed of trust. I also consider that the use of the word "arrange" in this email was a reference to the use of the machine and that Mr Ramsay understood that.

90. In the morning of 11 August 2010, an assistant solicitor at Joelson Wilson sent an email to Mr Ramsay and to Mr Hutcheson requesting them to execute the three documents as appropriate with a view to the executed documents being faxed or emailed back to the solicitor. Shortly after receipt of this email, Mr Hutcheson (who was dealing with the matter by email) sent an email to Ms Aves-Elliott asking her to attend to the execution of the three documents. It is obvious from Mr Hutcheson's email that he intended that Ms Aves-Elliott would use the machine to place Mr Ramsay's signature and Mr Hutcheson's signature on the documents and that she would act as a witness to the signatures. It is clear from this email that Ms Aves-Elliott was aware that the machine was regularly used to place Mr Ramsay's signature on legal documents. Mr Hutcheson then asked Ms Aves-Elliott to courier the completed documents to Mr Cordell.

91. Ms Aves-Elliott dealt with the matter immediately. She used the machine to place the signatures on the documents and she witnessed the signatures. She then sent (presumably by courier) the original executed documents to the solicitors. However, in the middle of that day, Mr Cordell telephoned Ms Aves-Elliott to say that there was a problem. The problem was that the other party to the transaction knew that Mr Ramsay was in the United States and that Ms Aves-Elliott was not. This indicated that Mr Cordell must have understood that Mr Ramsay had not signed the document with his own hand but in some way or other Ms Aves-Elliott had placed Mr Ramsay's signature on the document. Given that the machine was regularly used to place Mr Ramsay's signature on the document, it is more likely than not that Mr Cordell understood that this was the method used in this instance in relation to Mr Ramsay's power of attorney and the deed of trust. It is obvious that Mr Ramsay's power of attorney would have to be shown to the other party to the transaction and they would,

or at least might, query the execution of the document. Mr Cordell therefore asked Ms Aves-Elliott to procure that Mr Ramsay's power of attorney should be re-signed. Significantly, Mr Cordell did not ask for the deed of trust to be re-signed. An obvious explanation for him treating the two documents differently was that the deed of trust would not have to be shown to the other party to the transaction. This explanation suggests that Mr Cordell did not have a problem with Mr Ramsay's signature being placed on the deed of trust by Ms Aves-Elliott.

92. Following her telephone call with Mr Cordell, Ms Aves-Elliott sent both Mr Ramsay's power of attorney and the deed of trust to Mr Ramsay's assistant in the United States and asked the assistant to get Mr Ramsay to sign both documents and for the assistant to witness the signatures. That duly took place, the signed documents were scanned and emailed back to Ms Aves-Elliott and the matter proceeded. In her request to the assistant in the United States, Ms Aves-Elliott had written: "I am sorry that I am not able to do this myself." When cross-examined, she suggested that that was a reference to the possibility that she might have flown to the United States with the draft documents and taken them to Mr Ramsay and arranged for them to be signed by him and witnessed by her. I regard that explanation as wholly implausible. In the absence of any other explanation, I consider that her statement meant that she was sorry that the matter could not be handled by her simply placing Mr Ramsay's signatures on the documents by using the machine. Indeed, her statement suggests that the assistant in the United States also understood there was a practice of placing Mr Ramsay's signature on legal documents in this way.

93. In my judgment, my findings in relation to the email of 9 August 2010 and the events of 11 August 2010, the likelihood that Mr Cordell knew about the machine being used for placing Mr Ramsay's signature on legal documents and the possibility that the assistant in the United States also knew that fact, persuade me that Mr Ramsay himself also knew that this was the case.

94. There are two other pointers to a finding that Mr Ramsay knew that the machine was routinely used to place his signature on legal documents. Ms Aves-Elliott gave evidence that she raised this topic with Mr Ramsay in the Autumn of 2010 following the departure of Mr Hutcheson. Mr Ramsay later brought proceedings against Mr Hutcheson. The proceedings were brought in or around April 2011 and on 15 July 2011 Mr Ramsay served Particulars of Claim, extending to some 41 pages, in those proceedings. Mr Ramsay's evidence before me was that he did not know at any time before Mr Hutcheson's departure that the machine had ever been used to place his signature on legal documents and Ms Aves-Elliott's evidence, which I accept, was this was discussed with Mr Ramsay in the Autumn of 2010. It is therefore surprising that there is no allegation in the lengthy list of allegations against Mr Hutcheson in the Particulars of Claim that Mr Hutcheson had done anything wrong in using the machine in that way.

95. A second pointer is in the evidence that Mr Ramsay gave when cross-examined about the use of the machine to place his signature on books being sold in bookshops. His evidence was that he did not know that this was happening and he thought that the machine was only used to sign books which were not being sold in bookshops. I found his evidence entirely implausible.

96. Accordingly, I find that Mr Ramsay knew, long before the entry into the agreement for lease and the lease of the premises, that the machine was routinely used to place his signature on legal documents. I do not accept his evidence to the contrary.

The relationship between Mr Ramsay and Mr Hutcheson: general findings

97. Mr Ramsay married Cayetana ("Tana") Hutcheson in 1996. Mr Hutcheson was Tana's father. Mr Ramsay first came across Mr Hutcheson some 20 years ago. Mr Ramsay and Mr Hutcheson went into business together in around 1998. Mr Ramsay told me that he said to Mr Hutcheson at the outset: "I don't have a strong business acumen: look after me." The shares in the first company formed by Mr Ramsay and Mr Hutcheson were split 70% to Mr Ramsay and 30% to Mr Hutcheson. There was a third shareholder with 1% of the shares at one time but apart from that the shareholdings were always held 70/30.

98. Mr Hutcheson and Mr Ramsay were directors of the relevant company or companies from the beginning. Mr Hutcheson was called the Chief Executive Officer of Gordon Ramsay Holdings Ltd from an early date. Mr Hutcheson did not have a written service agreement and there is no document anywhere which identified the scope of his authority on behalf of the group companies or on behalf of Mr Ramsay.

99. Mr Ramsay gave many descriptions of his relationship with his father in law. He stressed that Mr Hutcheson was not merely a CEO, as he was also his father in law. Mr Ramsay placed complete trust in Mr Hutcheson whom he described as a father figure. At one point Mr Ramsay said that he trusted Mr Hutcheson to "sign and to negotiate on my behalf": Day 1, page 76. Mr Ramsay also said that Mr Hutcheson was a "control freak" and that he controlled Mr Ramsay's business and Mr Ramsay's life: see Day 6, page 62. Mr Ramsay said that Mr Hutcheson made all the decisions: "what he says goes": Day 6, page 123.

100. Mr Hutcheson did not explain to Mr Ramsay the details of transactions being entered into by group companies or by Mr Ramsay personally. Mr Ramsay knew that Mr Hutcheson was not explaining the detail of such transactions. Mr Ramsay told me that he did not deal with any of the paperwork and all of that was handled on his behalf by Mr Hutcheson.

101. Mr Hutcheson not only acted for the group companies. He also acted for Mr Ramsay personally. He handled contracts to be entered into on behalf of Mr Ramsay. He received all of the income from such contracts. He was entitled to retain 15% of that income as his remuneration for acting for Mr Ramsay personally. The matters where he acted on behalf of Mr Ramsay personally included publishing contracts, television contracts, personal appearances of many different kinds and the giving of motivational speeches and presentations by Mr Ramsay. When Mr Ramsay sued Mr Hutcheson following the latter's dismissal, paragraph 13 of Mr Ramsay's Particulars of Claim dated 15 July 2011 stated that "[Mr Ramsay] entrusted [Mr Hutcheson] with the handling of his personal affairs on his behalf …".

Mr Ramsay's knowledge of the disputed guarantee

102. Mr Tager submitted that I should find that Mr Ramsay was told by Mr Hutcheson that Mr Ramsay had been put forward as a personal guarantor in relation to the lease of the

premises. Mr Ramsay denied that he had ever been told that and he said that he was not aware of the apparent personal guarantee until he found out in about September 2011. There is no document which shows that Mr Ramsay had been told of the personal guarantee prior to the grant of the lease. There was no oral evidence from anyone to that effect.

103. Nonetheless, Mr Tager submits that it is inherently likely that Mr Hutcheson told Mr Ramsay of the guarantee before the lease was entered into and I should reject Mr Ramsay's evidence to the contrary. The evidence is that Mr Hutcheson spoke to Mr Ramsay several times a day but there is now no record of what was said. There might have been emails passing between them which have not survived. Mr Hutcheson readily offered a guarantee from Mr Ramsay and he had no reason not to tell Mr Ramsay. Mr Ramsay was keen on the premises and I have held that if he had been asked to give a personal guarantee, he would have been prepared to give one. I also note that the documents include an email from Adam on 30 July 2010 informing Mr Ramsay of a guarantee he was to give in relation to another property, in Bread Street, London. Further, Mr Tager would be entitled to rely on my earlier rejection of Mr Ramsay's evidence that he did not know of the use being made of the machine.

104. Mr Seitler submitted that Mr Hutcheson deliberately deceived Mr Ramsay in relation to the guarantee and that Mr Ramsay was an innocent victim of fraud by Mr Hutcheson. I am not able to accept that submission. I do not see why Mr Hutcheson would have wanted to defraud Mr Ramsay in this respect particularly since I have found that Mr Ramsay would have agreed to give a personal guarantee if he had been asked to do so.

105. It may very well be the case that Mr Ramsay was told of the intended personal guarantee before the lease of the premises was entered into. However, it is plausible that Mr Ramsay did not know about the intended guarantee. I have already described the extent to which Mr Ramsay was kept informed of matters relating to pending transactions. Mr Ramsay was not fully informed even about objectively important matters because the division of responsibility between himself and Mr Hutcheson was that those matters were to be decided upon and dealt with by Mr Hutcheson, without the need to obtain prior approval from Mr Ramsay. As this is a plausible explanation and as there is no direct evidence that Mr Ramsay knew of the intended guarantee and as he has denied such knowledge, my conclusion is that it has not been proven on the balance of probabilities that he did know of the intended guarantee prior to the grant of the lease.

Mr Hutcheson's authority to commit Mr Ramsay to the disputed guarantee

106. Having made detailed findings of fact as to the transaction, as to Mr Ramsay's knowledge of relevant matters and as to the relationship between Mr Ramsay and Mr Hutcheson, I now come to the critical question as to whether Mr Hutcheson had authority to commit Mr Ramsay contractually to the guarantee which was apparently given in this case. If Mr Hutcheson had that authority, then as I have explained, he was able to place Mr Ramsay's signature on the counterpart lease in order to commit Mr Ramsay to the guarantee.

107. Mr Ramsay's own evidence goes a very long way to establishing the necessary authority. First, as regards Mr Hutcheson's authority to act on behalf of GRH or

GRHI, it was not said that there was any limitation on Mr Hutcheson's general authority to act for those companies. It was also accepted that Mr Hutcheson had Mr Ramsay's authority to put Mr Ramsay's signature on the counterpart lease as a director of GRH and of GRHI: see Mr Ramsay's evidence at Day 6 page 101. This finding is also supported by what Mr Ramsay has pleaded in paragraph 19 of his Particulars of Claim in an action which he has brought against Joelson Wilson.

108. Of course, in relation to the personal guarantee of Mr Ramsay, Mr Hutcheson was not acting for a company but was acting or purporting to act for Mr Ramsay personally. What Mr Seitler submitted was that Mr Hutcheson had no authority to bind Mr Ramsay in relation to "personal" matters and that a personal guarantee was a "personal" matter. On the evidence as to the course of dealing in this case, Mr Hutcheson plainly had extensive authority to act on behalf of Mr Ramsay as distinct from a company. Mr Hutcheson's authority extended to making contracts on behalf of Mr Ramsay. That is shown by the range of contractual matters which Mr Ramsay expected Mr Hutcheson to deal with on his behalf. I agree that Mr Hutcheson's authority would not extend to domestic or non-business matters. However, Mr Ramsay's guarantee cannot be described as a domestic or non-business matter. There is no difficulty in holding that Mr Ramsay's guarantee was a business matter, given that it was needed in order for a group company to acquire a lease of premises which the company and Mr Ramsay were keen for the company to acquire.

109. Mr Ramsay's own evidence establishes the very extensive, if not total, trust which Mr Ramsay placed in Mr Hutcheson to deal with business affairs on behalf of both the companies and Mr Ramsay himself. It is not said that there was ever any express or specific limitation as to the business or contractual matters (as distinct from domestic matters) which Mr Hutcheson was expected to deal with on behalf of Mr Ramsay. Mr Ramsay gave wide general authority to Mr Hutcheson when at the outset of their relationship he said to Mr Hutcheson: "I don't have a strong business acumen: look after me". Further, in the evidence I have quoted in paragraph 53 above, Mr Ramsay gave general evidence as to what he had told Mr Hutcheson as to when Mr Hutcheson could offer Mr Ramsay's guarantee:

> "Q. I'm going to ask you again, did you -- the answer is either yes or no or I can't remember -- did you ever have a conversation with Mr Hutcheson at any time about offering a personal guarantee on your behalf when negotiating a new lease?
>
> A. My Lord, I instructed Mr Hutcheson that it was necessary for me to be a guarantee on a lease, but not a personal guarantee outside of the business.
>
> Q. I'm so sorry, say that again.
>
> A. If I go back to Claridges –
>
> Q. No, don't go back to Claridges. Just repeat what you just said.

> A. I did say to Mr Hutcheson, my father-in-law at the time, that if the business can't be substantially supportive on that lease, then I would give a personal guarantee."

110. I find that when Mr Hutcheson committed Mr Ramsay to the guarantee in the lease of the premises, Mr Hutcheson was acting within the wide general authority conferred on him by Mr Ramsay at all times until Mr Hutcheson's dismissal in October 2010. I also find, in particular, that in Mr Ramsay's own words, which I have just quoted, that authority extended to Mr Hutcheson offering, on behalf of Mr Ramsay, Mr Ramsay's guarantee in relation to a lease when the business required it. That formulation covers the facts of this case. Mr Ramsay may now regret the transaction in relation to the premises. He may particularly regret his involvement as a guarantor. He may consider that Mr Hutcheson did a bad deal. However, on my findings, he is not able to say that Mr Hutcheson exceeded his authority in any respect. I hold that Mr Ramsay, acting through his agent Mr Hutcheson, is bound by the guarantee in the lease of the premises.

111. The result is that I will dismiss the claim.

Other matters

112. Mr Tager made further submissions as to the legal and factual position if I were to hold that Mr Hutcheson did not have actual authority to commit Mr Ramsay to the guarantee in the lease of the premises. It is now not necessary for me to address those further submissions. However, in case it assists, I will briefly set out the findings I would have made on those matters if it had been necessary to decide them.

113. I record first of all that Mr Tager did not submit that, absent actual authority, this would have been a case of ostensible authority. Mr Tager submitted that if I had held that Mr Hutcheson did not have Mr Ramsay's actual authority to sign the guarantee on Mr Ramsay's behalf, Mr Ramsay would have been estopped from relying upon the want of actual authority.

114. Mr Tager put the case of estoppel in three ways. The first was to rely on an alleged representation which he called "the signature representation". Secondly, Mr Tager relied upon what he called "the delivery representation". Thirdly, Mr Tager submitted that there was an estoppel by negligence.

115. As to the signature representation and the delivery representation, I need not explain precisely how the submissions were put. This is because if I had held that Mr Ramsay did not authorise Mr Hutcheson to sign the guarantee on Mr Ramsay's behalf, I would not have been able to find that the alleged signature representation or delivery representation were made by Mr Ramsay or by an authorised agent on his behalf.

116. As to the alleged estoppel by negligence, on the authorities, it would have been necessary for Mr Tager to establish that:

(1) Mr Ramsay was under a duty to Mr Love to take care as to the circumstances in which the machine might be used to place Mr Ramsay's signature on a document;

(2) Mr Ramsay broke that duty;

(3) Mr Ramsay's breach of duty produced the result that Mr Ramsay's signature was placed on the guarantee when it was not in fact authorised by Mr Ramsay;

(4) Northam relied upon the guarantee as having been duly signed by Mr Ramsay;

(5) Northam would have been able to assert that Mr Ramsay was estopped from denying he was bound by the guarantee; and

(6) Mr Love as the successor in title to Northam was entitled to assert the estoppel which Northam could have asserted.

117. On the basis of the authorities cited by Mr Seitler, in particular Governor of the Bank of Ireland v Trustees of Evans' Charities (1855) 5 HLC 389, The Mayor etc of the Staple of England v The Bank of England (1887) 21 QBD160, Kepitigalla Rubber Estates Ltd v National Bank of India Ltd [1909] 2 KB 1010, London Joint Stock Bank Ltd v Macmillan and Arthur [1918] AC 777 and Tai Hing Cotton Mill Ltd v Liu Chong Hing Bank [1986] 1 AC 80, I would not have been able to hold that Mr Ramsay was in breach of any duty of care which brought about the result that the guarantee appeared to have been signed by him. In particular, I would have held it was not negligent of Mr Ramsay to trust Mr Hutcheson and to leave the control of the machine to him; in this context, I would have been assisted by the approach of the Court of Appeal in Mercantile Credit Co Ltd v Hamblin [1965] 2 QB 242: see in particular at 265F-G. If I had held that Mr Ramsay had been in breach of duty in that way, I would have held that Northam had relied upon the guarantee having been signed by Mr Ramsay so as to estop Mr Ramsay from contending the opposite and I would have further held that Mr Love, as a successor in title to Northam would have been able to assert that estoppel against Mr Ramsay.

118. Mr Tager also argued that Mr Ramsay had ratified the guarantee. Mr Tager relied upon the conduct of GRH and GRHI in relation to the lease and to the premsies. I would not have held that the conduct of these companies could be treated as the conduct of Mr Ramsay personally so as to amount to ratification by him.