

[1] my diary.  
 [2] Q: What is "doing a J" on somebody, please?  
 [3] A: I do not know.  
 [4] Q: What is "doing a J" on somebody?  
 [5] A: I do not know. Is it somewhere referred to in my notes  
 [6] or document?  
 [7] Q: It is your words; that is why I am asking you. Does it  
 [8] ring any bells? What does it mean to "do a J" to  
 [9] somebody?  
 [10] A: "To do a J" to somebody?  
 [11] Q: Yes.  
 [12] A: I have not got a clue. We often would say, particularly  
 [13] in the context of the J promotion, which was a string of  
 [14] ideas which Charlie had put together for use in  
 [15] contingencies, I might well have said, "Well, let us do  
 [16] a J", at that time, or let us do one of the Js, meaning  
 [17] one of the J ideas. I might have said that.  
 [18] Q: No, no, I do not mean that. I am asking you when you  
 [19] used the expression, or used it in 1993, "do a J" on  
 [20] somebody what you meant?  
 [21] A: I think you will have to help me with the context  
 [22] because I cannot remember ever using the words. I have  
 [23] explained why I might have used them.  
 [24] Q: Volume 5, please, 2129. In fact if you will go - yes,  
 [25] 2129. You are busy preparing for your summer holiday?

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[1] Q: In this case, you got along very well?  
 [2] A: Indeed.  
 [3] Q: I in fact, I think you went away for weekends with Mr  
 [4] Bonnet?  
 [5] A: Bonnet, probably.  
 [6] Q: Forgive me, if I call him Bonnet - I am not up to  
 [7] French pronunciation. It is Bonnet, is it?  
 [8] A: That is his name.  
 [9] Q: Here, you penned a note to Jeremy and Tim:  
 [10] "My last note before heading for the sun. The  
 [11] Company has a huge batch of paperwork Achilles. Can you  
 [12] work with Charlie to get our CSC into the customer  
 [13] services.  
 [14] "Number 2, brief Bob on Bob. When briefing Bob" -  
 [15] Bob Bailey works for Option One, does he not?  
 [16] A: He was the Managing Director so he was the top of the  
 [17] pile.  
 [18] Q: "When briefing Bob on J, we alluded to our Operation Bob  
 [19] but did not specify it. Can you let him know the  
 [20] outline. We will let you have the full details in due  
 [21] course."  
 [22] What was operation Bob?  
 [23] A: I cannot remember. You will have to help me.  
 [24] Q: We will see if we can get it together. I am hoping you  
 [25] can help me.

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[1] A: No, it was a spring holiday.  
 [2] Q: Well, we will not argue about May.  
 [3] A: It was a short holiday, a week.  
 [4] Q: And you prepared a number of notes and an update for Mr  
 [5] Leggatt?  
 [6] A: Yes.  
 [7] Q: But, also, a note, if you will turn the page, 2133, to  
 [8] Jeremy Taylor of Option One, copied to Mr Watson,  
 [9] Hercules part 2, dealing with project fee and design fee  
 [10] responsibilities. If you will turn the page to 2135, you  
 [11] send a note, e-mail this one, to Fox, copied to Watson,  
 [12] about Nintendo:  
 [13] "Brief Ian Sutcliffe on this at lunch time. Can  
 [14] you keep him up to speed with everything that is  
 [15] happening on it, particularly any changes."  
 [16] You are preparing to go away obviously?  
 [17] A: Yes.  
 [18] Q: Turn the page. You then pen a more personal note to  
 [19] Jeremy and Tim. You had established in 1992 a friendly  
 [20] personal working relationship with Jeremy and Tim of  
 [21] Option One, had you not?  
 [22] A: Yes, as one does normally with any relationship you work  
 [23] with closely.  
 [24] Q: It is not always; sometimes you hate each other?  
 [25] A: Not always, indeed.

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[1] Turn the page, if you would, and go down to your  
 [2] G. One of the questions preoccupying you with Hercules  
 [3] was how to keep it quiet, was it not?  
 [4] A: Yes. You always try to keep promotions as confidential  
 [5] and out of the public eye as possible until you launched  
 [6] so you could achieve maximum publicity at launch.  
 [7] Q: "As we go into the open, have you any idea how we keep  
 [8] what we are doing concealed from the market at large.  
 [9] Specifically, how do we counteract" - are you reading  
 [10] with me, over the page - "or avoid all of our  
 [11] competitors from doing a J on us?  
 [12] A: Okay.  
 [13] Q: "Ask Charlie".  
 [14] Now, what does that mean?  
 [15] A: What that means is BDP have brought a proposal which had  
 [16] been worked up, they maintained, with BP and BP had  
 [17] pulled out of it at the last minute and -  
 [18] Q: BP pulled out?  
 [19] A: They brought that to us.  
 [20] Q: But BP pulled out; that was not doing a J on anybody; BP  
 [21] had turned it down?  
 [22] A: I am just explaining, BDP claimed to us, maintained all  
 [23] along, that BP had worked it up, got BDP to work it up  
 [24] to a usable state, and then, at the last minute, had  
 [25] switched horses from Nintendo to Sega and, therefore,

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[1] have said, if I was moving to a lead role in it, anyway  
 [2] I was the National Promotions Manager. I was the senior  
 [3] promotions person in the department. It was completely  
 [4] logical I would run such a key project.  
 [5] Q: And Mr Leggatt, too, put you in charge, did he not?  
 [6] A: I was the Promotions Manager. I was in charge of all  
 [7] promotions. This was just one of the other promotions.  
 [8] Q: I suppose it would have been possible, would it not, for  
 [9] Mr Watson to have assumed control of it?  
 [10] A: It would have been highly unusual, because his  
 [11] management position meant that he was focussed on  
 [12] promotions and advertising in, as far as I can remember,  
 [13] a 50/50 split.  
 [14] Q: You knew that in late November you would be placed  
 [15] fairly and squarely at the head of a project, of a  
 [16] project that you subsequently named Hercules to run a  
 [17] multi-brand loyalty concept, did you not?  
 [18] A: Well, there are two questions there, I think. As I have  
 [19] already said, I was the National Promotions Manager and,  
 [20] therefore, there was no question that anyone else would  
 [21] be running such a significant project. I was moving to  
 [22] that role from the beginning of August, maybe July. I  
 [23] mean, that was clear.  
 [24] The second part to your question, so far as I  
 [25] understand it, was: Did we know that we were definitely

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[1] short-term promotions. We had not launched any  
 [2] promotions with them yet. We were all spending most of  
 [3] our time working on short-term promotions.  
 [4] Q: In fact, two days after Mr Donovan had met you on 24th  
 [5] November 1992, you telephoned Mr Bonnet and spoke to him  
 [6] about this project, did you not?  
 [7] A: I have no recollection of that at all.  
 [8] Q: It would not be consistent with what you have said,  
 [9] would it? There would be no reason to speak to Bonnet  
 [10] about a long-term multi-brand loyalty concept two days  
 [11] after Mr Donovan had given you his idea, as I suggest to  
 [12] you, once again, for a multi-brand loyalty concept?  
 [13] A: As I say, I cannot remember Mr Donovan ever talking to  
 [14] us about such things at any stage.  
 [15] Q: There would be no reason, according to what you have  
 [16] just told his Lordship, for you to be speaking to Bonnet  
 [17] about a multi-brand loyalty concept or the project at  
 [18] all, would there?  
 [19] A: As I said, Option One were a very professional promotion  
 [20] agency. They were going on at us all the time to do a  
 [21] load of things; one of them, which I do recall them  
 [22] continually going on about, was loyalty long-term. They  
 [23] were also very close with a number of retail partners,  
 [24] potential retail partners.  
 [25] Now, I cannot remember the details of every

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[1] running a multi-brand loyalty scheme and so on at the  
 [2] end of November? The answer to that was no, but we had  
 [3] our suspicions, as we have been through already.  
 [4] Everybody was talking about that kind of thing. We all  
 [5] thought long-term. We all thought linkage with third  
 [6] parties. We all thought technology is the key  
 [7] differentiator and enabler. The logic said that. It is a  
 [8] big step from that to actually making something happen.  
 [9] Q: You had begun to become excited and enthusiastic about  
 [10] the idea of running eventually for Shell a multi-brand  
 [11] loyalty promotion, had you not?  
 [12] A: I was getting more interested in it as 1992 went on. For  
 [13] the reasons I said yesterday, I could see that  
 [14] short-term promotions were not sustainable. We needed to  
 [15] do something big and better and different and so on.  
 [16] Q: You brought in, you say, Option One kept in their box,  
 [17] but you talked to Option One weeks before about the  
 [18] project, or what became Project Hercules, did you not,  
 [19] and took them in to your confidence?  
 [20] A: No, I did not. I do not know why you say that? As I said  
 [21] earlier on, they were very keen and quite insistent on  
 [22] trying to find out what our longer term plans were. They  
 [23] kept going on at us because they thought we should be  
 [24] doing long-term schemes. We wanted to keep them out. We  
 [25] wanted to keep their focus on doing a good job on the

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[1] conversation I had with them.  
 [2] Q: You telephoned Mr Bonnet two days afterwards and you  
 [3] spoke to him about Onyx, something with which Option One  
 [4] had nothing to do with at that point?  
 [5] A: I cannot remember whether I spoke to him or not.  
 [6] Q: Have a look at your diary, please.  
 [7] MR JUSTICE LADDIE: Is this, again, 13?  
 [8] MR COX: 5360, my Lord, 11 B.  
 [9] Option One were being kept in their box, according  
 [10] to you, on two short-term promotions, but, Mr Lazenby,  
 [11] just 48 hours after you spoke to my client - 26th  
 [12] November, my Lord, 5360 - you spoke to Tim Bonnet about  
 [13] Project Onyx, did you not?  
 [14] A: Well, it seems that I did from my diary. I have no  
 [15] recollection of that.  
 [16] Q: There would be, on your account, no reason to speak to  
 [17] Option One at this point about Project Onyx, would  
 [18] there?  
 [19] A: As I have said, Option One were keen to get into our  
 [20] books as a retained agency. They wanted to be far more  
 [21] involved with us. I cannot remember honestly when we  
 [22] first spoke to them about long-term schemes, but for a  
 [23] long term they were pushing to get involved and to find  
 [24] out about all the projects we were doing.  
 [25] Q: What was Onyx?

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[1] A: Project Onyx, as is clear from previous questions in  
 [2] this, was about long-term schemes using technology.  
 [3] Q: You made a note for yourself in your diary to contact  
 [4] Bonnet about Onyx, did you not?  
 [5] A: The notes here?  
 [6] Q: Yes.  
 [7] A: I cannot remember.  
 [8] Q: You did, did you not?  
 [9] A: Yes, I did. I cannot remember what was said at the  
 [10] conversation.  
 [11] Q: Within 48 hours of speaking to Mr Donovan, and, as I  
 [12] suggest to you, being given the full details, though you  
 [13] had already had them, in writing of a multi-brand  
 [14] loyalty concept that Mr Donovan had devised, were you  
 [15] not?  
 [16] A: Was I not what?  
 [17] Q: Given those details?  
 [18] A: No. I have never seen the Sainsburys letter.  
 [19] Q: And 48 hours later, you made a note, or at least very  
 [20] soon after that meeting, to ring Bonnet of Option One  
 [21] about Onyx, something which, on your story, would not be  
 [22] consistent?  
 [23] A: I was talking to all sorts of people about Onyx, for all  
 [24] sorts of reasons, all the time. I cannot remember why I  
 [25] spoke to Tim Bonnet about this at this stage.

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[1] Q: There is not another note in this diary up until this  
 [2] point of you speaking to Option One about Onyx. Do you  
 [3] want to have a look?  
 [4] A: If you -  
 [5] Q: Or would you expect there to be?  
 [6] A: If you have checked, then I do not need to look. All I  
 [7] can remember is, however long it is, seven years ago,  
 [8] for a long time Option One were wanting to get involved  
 [9] in something they could sense was going on in the  
 [10] department. Now, I do not know when they found out about  
 [11] Onyx, or about the technology developments and so on  
 [12] that we were doing, I do not know.  
 [13] Q: You made a note to ring them about it, did you not?  
 [14] A: Yes, and that could have been pro-actively from my side.  
 [15] It could also have been in response to a question from  
 [16] them, or a telephone message, as I explained yesterday.  
 [17] Q: Option One were your favourite partners for Hercules,  
 [18] were they not?  
 [19] A: No, they were not. The status of Option One at November  
 [20] 1992, all that we had done was to adopt two of their  
 [21] proposals and developed them to a certain stage. We had  
 [22] never even run a promotion with them yet. We were one or  
 [23] two months away from launching the first one. So they  
 [24] were, to a certain extent, an unproven agency, although  
 [25] the indications at that stage were they were going to be

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[1] a good one.  
 [2] Q: You got on well with Tim, did you not, and Jeremy?  
 [3] A: Everyone in the promotions department got on well with  
 [4] the whole of their team.  
 [5] Q: They were buzzy, they were high profile and you liked  
 [6] them?  
 [7] A: And they were a good, professional, large agency, with a  
 [8] large number of credentials and a good number of  
 [9] successful promotions in the very recent past.  
 [10] Q: And you were socialising with them, were you not?  
 [11] A: Yes, as was normal in the industry, I guess.  
 [12] Q: Really?  
 [13] A: I socialised with everyone that I worked with.  
 [14] Q: You went to dinners and you went to the new year's  
 [15] party, for example?  
 [16] A: Client entertainment is a standard part of the industry.  
 [17] Q: For Option One?  
 [18] A: For almost every agency that I had experience of. Now,  
 [19] we did not accept many of the invitations and so on that  
 [20] we got. Ones we did accept were always on management  
 [21] approval and normally after, well, always after work had  
 [22] been done.  
 [23] Q: Did you go to the new year's party of any other agency?  
 [24] A: I cannot recall.  
 [25] Q: Did you go away for weekends with members of any other

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[1] agency?  
 [2] A: No, I did not, because, I mean, can you point me to  
 [3] where the weekend was or weekends?  
 [4] Q: Not immediately, but you can remember going away for a  
 [5] weekend, can you?  
 [6] A: Yes, with Tim Bonnet. He became a very good friend.  
 [7] Q: Did you go out to dinner with members of other agencies?  
 [8] A: I had one or two lunches or dinners with people we had  
 [9] done work with. I can remember one with Senior King, for  
 [10] example.  
 [11] Q: Lunches?  
 [12] A: There was a lunch with Senior King.  
 [13] Q: Not dinners?  
 [14] A: If you can point me to actual instances.  
 [15] Q: I am asking you to remember, please.  
 [16] A: I cannot remember any other dinners. I also entertained  
 [17] Tim Bonnet to my own house and cooked him dinner with a  
 [18] variety of my other friends, as you would normally do  
 [19] with a friend.  
 [20] Q: Yes, two days after Mr Donovan's idea was given to you,  
 [21] you telephoned him about Onyx?  
 [22] A: But I do not think any of the dinners, or whatever,  
 [23] would be prior to this. The relationship developed, as  
 [24] friendships do, as you work with people.  
 [25] Now, I cannot remember doing any socialising, or

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[1] correct at that stage.

[2] By that stage, we had a variety of ideas in our  
[3] mind. We knew a variety of promotional activities or  
[4] features of the promotion, and as I said yesterday,  
[5] I think, the really exciting, innovative part of the  
[6] whole thing was the technology, that was what was  
[7] driving our excitement, which enabled us to do all sorts  
[8] of new and different things.

[9] Q: I suggest to you that is just wrong. You were as  
[10] excited about the promotional idea as you were the  
[11] technology, as the documents in 1993 show?

[12] A: The technology was for the first time beginning to be  
[13] able to be used, beginning to be accessible, because of  
[14] the costs of it. The idea of linking with retailers was  
[15] always there, but it could not necessarily have been  
[16] implemented earlier on - although it could have been,  
[17] I guess.

[18] Q: Let us come to your witness statement, page 17,  
[19] paragraph 34, please, because this is an important  
[20] moment which I want to explore with you. You tell the  
[21] court that on 15th January, you and Watson had a further  
[22] meeting:

[23] "We had considered Powerpoints' and Senior King's  
[24] proposals further and while we were still interested in  
[25] pursuing those ideas, we were not wholly convinced about

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[1] suit its needs, was it not?

[2] A: That was one of the alternative options, and I do not  
[3] recall that we decided or agreed or had it approved to  
[4] do that until much later in the year. That was one of  
[5] the other ways of doing it.

[6] Q: That became your ultimate objective from, if not late  
[7] 1992, certainly very early in 1993, did it not?

[8] A: I cannot remember when - if you are asking me  
[9] personally, I cannot remember when I decided that that  
[10] was the best way forward.

[11] Q: What was the Shell vision?

[12] A: At which stage?

[13] Q: At the stage of early 1993, what was the Shell vision  
[14] that you prepared?

[15] A: Maybe you can refer me to it. I cannot remember exactly  
[16] in detail.

[17] Q: No, I want to ask you, please. What was the Shell  
[18] vision?

[19] A: The Shell vision was a summary of our thinking at that  
[20] stage, and so far as I can remember, I put it together  
[21] with David Watson, as part of this process of recouping,  
[22] regathering, after 1992, when we had done quite a lot of  
[23] investigation about the technology, and talked to a  
[24] number of suppliers, and where I had got involved in  
[25] this particular activity. This was an attempt to put

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[1] either of them. Powerpoints' proposal was a ready-made  
[2] package and could not be flexible about Shell's needs."

[3] Now the model of Powerpoints we have already  
[4] examined many times in this trial, and we have seen it.  
[5] You are saying there, are you not, that Powerpoints was  
[6] not suitable or flexible enough for Shell's needs.

[7] A: And there were other reasons why we rejected them as  
[8] well. For example, we suspected that the cost of it  
[9] would be too high; they were building all of the set-up  
[10] costs into the price of the points, and therefore we  
[11] expected it to be more costly for us. There was no  
[12] indication that they were going to get any other  
[13] partners, and without other partners, there would not be  
[14] any point in us launching it. So there were a variety  
[15] of reasons why they were becoming increasingly less  
[16] interesting to us at that stage.

[17] Q: I did not actually ask you that question.

[18] You agree, I assume, with what you wrote for the  
[19] purposes of this, that Powerpoints' proposal was  
[20] "a ready-made package and could not be flexible about  
[21] Shell's needs"?

[22] A: That is correct, and that is one of the reasons why they  
[23] were much less interesting to us at that stage.

[24] Q: The alternative model was the model of a consortium, put  
[25] together by Shell, Shell-led, with the flexibility to

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[1] together for ourselves, David and myself, and then  
[2] communicate it probably to Frank Leggatt, the ways that  
[3] we could go forward.

[4] Q: At paragraph 38, you say:

[5] "I also set out our vision for the next generation  
[6] of strategic loyalty promotions."

[7] You briefed Option One to act as your promotions  
[8] agency to review this vision. What, as you now recall  
[9] it, sitting there, was the vision that you communicated  
[10] to Option One, and asked them to look at and review?

[11] A: Just to pick up one point there, Option One were asked  
[12] to do four things, which it says there. Reviewing the  
[13] vision was one of those four things.

[14] What I think the vision was, so far as I can  
[15] recall, was a long-term scheme, utilising technology,  
[16] linked with third parties, with exciting new and  
[17] innovative promotions which would - "promotions"  
[18] meaning rewards and reward mechanisms, which would be  
[19] derived from the use of the technology. I think the  
[20] vision was quite broad and top level, and we were  
[21] looking to put something together along the lines of  
[22] that broad vision.

[23] Q: During this time, you were in close contact -

[24] certainly, I suggest to you, from late 1992,  
[25] 26th November, when you rang Bonnet about Onyx, you were

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[1] going out with, socialising with and in close personal  
 [2] contact with people at Option One, were you not?  
 [3] A: We were definitely working very closely; we were putting  
 [4] together concurrently two very major national  
 [5] promotions. I have already said that. I cannot  
 [6] remember, without reference to my diaries, when we  
 [7] actually went out privately, but I was developing a good  
 [8] private relationship with Mr Bonnet as well as a good  
 [9] working relationship.

[10] Q: By January, you had already in your own mind, if not  
 [11] before, kicked out GHA and Senior King, had you not?

[12] A: As I explained, David and I looked at the options during  
 [13] January, and we decided that both GHA and Senior King  
 [14] were not appropriate.

[15] Q: You replaced them with Option One because you wanted  
 [16] them, Option One, to do no more than check and research  
 [17] a vision, an idea that you already had, did you not?

[18] A: We had a vision, we wanted them to review it, to tell us  
 [19] whether they had any other thoughts or ideas, or whether  
 [20] that was what they agreed with, because we believed in  
 [21] their strategic and promotional experience at that  
 [22] stage. So we would do that with a good promotions  
 [23] agency, which we had had experience of by that stage,  
 [24] and we wanted them to do these other three things as  
 [25] well.

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[1] would have no mediator of any scheme, no third party;  
 [2] that you would go direct to the third parties - Shell,  
 [3] or an agency on your behalf - and deal with them  
 [4] direct, had you not?

[5] A: I think at this stage, after - I think you are right.  
 [6] At this stage, after a year of talking to all sorts of  
 [7] agencies with absolutely no developments in the concept,  
 [8] David and I saw it as the only way forward, in our  
 [9] second or third meeting to discuss this, that we would  
 [10] have to do something ourselves if we were going to move  
 [11] this thing forward at all.

[12] Q: The brief to Option One; it is suggested for them to:  
 [13] "... produce a strategic plan and implementation  
 [14] plan of the marketing offer and the means to present  
 [15] that offer."

[16] The marketing offer had already been determined by  
 [17] then, had it not, and there were several third parties  
 [18] who had at least expressed interest? You knew where you  
 [19] were going.

[20] A: I have just explained what we saw the vision as, and  
 [21] this is consistent with that.

[22] Q: And the vision was of a group, a consortium, as Shell  
 [23] called it, of partners, exclusive in their own fields,  
 [24] issuing and redeeming a common currency, was it not?

[25] A: I just explained what I thought the vision was at the

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[1] Q: And you thought, in the meantime, though you had already  
 [2] decided that, that you would go down and check out  
 [3] Powerpoints, just to learn what you could from them, did  
 [4] you not?

[5] A: I would not put it like that. I think so far as  
 [6] I recall, David and I both went down to see  
 [7] Powerpoints. I cannot remember whether we requested  
 [8] a meeting with them or they requested a meeting with  
 [9] us. When we actually went to visit them, which  
 [10] I thought was to be related to this subject, I have  
 [11] a feeling that when we got there, they talked to us  
 [12] about something completely new and different, some new  
 [13] technology, as if they had lost interest in what they  
 [14] had been talking to us about earlier on. They talked to  
 [15] us about touchscreen technology or something like that,  
 [16] which was very unrelated.

[17] Q: Volume 4, page 1511. 15th January; this is the meeting  
 [18] you are dealing with in your witness statement at  
 [19] paragraph 34, between yourself and Watson:

[20] "Option One. Only promos and a bit of PR and  
 [21] design. We will not allow them to start acting as  
 [22] 'general strategic consultants'. Not cheap. Same  
 [23] account team, i.e. Jeremy Taylor and Tim Bonnet. Option  
 [24] One act as intermediary to all of the third parties."

[25] By this time, you had clearly decided that you

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[1] time, yes.

[2] Q: And at the end of that document, you say:  
 [3] "DW and AL to visit Powerpoints - get update on  
 [4] where we are - visit their operation, get feel of what  
 [5] they do."

[6] At that point, having decided and got as far in  
 [7] your thinking as that, why bother to go and get the feel  
 [8] of what Powerpoints do?

[9] A: I do not know. I cannot remember the meeting. I cannot  
 [10] remember discussing these exact words. We certainly  
 [11] needed to finally tie up the ends with them, certainly.  
 [12] So far as I remember, they had not been formally told  
 [13] that we were not going to go with them at that stage.  
 [14] Q: Mr Lazenby, you never told them that. You went on  
 [15] ringing them and telling them that you were still  
 [16] talking about it for some weeks after this point, did  
 [17] you not?

[18] A: I cannot remember.

[19] Q: Do you remember a letter in which you explained and  
 [20] regretted and apologised that though they had been  
 [21] selected, you were not going to do anything with them?

[22] A: It sounds like the kind of thing I might have written.

[23] Q: Well, there is none such. If you can find one, if it  
 [24] can be found, I would be very grateful to see -

[25] A: I do not know.

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