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Case No: HC-2014-001222

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
CHANCERY DIVISION

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

Date: 15/11/2018

Before:

MRS JUSTICE FALK

Between:

ISLAM HAMEED
- and -
(1) CHARLES PACKE
(2) AHSAN HAMEED

Claimant

Defendants

Mark Blackett-Ord and Rose Fetherstonhaugh (instructed by **Adams & Remers LLP**)
for the **Claimant**
Stuart Hornett (instructed by **Irwin Mitchell**) for the **First Defendant**

Hearing dates: 30 October to 6 November 2018

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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MRS JUSTICE FALK

Mrs Justice Falk:

1. This case relates to a dispute between the claimant, Islam Hameed, and the first defendant, Charles Packe, in relation to the dissolution of two partnerships, known as the AC Properties and Apsley Road partnerships (“AC Properties” and “Apsley Road” respectively). The second defendant, Ahsan Hameed (“Ahsan”), is the claimant’s brother and was formerly a partner in AC Properties. He has taken no part in these proceedings, and I understand that he now unfortunately suffers from dementia.
2. Despite some efforts to narrow the points in dispute, there are a significant number of issues between Islam Hameed (to whom I shall refer as Mr Hameed) and Mr Packe. In brief summary, the most substantial areas of dispute relate to:
 - a) the date of dissolution of AC Properties, with Mr Packe contending that this occurred in 2007 and Mr Hameed saying it only occurred after he gave notice of dissolution in 2014;
 - b) whether an undated document which Mr Packe says governed the dissolution of AC Properties and which he says was signed by Ahsan on behalf of Mr Hameed (the “Disputed Document”), was agreed by Mr Hameed as Mr Packe says it was in 2007, or was signed without Mr Hameed’s authority by Ahsan and Mr Packe in 2013 as Mr Hameed contends;
 - c) the profit-sharing ratio in relation to Apsley Road, which Mr Hameed says was 50:50 and Mr Packe says should be treated as approximately 70:30 in his favour; and
 - d) the treatment of a number of individual properties, of which the most significant in dispute were properties referred to as 279 and 281 Church Road. (I shall refer to properties throughout using the labels adopted by the parties.)

Background

3. AC Properties was established at some point between 1995 and 1996. The exact date of formation, and whether Mr Hameed was a partner initially, are not agreed, but it is not disputed that by the period relevant to this dispute the partnership comprised Mr Packe, Mr Hameed and Ahsan in the proportions 50:25:25. The purpose of the partnership was to acquire, develop and then rent out or sell properties. The partnership was successful. Each partner brought a different expertise. Mr Packe was a mortgage broker with financial contacts. Mr Hameed ran a hardware shop named “Emertons”, which put him in a position not only to be able to arrange repairs and improvements through builders who used the shop (as well as a small amount of building work undertaken by Emertons itself) but, using his local knowledge and contacts, to identify possible properties for purchase. Ahsan had a background in accountancy and was also involved with Emertons as a partner of Mr Hameed. Ahsan did the bookkeeping for both Emertons and AC Properties, including the VAT returns for Emertons. In contrast Mr Hameed’s role at Emertons was very much on the shop floor.

4. The terms of the AC Properties partnership were initially undocumented. On 16 September 2002 all three partners signed a fairly brief written partnership agreement, which provided among other things that the partnership would be deemed to have commenced on 1 January 1996 and that capital and profits would belong to the partners, and the partners would bear losses, in the proportions stated above. It seems that the parties then forgot about the existence of this document until the dispute was relatively advanced.
5. In 2005 it was agreed that Ahsan would cease to be a partner in AC Properties. There is no dispute that over the following couple of years partnership properties were distributed between the parties under some form of “Disposal Programme”. Mr Hameed says that no final agreement was ever reached, that the distribution process was never completed, and that the Disputed Document relied on by Mr Packe was in fact produced in 2013 and was not agreed by him, although it did to a large extent reflect actual distributions made. In particular, Mr Hameed says that he did not agree the cash adjustment referred to in that document of £115,800 in favour of Mr Packe, or the allocation to Mr Packe of the property or properties referred to in that document as “Church Road”. In contrast, Mr Packe says that the partners concluded an agreement which is reflected in the Disputed Document in September or October 2007.
6. In 2005, at around the time that Ahsan decided to leave AC Properties, Mr Packe and Mr Hameed agreed to start a slightly different business, which they called Apsley Road. This partnership was on a 50:50 basis. Documentation was extremely limited. There was no written partnership agreement and at no stage were proper partnership accounts produced. Although initially disputed by Mr Packe, it is now accepted that the parties agreed that most of the properties distributed to them from AC Properties (the “Original Properties”) should be made available for use by the new partnership, rather being contributed as partnership capital. The idea was that the Original Properties could be used both as security for borrowings taken on by the partnership and as a source of income for the partnership, with the funds derived from the borrowings and the rental income being available to acquire, repair or improve further properties which would be owned by the partnership (the “Acquired Properties”). The Original Properties themselves, as opposed to the rental income from them (net of outgoings), were however not contributed as partnership assets.
7. It is also now common ground that both parties provided initial capital contributions to Apsley Road in cash, obtained from remortgaging properties distributed to them from AC Properties. The amounts were £199,019 in the case of Mr Packe and £126,421 in the case of Mr Hameed.
8. The focus of the new partnership was on acquiring and improving properties for rental income rather than developing them for sale, and a number of properties were acquired. A separate bank account was set up at NatWest. The Barclays account previously used by AC Properties remained in use to receive income from some of the properties previously held by AC Properties and now made available to Apsley Road. There was no agreement in place between the partners for drawings or profit distributions (the focus instead being on using income to invest in property), but it is part of Mr Hameed’s case that Mr Packe used his control of the finances to make unauthorised drawings.

9. Mr Hameed's elder son Amer Hameed ("Amer") was involved in providing letting and management services to Apsley Road, including properties distributed to Mr Hameed from AC Properties and some properties distributed to Mr Packe. These activities were conducted by Amer through a business known as First Options, which during the relevant period was conducted initially by Amer as a sole trader and was then incorporated as First Option Estate Agents Limited in 2011. (An earlier iteration of First Options had previously been run by Mr Hameed, Ahsan and Ahsan's son Faisal, but this ceased trading in 2004.)

These proceedings; appointment of Mr Goldie

10. On 19 June 2014 Mr Hameed gave notice dissolving, or purporting to dissolve, both partnerships with effect from 1 July 2014. Shortly thereafter he applied to the court for a declaration of dissolution, accounts of assets and liabilities and consequential enquiries. Mr Packe defended the claim and also made a counterclaim. The steps towards trial have been lengthy and somewhat tortuous, involving a total of 10 witness statements by each of Mr Hameed and Mr Packe. Along the way various steps were taken by the court, including orders relating to the distribution of the properties owned by Apsley Road and the appointment of an expert accountant, Julian Goldie, now of Gerald Edelman, to prepare partnership accounts. Mr Goldie's work was however significantly hampered by the absence of full records, by an apparent mixing of partnership income and expenditure with income and expenditure attributable to the other partnership or to the partners individually, and by the outstanding areas of dispute.
11. The current position is that, pursuant to an order made by Mr Justice Morgan on 4 October 2018, a lengthy list of issues must be resolved by the court, following which those issues will be referred back to Mr Goldie to fit into his own calculations and ultimately to produce final accounts.

The evidence

12. The principal witnesses were Mr Hameed and Mr Packe. Evidence was also provided by Mr Goldie, including an expert report. There was no particular dispute over Mr Goldie's evidence and I do not need to refer to it specifically. I should say though that it has however been of significant assistance in shedding some light on the detailed, and confused, financial aspects of the parties' dealings.
13. In a number of respects Mr Hameed was not a convincing witness. He had a tendency either to say that he did not remember things, or to deny that things happened where there was evidence that they had. His account of certain events changed during the course of the proceedings, and in some instances during the course of his oral evidence. He clearly does not like paperwork and seeks to avoid it. He gave no convincing explanation as to why Amer, whose evidence would have been relevant on some of the material issues, was not giving evidence.
14. By way of example of unconvincing evidence (and on a matter on which both parties gave evidence, although it was not listed as an issue for decision) Mr Hameed's evidence was that AC Properties had been formed by all three partners in around April 1996. Mr Hameed could not explain his ability to recall such a relatively precise date, whereas in contrast he had no recollection of when a separate substantial family

property partnership, the AZH partnership (comprising Mr Hameed, Amer and Mr Hameed's younger son) had been formed. Although he now agreed to having signed the 2002 partnership agreement, having previously denied its existence, he had no explanation about the reference in that agreement to its superseding an earlier agreement between Ahsan and Mr Packe dated 8 April 2000. I conclude that Mr Packe's evidence on this issue, that the partnership was originally formed between him and Ahsan (the letters AC referring to their first names), with Mr Hameed joining subsequently, is to be preferred.

15. I do however accept Mr Hameed's evidence on a number of issues, particularly where it is supported by documentary evidence, and overall (and as compared to Mr Packe) I had fewer concerns about his credibility on the major issues for decision.
16. Mr Packe was, unfortunately, also an unconvincing witness in a number of respects. As already indicated, overall he gave me greater concerns over credibility than Mr Hameed in relation to the most significant issues, particularly the critical matter of unauthorised dealings with partnership assets and funds. His approach in cross-examination was generally aggressive and combative, and on a number of occasions he did not answer the question actually asked. As with Mr Hameed, at times his oral evidence appeared not to be consistent with his witness statements or pleaded case. But in his case it is particularly notable that significant matters emerged late in the day, including during cross-examination. I will deal with these further below but will mention one at this stage. This is that Mr Packe accepted in cross-examination that he had used the Apsley Road bank account for personal expenses, in particular school fees (around £17,000 of expenditure in 2012 alone). He gave no explanation of this, and did not suggest that Mr Hameed had been aware of it. In contrast, the one example provided in relation to Mr Hameed was a payment of £20,000 towards Amer's wedding which was specifically requested from and agreed to by Mr Packe, and where the payment was made by a cheque drawn by Mr Packe.

Dissolution of AC Properties; Disputed Document

17. Mr Packe seeks a declaration that AC Properties was dissolved in 2007, on the date he says that the Disputed Document was agreed. He says that this followed an agreement in principle to dissolve in 2005.

The Disputed Document

18. The Disputed Document is a one-page document headed "AC Properties & Associated Disposal Programme", with "Proposal" as a further heading below that. It is signed by Mr Packe and by Ahsan and their names are printed under their signatures. There is no provision for signature by Mr Hameed and no indication on the face of the document that Ahsan might be signing it not only for himself but on behalf of his brother.
19. The document lists a total of 38 properties, allocated between the partners according to their stated equity values. There are 13 properties allocated to Ahsan, 9 to Mr Hameed and 16 to Mr Packe, with aggregate equity values (net of mortgages) of £922,800, £947,800 and £1,779,800 respectively. In the case of Mr Packe the list includes "Church Road" with a stated equity value of £185,000. This appears with another property at the bottom of his list, after a subtotal in respect of the remaining

properties. There is no similar subtotal in respect of Mr Hameed or Ahsan, where the properties appear in a single list. Mr Packe's position is that the reference to "Church Road" covered 281 Church Road, together with development land to the rear of both that property and the adjoining property 279 Church Road (279 itself having been sold separately during 2007). Cash amounts of £25,000 for Ahsan and £115,800 from Mr Packe are also shown. Arithmetically, these numbers result in an overall 25:25:50 split. The £115,800 has the text "Owed CP" against it, and further text underneath reads:

"From this position CP will be owed £115,800 from future sales and rental which he can take at his discretion as long as accounts do not go overdrawn."

Submissions on Disputed Document

20. Counsel for Mr Hameed, Mr Blackett-Ord (leading Ms Fetherstonhaugh), submitted that there clearly had been negotiations between the parties, and a formal agreement was required to put an end to them. The document relied on made no provision for signature by or on behalf of Mr Hameed, and the document was absent from the emails between the parties on the subject in 2007. Mr Hameed would also not have agreed the low value in that document in respect of Church Road and no cash figures were agreed as suggested in that document. Church Road was clearly included as an afterthought. Mr Packe had also changed his case as to whether the £115,800 stated as due to him was still outstanding, or had been satisfied at least in part.
21. Counsel for Mr Packe, Mr Hornett, submitted that the Disputed Document was the agreed final distribution. It was consistent with Mr Hameed's modus operandi that he would give authority to Ahsan to sign accounting documents and it was Mr Packe's pleaded case that the Disputed Document was one that Mr Hameed had authorised his brother to agree and sign for him. Most of the content of the document was not disputed and it reflected the actual distributions made. No weight should be placed on Mr Hameed's hearsay evidence that his brother had told him that he signed it in about June 2013 in connection with an instruction to Barclays to remove Ahsan's name from the bank account previously used by AC Properties.
22. During the trial, and in the light of the evidence, Mr Packe's case shifted more to one of Ahsan having ostensible authority to reach agreement on behalf of Mr Hameed, Mr Packe accepting that he had not been told expressly by either brother that Ahsan either did or did not have authority. Mr Hornett submitted that, if Mr Hameed had not given Ahsan actual authority, there was adequate evidence of ostensible authority in the form of a representation by a course of conduct that Ahsan had authority to act on his behalf, including to agree the terms of the Disputed Document (and/or both to agree those terms and sign a document evidencing them). The partnership had originally been formed between Mr Packe and Ahsan, and Ahsan remained very much the decision-maker on behalf of his brother. Mr Hameed never communicated any limitations on his brother's authority, and Mr Packe knew for example that Mr Hameed had authorised his brother to deal with solicitors on his behalf during the dissolution process. Ahsan had effectively represented that the Disputed Document was agreed by his brother as well as by him, although those words were not used.

Arguments in favour of 2007 dissolution/Disputed Document

23. Neither party disputes that there was an agreement to dissolve the partnership in 2005, and that most properties were in fact distributed in an agreed manner by or during 2007. The real dispute is only over Church Road and the cash equalisation amount claimed by Mr Packe. Documentary evidence produced by Mr Hameed included what I consider to be earlier iterations of the Disputed Document circulated by email in February and July 2007, without the disputed cash amount and without Church Road, and with some differences in equity values (which clearly changed during the course of the discussions). I accept Mr Hameed's evidence that these discussions were oral, and that the three individuals met regularly to discuss partnership affairs. It is not surprising that some of the agreed values changed during the course of discussions, bearing in mind that the parties were not using external valuers and were simply agreeing numbers between themselves.
24. Mr Hameed provided no real explanation as to how the discussions that he accepted had occurred actually concluded in the absence of an agreement, or as to how the partners did reach an agreement – as he suggested in oral evidence that they had – but one that did not cover either the cash equalisation amount claimed by Mr Packe or Church Road. His suggestion that final resolution of the terms of the split depended on the sale of Church Road is difficult to reconcile with his understanding that a sale had actually occurred (he thought, of the whole of 279 and the rear of 281: see further below paragraphs 58 and 62) without any final step then being taken to complete the dissolution, and without any objection being raised by him at the time.
25. Mr Hameed also provided no clear explanation as to how Ahsan's 25% share could be correctly calculated without placing a value on Church Road, or how discrepancies would be dealt with without cash equalisation amounts not only in favour of Ahsan (to which he does not object) but also potentially in favour of another partner. Mr Hameed did not explicitly suggest that a valuation was arrived at solely for the purpose of calculating his brother's share, rather he was saying that no value was agreed. His Counsel's position in closing was (on instruction) that the partnership continued with Ahsan as well on a 50:25:25 basis. In contrast Mr Hameed accepted that in relation to properties other than Church Road he was content to proceed on the basis of rough valuations.
26. In my view there is force in Mr Hornett's argument that the distribution of the properties would not have been implemented as it was without agreement being reached between the parties. It is clear that Ahsan wanted to exit the partnership entirely. The basis on which Apsley Road was established, with properties previously owned by AC Properties being made available to it, presupposes that those properties had been distributed. The very fact that Apsley Road was formed appears to be consistent with AC Properties being dissolved and wound up: an alternative would have simply been to continue AC Properties with just two partners. It is also the case that AC Properties' own bank account began to be used on a 50:50 basis by Mr Hameed and Mr Packe in relation to the Apsley Road partnership. If AC Properties had continued then on the face of it the sharing arrangements would have been different.
27. As already mentioned, the documentary evidence included documents circulated between the parties which appear to be earlier iterations of the Disputed Document.

Given the existence of those earlier versions, it seems unlikely that a revised document would not have been produced when the discussions finished, as it is clear that they did.

28. There was also a certain amount of documentary evidence involving third parties which is consistent with AC Properties being dissolved and wound up. Although some of this, such as discussions between Ahsan, Faisal and solicitors, did not directly involve Mr Hameed, there was a clear written instruction, signed by Mr Hameed as well as by Ahsan in October 2006, authorising the solicitors to act for both of them in the division of AC Properties' properties.
29. It is also worth stating the rather obvious point that the Disputed Document produces a result that is in accordance with the agreed profit sharing ratio. It is also based on valuation amounts that, with the exception of Church Road, Mr Hameed does not dispute. Mr Hameed does not suggest how the agreed profit sharing ratio was otherwise to be achieved.

Arguments against 2007 dissolution/Disputed Document

30. However, there are significant pointers in the other direction. The creation of Apsley Road in 2005 and the instruction to solicitors in 2006 are both consistent with a decision in principle to wind up AC Properties, but say nothing about whether full agreement was actually reached or about the terms of any final distribution. It is also notable that whilst emails have been produced attaching earlier iterations of what clearly became the Disputed Document, there is no email attaching the Disputed Document. Mr Packe's evidence that he typed it and took it to a meeting with Ahsan, getting Ahsan to copy it for him and keep the original, is not entirely convincing, and his version of events also changed over time: see paragraph 35 below. It seems more likely that the document would also have been attached to an email at some stage, as previous versions were.
31. There is also no obvious explanation for the fact that Mr Hameed neither signed the Disputed Document, nor is there any space for him to sign or any indication that Ahsan was signing on his behalf. Mr Packe offered no real explanation for this. One possible explanation is that it was not in fact signed at the time, but only signed in 2013 (as maintained by Mr Hameed) because it was required by Barclays in connection with the removal of Ahsan's name from the bank account previously used by AC Properties. That suggestion might make sense of the signatures being by only two partners, if those were the partners originally named on the account.
32. Another oddity is that the reference in the Disputed Document to Mr Packe being owed £115,800 from future sales and rental suggests a continuing joint business relationship, which seems difficult to explain if the partnership is dissolved. If the partnership continued with just Mr Hameed and Mr Packe then the funding of the £115,800 would on the face of it be borne disproportionately by Mr Hameed and not by Ahsan. If the partnership did not continue but, as seems to be common ground, its bank account was used for the Apsley Road partnership on a 50:50 basis then the same point applies. The suggested explanation that all three partners in fact continued in other business relationships, with Mr Hameed and Mr Packe in the Apsley Road partnership and Mr Packe continuing to have other business dealings with Ahsan, and that the £115,800 would be borne by all three, is not very convincing.

33. More generally, Mr Blackett-Ord correctly pointed out that the Disputed Document makes no provision for the destination of any cash in the partnership bank account (or indeed any other partnership assets, although leaving disputed real property to one side, there is no evidence that there were any). It also makes no express provision for the proceeds of sale of properties that were admittedly not on the list, including 279 Church Road, and it makes no provision for any liabilities.
34. Mr Packe also accepted in cross-examination that Mr Hameed had never confirmed to him that he had authorised his brother to agree the Disputed Document. Mr Packe's evidence was that he was under the impression that Mr Hameed had given a general authority to Ahsan to act on his behalf in relation to AC Properties, not simply limited to accounting matters. He relied on his understanding that Ahsan was in constant contact with his brother and that at no stage did Mr Hameed express disagreement.
35. There were also discrepancies about the date on which and the way in which the document was prepared. Mr Packe's evidence at trial was that the Disputed Document was signed at a meeting with Ahsan in late 2007, having been typed by Mr Packe before and not at the meeting. He could not explain the fact that his defence had been amended to refer to 2006 rather than 2007, that his solicitors had also referred to that date in correspondence, and that they had said in correspondence that Ahsan insisted on the £25,000 at the meeting (although that figure is included in the typed version). Mr Packe also had no explanation for the fact that there is no signature space for Mr Hameed, although Mr Packe's evidence was that he did not know whether Mr Hameed would be attending the meeting or not.
36. In addition, Mr Packe's case that 281 Church Road was allocated to him under the agreed dissolution terms is undermined by the existence of email correspondence in December 2008 from Mr Packe to Amer headed "281 Church Road", relating to the possibility of leaseholders of the building buying out the freehold. I do not accept Mr Packe's explanation that the reference in this email to Mr Packe having had a discussion with Amer's father was a reference to some other matter. The context was clearly the freehold in 281 Church Road. There would be no reason to have had a discussion with Mr Hameed about 281 Church Road if Mr Hameed no longer had an interest in it.
37. Finally, the land to the rear of both 279 and 281 Church Road had been agreed to be sold under a conditional contract entered into on behalf of AC Properties in 2004. That contract was the subject of an ongoing dispute during 2007, a dispute which continued until June 2008 when it was resolved through mediation. Mr Hameed clearly continued to be involved in the dispute throughout that period, with Mr Packe forwarding emails to Amer asking him to pass them on to his father (at the relevant time Mr Hameed had no email account of his own and this was a regular method of communication). However, if the property the subject of the dispute had been allocated to Mr Packe by October 2007 – and at a value which Mr Packe said reflected the title issues and planning history associated with that dispute – it is unclear why Mr Hameed would have any continued involvement. The dispute, which included a claim by the purchaser that the contract for sale remained in existence, would have been a matter for Mr Packe alone. Alternatively, if the understanding had been that financial liabilities associated with the dispute, such as the purchaser's claim for damages and any costs, would continue to be shared despite the allocation of the land to Mr Packe, then it might be expected that some express provision would be

made for that. In fact, in Mr Packe's tenth witness statement he effectively criticised Mr Hameed for not attending the mediation and leaving it to Mr Packe to attend it and reach agreement.

Conclusions on dissolution

38. I have reached the conclusion, on the basis of all the evidence, that Ahsan left AC Properties entirely during 2007 on the basis of the assets allocated to him as set out in the Disputed Document, including the cash amount of £25,000. That payment, together with the distribution of the properties allocated to him (and which it is clear that he had selected), paid out his partnership share entirely from his perspective. I do not accept that he remained a partner thereafter. Mr Hameed's evidence was that he had been happy to give Ahsan the first choice of properties in the partnership, and had told Mr Packe to give Ahsan what he wanted. I conclude from this that Mr Hameed authorised Mr Packe to agree the terms of Ahsan's departure, including the £25,000.
39. I have also concluded that the weight of the evidence is in favour of AC Properties dissolving more generally in 2007, rather than continuing as between Mr Packe and Mr Hameed. They did continue in partnership, but that was in Apsley Road and on a 50:50 basis.
40. I do not however accept that, as between Mr Packe and Mr Hameed, it was agreed that Mr Packe would be entitled to all the benefits of Church Road and its development. I also do not accept that any ostensible authority that Mr Hameed may have permitted to exist by conduct could realistically have been believed by Mr Packe to extend to allocating the entire value of the development land to Mr Packe for £185,000. As already mentioned, this was land that was the subject of a dispute that was still ongoing into 2008, and in the conduct of which Mr Hameed was clearly still involved at that time. That ongoing involvement, in addition to the email correspondence in December 2008 in relation to 281 Church Road, is not consistent with Mr Hameed having agreed that all the benefits of Church Road should be allocated to Mr Packe. Rather than believing that Ahsan had authority to agree that on Mr Hameed's behalf, Mr Packe was aware of Mr Hameed's continued interest in the property, and acted on a basis that was consistent with that continued interest.
41. Mr Packe's case also suffered from other significant difficulties, in particular the fact that the Disputed Document has no indication that Ahsan signed it on behalf of his brother, the fact that there is no documentary evidence to support its existence prior to 2013, the discrepancies in his evidence about the date on which and manner in which it was agreed with Ahsan, and the fact that it is unclear how the £115,800 was intended to be funded if the partnership was dissolved. In my view these difficulties outweigh the arguments in favour of the partnership being dissolved in 2007 on the basis set out in the Disputed Document.
42. Mr Hameed's pleaded case did however accept that an amount of £185,000, which is the figure against "Church Road" in the Disputed Document, is an amount which could be deducted by Mr Packe from the sale proceeds of 279 Church Road (discussed further below) before the balance of the profit is split. This is in turn relevant to the £115,800 cash equalisation amount shown on the Disputed Document, which is of course a balancing number. In my view, provided that 279 and 281 Church Road are properly accounted for by Mr Packe as discussed further below

(after allowing for the £185,000 as just described), this balancing figure can also remain undisturbed as an amount due to Mr Packe. This is on the basis that Mr Hameed accepts that £185,000 was owing to Mr Packe as just mentioned. If Church Road is excluded, these two figures, when aggregated with the values of the other properties allocated to Mr Packe, give a total which equates to twice the value of the properties allocated to Mr Hameed. This reflects the agreed partnership shares as between the two of them (50:25 or 2:1). It also takes account of my conclusion that Ahsan had left the partnership entirely on terms with which all three partners were content, and the fact that Mr Hameed appears not to dispute the values of any of the properties shown in the Disputed Document, apart from Church Road.

43. It is probably not strictly necessary to reach a final conclusion about when the Disputed Document was signed, as it undoubtedly was by Mr Packe and Ahsan. In case it remains relevant, however, I think it is more likely than not that it was signed only in 2013, but that in relation to Ahsan it reflected figures agreed during 2007 as to the basis on which he would leave the partnership.
44. In summary, therefore, I conclude that Ahsan left AC Properties in 2007 on the basis reflected (as far as he was concerned) in the Disputed Document. AC Properties was also dissolved in 2007, but Mr Hameed did not agree that Church Road (being for these purposes 281 and the land to the rear of both it and 279) should be dealt with in the way that the Disputed Document indicates. Those assets remained partnership property and must be accounted for as such between the remaining partners, Mr Packe and Mr Hameed, as part of the winding up of AC Properties. Since there was no agreed change in partnership shares any such accounting must be done on the 2:1 basis referred to above.

Apsley Road profit sharing ratio

45. Whilst Mr Packe accepts that the initial intention was that the profits made by Apsley Road would be shared equally, pooling income and expenditure from the Original Properties as well as the Acquired Properties, he says that this was on the understanding that the parties would make available assets of equal value, and that as it turned out properties were made available, and rental income from them contributed, in roughly 70:30 proportions. More specifically, he claims that the agreed equity value of the properties he made available represented 69.47% by value or £1,469,800, compared to Mr Hameed's 30.53% or £645,000, and that this represented a breach of the partnership agreement.
46. I have concluded that Mr Packe has not succeeded in establishing that there was a breach of the partnership agreement. Both parties are agreed that the partnership was intended to be on a 50:50 basis, which is of course also the default position under section 24(2) Partnership Act 1890. Mr Packe accepted that both partners acted on the basis that profits and losses should be shared equally for nearly 10 years, until after the commencement of this dispute. The issue was first raised in a solicitors' letter in January 2014. If Mr Hameed had been acting in breach of the partnership agreement he would have been doing so throughout most of this period, yet Mr Packe did not take any action to remedy the position as he could have done, most obviously by terminating the partnership or at least by withdrawing some of the properties he had made available. That strongly suggests that there was no breach.

47. It is also, of course, the case that by virtue of the fact that Mr Packe's share in AC Properties was twice that of Mr Hameed, the value of the properties that Mr Hameed would be able to make available to Apsley Road was far less than Mr Packe. Mr Packe tried to counter this by saying that Apsley Road was set up in 2005 on a 50:50 basis, on the understanding that properties of equal value would be made available, and the point only arose in 2007 when AC Properties was dissolved. But this is undermined by the accepted fact that neither partner made any properties available for use by Apsley Road other than properties derived from AC Properties, and by the fact that the evidence indicates that the establishment of Apsley Road was linked to the dissolution of AC Properties.
48. Mr Packe's evidence was that he had asked Mr Hameed orally on a number of occasions to deal with the inequality by making additional properties available, and that Mr Hameed had said that he would match the value when he could. Mr Hameed was interested in other properties and he accepted in cross-examination that he could have made some of those available. Whilst I accept that Mr Hameed may have said that he would match the value when he could, I am not persuaded that this was any more than an informal indication of intention.
49. Mr Packe challenges this on the basis that there was no good commercial reason why he would have agreed to such an unequal arrangement. Ultimately, that is for him to answer since he did actually accept it for a number of years without taking action. It is also not as unequal as he suggests. Mr Packe was not contributing the Original Properties owned by him such that they became partnership property, but making them available. What this meant was that he could not only have withdrawn them at any time, but also that capital profits on any eventual sale would accrue to him entirely. The main obvious disparity was in the level of rental income from the Original Properties. However, whilst that income would have accrued to the benefit of the partnership, it, together with any funds raised from refinancing, was intended to be reinvested in repairs and improvements. Although it was the case that the Original Properties had generally already been refurbished whilst in AC Properties and so would only require normal ongoing repair and maintenance work, it is still the case that, as between the Original Properties, Mr Packe could be expected to benefit most from that work because that would benefit properties he owned disproportionately. Any work required was also organised by Mr Hameed, not Mr Packe, which no doubt suited Mr Packe. It is also accepted that the initial capital contributions into Apsley Road, raised from each partner remortgaging one of their properties, were unequal. If Mr Packe was unhappy with that element then it did not result in any action.
50. Overall, on this issue, I find Mr Hameed's case that the partners agreed to a simple pooling of all income and expenditure on both Original Properties (being properties made available by them from, and only from, the group of properties distributed to each of them from AC Properties) and Acquired Properties, credible and more likely than not to be correct, and that any discussions they did have about unequal property values did not result in a variation to this agreement. Mr Packe's claim that Mr Hameed breached an agreement to make properties available of equal value is not consistent either with the unequal values distributed from AC Properties or the fact that he did not take any action to remedy the position for a number of years, until after the dispute had started.

279 and 281 Church Road

51. It was not disputed that 279 and 281 Church Road were originally partnership assets of AC Properties. As already explained, Mr Packe's case is that both 281 Church Road, and the development land to the rear of both 279 and 281, were allocated to him on the dissolution, the £185,000 value ascribed to them in that document reflecting the agreed position. 279 Church Road was excluded from the Disposal Programme because it was being sold.
52. Mr Hameed's case altered to some extent over the course of the proceedings, including during the trial. In essence, his case was that 279 Church Road was excluded from the Disposal Programme because it had been sold by the time the partners came to divide up the properties, but that unknown to him Mr Packe had arranged for it to be sold with a buy-back clause from which Mr Packe benefited. As already discussed, he also said that 281 Church Road and land to the rear of both properties was left out of the agreed Disposal Programme and that Mr Packe was required to account for it.

The property transactions

53. Prior to the transactions in dispute, 279 Church Road was registered in the name of a company of which Mr Packe was the sole shareholder and of which he and Ahsan were directors, CP Property Management Limited ("CP Property"). The building had been used as a hostel and had been managed by another company owned both by Mr Packe and by Ahsan, Church House Property Management Limited ("Church House"), which had accounted for the net income to AC Properties. Pursuant to a sale agreement dated 24 January 2007 and completed in September 2007, the building and some land immediately behind it (the "Car Park"), but not the bulk of the land at the rear (the "279 Garden"), was sold to a company called Inforum Limited ("Inforum") for £625,000, without being marketed to other potential buyers. The sale agreement included a buy-back clause under which the freehold would be reacquired by CP Property for a nominal sum after 12 months, or if earlier following the sale of the last lease granted by the purchaser. Following renovation by Inforum, long leases were granted over flats in the building and the freehold (including the Car Park) was reacquired under the buyback arrangements.
54. After discharging the mortgage and expenses, the net proceeds of the sale to Inforum were applied in sending £150,000 to Lloyds Barbados and remitting the balance of £88,000 to Church House.
55. In July 2011 the Car Park was separated from the title to 279, and in February 2013 it was transferred for £50,000 to a company called Guildhouse Church Road Limited ("Guildhouse"), a company controlled by Mr Packe.
56. 281 Church Road is next door to 279. The building had already been renovated and long leases granted, but the freehold was owned by AC Properties and registered in Mr Packe's sole name. In 2013 some land immediately to the rear of 281 Church Road was also separated from the main property and transferred to Guildhouse.
57. A new housing development was subsequently built on the land to the rear of both 279 and 281 (including the Car Park, 279 Garden and all the land to the rear of 281),

and the freehold of at least some of the site is now owned by CP Property. It appears that the name Guildhouse was involved in the development.

The Rosepride offer

58. Mr Hameed relied on the fact that on 9 January 2007 an offer was received by email to purchase 279 Church Road, including the whole of the land to the rear of it, for £900,000, plus £100,000 for the rear of 281 Church Road. This offer was made by a company called Rosepride Limited, which owned the property next door to 279, number 277. Rosepride was associated with the company named as the purchaser under the conditional contract for the land which was the subject of the ongoing dispute to which I have already referred. That contract was a contract to purchase the land at the rear of both 279 and 281 for £225,000. It was conditional on planning permission, which had not been obtained. It is clear from the 9 January email that the offer was intended to allow the legal dispute to be settled.
59. On this issue Mr Packe was not helped by his rather aggressive approach in cross-examination. As a result he did not initially appear convincing about the reasons why the Rosepride offer was not accepted (as a result of which the legal dispute continued for some time), or why it was the case that, although it was clear from the email correspondence that the Rosepride offer was intended to be passed on to Mr Hameed, there is no real indication that Mr Hameed was made aware of the alternative transaction with Inforum. However, the position was addressed somewhat more helpfully on re-examination.
60. It is clear from the documentary evidence that Inforum first made its offer, and solicitors were instructed, by October 2006. Mr Packe's evidence was that he had decided with Ahsan that they should proceed with Inforum rather than the later offer from Rosepride because they did not think that Rosepride had the funds available, and because Rosepride had made their offer conditional on making some changes to the car parking at 281, which would have required some arrangement with the long leaseholders of that building. He also said that nothing was hidden from Mr Hameed and First Options and that Amer at least would have seen references to Inforum. I accept this evidence, which (as to the lack of funds) is to some extent supported by the documentary evidence in respect of the dispute.
61. Mr Packe also relied on the fact that the offer made by Rosepride was inflated by them being a special purchaser (given the potential marriage value of development land). But that does not explain why that would not in fact have made their offer, together with the prospect of terminating the dispute, more attractive.
62. However, Mr Hameed's case was unconvincing, and ultimately more so than Mr Packe's on this issue. His position in cross-examination was that he had thought that the offer from Rosepride in the 9 January 2007 email had gone through and the property had been sold to it. But this does not explain why that did not then settle the dispute with Rosepride, which Mr Hameed was clearly aware continued thereafter. He also provided no explanation for not chasing up what happened to the substantial additional funds that would have been derived from such a sale. His Counsel also rightly withdrew an allegation that the sale to Inforum was at an undervalue because Mr Packe was somehow interested in that company through a friend: there was no

expert valuation evidence and no evidence to establish that Mr Packe did have an interest in Inforum.

Proceeds from and freehold of 279 (excluding 279 Garden)

63. Mr Packe accepted that the net proceeds of the sale of 279 Church Road to Inforum were partnership property. He had no clear explanation for the £88,000 being paid to Church House rather than being accounted for to AC Properties, and he accepts that he must account for that amount. He sought to do this in his tenth witness statement by explaining that it was used to discharge partnership expenses, of which some details were provided. On this, I agree with Mr Hornett that Mr Packe's evidence on this aspect (albeit provided extremely late in the day) was not really challenged, and I accept it. In relation to the £150,000 paid to Barbados, I also accept Mr Packe's evidence that £125,000 was applied in paying for one of the properties agreed to be allocated to Mr Packe under the Disposal Programme and that the balance of £25,000 satisfied Ahsan's agreed cash equalisation amount under the Disposal Programme.
64. As regards the re-transfer of the freehold under the buy-back clause, I have no doubt that Mr Packe must account in respect of this under section 29(1) Partnership Act 1890¹. Mr Hornett conceded that his client was prepared to account for the £50,000 received on the sale of the Car Park to Guildhouse, less expenses (that is, he would account for the net profit) but I agree with Mr Blackett-Ord that Mr Packe's requirement to account goes further than that. He must account in relation to the entire freehold reacquired from Inforum (including the freehold reversion to the long leases granted over the building), and in respect of the entire benefit he derived from the Car Park, including benefits he derived from the subsequent development of land to the rear of 279 and 281, whether through Guildhouse (a company of which Mr Packe admitted to have control) or otherwise, in so far as attributable to the Car Park. It is extremely regrettable that it has taken so long for Mr Packe to accept that he has any obligation to account in respect of 279 Church Road at all, and the burden is very much on him to do so in full, and with no further delay or obfuscation.

281 Church Road and 279 Garden

65. Similarly, and as already indicated, Mr Packe must account for the entirety of the benefit he derived from 281 Church Road and the 279 Garden, including the benefit he derived from the subsequent development, whether through Guildhouse or otherwise, and any benefit attributable to the freehold of 281.

Responsibility for accounting; Emertons invoicing

66. There was a dispute between the parties as to which of them had responsibility for keeping the partnership books and accounts for Apsley Road, and therefore which should bear responsibility for the lack of documentation. In essence, Mr Hameed's position was that Mr Packe was solely responsible for the financial aspects, controlling the accounting records and the banking arrangements, and that Mr Packe had not kept proper records or accounts. Mr Packe's position was that both parties

¹ "Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property name or business connexion."

were responsible, that matters had fallen to him through default and Mr Hameed could not abdicate responsibility. It was also wrong for Mr Hameed to present himself as a “mere shopkeeper”, when he had significant property interests in addition to the two partnerships with which this case is concerned. Mr Packe also said that documents had been lost through the insolvency of his former employer (for whom he worked until 2009) and through a major flood at his home.

67. Mr Blackett-Ord submitted that it was Mr Packe who had the knowledge of the financial position, and therefore the obligation to account was upon him. The obligation on the partners to render “true accounts and full information” under section 28 Partnership Act 1890 must apply to the partner with the information. Mr Hornett submitted that section 28 placed an obligation on both partners.
68. It is not immediately obvious to what extent this issue has real significance. It is clearly relevant to payments to Emertons and other payments to Mr Hameed, because Mr Packe’s current position is that Mr Hameed must account for payments of £342,700 made to Emertons or Mr Hameed (not itemised and invariably in round sums), and so far has only produced documentary evidence in relation to about £41,000. However, it is also of some relevance to other important issues, especially in relation to concerns raised about unauthorised withdrawals of funds by Mr Packe.
69. In relation to the accounting issue more generally, I have concluded that both parties must bear some responsibility for what is clearly a very poor state of affairs, but that primary responsibility lies with Mr Packe, who in fact assumed responsibility for financial matters.
70. Mr Packe’s contention that Mr Hameed took no interest was consistent with his professed dislike of paperwork, but was also effectively admitted by Mr Hameed in oral evidence when he shifted his story from saying that he repeatedly asked for financial information to indicating that all he was really interested in was a rough idea of funds available for projects. Mr Hameed should have taken a greater interest and ensured that proper records existed.
71. However, the fact was that it was Mr Packe that held the cheque books and received the bank statements. Although paying in books were held by First Options to enable rent receipts to be banked, Mr Packe was in regular communication with them. He clearly had day-to-day control over the finances. It was Mr Packe who in fact assumed responsibility for providing the (extremely limited) financial information provided to both partners’ accountants for tax purposes. It was he who chose not to have proper accounts prepared, including any form of balance sheet that could have shown the true financial position and, importantly, the state of the partners’ capital and loan accounts with the partnership. It was also Mr Packe who wrote the cheques, whether in favour of Emertons or otherwise, and cashed cheques to pay builders, and he accepted that he had never once refused to do so on the basis that proper paperwork was not being provided. It was also clear from Mr Hameed’s oral evidence that builders were regularly paid in cash, with the agreement of both partners, and it must follow from that that legitimate documentation such as proper invoices would frequently not be available. In addition, there was also no evidence provided to support the fact that there had been a major flood at Mr Packe’s home (despite his evidence that there had been a substantial insurance claim) and the year in which the flood was said to have occurred shifted during the course of the proceedings.

72. It is quite clear that Mr Packe did not take basic steps to collate proper accounting records, and it is for this reason that Mr Goldie's work has been so difficult. As already indicated, this point is also linked to the legitimate concerns raised by Mr Hameed in relation to withdrawal of funds by Mr Packe for personal use without Mr Hameed's knowledge or consent and (to put it at its most neutral) a lack of transparency about important matters such as the destination of the sale proceeds of 279 Church Road.
73. Turning to the specific issue of Emertons, Mr Hameed's evidence was that the practice was for Emertons to pay the supplier or builder for refurbishment work (or Mr Hameed would himself pay if Emertons did not have the cash) and that he would provide Mr Packe with an invoice for the goods bought or a note of expenses paid. Mr Packe would arrange reimbursement, often by part payments and by figures which Mr Packe rounded up "for convenience". Mr Hameed sold Emertons in September 2012 without retaining old invoices or similar records. Mr Packe disagrees, claiming that the figures paid were what Mr Hameed requested and that promised invoices never materialised. He would not have thrown away invoices in the way that Mr Hameed had suggested he had seen him do, because he knew they needed to be retained for tax purposes and in particular that refurbishment costs could be offset against tax when a property was sold. Mr Hameed had also refused to disclose VAT returns and most bank statements for Emertons, which might have assisted.
74. Again, in my view both parties bear some responsibility, but I consider that Mr Packe bears the primary responsibility for the lack of proper partnership records in relation to the large amounts paid for building work or materials, and more specifically that it is not permissible for him now to insist that Mr Hameed provides documentation as a condition of being permitted to treat the payments as partnership expenses. Mr Packe had *de facto* control of all the finances. He also accepted in oral evidence that the relevant works were done and materials supplied, so there is no real challenge to quantum. To the extent that sales invoices were produced and provided to Mr Packe they should have been retained by him. To the extent he did not obtain them, he should have insisted on them at least for the purposes of the preparation of accounts, and (where required by HMRC, including on disposal of a property) for tax purposes. As a minimum he could have stopped making payments when any promised invoices did not materialise. The fact that Mr Hameed cannot now produce Emertons' own copies of most of those documents because he had sold the business in 2012 without retaining records (as he should have done for his own tax purposes) does not absolve Mr Packe of responsibility in relation to the partnership's affairs. Having regularly written cheques for substantial round sums over a number of years without ever refusing to do so, Mr Packe cannot now complain about the lack of information. Both parties also share joint responsibility for cases where cash was paid for building work without a proper record being created.

Mortgage brokerage fees

75. Mr Packe claims that he is entitled to charge mortgage brokerage fees to Apsley Road in respect of the mortgages he arranged for its benefit, on the basis that the partners agreed that they would be able to charge for the services that each provided, and that Mr Hameed benefited through Emertons for work it did. The amount claimed is around £27,000. Mr Hameed disagrees and says that Emertons supplied goods at cost

price. Emertons was also able to provide cash flow support, for which it did not charge.

76. On Mr Packe's case this issue essentially revolved around whether Mr Hameed made a profit from materials supplied, and work done or arranged, by Emertons. Whilst Mr Hameed had said that work was done at cost, this was not backed up by documentary evidence, and the limited amount of copy invoices he had supplied appeared to show shop prices for materials. Mr Hornett submitted that Mr Hameed's explanation that the relevant discounts were included on top copies of invoices was not believable. In the circumstances he argued that the fair and equitable approach would be for Mr Packe to charge mortgage brokerage fees.
77. I do not consider it necessary to determine the particular factual dispute about invoicing. I note however that even if some materials were supplied at shop prices there was no suggestion that Mr Hameed made a profit on building work arranged by him, and he doubtless put in a material contribution in identifying properties, arranging for and project managing works. But more importantly, the reality was that Mr Packe was prepared, over a number of years, to make payments to Emertons (or others) in the amounts requested by Mr Hameed. Until the dispute commenced, this was a state of affairs with which Mr Packe was content. In the circumstances I consider that he agreed to whatever basis of charging was reflected in the amounts actually paid.
78. In contrast, there is no evidence at all that Mr Hameed agreed to any mortgage brokerage or other fees being charged by Mr Packe, and in my view Mr Packe is no more entitled to them than Mr Hameed would now be entitled (for example) to charge a commission for project managing building work. The general principle that partners are remunerated by their agreed or presumed profit share only, irrespective of whether they undertake more work than other partners, applies: *Robinson v Anderson* (1855) 20 Beav 98. The only fair and equitable approach in the circumstances is that the parties should abide by the agreement evidenced by their conduct over a number of years.

1 and 3 Beaumont Road

79. There was a dispute about two further properties, 1 and 3 Beaumont Road. These were actually purchased in 2004, before Apsley Road was formed, but were treated as partnership properties following formation. Following renovation the properties were sold in September and December 2005 for £310,000 each, having been purchased for an aggregate price of £480,000.
80. Mr Hameed says that Mr Packe has failed to account for the sale proceeds, and in particular a transfer of £66,694 from an account in Mr Hameed's name to a joint account in the names of Mr Packe and his wife. Mr Packe's pleaded justification was that works to the properties were undertaken to the value of £150,000, and that this resulted in a loss, whereas Mr Hameed estimated that the cost of the works was in the region of £50,000, and said that a previous reference to £150,000 in a letter from his solicitors in 2014 was a mistake. Counsel for Mr Packe also relied on the fact that £56,646.66 was in fact paid into the Apsley Road bank account from the proceeds, as accepted by Mr Hameed in his final witness statement.

81. I am satisfied that the reference to £150,000 was an error. Mr Packe did not dispute that there was a transfer of £50,000 (plus a bank charge of £23) for the works on these properties in January 2006. He accepted that £150,000 sounded like “an awful lot” for the work. He relied on the figure in the solicitors’ letter and the absence of any invoices in respect of the works. I have already given my views about the lack of invoice information and will not repeat them, but I find that the price paid for these works was £50,000.
82. As to the transfer of £66,694, it was not disputed that £300,000 of the original aggregate purchase price of 1 and 3 Beaumont Road had been funded by a loan from Mr and Mrs Packe (and that they in turn drew down a loan for that purpose from Natwest). Natwest provided the balance through a mortgage of £180,000, together with a subsequent development loan. Mr and Mrs Packe were entitled to be repaid the loan they had made, along with the interest incurred (which was in fact debited directly by NatWest from the partnership account following sale), and if Mr Packe is able to demonstrate that £66,694 can be allocated to a partial repayment of the loan then there should be no further issue. To the extent that it cannot be, it must be accounted for. It is not open to Mr Packe simply to say that this was an account in the name of Mr Hameed and he (Mr Packe) could not have made the transfer. The fact is that the money was received, whether correctly or otherwise, and its receipt should be explained by him. I should emphasise that on this issue I consider that the burden is on Mr Packe. I am not impressed by the advantage he sought to take from the fact that a much higher figure was quoted in a solicitors’ letter many years later, which I conclude from his oral evidence that he knew must have been well in excess of the real cost.

Patterson Court

83. A further dispute related to Flat 6, Patterson Court, which was purchased by Apsley Road for £165,000 from an individual known to both partners. Mr Hameed says that Mr Packe did not account for an amount of £35,000 recorded as payable to Mr Packe on the completion statement for the acquisition. In relation to this property I accept Mr Packe’s case that he had made a personal loan to the vendor which was repaid from the purchase monies. It was a matter for the vendor what he did with the proceeds: the partnership acquired the property for the price paid. I do not accept Mr Hameed’s hearsay evidence that the vendor had told him that he had no knowledge of any such arrangement. The vendor would have been well aware of such a substantial deduction from the sale proceeds and would have challenged it at the time if he did not accept it.

Other areas of dispute

84. A further issue was whether First Options acted exclusively for the Apsley Road partnership, or whether it acted as an alter ego or agent for Mr Hameed, diverting rent to him. Mr Packe also claimed that Mr Hameed had unilaterally instructed First Options to accept reduced rents on some of the properties Mr Packe made available to Apsley Road, without his agreement.
85. In closing submissions Mr Hornett accepted that these were non-issues. Mr Packe agreed in oral evidence that Mr Hameed had no involvement in the First Options business. It was also agreed prior to the trial that whilst a limited amount of rental

income on certain properties had been diverted from the Apsley Road account, this was prompted by the fact that Mr Hameed and his son had ended up bearing mortgage payments on certain Apsley Road properties, and the balance owing would be accounted for by Mr Hameed.

86. In relation to the rent reductions, Mr Hameed's evidence was that they reflected the reality that the properties in question were in a poor condition, and the tenants were on housing benefit and would or could not pay rent above the local housing benefit rate. Given that Mr Hameed considered that he was entitled to 50% of the income, and so would not have an interest in reducing rental income unnecessarily, this evidence is credible and I accept it. In any event Mr Hornett accepted that any legitimate complaint that Mr Packe had about a failure to consult him would not lead to a readily quantifiable claim, and in the circumstances it was not a matter that he would pursue.
87. There was a dispute about the benefit of certain insurance policies on Mr Packe's life, the premiums for which were debited against the partnership account. Mr Packe says that these related to mortgages secured on properties distributed to him by AC Properties and that there were no surrender values. This was largely agreed by Mr Hameed prior to the trial except in relation to one Scottish Provident policy (now provided by Phoenix Life). In relation to that policy Mr Packe agreed during oral evidence that he needed to provide policy details, and that if the policy had any surrender value he would give credit for it.
88. There was also a dispute about the proper accounting in relation to the financing of two properties, 77 Whitworth Road and 3B Whitworth Road. Mr Packe contended that he advanced his own money in lieu of bridging finance and should be entitled to the same interest, fees and expenses as would have been charged by a third party who had offered to provide that finance. Mr Hameed disagreed, on the basis that the understanding was that there would be no charge for services to the partnership. This issue was resolved during the course of the trial by it being accepted by both parties that Mr Packe's claim should be limited to the interest expense he actually incurred in borrowing part of the funds he advanced. His evidence that this cost was £1,000 was accepted on behalf of Mr Hameed in closing submissions.
89. Certain other less significant matters which were originally listed as issues for resolution at the trial were agreed to be matters that were more appropriate to be listed subsequently before a Master, to the extent that the parties are not able to resolve them between themselves.

Conclusion

90. In summary, and on the most significant issues, I find as follows:
 - a) AC Properties was dissolved in 2007, but Mr Packe must account in respect of Church Road on a 2:1 basis as between him and Mr Hameed, except that no further account is required in respect of the cash received on the sale of 279 to Inforum (paragraphs 44, 63, 64 and 65 above).

- b) There was no breach of the Apsley Road partnership agreement in respect of the unequal value of the properties made available to it by the partners (paragraph 50).
- c) There is no requirement on Mr Hameed to provide a further account for sums paid to Emertons or himself (paragraph 74).
- d) Mr Packe is not entitled to charge mortgage brokerage fees (paragraph 78).
- e) Mr Packe must account in respect of Beaumont Road on the basis that the expenditure on building works was £50,000 (paragraphs 81 and 82).
- f) Mr Packe is not required to provide any further account in respect of the purchase of Patterson Court (paragraph 83).