



Neutral Citation Number: [2020] EWHC 1609 (Admin)

Case No: QB 2017005341

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 22/06/2020

Before:

MRS JUSTICE MCGOWAN

Between:

National Crime Agency
and
National Westminster Bank Plc
- and -
Mr Ayodele Odewale
and
Ms Sara Yadav

First Claimant
Second Claimant
First Defendant
Second Defendant

Mr Andrew Sutcliffe QC and Mr Theodor van Sante
(instructed by **the National Crime Agency**) for the **First Claimant**
Mr Ian Smith (instructed by **Dentons UK and Middle East LLP**) for the **Second Claimant**
Mr Simon Farrell QC (as litigator and advocate) and **Mr Patrick Cannon**
(instructed by **Mr Simon Farrell QC**) for the **First Defendant**
Mr Ellis Sareen (instructed by **Mr Simon Farrell QC**) for the **Second Defendant**

Hearing dates: 04-07/02/2020

Approved Judgment

The Hon. Mrs Justice McGowan DBE:

Introduction

1. This is a claim brought by the National Crime Agency (the "NCA") for a civil recovery order under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 ("POCA") in relation to certain assets (the "Disputed Assets") held by the First and Second Defendant. The NCA is an "enforcement authority" for the purposes of that Act.
2. The Second Claimant, National Westminster Bank Plc (the "Bank" or "NatWest"), seeks a declaration under section 281 of POCA that to the extent the Disputed Assets are the property of the Bank they are not recoverable property under Part 5 of POCA and for such relief necessary for the Bank to enforce its proprietary rights to those assets. The NCA takes a neutral position towards the Second Claimant's claims.
3. The First Defendant, Mr Ayodele Odewale (who also uses the name Ayodele Balogun, his mother's maiden name) is a Nigerian national who previously resided in the UK. Mr Odewale has previous convictions for fraud and dishonesty-related offences dating from 1998, 1999, 2003 and 2011. Following his convictions, he was made subject to a Deportation Order. Mr Odewale left the UK in October 2016 prior to deportation and is currently resident in Nigeria.
4. The Second Defendant, Ms Yadav, is the long-term partner of the First Defendant. They have been in a relationship since 1999 and have three children together. Ms Yadav is a British national and remains resident in the UK. Ms Yadav is Head of Operations for a research collaborative at Imperial College London.
5. The Disputed Assets consist of three luxury Patek Philippe watches allegedly owned by the First Defendant, the credit balance of three bank accounts (one in the name of the First Defendant and two in the name of the Second Defendant), and a personalised licence plate currently registered to the Second Defendant's car. The total value of this property is estimated at around £1 million. The details of the Disputed Assets are set out in the table below.

Property	Registered Owner	Description	Value (or estimated value)
Bank account funds ("Sainsbury's 637")	Mr Odewale	Sainsbury's Bank account number 05896637 sort code 12-60-50	£309,959.00
Patek Philippe Watch ("Patek 1")	Mr Odewale	Watch 5970G movement number 3048343 case number 4348926	£93,000
Patek Philippe Watch ("Patek 2")	Mr Odewale	Watch 5970R movement number 3047627 case number 4294126	£93,000

Patek Philippe Watch (“ Patek 3 ”)	Mr Odewale	Watch 5800/1A movement number 3414947 case number 4717113	£13,000
Bank account funds (“ Sainsbury’s 841 ”)	Ms Yadav	Sainsbury’s Bank account number 05890841 sort code 12-60-50	£466,737.77 ¹
Bank account funds (“ Santander 649 ”)	Ms Yadav	Santander ISA account number 76874649 sort code 09-01-28	£20,734.11
Licence plate (“ the 1SBO Plate ”)	Ms Yadav	Registration “1SBO”	£15,000

6. It is the NCA's case that the Disputed Assets are "recoverable property" within the meaning of Chapter 2 of Part 5 of POCA because they are (or represent) assets obtained through unlawful conduct. The unlawful conduct through which this property (or other property which this property represents) was obtained is said to be various fraud and money laundering offences committed by Mr Odewale and/or money laundering offences committed by Ms Yadav.
7. The NCA's case is that following his previous conviction for identity theft fraud in 2003 Mr Odewale has continued to commit other similar identity theft frauds. In particular it is alleged that Mr Odewale was involved in two specific identity theft frauds in 2014 and 2015 (although he has never been convicted or charged in relation to them) the proceeds of which can be traced to certain of the Disputed Assets. The NCA's case is that Mr Odewale has had no reported legitimate income since his previous conviction, yet has been in the possession of significant funds and high value assets during that time, so it can be inferred that the balance of the Disputed Assets were obtained through Mr Odewale's unlawful conduct by identify theft frauds and subsequent money laundering.
8. In respect of the Disputed Assets in the possession of Ms Yadav, the NCA principally relies on the unlawful conduct of Mr Odewale and asserts that the property held by Ms Yadav is recoverable because Mr Odewale obtained it through unlawful conduct (or it represents such property) and Ms Yadav received it from him otherwise than in good faith, for value and without notice of it being recoverable property. Alternatively, it is asserted that Ms Yadav obtained the property through her own unlawful conduct of money laundering offences under sections 327-329 POCA.
9. NatWest is the bank at which the accounts that were subject to the specific identity theft frauds in 2014 and 2015 were held. The Bank's case is that it was the victim of these specific frauds and as a result has equitable proprietary claims to certain of the Disputed Assets (namely certain of the funds in the Sainsbury's 637 Account and/or the Sainsbury's 841 Account and the Patek 1 watch).

¹ This figure has reduced from £500,000 as a result of the use of the funds for agreed expenses exclusions.

10. Mr Odewale denies that the Disputed Assets are recoverable property because he says they were not obtained through unlawful conduct. Mr Odewale maintains that the Disputed Assets derive from legitimate income from the sale of properties in Nigeria, trading in watches, funds returned to him that had previously been confiscated by Essex Police, various bank loans, overdrafts and other credit facilities, gambling profits and the sale of cars and a property in Liverpool. He accepts that the specific frauds took place but asserts they were not committed by him, and that the assets arising from them are not recoverable under POCA (and that NatWest has no proprietary claim to them) as he obtained them in good faith, for value and without notice that they were recoverable. He says he neither knew nor suspected they were criminal property.
11. Ms Yadav also denies that she obtained property through unlawful conduct. She claims she knew little about Mr Odewale's financial life but believed that he earned his money legitimately by trading in watches and other high value items. She did not know or suspect that any money that came to her from him was the proceeds of crime. She claims that a substantial portion of the money that came to her from him was the repayment of a loan and interest.
12. The genesis of this claim was an investigation by the Metropolitan Police following a report from Patek Philippe in 2016 that the watches Patek 1, Patek 2 and Patek 3 had been deposited for servicing. During the course of that investigation on 30 August 2016 a Restraint Order under POCA was obtained at the Crown Court at Southwark in respect of certain high value watches and bank accounts held by Mr Odewale and Ms Yadav. The matter was then referred to the NCA for a civil recovery investigation on 6 December 2016 following Mr Odewale's departure from the UK.
13. The NCA obtained a Property Freezing Order (the "**PFO**") pursuant to s. 245A of POCA in respect of the assets previously subject to the Restraint Order. This was granted by Blake J sitting in the Administrative Court following a without notice application made by the NCA on 9 December 2016. On 5 September 2017 the PFO was extended until 5 December 2017 by Fraser J. A further bank account in the name of Ms Yadav (the Santander 649 Account) was made subject to the order on 8 September 2017 by Supperstone J.
14. Ms Yadav provided a witness statement as required by the PFO on 30 January 2017 but Mr Odewale did not, as by this point he had left the jurisdiction. A Disclosure Order under s.357 of POCA ("**the Disclosure Order**") was made on 5 May 2017 by King J (and varied on 7 August 2017 by Nicola Davies J) in relation to the civil recovery investigation into the Disputed Assets and the Defendants. Ms Yadav was interviewed pursuant to the Disclosure Order on 28 July 2017.
15. Mr Odewale and Ms Yadav applied to vary the PFO to provide for legal expenses exclusions on 12 June 2018 and 3 December 2018 respectively. Mr Odewale's application was dismissed by Walker J on 19 October 2018 ([2018] EWHC 3470 (QB)) and Ms Yadav's application was dismissed by Popplewell J on 19 December 2018 ([2018] EWHC 3903 (QB)). Permission to appeal these decisions was refused by the Court of Appeal on 1 April 2019.
16. The NCA issued this claim for a Recovery Order on 4 December 2017.
17. The Second Claimant was joined on 20 September 2019 by order of Master McCloud.
18. The Disputed Assets are currently all subject to the PFO which remains in place pending the disposal of this claim.

The Legal Framework – Civil Recovery Orders

Recoverable Property

19. The claim is brought for a civil recovery order under Chapter 2 of Part 5 of POCA, which enables an enforcement authority (such as the NCA (s.316(1) POCA, as amended by Crime and Courts Act 2013 c. 22, s. 61(2), Sch. 8 para. 121) to recover, in civil proceedings before the High Court, property which is, or represents, property obtained through unlawful conduct, such property being ‘recoverable property’ (s.240(1); s.304(1) POCA).
20. Section 243(1) POCA enables an enforcement authority to commence proceedings for a recovery order in the High Court against a person the authority considers holds recoverable property. Section 266(1) POCA provides that: “*If in proceedings under this Chapter the court is satisfied that any property is recoverable, the court must make a recovery order.*” This is subject to certain exceptions that are not said to be relevant here. The recovery order must vest the property in a trustee for civil recovery (s.266(2) POCA).
21. Recoverable Property is defined as “*property obtained by unlawful conduct*” (s. 304(1) POCA). ‘*Unlawful Conduct*’ is defined to include conduct occurring in any part of the United Kingdom which is unlawful under the criminal law of that part of the United Kingdom (s.241(1) POCA). The court must decide on a balance of probabilities whether it is proved that any matters alleged to constitute unlawful conduct have occurred (s.241(3) POCA).
22. In *R (on the application of the Director of the Assets Recovery Agency) v Jia Jin He (No. 2)* [2004] EWHC 3021 (Admin) it was noted that criminal conduct may be regarded as inherently less probable than non-criminal conduct, and court should look for cogent evidence before deciding this test had been met. However, this should not place a gloss upon civil standard of proof that Parliament had deliberately chosen to apply to proceedings for civil recovery which, “*it is clear that Parliament intended that it should be used, even if criminal proceedings could not be successfully instituted, it is plain that Parliament deliberately imposed a lower standard of proof as the standard appropriate for these proceedings.*” at [66] HHJ Seymour QC in *SOCA v Bosworth* [2010] EWHC 646 (QB) at [23] noted that a heightened examination of the evidence (as suggested in *re D* [2008] 1 WLR 1499 per Lord Carswell at [27]-[28]) might be required due to the seriousness and consequences of such allegations.
23. Property is defined broadly as all property wherever situated and includes money, real or personal property, and things in action or other intangible or incorporeal property (s.316(4)).
24. Property is obtained through unlawful conduct if it is obtained “*by or in return for*” the conduct, whether the conduct was committed by the person obtaining the property or by another (s.242(1) POCA).

242 Property obtained through unlawful conduct

(1) A person obtains property through unlawful conduct (whether his own conduct or another’s) if he obtains property by or in return for the conduct.

(2) In deciding whether any property was obtained through unlawful conduct—

(a) it is immaterial whether or not any money, goods or services were provided in order to put the person in question in a position to carry out the conduct,

(b) it is not necessary to show that the conduct was of a particular kind if it is shown that the property was obtained through conduct of one of a number of kinds, each of which would have been unlawful conduct.

25. Section 242(2)(b) POCA provides that it is not necessary to show that the conduct was of a particular kind, if it is shown that the property was obtained through conduct of one of a number of kinds, each of which would have been unlawful conduct. The enforcement authority is not therefore required to prove the commission of a specific criminal offence but must prove that the property was obtained by or in return for a particular kind or one of a number of kinds of unlawful conduct (*Director of the Assets Recovery Agency v Green* [2005] EWHC 3168 (Admin), at [50] cited with approval in *Director of the Assets Recovery Agency v Szepietowski & Ors* [2007] EWCA Civ 766 per Waller LJ at [23]-[28] and Moore Bick LJ at [107] and [112] and *Olupitan & Others v Assets Recovery Agency* [2008] EWCA Civ 104, per Carnwarth LJ at [16] and [22]. It is not required to show a direct link with any offence or offences, but rather a causal connection with criminal conduct of the kinds relied on by the enforcement authority, *Olupitan*, per Carnwarth LJ at [30].
26. Evidence of the circumstances in which the property is handled may be such as to give rise to the irresistible inference that it can only be derived from crime, as is the case in determining whether property is 'criminal property' for the purposes of the money laundering offences in Part 7 of POCA, *R v Anwoir* [2008] EWCA Crim 1354 [2009] 1 WLR 980 per Latham LJ at [21].
27. While a claim for civil recovery cannot be maintained *solely* upon the basis that a defendant has no identifiable lawful income to warrant his lifestyle, *Director of the Assets Recovery Agency v Green* [2005] EWHC 3168 (Admin), at [47], a lack of lawful income to support the defendant's lifestyle may be a very relevant factor in painting the overall picture, *Olupitan & Others v Assets Recovery Agency* [2008] EWCA Civ 104, per Carnwarth LJ at [16] and [30].
28. While the burden of proof is on the enforcement authority to show that (on the balance of probabilities) the property in question was obtained by or in return for unlawful conduct, and not for the defendant to show that the property was obtained lawfully, the ability or not of a person to show that the source was not unlawful conduct is likely to be relevant, *Serious Organised Crime Agency v Bosworth* [2010] EWHC 645 (QB) at [56].

Tracing of Recoverable Property

29. Sections 304, 305, 306 and 307 of POCA provide for the following, tracing, mixing of and accruing profits on recoverable property respectively.
30. Recoverable property continues to be recoverable in the hands of a person obtaining it from the person who originally obtained the property by unlawful conduct or from a person who obtained it from that person and so on (s.304 POCA). Property obtained in return for recoverable property is deemed to represent the recoverable property and is itself recoverable and may itself be followed into the hands of another (s.305 POCA). Profits which accrue in respect of recoverable property are deemed to represent the recoverable property and so are recoverable (s. 307 POCA).

304 Property obtained through unlawful conduct

(1) Property obtained through unlawful conduct is recoverable property.

(2) But if property obtained through unlawful conduct has been disposed of (since it was so obtained), it is recoverable property only if it is held by a person into whose hands it may be followed.

(3) Recoverable property obtained through unlawful conduct may be followed into the hands of a person obtaining it on a disposal by—

(a) the person who through the conduct obtained the property, or

(b) a person into whose hands it may (by virtue of this subsection) be followed.

305 Tracing property, etc.

(1) Where property obtained through unlawful conduct (“the original property”) is or has been recoverable, property which represents the original property is also recoverable property.

(2) If a person enters into a transaction by which—

(a) he disposes of recoverable property, whether the original property or property which (by virtue of this Chapter) represents the original property, and

(b) he obtains other property in place of it,

the other property represents the original property.

(3) If a person disposes of recoverable property which represents the original property, the property may be followed into the hands of the person who obtains it (and it continues to represent the original property).

306 Mixing property

(1) Subsection (2) applies if a person's recoverable property is mixed with other property (whether his property or another's).

(2) The portion of the mixed property which is attributable to the recoverable property represents the property obtained through unlawful conduct.

(3) Recoverable property is mixed with other property if (for example) it is used—

(a) to increase funds held in a bank account,

(b) in part payment for the acquisition of an asset,

(c) for the restoration or improvement of land,

(ca) for the discharge (in whole or in part) of a mortgage, charge or other security,

(d) by a person holding a leasehold interest in the property to acquire the freehold.

307 Recoverable property: accruing profits

(1) This section applies where a person who has recoverable property obtains further property consisting of profits accruing in respect of the recoverable property.

(2) The further property is to be treated as representing the property obtained through unlawful conduct.

31. Section 306 POCA provides that where recoverable property is mixed with property that is not recoverable (for example by contribution to the balance of a bank account, in part payment of the purchase of an asset, or the discharge (in whole or in part) of a mortgage or other security), then the portion of the mixed property attributable to the recoverable property is deemed to represent it and so is recoverable (s. 306 POCA).
32. Subsequent tracing of the use of the proceeds of sale of such mixed property is a *sui generis* exercise and the method is a matter for the “*court to determine for itself what approach is most appropriate*”, *Serious Organised Crime Agency v Pelekanos* [2009] EWHC 3575 (QB) at [27].
33. The approach the NCA encourages the court to adopt is, in essence, to apply legitimate funds to legitimate spending where possible such that recoverable property is retained to the greatest extent possible. Counsel for the Second Defendant submits that tracing should be done on a *pari passu* basis such that every transfer reflects the proportion of recoverable to unrecoverable property in the original property.

Third party defences

34. Section 308 POCA, provides a defence for a third party who obtains recoverable property in good faith, for value and without notice that the property was recoverable. In such circumstances the property ceases to be recoverable in the hands of the third party. This creates a statutory equivalent to the equitable concept of the *bona fide* purchaser for value without notice.

308 General Exceptions

(1) If-

(a) a person disposes of recoverable property, and

(b) the person who obtains it on the disposal does so in good faith, for value and without notice that it was recoverable property, the property may not be followed into that person’s hands and, accordingly, it ceases to be recoverable.

35. ‘Value’ is defined as market value (s.316 POCA). It is not, therefore, simply a matter of identifying contractual consideration. ‘Good faith’ is separate from, and an additional requirement to, the requirement that the recipient is also ‘without notice’. By analogy to the equitable concept of the *bona fide* purchaser, whilst it may be related (a purchaser is unlikely to be in good faith if it has notice), it is “*a separate test which may have to be passed even though absence of notice is proved*”, *Midland Bank Trust Co v Green* [1981] AC 513, *per* Lord Wilberforce at p.528.
36. There does not appear to have been prior judicial consideration of s. 308 POCA, however other cases have considered the good faith requirement in s. 266(4) POCA (which provides a statutory defence similar to proprietary estoppel). In *The National Crime Agency v Atkinson* [2015] EWHC 1299 (QB); [2015] Lloyd’s Rep F.C. 435, Coulson J considered that even though the defendant was herself innocent of any wrongdoing, her evidence had contained “*important untruths*” and that she knew, at least, that the money had not simply come from her mother and brother as she contended. This was sufficient to fail to discharge the burden of showing that she had received the property in good faith.
37. It was submitted by the NCA that “*without notice*” does not require an absence of actual knowledge but must go beyond this, by analogy to the fact the money laundering offences in ss.327-329 of POCA require only a “*suspicion*” that property includes criminal property for

a person to be guilty of money laundering. For consistency with these offences it was submitted by the NCA that the court should apply an objective test irrespective of whether the individual had suspicion, it was enough to establish that a reasonable person with the defendant's knowledge would have such suspicion. It was also suggested that the test was analogous to that for '*knowing receipt*' as set out by Nourse LJ in *BCCI v Akindele* [2001] Ch 437 at 455, i.e. that "*The recipient's state of knowledge must be such as to make it unconscionable for him to retain the benefit of the receipt*".

38. The NCA also rely on the 'actual/constructive knowledge' divisions arising out of Peter Gibson J's five categories of knowledge in *Baden and others v Société Générale pour Favoriser le Développement du Commerce et de l'Industrie en France SA* [1993] 1 WLR 509 at [250] onwards. This includes: (i) actual knowledge; (ii) wilfully shutting one's eyes to the obvious; (iii) wilfully and recklessly failing to make such inquiries as an honest and reasonable man would make; (iv) knowledge of circumstances which would indicate the facts to an honest and reasonable man; (v) knowledge of circumstances which will put an honest and reasonable man on inquiry. Categories (i) to (iii) are considered to fall within actual knowledge, whilst categories (iv) and (v) comprise constructive knowledge.
39. Counsel for the Second Defendant submitted that "*suspicion*" was not sufficient and that the test was not purely objective. He submitted that the notice referred to in s.308 POCA must mean actual (subjective) notice or that, at a minimum, the defendant "*was aware of circumstances that made it obvious that the property was probably recoverable property (a subjective/objective test)*." He relied on Lewison J's (obiter) exposition of notice in *Sinclair Investments (UK) Ltd v Versailles Trade Finance Ltd* [2010] EWHC 1614 (Ch) at [98], this was approved by the *Court of Appeal in Sinclair Investments UK Ltd v Versailles Trade Finance Ltd* [2012] 453 Ch (CA). Lewison J considered *notice* to be different from *unconscionability* in the *Akindele* sense and proposed that it includes both actual and constructive notice. The latter includes "*notice of those things that would have been discovered if proper steps had been taken*" but states that this "*what are proper steps is dependent on the context in which the question arises. In a commercial context it must be obvious that the transaction was probably improper*." This reflects Millett J's comments in *Macmillan Inc v Bishopsgate Investment Trust Plc (No 3)* [1995] 1 WLR 978. In the present situation the Second Defendant accepts there is not a commercial context but submits the test is the same – i.e. that a defendant only has notice that property is recoverable if it was *obviously probably* recoverable.
40. It is clear, as both parties accept, that s. 308 is intended to provide a defence similar to that of equity's bona fide purchase for value without notice. The defence cannot be entirely the same because "value" is defined as market value, rather than pure contractual consideration. The "notice" that is referred to is also the notice of the property in question being "*recoverable*" (i.e. obtained through unlawful conduct or representing such property) rather than another's equitable interest in that property. Subject to that there is no reason why the requirements for an absence of notice and presence of good faith should be interpreted differently.
41. It is clear that "*notice*" is not the same as *Akindele* "*knowledge*" for the purpose of knowing receipt, *Sinclair Investments* per Lewison J at 86. Nor do I think it can be intended to mean "*suspicion*" in the way this is used as part of the money laundering offences. POCA uses that word when that is what it intends. There may be good reasons why a different test is used to impose criminal liability for money laundering (which would be assessed to a criminal standard) than for what is essentially a proprietary claim (assessed on a civil standard).

42. It is therefore appropriate to consider notice and good faith in the same sense as in *Barclays Bank plc v O'Brien* [1994] 1 AC 180, per Lord Browne-Wilkinson at 196-199. It is clear that, as explained in *Bowden*, that actual notice, includes deliberately turning a blind eye. Constructive notice clearly goes further to include knowledge of facts and circumstances that would, objectively judged, put a reasonable and honest person on inquiry. Once the person is on inquiry he is deemed to have notice of that which would have been discovered if proper steps had been taken. Those proper steps will depend on the circumstances, see *Sinclair Investments*.
43. I am not persuaded that the bar is as high as the property being "*obviously probably recoverable*" as the Second Defendant submits. Rather, as in *Sinclair Investments*, some sort of impropriety or irregularity must be obvious. While commercial parties may be able generally to presume that their counterparties are acting honestly, that may not be the case when receiving money gratuitously from a domestic partner whom you know to be a convicted fraudster and that test may be more easily met. As will become clear below, on the facts of this case (in particular in relation to Ms Yadav's knowledge of the origin of Mr Odewale's funds) I consider that the test is met, even on the Second Defendant's formulation.

Relief for Victims of Theft

44. Section 281 of POCA gives the court power to make a declaration that certain property (which otherwise might be recoverable) is not recoverable property. This power exists where property belongs to a victim who has been deprived of the property by unlawful conduct provided that the property was not recoverable property immediately prior to the victim being deprived of it.

281 Victims of theft, etc.

(1) In proceedings for a recovery order, a person who claims that any property alleged to be recoverable property, or any part of the property, belongs to him may apply for a declaration under this section.

(2) If the applicant appears to the court to meet the following condition, the court may make a declaration to that effect.

(3) The condition is that—

(a) the person was deprived of the property he claims, or of property which it represents, by unlawful conduct,

(b) the property he was deprived of was not recoverable property immediately before he was deprived of it, and

(c) the property he claims belongs to him.

(4) Property to which a declaration under this section applies is not recoverable property.

45. In order to avail themselves of this section a victim must show that they have a proprietary claim to the property, for example following the usual principles of law and equity. In those circumstances the court may grant relief such that the property in question can be returned to the victim as in *National Crime Agency v Robb* [2014] EWHC 4384 (Ch).

The Issues

46. The issues for trial were:

- 46.1. In respect of each item of the Disputed Assets, whether it is recoverable property, in particular whether it is traceable to funds obtained by the First Defendant by or in return for some unlawful conduct relating to identity theft frauds or money laundering.
- 46.2. In respect of the property held by the Second Defendant, whether any property that was recoverable has ceased to be recoverable on the basis of s. 308 POCA.
- 46.3. Whether the Second Claimant has proprietary claims over the Sainsbury's 637 account, the Sainsbury's 841 account and Patek 1, and, if so, to what relief is the Second Claimant entitled against the Defendants.

The Evidence

The Claimants

47. Mr Ross Evans, a Financial Investigator at the NCA gave evidence of the NCA's investigation, the specific frauds alleged, Mr Odewale's circumstances and the allegations against him, and detailed explanations of the tracing of the origin of the Disputed Assets. This evidence was very detailed, cogent, and helpful. In cross-examination Mr Evans was considered and willing to concede the limits of the investigation and of his knowledge. Mr Evans' evidence on the tracing of the Disputed Assets was not challenged in cross-examination.
48. Mr Evans exhibited a number of witness statements from individuals he had spoken to as part of his investigations (such as police officers, fraud/money laundering professionals or record keepers at relevant organisations, and the victims of the alleged frauds). These were relied on as hearsay, there was no objection to this by the Defendants nor was it sought to cross-examine any of those individuals.
49. However, objection was made by the Defendants to a large number of comments and expressions of opinion included in Mr Evans' witness statements. It was accepted that is of course up the court to decide what inferences can be drawn from the facts in evidence. On that basis no application was made specifically to exclude any of his evidence. Plainly some of the evidence did stray into the realm of comment or submission and I have considered it accordingly.
50. However, objection was made to certain further pieces of evidence namely, details of a charge against a certain Mr Myers, and the telephone recordings provided by NatWest in relation to what is known as the Davies Fraud. I deal with these below.
51. NatWest relied on, in addition to the evidence produced by the NCA, a witness statement of a Mr Stephen Woolf a managing legal counsel at the Royal Bank of Scotland Group (of which NatWest is a part). This evidence simply adduced banking records and was not challenged by the Defendants.

The Defendants

52. The First Defendant gave evidence by video link from Nigeria. Mr Odewale was frequently evasive, and showed little concern for the victims of the fraud noting that in his opinion becoming a victim of theft or fraud was an "occupational hazard" for watch dealers and that

he himself should be considered a victim. He gave explanations to easier questions, but returned to bare (often angry) denials in relation to more testing questions. He occasionally broke into rants against the NCA accusing them of pursuing a conspiracy against him. Ultimately, as will become clear below he was not, in large part, a credible witness.

53. The First Defendant also called the following witnesses:

53.1. Mr Arnold Bidace a friend of Mr Odewale, gave evidence that he had given Mr Odewale £81,500 to purchase a Patek Philippe watch in early 2014 in respect of which he considers Mr Odewale still owes him the full sum. Mr Bidace also gave evidence that he purchased a property at Conwy Drive in Liverpool jointly with Mr Odewale in January 2015. As will become apparent below, I did not find Mr Bidace's evidence to be credible.

53.2. Mr Olatunde Adeoye, a legal practitioner in Nigeria who also gave evidence by video link from Nigeria. Mr Adeoye gave evidence that he had sold certain land in Nigeria on behalf of Mr Odewale in 2005.

53.3. Mr Olakunle Oloidi (also known as Timmy Savage), a friend of Mr Odewale who also gave evidence by video link from Nigeria. Mr Oloidi gave evidence regarding certain payments passing between Mr Odewale and bank accounts controlled by Mr Oloidi (in particular companies under the names of Plus Properties, Trevari International and Christeni Ventures). As will become apparent below, I did not find Mr Oloidi's evidence to be credible.

53.4. Members of Mr Odewale's family, namely Mrs Francisca Odewale (his mother), Mrs Bernice Balogun (his Grandmother), Mr Babafemi Odewale (his brother) and Miss Ibukun Odewale (his sister) gave evidence by video link from Sittingbourne, Kent (other than Mr Babafemi Odewale who attended trial in person) on account of Mrs Francisca Odewale's husband's poor health and Mrs Bernice Balogun's frailty. Mrs Balogun does not speak English and gave evidence in Yoruba via an interpreter. This evidence related primarily to certain plots of land in Nigeria said to have been gifted to Mr Odewale by his parents and Mrs Balogun.

54. The Second Defendant gave evidence in relation to her knowledge of Mr Odewale's conduct and financial affairs, and certain transfers of monies and property between them. The Second Defendant came across as intelligent and assertive. She was trenchant in denying her knowledge of any wrong-doing by Mr Odewale and that she thought he had reformed since his 2003 conviction. Yet when it came to accounting for her and Mr Odewale's lifestyle she was vague and at times evasive, for example she was unable to recall whether Mr Odewale travelled with her on trips only a few months previously, and denied knowledge of his buying a business class ticket to Nigeria when he left the country in October 2016, despite accompanying him to the airport. Ultimately, she was not a credible witness.

55. The Second Defendant also called her sister, Mrs Anupama Baldwin who gave evidence of gifts that she and Ms Yadav had received from their parents. A witness statement was also adduced on behalf of the Second Defendant's mother, Mrs Margaret Yadav, giving evidence in relation to certain gifts given to Ms Yadav. This statement was admitted as hearsay evidence as Mrs Yadav was unable to attend trial on account of being in India to care for a sick relative. In the circumstances I do not think the fact that Mrs Yadav was not available to give live evidence materially affects the weight I place on this evidence as there was no substantial challenge to it.

The Case Against Mr Odewale

Mr Odewale's Previous Criminal Activity

56. Mr Odewale has a number of previous convictions for fraud and dishonesty related offences.

56.1. On 11 September 1998, Mr Odewale was convicted of attempting to obtain property by deception contrary to s.15 of the Theft Act 1968 and sentenced to 100 hours of community service.

56.2. Having served that community service order, on 5 February 1999, Mr Odewale was convicted of conspiracy to defraud contrary to common law and making a false statement to obtain a passport contrary to s.36 of the Criminal Justice Act 1925 and sentenced to 12 months and 3 months concurrent imprisonment.

56.3. On 23 April 2003, following a trial Mr Odewale was convicted of conspiracy to defraud contrary to common law. Details of this conspiracy were given in *R v Odewale* [2004] EWCA Crim 145 and can be summarised as follows.

(1) The conspiracy ran from January 2000 to March 2002 and involved identity theft whereby the addresses of suitable (usually empty) properties were located and details of the former occupants were established from public records. False identity documents were then obtained in order to assume victims' identities and used to open borrowing accounts with financial institutions which were then depleted. 110 successful applications were made. Mr Odewale notes that, unlike some of the allegations in this case, the frauds did not involve the transfer of monies from existing bank accounts. However, what does link these offences to the alleged unlawful conduct described below is that they both involved identity theft to extract monies from financial institutions and the use of false or illicitly obtained documents to do so.

(2) The Court of Appeal's summary of the offending described it as having involved loss to the financial institutions involved of "*at least £500,000 and possibly up to £650,000*".

(3) The trial judge, His Honour Judge Ball QC explained in his sentencing remarks that Mr Odewale was involved throughout the lifetime of the conspiracy and judged to be "*at the very heart of this conspiracy... the controlling force behind it*". The conspiracy involved the use of two drug addicts to receive redirected post on Mr Odewale's behalf (at least one of whom ultimately testified against him). HHJ Ball QC had noted in summing up that Mr Odewale had taken a back seat and let others do the work for him.

(4) HHJ Ball QC further stated that:

"I heard not a scrap of evidence that [Mr Odewale] had ever done an honest day's work in his life, apart from that which came from his own mouth. I did not find Mr Odewale to be either an honest or attractive witness. He chose for himself a deliberately ostentatious lifestyle, parading the profits of crime through fast cars, the Ferraris and Porsches..., the Rolexes, the designer clothes, his smart rented accommodation in Surrey... Through his dealings with the police and through his evidence in court, Mr Odewale impressed me as someone that would not recognise the truth if it stood up and bit him. He is, in

my judgment a deeply, deeply dishonest person who has displayed not a shred of remorse for what he has done... It is because of that I judge that, come his release from custody, he will, if given the opportunity, revert to crime again, increasingly sophisticated crime, involving greater and greater loss and distress”.

- (5) The Court of Appeal reduced Mr Odewale’s sentence in *R v Odewale* [2004] EWCA Crim 145 by reason of HHJ Ball QC having made reference to Mr Odewale’s Nigerian origin in sentencing but confirmed: “*The judge took a very dim view of Odewale, as he was entitled to...*”. Similarly, in *R v Odewale* [2005] EWCA Crim 709, the Court of Appeal quashed a confiscation order against Mr Odewale on the basis that the Judge had given the impression, through his criticism of Mr Odewale during his sentencing remarks, that he (the Judge) would not believe anything Mr Odewale said going forward. This had resulted in Mr Odewale opting not to give evidence in his defence during the confiscation hearing. Ultimately the assets seized from Mr Odewale to satisfy the confiscation order were returned.
- 56.4. Mr Odewale was released from prison on 19 October 2005, having been in custody since 16 April 2002.
- 56.5. Mr Odewale was arrested on 24 April 2008 on suspicion of an offence contrary to s.2 of the Fraud Act 2006. Mr Odewale was not charged, but the evidence of DC Paul Diaper of 3 September 2008 in support of a Restraint Order that was ultimately obtained over Mr Odewale’s assets was that Mr Odewale was, with another person, obtaining third party identification documents and producing false passports and other documents (bearing Mr Odewale's photograph but in different names) to open online bank accounts and withdraw funds. 38 fraudulent accounts were identified from the period January to April 2008 and loss to the bank (HBOS plc) was said to be £95,000. Although not dealt with in his written evidence in these proceedings Mr Odewale denied his involvement in any offence in a witness statement made in immigration proceedings in July 2008. Mr Odewale maintained at trial of this claim that he is innocent of this offence and that it was a case of mistaken identity.
- 56.6. Mr Odewale’s assets at this time included a Mercedes Benz SLR McLaren valued at £210,000 (“**the McLaren**”) which is discussed further below. Mr Odewale also had a further vehicle and a number of watches and jewellery in his possession at this time with an estimated combined value of around £65,000 which the NCA say was recoverable property. Although they are not themselves the subject of this claim they may form the origin of some of the funds traced to the Disputed Assets.
- 56.7. On 7 December 2011, Mr Odewale was convicted of four counts of possessing or controlling a false or improperly obtained identity document contrary to s.6 of the Identity Documents Act 2010, and one count of possessing or controlling a false or improperly obtained ID card contrary to s.25(5) of the Identity Card Act 2006 and sentenced to 2 years imprisonment. Mr Odewale was released on 3 December 2012.
57. Mr Odewale obviously acknowledges the fact of these convictions (and arrests) although he maintains his innocence in relation to the 2008 arrest and in respect of the 2011 conviction.
58. The NCA have not specifically traced the Disputed Assets to the funds derived from the specific unlawful activity underlying these convictions. Rather, the NCA's case is that it can be inferred from; his previous convictions, his possession of significant funds and assets

despite his apparent lack of income, and the specific allegations of unlawful conduct explained below, that following Mr Odewale's release from prison in 2005 and again in 2012, he (with the assistance of others) continued to commit identity theft frauds to obtain funds belonging to financial institutions for his and Ms Yadav's benefit. Mr Odewale denies that is the case.

Mr Odewale's Sources of Wealth

59. Mr Odewale and Ms Yadav appear to have enjoyed an expensive lifestyle. They have or had expensive cars (Mr Odewale has had a Porsche Carrera, a Mercedes McLaren and a Mercedes AMG over the years relevant to this claim, Ms Yadav drives an Audi RS4) and luxury watches (Mr Odewale appears to have had tens of watches costing tens of thousands of pounds each over the period of this claim). They have rented expensive accommodation (Ms Yadav's current rent is over £3,000 per month) and have purchased properties in Westbourne Terrace and Conwy Drive which are discussed below, both of which were bought with significant deposits. They send their children to a private school, at a cost of £37,000 per year. They frequently travel internationally. They have hundreds of thousands of pounds passing through their bank accounts annually. The NCA says this lifestyle cannot be supported by their legitimate income and so it can be inferred is funded by the proceeds of crime, and that ultimately means the Disputed Assets of approximately £1m also derive from those proceeds.
60. Mr Odewale has not declared any income or employment to HMRC between the tax years 2002/2003 and 2015/2016. Prior to that Mr Odewale only had limited earnings. Mr Odewale was in prison from April 2003 until October 2005. Mr Odewale has not had a right to work in the UK since 25 June 2013 when his refugee status ceased and so has not been able to take paid employment since then. The NCA says that this lack of apparent legitimate income supports their inference that the Disputed Assets were obtained through unlawful conduct.
61. Mr Odewale appears to accept that he has not had any employment income since his release from prison in 2005. Although between May 2015 and April 2016 he received regular payments totalling £207,900 into his bank accounts, mostly paid into an account in the UK, save for £18,900 which was paid into his Nigerian account with Zenith Bank with account number ending 237 ("**Zenith 237**"). The majority of these receipts were marked "salary", from a company called Trevari International ("**Trevari**"). He accepts that these were not in fact salary. Instead he says that these payments reflect proceeds from the sale of land in Nigeria (as explained further below).
62. Trevari is a Nigerian company established in 2014 which runs a Bureau de Change which sells high end products in Nigeria (entities in the UK and USA were also established under the same name but have since been dissolved). Mr Oloidi, a friend of Mr Odewale who gave evidence in these proceedings, is the founder and a director of Trevari. Mr Odewale admitted that he had asked Mr Oloidi to make these payments "*to make it look as though [his] employment was more genuine*" in an attempt fraudulently to obtain a mortgage and other credit facilities. Mr Odewale also paid to set up a website with the details of Trevari on which he described himself as the "*Group Managing Director*" and that he had previously been "*Head of Equity and FX*", it referred to his "*15 years' experience in the financial sector*" and having "*extensive knowledge in commodity trading*". Mr Odewale accepts that this was untrue and says it was to use as a "*work reference*". He also accepts that he obtained letters (seemingly with Mr Oloidi's consent) on Trevari headed notepaper falsely stating he was an employee in order to assist a visa application.

63. However, Mr Odewale contends that he has received legitimate funds during the period since his 2003 conviction which he says explain his apparent wealth and ultimately account for the Disputed Assets. I deal with each of these alleged sources of funds below.

(1) Sales of Nigerian Land in 2005

64. It appears that Mr Odewale was gifted two plots of land in Nigeria by his father in 2004. One was Plot 8, Block 8 of the Lagos Road Scheme Estate, Ibadan, Oyo State, Nigeria, and the other a parcel of land on the Ife-Ibadan Road, Gbongan, Osun State. Mr Odewale's family (Francesca, Babafemi, and Ibukun Odewale) gave evidence supporting the fact of this gift which was not challenged by the NCA. Mr Odewale says he sold these plots in 2005 for approximately ₦18,000,000 and ₦2,500,000 respectively. Mr Odewale's lawyer, Mr Adeoye gave evidence that he assisted with both the gift of the land to Mr Odewale and its subsequent sale in July 2005 (although he had no face-to-face dealings with Mr Odewale until 2017). He explained that after deduction of fees ₦18,450,000 (equivalent to approximately £81,000 at the exchange rate at the time) was transmitted to Mr Odewale via a Surrey-based high-end car dealer, Romans International Ltd ("**Romans International**") over 12 years ago.

65. The NCA has not challenged the gift of the land to Mr Odewale but queries the account of its sale in circumstances where neither Mr Odewale or Mr Adeoye have been able to provide any documents relating to the sale of the land, subsequent registration or any bank accounts showing the transfers of funds. Mr Adeoye explains that any documents would have been handed over to the purchasers and that properties are frequently not registered in Nigeria. Although he referred in his evidence to his offices being burgled, it does not appear that he considers any relevant documents were taken, rather his evidence was that he would not have retained any relevant documents. His only record is therefore an entry in his diary, which he produced while giving evidence, but had not previously been disclosed.

66. Mr Odewale stated that he used the funds to purchase a Porsche Carrera (not registered in his name) from Romans International, which he then sold back to the dealer for a small loss a few months later. Mr Odewale says he used the money raised by this sale to invest in watches. No documentary evidence of these transactions has been produced.

67. While it is not challenged that Mr Odewale was gifted land in 2004, no explanation has been provided by Mr Odewale as to how, if the sale occurred, the receipts are traceable to the Disputed Assets. In those circumstances I consider that even if the land was sold, the approximately £70,000 realised in 2006 would likely have been expended on Mr Odewale's living costs over the subsequent ten years and so will not be relevant to this claim.

(2) Sale of further Nigerian Land in 2014

68. Mr Odewale claims he sold a further property (a 10km square plot of land in Lapekun Village, near Lagos, the "**Lapekun Land**"), which had been gifted to him by his grandmother Mrs Balogun several years earlier, for ₦99 million in 2014. He says the proceeds of this sale eventually reached him in the form of the fake salary payments from Trevari International described above. Again, the NCA do not challenge that this land was gifted (which Ms Balogun attested to in these proceedings). However, they dispute the account of its sale.

69. Mr Odewale has produced a 2010 Power of Attorney in favour of a land agent named Mr Babatunde Shobayo in relation to the Lapekun Land. He also produced some short emails purportedly with a Mr Shobayo that appear to include Mr Odewale's instructions to remit the

net proceeds from the sale of the Lapekun Land (₦86.5 million) to an account in the name of Trevari Exchange BDC Ltd at Heritage Bank, although they do not include the whole chain of communication. However no further documents evidencing the sale (e.g. any contract of sale or land registration documents) have been provided. Mr Odewale has also been unable to identify to whom the land was sold or the exact date. Mr Shobayo has not provided any evidence. Mrs Balogun was unaware of the sale and so also unable to assist.

70. However, Mr Oloidi gave evidence that funds from the sale of Lapekun Land were remitted by Mr Shobayo to Trevari's bank account in 2014. Mr Oloidi says that he was instructed by Mr Odewale to keep hold of the money and then, some six months later, to remit funds to him in tranches of £18,900 on a monthly basis using "*Salary/Upkeep*" as the reference. As explained above Mr Odewale says this was an attempt to make it look as though he had an income stream for the purposes of mortgage and other credit applications. In the meantime Trevari had allegedly been trading with Mr Odewale's money, using it to buy \$450,000 in cash and paying that out to the customers of its exchange business. It is unclear why Mr Odewale would have provided what was effectively an interest free loan to Trevari for such a long period.
71. No bank statements showing the receipts of the original funds from Mr Shobayo had been provided prior to trial. However, during the course of cross-examination Mr Oloidi produced a set of bank statements for a Trevari International Exchange BDC account at Heritage Bank, which had not previously been disclosed. These statements purported to show a receipt of ₦86.5 million with a reference including "*TRF B/O MOHAMMED BABATUNDE SHOBAYO*" on 18 November 2014 (shortly after the date of the emails from Mr Shobayo).
72. These documents are the cause of considerable suspicion. Firstly, they were not produced in advance notwithstanding that it appeared that Mr Odewale had been provided with them in advance of the trial. Secondly, the set was not complete, with a number of pages missing. Thirdly, the page with the relevant entry on was produced in a low quality scanned format (which could more easily have been tampered with), whereas each other page was produced as a photograph (in rather higher quality). Fourthly, the relevant page is the only page that does not appear to show a stamp of the bank on it. Finally, the words "*BABATUNDE SHOBAYO*" in the relevant entry appears to slope downwards noticeably compared to other entries. Mr Oloidi explained that the reason for this page being different was that it was the first one to have been provided (via scan) and the others had been provided later for "*continuity*". This did not make sense in circumstances where not all pages had been provided. Furthermore, Mr Oloidi was apparently unable to provide a better copy of the relevant page.
73. Mr Oloidi has previous convictions for 12 counts of obtaining property by deception contrary to s.15 of the Theft Act 1968 for which he was sentenced to 15 months imprisonment in 2004. He sought to downplay those in his witness statement, referring to them as "*attempted deception*". Mr Odewale has been known to obtain and use false documents (for example his 2003 and 2011 conviction), and this has previously involved, in the case of his fake references, Trevari. In those circumstances I consider that these bank statements have been tampered with and that Mr Oloidi was attempting to mislead the court to support Mr Odewale's case.
74. Furthermore, the ₦86.5 million allegedly received by Trevari on behalf of Mr Odewale would appear to significantly exceed the £207,900 Mr Odewale ultimately received from Trevari. At official exchange rates during the period the funds were transmitted to Mr Odewale's account, that would have represented between £280,000 and £300,000. No convincing explanation has been given for the discrepancy of at least £80,000. Mr Odewale

has never suggested that there was any other money due to him from Trevari – in fact in his evidence for his legal expenses application he expressly stated this was not the case.

75. Mr Odewale asserted in cross-examination that official interest rates did not correspond with realistic retail rates available in Nigeria. While it is likely that realistic retail exchange rates would have been worse than the official or wholesale rate and/or some commission would have been deducted, the size of the discrepancy is surprising. This is particularly the case in light of Mr Oloidi's evidence that as a licenced bureau de change he would give Mr Odewale the "*best possible rate*" in return for the use of the capital in the meantime.
76. It was noted by the NCA that the ₦99 million referred to Mr Odewale in his twelfth witness statement which would have converted, using the exchange rate at the time of the statement, to £219,629.07, would after commission would be capable of explaining the £207,900 in fact received. It was submitted that this suggests the figure was invented by Mr Odewale to justify the payments from Trevari. This appears possible, although failing to take account of the fact that the actual amount said to be received after fees was only ₦86,500,000, and failing to take account the difference in exchange rates over time would be careless of Mr Odewale. However, in any event Mr Odewale and Mr Oloidi's explanation of these funds is full of discrepancies.
77. In the above circumstances I am not satisfied that the alleged sale of the Lapekun Land properly explains the payments Mr Odewale received from Trevari. Rather it appears this explanation has been fabricated, from which I infer there is no lawful explanation of the funds received from Trevari. In the circumstances described below I infer that these funds were part of money laundering operations by Mr Oloidi and Mr Odewale. I will consider what this means in terms of tracing to the Disputed Assets below.

(3) Investments in Watches

78. Mr Odewale's primary explanation of his on-going income is that he made money by trading luxury watches (and to a lesser extent cars and property). His family gave evidence broadly supporting this but none of them was able to provide or explain any details of this trading. In fact, even Mr Odewale himself has not been able to show any evidence of any investments that made a significant profit. He says he cannot recall the details of watches traded. Ultimately, he has never made any declarations of capital gains to HRMC.
79. As an example of his trading in watches Mr Odewale has pointed to a Patek Philippe 5070P (the "**Patek 5070P**") which he acquired in March 2015 for £80,000 from New Bond Street Pawnbrokers. He sold the Patek 5070P in January 2016 through David Duggan Watches for £83,000. Mr Odewale thereby made a £3,000 gain over 10 months (in fact Mr Odewale had been trying to sell this watch since June 2015). The NCA say the funds used to purchase this watch ultimately are traceable back to: (1) cash (moved through a number of accounts); (2) the proceeds of the sale of the Mercedes AMG (and therefore ultimately cash); and (3) £35,000 from Mr Bidace via a cheque payable to Ms Yadav paid into Mr Odewale and Ms Yadav's joint account in November 2014. The cheque was apparently made out to Ms Yadav as Mr Odewale wanted to cash it that day and only had Ms Yadav's debit card with him.
80. Mr Bidace is a friend of Mr Odewale with previous convictions for minor fraud-related offences in 2000 and earlier (in addition to more serious drugs offences for which he was sentenced to six years imprisonment). Mr Bidace gave evidence in this claim that he gave Mr Odewale a total of £81,500 to invest in the watch for him (on the understanding it would turn a profit and Mr Odewale would take a commission of £3,000). He refers to a series of bank transfers he made to Mr Odewale between February 2014 and November 2014 i.e. over

a period of nine months starting over a year before the purchase of the watch. This, together with the £35,000 cheque totals £81,474. However, a number of those bank transfers were followed shortly thereafter by transfers back from Mr Odewale to Mr Bidace of £5,413.63. In cross-examination, Mr Bidace explained the regular payments and re-payments as being an arrangement with Mr Odewale to allow Mr Bidace to achieve the regular deposits required to obtain credit facilities on his bank account (although it is unclear why he could not make such transfers himself).

81. In total £27,068.15 was returned to Mr Bidace by Mr Odewale, leaving a net contribution from Mr Bidace of only £54,405.85. In the witness box Mr Bidace explained the shortfall in his net contribution compared to the price of the Patek 5070P by saying he also provided £27,100 in cash to Mr Odewale in two tranches. Mr Bidace produced during his re-examination previously undisclosed bank statements showing a series of five £5,000 cash withdrawals between September 2010 and June 2011 which he apparently kept in a safety deposit box until providing the £25,000 (plus a further unexplained £2,100) to Mr Odewale in or around (one assumes) 2014. This cash apparently came from the sale of a property in Kilburn, that he had inherited from his mother, for £810,000 and a credit of approximately £809,000 is shown on the bank statements in September 2010. This account of his keeping large sums of actual cash around for several years before handing it over to Mr Odewale in notes (when he was also paying him by bank transfer) is hard to believe, and if it were true would itself raise some considerable suspicion.
82. Mr Bidace says that he was not happy when the Patek 5070P was sold for only £83,000 as he had expected to make at least £5,000 profit and therefore says he left the proceeds with Mr Odewale to reinvest in another watch in 2015. Mr Bidace says he then lost contact with Mr Odewale, became concerned for his investment and in June 2017 (while the civil recovery investigation was on foot) wrote to Mr Odewale's solicitors (having first approached solicitors of his own, and Ms Yadav) seeking return of the money and threatening legal action. He currently considers Mr Odewale owes him £83,000 plus "interest" to reflect his expected return on the watch. Mr Bidace referred to the watch in question now selling for £140,000.
83. However, Mr Odewale has never previously suggested that the Patek 5070P was bought and sold on behalf of Mr Bidace. In his statement to police in October 2016 he described it as his own watch, and made no mention of Mr Bidace's interest when he referred to the watch in his witness statements served in respect of his legal expenses exclusion application. Mr Odewale says this was a pure matter of semantics: it was "his" watch as he had Mr Bidace's authority to deal with it. The NCA suggests that Mr Bidace's dealings with Mr Odewale were not an investment in a watch but rather money laundering.
84. In my judgement Mr Bidace's account is not credible. It is not credible to believe that Mr Bidace provided the funds to Mr Odewale (including £27,000 in physical bank notes which were not mentioned prior to trial) over the course of more than four years prior to the purchase of the Patek 5070P. Nor is it credible that Mr Odewale would fail to mention Mr Bidace's interest in the watch until now and instead would rely on it as demonstrating his own income.
85. Instead it appears that this story has been invented to provide cover for money laundering activity, including bank transfers, cash deposits and the purchase of the Patek 5070P. In light of this I infer that the Patek 5070P is recoverable property as it is likely to represent property obtained either through Mr Odewale's unlawful conduct of identity theft fraud, or money received by Mr Odewale as part of the laundering of criminal property. In any event

the Patek 5070P transaction only discloses a £3,000 gain for Mr Odewale which does not explain how he funded his lifestyle.

86. The NCA also points to the sale of the Patek 5004P that was involved in the Davies Fraud (as described below). This was sold by Mr Odewale for £140,758.66 in January 2016 despite being purchased for £162,500 in May 2014 representing a loss of nearly £22,000. However, on Mr Odewale's case he purchased this in exchange for another watch (the Patek 5970P described below), which he had acquired in 2009 for only £78,548. This would represent a profit of some £60,000 in just over six years. However, for the reasons explained further below I do not consider that this represented legitimate income.
87. Mr Odewale also purchased a Patek Philippe 5070J ("**the Patek 5070J**") from Watches & Jewellery of Bond Street on 10 February 2014 for £42,000. The payment for this is ultimately traceable to cash which passed through a mixture of different accounts. The watch was subsequently sold to Time Machine (Europe) Ltd. (which trades as "**Swiss Time Machine**") on 12 February 2016 for £41,000 (i.e. a loss of £1,000 realised two years later).
88. Mr Odewale has therefore only been able to identify £3,000 legitimately earned from trading in watches or other assets, and even that may be due to Mr Bidace. All other transactions considered appear to be loss-making. Mr Odewale also asserts that Patek 2 is currently worth £20,000 more than he purchased it for, but that of course cannot explain his historic income. Leaving aside questions of how Mr Odewale was able to afford these watches in the first place, it does not appear to be a credible explanation for his apparent wealth. As explained below the NCA's case is that these transactions represent money laundering rather than a potential source of income and in the circumstances, I believe that is a correct inference to draw.

(4) Investment in Cars

89. The sales of cars by Mr Odewale disclose losses rather than profit. He accepts that he made a small loss on the Porsche Carrera purchased from Romans International with the money received from sale of his land in 2005. The McLaren referred to above was purchased from Romans International for £229,700 in November 2007 (£185,000 of which is traceable back to the proceeds of Westbourne Terrace – as discussed further below and the remainder is untraceable). Mr Odewale was the registered owner from 22 November 2007 to 5 October 2009. Mr Odewale sold this car for £155,000 on 23 September 2009 (a loss of £74,700 over two years).
90. Mr Odewale also purchased a new Mercedes G63 AMG (the "**Mercedes AMG**") from Romans International for £130,000 in June 2014. The funds for this ultimately are traceable back to cash deposits. Mr Odewale sold this back to Romans International for £105,000 in December 2014 (a loss of £25,000 over just six months). Mr Odewale has not identified any car sales that have made a profit.

(5) Investment in Property

91. Mr Odewale also purchased a property at Conwy Drive in Liverpool with Mr Bidace in January 2015 ("**Conwy Drive**"). Mr Odewale and Mr Bidace provided half of the £130,500 purchase price each. Mr Odewale used funds apparently traceable either to the sale of the Mercedes AMG or cash deposits. Mr Bidace apparently used funds from the sale of his late mother's property. Again, this was sold only nine months later in October 2015 at auction for £101,000. This represented a substantial loss of £29,500 which appears to have been borne exclusively by Mr Bidace. Mr Odewale explains this rapid and loss-making disposal

as being driven by the need to liquidate assets as a result of the prospect of his deportation. Mr Bidace explains that it was Mr Odewale who wanted to sell (for reasons unknown to Mr Bidace) but because the investment had been Mr Bidace's idea and he was not in a position to buy-out Mr Odewale's share he accepted that he has to bear the loss. It is unclear why Mr Bidace accepted such an arrangement in circumstances where it was Mr Odewale that demanded the sale and Mr Bidace had sold his late mother's property for £810,000 recently and so would likely have had the funds to buy-out Mr Odewale in any event. In fact, in the circumstances it appears likely that the sale and purchase of this property was used to launder money.

92. In any event, Mr Odewale clearly did not derive any profit from this transaction. There is no evidence of other property through which Mr Odewale could have made a profit (other than Ms Yadav's purchase in Westbourne Terrace which is dealt with in the section below relating to Ms Yadav).

(6) Gambling Winnings

93. Mr Odewale estimates that he has made “*in the region of hundreds of thousands of pounds*” gambling and exhibits a large number of betting slips mainly from 2013, totalling £96,551.29 in support of this. The majority of these are from fixed odds betting terminals at the Addiscombe branch of Paddy Power Betfair. Mr Odewale says the winnings were paid out in cash, which was sometimes paid into his accounts. It is true that large sums of cash appear to have passed through Mr Odewale's accounts at around this time (over £300,000 in the year 2013/14).
94. However, the NCA's case (as explained further below) is that this represented the money laundering of the proceeds of crime, and in particular, that fixed odds betting terminals can be used for this purpose. The NCA also notes that at least some of these relate to another person, as Paddy Power Betfair was able to link them to a different monitored customer. Mr Odewale says he used to gamble with that other customer and he suggests he may have accidentally received some of his receipts. Paddy Power Betfair also confirmed that Mr Odewale was not a monitored customer (which would suggest he was not regularly gambling large amounts of money in that branch). The NCA therefore question whether these bets were in fact placed by Mr Odewale, and if so whether they were simply a way to launder money, or provide a paper trail for the cash being deposited in his account.
95. It is inherently unlikely that it would have been possible to earn substantial amounts in the long term through gambling primarily at fixed odds betting terminals. Although the total of pay-outs recorded in the betting slips is significant, as the specific bets are not recorded or monitored by Paddy Power Betfair, it is not clear this reflects 'profit'. It could simply be money paid into the machines and then cashed out (or represent a loss compared to the amount actually paid in). It is rather more likely that on average Mr Odewale would have lost money.
96. This is consistent with Mr Odewale's explanation of his gambling as an “*addiction*” about which he is not happy, and the fact that neither Mr Odewale nor Ms Yadav mentioned gambling as a source of income until Mr Odewale's witness statement in July 2019. It was not mentioned in their application for legal expenses exclusions, nor in Ms Yadav's NCA interview in July 2017, shortly after she allegedly discovered the betting slips. It therefore appears that either Mr Odewale did not make these bets or, if he did, it was not a source of income for him. It is not therefore capable of explaining how he acquired the Disputed Assets, or the large amounts of cash going into his accounts. Again, it is more likely that it reflects money laundering activity.

(7) Loans and Credit Facilities

97. Mr Odewale has referred to borrowings of various sorts, including unsecured loans, credit or charge cards and overdraft facilities as another source of income. Mr Odewale says he has used these credit facilities to lend money on to other people and to earn interest. No evidence of any specific earnings from these loans has been provided. The only loans of which Mr Odewale has provided evidence appear to have been interest free, as explained below.
98. Mr Odewale says he lent Mr Oloidi £20,000 on 28th August 2015 for use in Mr Oloidi's business (the payments appear to have been made to an account in the name of "*Christeni Ventures*" - a company said to be a business of one of Mr Oloidi's business partners). This was repaid in three separate £5,000 payments on the same day and a further £5,100 on the 1st September 2015 (the further £100 was apparently a "thank you" which Mr Odewale returned that day). Mr Odewale appears to have lent a further £6,000 on 11 September 2015 that was repaid a few days later on 14 September 2015. These funds were therefore only held very briefly by Mr Oloidi and accrued no interest.
99. Mr Odewale also says he made further loans to Mr Oloidi for his companies, Plus Properties Ltd and/or Holiday Plus Ltd totalling £40,570 since 2008 (although all the payments he has identified relate to April 2015 to January 2016). Mr Odewale has only been able to identify £24,550 in repayments from "*Plus Credit*", and assumes the remainder must have been repaid in cash or to his Barclays account. Mr Oloidi has confirmed the alleged loans were interest free.
100. Mr Odewale also made payments of £79,200 between October 2015 and March 2016 to the Christeni Venture account. These are said to have been to Mr Oloidi in respect of a joint investment with Mr Oloidi and others in a mining project. A company Timeline International Mining Concepts Ltd was incorporated in Nigeria in October 2015 the ostensible purpose of which was to obtain a mining licence to extract minerals in Nigeria, although a licence has not yet been obtained.
101. It is unclear, without any identifiable income, how Mr Odewale's credit facilities could have been obtained legitimately. As explained above, Mr Odewale has accepted that he used false salary information to apply for credit facilities. However, it was not specifically alleged that these facilities were procured by fraud. In any event, no explanation has been given as to how this borrowing can be linked to legitimately acquiring the Disputed Assets or producing an income stream capable of doing so.

(8) Assets Returned Following 2003 Conviction

102. Mr Odewale also relies on cash (approximately £20,000) and a Platinum Rolex released by the Essex Police after the confiscation order made following his 2003 conviction was quashed in March 2005, totalling approximately £68,000. Mr Odewale says he sold the Rolex for around £20,000. The NCA's case is that this property was and remained recoverable property as it was obtained from the unlawful conduct of which Mr Odewale was convicted in 2003. The reason for the confiscation order being quashed was not that the property was not obtained from the proceeds of crime, rather it was on account of the Judge giving the appearance of bias. In any event, Mr Odewale has not linked any of these assets to any of the Disputed Assets. It therefore can be inferred it was spent on Mr Odewale's living expenses and is not relevant to this claim.

Alleged Unlawful Conduct

103. Having considered the background of Mr Odewale's previous convictions and unexplained wealth, I now turn to consider the specific allegations of criminal activity which the NCA relies upon to support its case that the Disputed Assets are derived from unlawful conduct. As explained above, under s.241(3) POCA I only need to make findings to the civil standard. While I need to be careful to look for cogent evidence given the seriousness of the allegations, I can take into account Mr Odewale's unexplained wealth and previous convictions for fraud-related offences. In those circumstances it may be easier to conclude that Mr Odewale has continued to commit similar frauds (if that is what the evidence suggests) than would otherwise be the case.

The 2014 Davies Fraud

104. An identity theft fraud was perpetrated against a Mr Lawrence Davies in April to May 2014 (the "**Davies' Fraud**") through which a Patek Philippe 5004P watch with serial number 3275215/4458991 (the "**Patek 5004P**") was fraudulently purchased by a person (who was not Mr Davies) using funds from Mr Davies' NatWest account. Mr Davies' accounts were reimbursed by NatWest and so it is the bank that has ultimately suffered the loss. This watch is no longer in Mr Odewale's possession and does not form part of this claim.

105. In short, somebody other than Mr Davies appears to have called NatWest on 25 April 2014. This person passed security (seemingly using information deduced from public sources), and requested a replacement debit card. It appears the card was then intercepted and, although it is not known how, the PIN was obtained. Mr Davies' mobile telephone had been reported stolen by somebody other than Mr Davies on 28 April 2014 so Mr Davies did not receive any notifications from NatWest. On 2 May 2014 at 10:24 somebody (thought to be the same person) called NatWest again, passed security and made enquiries regarding bank account balances. At 13:37 that day Mr Davies' online banking account was accessed, the password was changed, and funds were moved from Mr Davies' savings accounts to the current account linked to the intercepted debit card. It is the NCA's case that each of these phone calls were made by Mr Odewale.

106. Just over half an hour later that debit card was used by somebody (not Mr Davies nor Mr Odewale) to make two transactions of £99,000 and £63,500. These transactions were to purchase the Patek 5004P from David Duggan Watches, a watch dealer in Burlington Arcade, Piccadilly. A further £300 was subsequently withdrawn from a cash machine in Piccadilly. Telephone calls were made to NatWest at 14:12 and 14:31 by somebody (again not Mr Davies or Mr Odewale) to confirm those transactions for security purposes. The recordings of the phone calls above, together with a CCTV still taken from David Duggan Watches of the person who purchased the Patek 5004P, were presented at trial.

107. Mr Sutcliffe QC sought permission to play the recorded telephone calls to the First Defendant in cross-examination. Mr Farrell QC objected to this on the basis that the recordings themselves had not be served on the Defendants until a few days before trial. Although the recordings had been exhibited to Mr Evans' witness statement Mr Farrell complained that the first indication that the NCA's case was that certain of the voice recordings were Mr Odewale's voice was in the NCA's written opening for trial. However, his more substantive complaint was that by playing the recordings in court Mr Sutcliffe would be inviting the court to conduct a voice recognition exercise. Mr Farrell cautioned on the dangers of the court attempting a voice recognition exercise without the assistance of expert evidence, particularly in circumstances where the quality of the recordings was likely

to be questionable and the court's only knowledge of the Mr Odewale's voice would be over a video-link during cross-examination.

108. I am of course conscious of the dangers of attempting an ad hoc voice identification. This is particularly acute where there was questionable sound quality in both the voice recordings and over the video link from Nigeria which was my only experience of Mr Odewale's voice. I therefore make no findings on the basis of such a voice comparison. However, as these recordings were properly in evidence I considered it permissible that such recordings be put to Mr Odewale in cross-examination. It would then be up to the court to determine the value of his responses to the questions put. There was no prejudice incurred by the late service of the audio recordings. Mr Odewale's legal team could have requested these earlier and had not. It was obvious from the evidence served that the NCA would be suggesting that Mr Odewale featured in these calls. In any event, Mr Odewale had been given an opportunity to listen to the recordings and had been provided a transcript ahead of his cross-examination.
109. It was the NCA's case that the man in first two telephone recordings (on 25 April 2014 and 10:24 on 2 May 2014) was Mr Odewale. The NCA said he was working with a certain Mr Anthony Moore (also known as Mr Thatcher), who is said to be the man in the CCTV stills and the man who made the second two phone calls to confirm the transaction. The NCA said that Mr Odewale obtained the replacement debit card and the necessary security details and provided these to Mr Moore with instructions to purchase the watch for him. Mr Moore was later convicted of the Fitzpatrick Fraud (explained below) but has nobody has been charged in connection with the Davies Fraud.
110. As indicated above, without the assistance of expert evidence I am not in a position to compare the voice on the first telephone calls to Mr Odewale's voice, which I heard only over the video link in court. Equally, while the CCTV image has certain similarity to the photograph on the fake driving licence used in the Fitzpatrick Fraud (explained below) given the quality of the pictures it would not be safe to conclude they were necessarily the same person. However, this evidence does suggest that at least two people were involved in the Davies Fraud, and therefore the fact that it was not Mr Odewale who picked up the Patek 5004P does not mean he was not involved in the fraud.
111. What does appear to link Mr Odewale to this fraud is the address of 42 Porchester Road, W2 6ET which was given to David Duggan Watches for entry in their invoice. This was an address which had no relationship to Mr Davies, but was a street and postcode known to Mr Odewale. He had been on the electoral roll for 48 Porchester Road, W2 6ET between 2004 and 2006 under the name of Balogun. Ms Yadav also appeared on the electoral roll between 2004 and 2005 and had her mortgage statements for 2004 to 2006 sent to that address. Mr Odewale denies he ever lived or even visited that address (and in fact he was in prison for most of that period), but it was eventually accepted that Ms Yadav lived there until 2004 so the address would have been known to him.
112. The NCA noted that Mr Odewale has previously used false addresses similar to those with which he had previous connection as part of his fraudulent activity. As part of his 2003 frauds, Mr Odewale accepts he used an address of 109 Gloucester Road, N17 when checking into a Marriott Hotel in Liverpool under a false name and using a credit card obtained in that false name. Mr Odewale accepted that he had given this address at Gloucester Road, N17 to the Marriott. Mr Odewale and his parents had lived at 107 Gloucester Road, N17.
113. Mr Odewale ultimately came to be in possession of the Patek 5004P and offered it for sale on 30 September 2015 to Swiss Time Machine, although this sale fell through. Mr Odewale

subsequently sold the Patek 5004P on 26 January 2016 to an American dealer, Govberg Jewelers, for £140,758.66. A further payment of £253.50 appears to have been received on 2 February 2016. Mr Odewale had authorised Ms Yadav to collect and sign for the watch from Sotheby's (who had been holding the watch while trying to arrange a sale). Both Mr Odewale and Ms Yadav were evasive when trying to explain exactly how the sale took place and could not explain how the watch got to the United States. The funds were credited to Mr Odewale and Ms Yadav's joint account at NatWest (with account number ending 837) ("**NatWest 837**") and are said ultimately to be traceable to the Sainsbury's 637 account and/or the Sainsbury's 841 account as explained further below.

114. The NCA submitted that it can be inferred from: (i) the similarity of the method of the fraud to Mr Odewale's 2003 conviction (namely use of a false identity to impersonate a customer with a financial institution in order to improperly obtain transfers); (ii) the postcode given by the person collecting the Patek 5004P from David Duggan Watches being related to Mr Odewale; and (iii) the fact that the same watch ended up in the possession of Mr Odewale around 16 months later, that it was Mr Odewale who was a principal conspirator in committing the Davies Fraud.
115. The Defendants do not contest that the Davies Fraud occurred as described by the NCA (with the exception of Mr Odewale's involvement), or that the Patek 5004P was consequently recoverable property. Mr Odewale initially denied that the Patek 5004P obtained as a result of the Davies Fraud was the same watch that had been in his possession. However, ultimately, he accepted that the watch he sold to Govberg Jewelers in 2016 was the Patek 5004P that had been the subject of the Davies Fraud. The defence did not dispute the subsequent tracing of the proceeds. Mr Odewale's case was simply that he had nothing to do with the Davies Fraud, does not know Mr Moore, and obtained the watch in good faith as a purchaser for value without notice that it was recoverable (such that he had a defence under s.308 POCA).
116. Mr Odewale's explanation is that he obtained the Patek 5004P on 26 June 2015 from a Mr Maxwell Schmidt in exchange for a Patek Philippe 5970P (the "**Patek 5970P**"), which Mr Odewale had purchased for £78,548 on 7 December 2009. The only documentary record of this is a (barely legible) photocopy of what is said to be Mr Schmidt and Mr Odewale's driving licences and an (illegible) manuscript agreement. Mr Odewale said he met Mr Schmidt on several occasions at Home House members club (of which Mr Odewale was a member). In cross-examination Mr Odewale initially said that Mr Schmidt had been a member of Home House before going on to say he did not know. The NCA have found no evidence of a Mr Schmidt being a member of Home House.
117. The NCA contends that the Patek 5004P was significantly more valuable a watch than the Patek 5970P and therefore it is highly unlikely that such a trade was made (at least without some further payment, for which there is no evidence). This is on the basis that the Patek 5004P was bought from David Duggan Watches for £162,500 (and subsequently sold by Mr Odewale for around £141,000) as compared to the £78,548 Mr Odewale says he paid for the Patek 5970P in 2009. Mr Evans was challenged about this comparison on the basis of not taking into account retail as against trade prices, the fact that the purchase from David Duggan Watches was by a fraudster who may have paid over the odds, and that the price of the Patek 5970P may have changed by 2015. Mr Odewale suggested in cross-examination that the value of the Patek 5970P was likely to have gone up to £150,000 since it was purchased in 2009. However, no independent valuation evidence was provided by either party. Mr Odewale also referred to it as a "*part exchange*" although he has not provided any evidence what the other part of the exchange was. I accept that, whilst it is likely that there was some change in the value of the Patek 5970P between 2009 and 2015, it would be

surprising if it had almost doubled in value. It does therefore appear there was a difference in value, even if there is no evidence on the precise difference.

118. Ultimately, other than Mr Odewale's statements and the photocopied driving licences there is no independent or documentary evidence of this watch trade having taken place. There is no further evidence as to who Mr Schmidt is. This contrasts with Mr Odewale's assertion that where he buys assets from individuals he makes sure that "*carr[ies] out due diligence on the seller and have the items verified by an authorised service centre as soon as possible*". This is set against what would otherwise be a very big coincidence of an address linked to Mr Odewale being used by whoever fraudulently procured the watch, from a watch dealer well known to Mr Odewale, and the watch then ending up in Mr Odewale's possession some 16 months later.
119. In my judgement, and in light of the similarity to the frauds for which Mr Odewale was convicted in 2003, it appears more likely than not that Mr Odewale was involved in the fraudulent acquisition of the Patek 5004P. If that is the case he must either have obtained it by unlawful conduct (if he in fact committed an offence in obtaining it), or at least would have received it from somebody who had obtained it by unlawful conduct and been aware that it was so obtained. In those circumstances the Patek 5004P would have been recoverable property in Mr Odewale's hands. I deal below with what this means in terms of tracing to the Disputed Assets.

The 2015 Fitzpatrick Fraud

120. A further similar identity theft fraud was perpetrated against a Mr Nicholas Fitzpatrick and Mrs Patricia Fitzpatrick in August 2015 ("**the Fitzpatrick Fraud**") through which the watch Patek 1 (part of the Disputed Assets of this claim) was purchased via a direct debit fraudulently set up on the Fitzpatricks' joint account.
121. On 6 and 8 August 2015 a new PIN and new debit card were respectively requested on this account by a person other than Mr Fitzpatrick. Neither of these were received by Mr Fitzpatrick. On 24 August 2015, someone purporting to be Mr Fitzpatrick (using a debit card and PIN to identify themselves in NatWest branches in Bayswater and Shepherd's Bush) set up on the Fitzpatricks' joint NatWest account: (i) a standing order in favour of Swiss Time Machine with a reference "*PATEK 5970G*"; and (ii) a standing order to a Mr Anthony Thatcher. Text messages concerning the standing orders were not received by Mr Fitzpatrick as his mobile and landline numbers had been diverted.
122. On 25 August 2015 a transfer was made from Mr Fitzpatrick's e-savings account to the Fitzpatricks' joint current account. Again, this was done by somebody purporting to be Mr Fitzpatrick and identifying himself as such in NatWest's Shepherd's Bush branch via a debit card and PIN.
123. Between 20 and 24 August 2015 Swiss Time Machine negotiated the sale of Patek 1 for £93,000 over the phone with a man purporting to be Mr Fitzpatrick. In accordance with the standing orders the following payments were then made from the Fitzpatricks' joint account on 26 August 2015: (i) £10,000 to Mr Thatcher; (ii) £93,000 to Swiss Time Machine. Subsequent cash withdrawals totalling £2,450 were also made in south west London each authorised by debit card and PIN. This totalled £105,450, which was refunded to the Fitzpatricks by NatWest so the bank has ultimately borne this loss.

124. Following the payment by standing order Mr Thatcher collected the watch from Swiss Time Machine on 27 August 2015. He provided a false driving licence in the name of Fitzpatrick as proof of identity.
125. In cross-examination Mr Odewale initially described Swiss Time Machine as his "*friends*", although later back-tracked to say that he had not known them until 2016 "*well after*" the Fitzpatrick Fraud. This does not appear to be the case as Mr Odewale went to Swiss Time Machine a month later on 30 September 2015 to attempt to sell the Patek 5004P that was obtained as a result of the Davies Fraud (explained above). He also sold them the 5040J Patek in February 2016. However, Mr Odewale did explain that there were a very small number of second hand Patek Philippe watch dealers in London and so this may have been a coincidence. In any event Mr Odewale was likely to have been aware of this dealer at around the time of the Fitzpatrick Fraud.
126. Ultimately Mr Moore (alias Thatcher), who has previous convictions for theft, pleaded guilty to this fraud in July 2017 and was sentenced to four years' imprisonment. As explained above the NCA's case is that Mr Moore was the same man that collected the watch in the Davies Fraud, based on a comparison of the driving licence provided to Swiss Time Machine with the CCTV footage from the Davies Fraud. Mr Moore is not party to these proceedings and was not called as a witness. As explained above, I do not need to, and so do not, decide whether Mr Moore was responsible for the Davies Fraud.
127. Patek 1 was ultimately deposited (together with Patek 2 and Patek 3) with Patek Philippe in London for servicing by Mr Odewale (under the name Ayodele Balogun) on 31 May 2016 and remains in their possession and subject to the PFO. Patek Philippe notified the Metropolitan Police as the serial number had been blacklisted as lost or stolen.
128. The client instructions recorded in the Patek Philippe repair docket described the watch as: "*purchased 3/4 years ago no service history client changes between a lot of watches so does not wear that often*". This cannot have been correct as the watch was purchased from Swiss Time Machine only 9 months previously. Mr Odewale denies that he said this to Patek Philippe and suggests it must have been a mistake by the Patek Phillippe staff member who took down the details. The NCA suggests that this incorrect information was given by Mr Odewale to try to distance himself from the fraud. The docket also records Mr Odewale's address as 48 Flanders Road, which was his previous address not his address at the time. However, the NCA accepted that this was an address previously held by Patek Philippe and Mr Odewale says he had simply seen no reason to update this.
129. There followed two Court orders in the Crown Court at Blackfriars on 1 and 12 August 2016 requiring production of accounts held by Mr Odewale and Ms Yadav. Mr Odewale then attended a voluntary interview on 5 October 2016 where he provided a prepared statement to police.
130. Six days later (on 11 October 2016) Mr Odewale departed the UK on a flight to Abuja, Nigeria. He had purchased his ticket from the British Airways ticket desk at London Heathrow at short notice that evening for £1,670.15 (a Premium Economy seat that was subsequently upgraded to Business Class for a further £649). Mr Odewale has not returned to the UK and has lived in Nigeria since then. The NCA suggests that this hasty departure following his police interview, without informing the Home Office, not purchasing a ticket in advance was an attempt to avoid arrest and criminal proceedings in relation to the Fitzpatrick Fraud.

131. Mr Odewale originally said that he left voluntarily as result of his "*lost appeal against deportation*". While Mr Odewale had lost a number of appeals against his Deportation Order in 2014 and 2015, he did have one final avenue of appeal which had been outstanding since November 2015 (an application for permission to appeal against the dismissal of his claim for a judicial review of his previous rejected appeals). That said, Mr Odewale does appear to have been considering leaving the UK earlier in 2016, and says (probably fairly) that he considered the chances of successful appeal of his deportation order were small.
132. Nonetheless, it is suspicious that he only informed his wider family the day before he left. He cited the humiliation of his home being raided by the immigration authorities, but that was some time previously, in January 2016. Ms Yadav gave evidence that he had left without informing the Home Office to avoid the risk of immigration detention and forced removal. While it appears that Mr Odewale had been considering leaving the UK for some time, it seems reasonable to conclude that the investigation into the Fitzpatrick Fraud may have been the trigger for his hasty departure.
133. The NCA's case is that Mr Odewale was working with Mr Moore and was behind the Fitzpatrick Fraud. They seek to infer this from the surrounding circumstances such as: (i) the similarity between the Fitzpatrick Fraud, the Davies Fraud and Mr Odewale's previous convictions; (ii) the fact that Patek 1 ended up in Mr Odewale's possession nine months after it had been fraudulently acquired (from a watch dealer Mr Odewale appears to have been using around that the same time); (iii) the fact it appears he was untruthful when depositing the watch with Patek Philippe; (iv) Mr Odewale's swift departure from the UK following his interview with the police in relation to the Fitzpatrick Fraud; and (v) the asserted lack of credibility in Mr Odewale's explanation for how he obtained Patek 1 (including the alleged forgery of an identification document – as explained further below).
134. Mr Odewale does not dispute the NCA's account of how the Fitzpatrick Fraud took place (or that Patek 1 was, at one point, recoverable property) save that he denies his involvement. Mr Odewale's case, as he explained in his statement to police in October 2016, is that he purchased Patek 1 from a man called "*Felipe*" in or around October 2015. Felipe was said to have contacted Mr Odewale using a Belgian telephone number in response to Mr Odewale's advertisement for a different watch. Ultimately Mr Odewale says that he met Felipe at Mr Odewale's home and exchanged a 5070P (which Mr Odewale says was worth £70,000 - £72,000) plus £8,000 in cash for Patek 1 (which Mr Odewale says he thought to be valued at around £78,000-£80,000). However, he has not been able to point to any record in his bank statements of an £8,000 cash withdrawal at around this time.
135. Mr Odewale says that Felipe told him that the watch had originated (albeit not necessarily directly) from Watch Guru on Bond Street. Mr Odewale says he confirmed that the watch had been sold by Watch Guru previously by finding the watch on their website where he could compare the certificate of origin to the one he received from Felipe (not produced in these proceedings). The owner of Watch Guru confirmed that it sold the watch to "*Ali*" of Swiss Time Machine in June 2015 but that it remained on their website until May 2016. This does not therefore assist in identifying Felipe or explaining how Mr Odewale came into possession of the watch as the sale was prior to the Fitzpatrick Fraud.
136. At the time Mr Odewale said he did not have a surname or contact details for Felipe (although did provide a possible telephone number). Mr Odewale described Felipe to the police in 2016 as "*in his sixties, with a small stature, quite short, and with an olive complexion. His appearance is actually very similar to a senior barrister I know called Michael Wolkind QC.*" In these proceedings Mr Odewale has produced a copy of a purported Belgian ID card in the name of Felipe Lekhorana (erroneously signed "*L.*

Filipe"), which he says he took from Felipe at the time but only re-discovered in April 2017. This was not mentioned to police in his interview in 2016, where Mr Odewale had said he did not even know Felipe's surname. Mr Odewale puts this omission down to post traumatic stress disorder.

137. The NCA says that this ID card is a forgery on the basis that, Mr Odewale has previous convictions relating to forged documents, the ID card was not mentioned to police at the time, and the photograph does not look like Mr Wolkind QC but rather a certain Mr Dean Gant. Mr Gant has number of previous convictions for theft and fraud offences and Mr Evans gave evidence that the police believed him to be an associate of Mr Odewale. Mr Odewale denies knowing Mr Gant.
138. Ultimately Mr Odewale's explanation of how he acquired Patek 1 does not appear credible. It is true that the photograph in Felipe's supposed ID did not look at all like Mr Wolkind but does appear to resemble Mr Gant, who has quite a distinctive appearance. This inconsistency with Mr Odewale's original story, the fact that it was not mentioned at the time, and the lack of any other corroboration for the identity of Felipe leads me to conclude that is likely to be a forged ID and the Felipe story untrue.
139. This made up explanation, together with the fact that Mr Odewale had Patek 1 in his possession just 9 months after the Fitzpatrick Fraud (which resembles other frauds Mr Odewale had previously been involved in), the untruths told to Patek Phillippe, and his sudden departure from the UK, indicate that Mr Odewale was at least in some way involved in the Fitzpatrick Fraud. On that basis I find that Mr Odewale either obtained Patek 1 through unlawful conduct and/or received it from somebody who obtained it through unlawful conduct (namely Mr Thatcher) otherwise than in good faith and with notice that it was recoverable property. Patek 1 is therefore recoverable property in his hands.

2016 Further Potential Frauds

140. Three further frauds, through applications for credit to banks using stolen identity details, were reported to police in 2016. In summary: (i) a credit card with a limit of £9,000 was fraudulently obtained and issued in the name of Michael Shorthose with Halifax following an application on 23 June 2016. The card appears to have been stolen from his mailbox although no money was ultimately spent as the card was cancelled by Mr Shorthose on 30 June 2016; (ii) Mrs Nicole McCarthy reported on 14 July 2016 that she received goods worth £80 that she had not ordered from three online retailers in her maiden name of "Downer" (which is the name that appears for her on the Land Registry) based on fraudulently opened credit accounts; (iii) Mr Iain McCarthy reported in September 2016 that mail had been stolen from his mailbox in June 2016. His personal details were used to try to access his online bank accounts, a replacement driving licence ordered from the DVLA and stolen from his mailbox, a debit card was also stolen and used to pay the DVLA £20.
141. Each of these individuals can be linked to addresses for which Mr Odewale paid for Land Registry searches on the relevant property titles in April to June 2016. Mr Odewale searched Mr Shorthose's address on 16 June 2016 (7 days before the credit card application) and Mr and Mrs McCarthy's address on 10 June 2016 (shortly before the frauds on them). He also searched a number of other addresses.
142. Mr Odewale also paid £3 each for a further 37 searches of the Land Registry during the period 1 August 2016 to 8 November 2016, although there is no evidence of which properties he searched.

143. The NCA's case is that the above fraudulent activity was conducted by Mr Odewale. The NCA says the searches of the Land Registry are consistent with his method of operation from his 2003 conviction, where he used of a map of St. Albans with various properties marked up together with prices. It allowed Mr Odewale to identify potential victims in valuable properties (who were likely to have funds to appropriate) and obtain information such as middle names, which may be necessary to answer security questions (as appears to have been the case in the Davies Fraud) or to apply for identity documents or credit cards. The NCA says that it is for this reason that Land Registry searches were used (at a cost of £3 a time) rather than a free search on an ordinary house price website.
144. Mr Odewale denies involvement in any fraudulent activity. His case is that his searches of the Land Registry were entirely innocent. He gave explanations for certain specific properties in south west London and Croydon, one of which was a house owned by the father of child at his son's school (about which he was being nosy), and others were specific properties or were in areas in which he was interested in purchasing. However, Mr Odewale says he cannot remember the reason for the remainder of the searches and none of his explanations apply to the properties involved in the three attempted frauds described above.
145. It does appear that, at least, in the three cases above Mr Odewale's searches are temporally linked to fraudulent activity, of a type for which Mr Odewale has been convicted previously. Mr Odewale could not explain the reasons for those searches. From this it can be inferred that Mr Odewale was involved in fraudulent activity during this period, including the frauds explained above. However, no specific recoverable property has been identified as arising out of this conduct.

Payments to Mr Myers

146. Shortly before trial (on 6 January 2020) Mr Odewale was named as a co-conspirator on a charge against a Mr Daniel Myers for an offence of fraud by false representation, between 6 September 2017 and 6 August 2018. Mr Myers has been charged with allegedly applying for duplicate driving licences, credit cards, bank accounts and making bank transfers in other people's names, intending to make a gain, namely cash. Mr Myers uses an alias of Stanley Boatamah and has previous convictions for drugs offences and affray, before his present charge. At the time of trial Mr Myers' charge was pending.
147. Objection was made to the late adduction by Mr Evans of evidence of this charge on 28 January 2020 (a week before trial). While of course this evidence does not necessarily prove Mr Odewale's involvement in that alleged crime, it has potential probative value and is something I consider the NCA was entitled to put to Mr Odewale together with evidence of Mr Odewale's association with Mr Myers. Although it was adduced late, that is only because it is a recent development. The evidence was served ahead of the trial so Mr Odewale and his legal team had been given a chance to consider it and in those circumstances I see no prejudice to him in it being admitted. I was therefore prepared to admit such evidence and allow it to be put to Mr Odewale in cross-examination.
148. Mr Odewale denied involvement in Mr Myers' alleged fraud (which relates to a period after he had left the UK) and expressed his view that his inclusion on Mr Myers' recent charge was a conspiracy by the NCA.
149. However, Mr Odewale accepted he had made 48 payments of between £15 and £3,400 to Mr Myers (under his alias Boatamah) between 7 September 2015 and 9 September 2016 amounting to £26,170. There was one other payment of £300 in March 2014 and he also

received payments from an S Boatemah of £1,000 and £50 on 23 May 2016 and 8 August 2016. These payments relate to a period prior to Mr Myers' charge.

150. The NCA seeks to infer that these payments were being made to Mr Myers for assistance in Mr Odewale's identity theft frauds. They say this is consistent with his use of drug users as low-level assistants in his 2003 conviction (namely Mrs Sarah Howard and Mr Wayne Howard, who testified at his trial), and the alleged use of Mr Thatcher/Moore in the Fitzpatrick and Davies Frauds.
151. Mr Odewale's explanation for these payments was evasive and unconvincing. Mr Odewale explained that Mr Myers was his "*construction worker*" who used to do building work and fix things around the house for Mr Odewale. He suggested that the c. £3,000 payments were from an occasion when Mr Myers sold him a boiler or where Mr Odewale had loaned him money on a couple of occasions. He was unable to give any specific details. He justified the payments adding up to some £26,000 on the basis that it was work over three years. However, other than one, all the payments relate to a period of just one year.
152. It is not necessary to make a finding as to whether Mr Odewale was involved in the conspiracy for which Mr Myers has been charged in January 2020. Nor has any specific recoverable property been identified arising out of Mr Odewale's relationship with Mr Myers. It is therefore unnecessary to make any specific findings in relation to unlawful conduct involving Mr Myers. However, in all the circumstances described previously, Mr Odewale's lack of a credible explanation of his payments to Mr Myers does suggest that during this period Mr Odewale was involved in unlawful activity of some kind.

Money Laundering

153. The NCA also alleges that Mr Odewale was engaged in money laundering offences. Primarily this is supported by the large unexplained cash deposits into Mr Odewale's (and Ms Yadav's) accounts totalling £997,025 over the period 2010/11 to 2016/17. The NCA also alleges that the false salary from Trevari, the large volume of receipts from fixed odds betting terminals, and the frequent loss-making sales of assets shortly after purchase (namely the Mercedes AMG, the McLaren, the Patek 5070J, the Patek Philippe 5070P and Conwy Drive), the transfers of money through a number of bank accounts held in different names (Odewale, Balogun, and Yadav), and transactions apparently without any real substance with Mr Bidace and Mr Oloidi's companies, are all indicative of money laundering.
154. Mr Odewale seeks to explain at least some of these quick loss-making transactions (the Mercedes AMG, the Patek 5070J, and Conwy Drive) as attempts to liquidate assets in light of his worsening immigration situation and the risk of imminent deportation. However, in light of the above I do not consider this explanation credible. In all the circumstances I consider that all these suspicious activities are likely to have been money laundering arrangements.

The Case Against Ms Yadav

Ms Yadav's Sources of Wealth

155. Ms Yadav does not have any previous convictions, although she was arrested in 2017 on suspicion of a fraud-related offence. Initially the NCA pursued an allegation of mortgage fraud against her as part of this claim, but that allegation was not pursued to trial and the NCA now rely solely on the unlawful conduct of Mr Odewale or money laundering offences committed by Ms Yadav in receiving funds from Mr Odewale.

156. As noted previously, like Mr Odewale, Ms Yadav appears to lead an expensive lifestyle. She attended court wearing a gold Rolex. The essence of the NCA's case against Ms Yadav is that she has over the past 20 years benefitted from Mr Odewale's criminal conduct which has helped finance her lifestyle. The property she now holds cannot be explained by her legitimate income and must therefore have come from Mr Odewale and represent proceeds of his unlawful behaviour.
157. Ms Yadav's only income from employment is her salary from Imperial College London which ranged from £1,372.22 in 2000/2001 to £40,269.52 in 2016/2017. Ms Yadav accepts that this is not enough to cover her living expenses (it is not sufficient to cover her children's private school fees alone). The NCA contend that this is Ms Yadav's only significant income. Ms Yadav contends she has had other legitimate funds available from savings, gifts, investments made on her behalf by her parents and legacies received from her grandparents.
158. The only gifts that have been specifically evidenced are: (i) a £1,000 legacy from her late grandfather in 1996; (ii) £10,000 given by Mrs Odewale on the birth of her and Mr Odewale's first son in 2006; (iii) £6,000 from her parents on the sale of some land in summer 2017 (thereby after the period relevant to these proceedings); and (iv) further unspecified gifts received from her parents over time out of their savings and investments, that are said to have been similar in amount to those received by her sister Mrs Baldwin. Mrs Baldwin gave evidence that she had received from her parents: (i) a legacy in 1996 (as Ms Yadav received); (ii) about £10,000 towards the cost of her wedding in 1996; (iii) an investment of between £1,000 and £3,000 in her knitwear start-up company in 1998; (iv) £30,000 towards the cost of setting up a family home in 2010; (v) £5,000 on the sale of her parents land referred to above (although she says Ms Yadav also received £5,000 rather than the £6,000 Mrs Margaret Yadav has referred to); (vi) a further £10,000 in 2018.
159. It is therefore suggested that Ms Yadav may have benefited to the tune of slightly over £55,000 in addition to the £10,000 from Mrs Odewale (although some £15,000 may well have been after these proceedings commenced). These gifts on their own (or together with her salary) are not of such a level to provide a proper explanation of how Ms Yadav has funded the lifestyle explained above.

Westbourne Terrace

160. One significant other source of funds Ms Yadav did have was the sale of a property in Westbourne Terrace, Paddington in August 2007 for £447,500. After discharge of the remaining mortgage and sale fees Ms Yadav received £395,107.74 which was transferred to her Abbey National account, and then £385,000 of which was transferred to her Citibank Account. The NCA alleges that 76.1% (i.e. £340,547.50) of those proceeds are recoverable property.
161. Ms Yadav purchased Flat 1, 65 Westbourne Terrace, London W2 ("**Westbourne Terrace**") on 16 August 2004 for £246,500 with a deposit of £100,000 and a mortgage from Abbey National covering the remaining £146,500. The deposit was paid in two payments of £65,000 on 28 July 2004 and £35,000 on 4 August 2004. Further payments totalling around £4,000 accounted for conveyancing fees and stamp duty. There is no documentary evidence of the source of these funds as the conveyancing file has been destroyed. Ms Yadav has stated that these funds were derived from her savings or investments and gifts from her parents as well as bequests. The NCA disputes this.
162. At the end of the 2004 tax year Ms Yadav's lifetime net employment income as recorded by HMRC was £31,448.88. This equates to just £7,862.22 per annum for the four years she

had been working, before living or any other costs are deducted. Ms Yadav accepted in cross-examination that she "*didn't have a lot of savings*" from her salary but asserted that she had been able to make some savings as previously Mr Odewale had paid for household bills (it is unclear from what funds he could have done this). No specific evidence has been provided on the level of any savings she built up from her income but on any view, this cannot account for a significant portion of the £100,000 deposit. In fact, it is more likely that her salary was not sufficient to meet her living costs and so did not contribute at all to her savings.

163. It appears that Ms Yadav primarily relies on gifts received over her lifetime as the source of her "*substantial*" savings. As explained above the evidence on gifts Ms Yadav received is vague and she has been unable to identify any significant gifts prior to 2004. The evidence of Mrs Baldwin was that prior to 2004 she had received gifts in the region of up to around £14,000 and that Ms Yadav had received similar levels of gifts, although not necessarily at the same time. Even if Ms Yadav had received her equivalent gifts significantly earlier than Mrs Baldwin this would only equate to around £44,000 (reflecting the gifts Mrs Baldwin received in 2010 and 2018). Given Mrs Yadav's limited income at this point it is likely that any gifts would have at least in part been used to pay for Ms Yadav's living expenses. It is therefore not credible that Ms Yadav provided the whole or even the majority of the deposit from her own funds.
164. The NCA's case is that the deposit was in fact paid by Mr Odewale from property obtained by him through his unlawful conduct prior to that date (in particular the fraud for which he was convicted in 2003). The NCA note that the loss to financial institutions was said to be at least £500,000 (£240,000 of which was attributable to Mr Odewale), but that only £98,133 was confiscated from Mr Odewale in 2003. However, this does mean that the trial judge must have been satisfied that Mr Odewale's assets did not exceed £98,133.
165. In the absence of any credible explanation of the source of the deposit I consider it more likely than not that it came from Mr Odewale. As he had negligible legitimate income at this time, I infer that it was obtained through unlawful conduct. If so, Ms Yadav would have been well aware of the source of these funds as the proceeds of Mr Odewale's unlawful conduct since she was well aware of the trial in 2003 and that this fraud had been Mr Odewale's principal source of income. In any event there is no suggestion that she provided any value for the contribution so she would not have any defence under s.308 POCA.
166. By 1 August 2007 (when the property was sold), the outstanding mortgage balance had dropped to £139,120.38 apparently through regular repayments by Ms Yadav (in the order of just over £900 per month). However £87,612.07 had been off-set against the mortgage in a linked savings account, thereby reducing the mortgage redemption figure to £52,056.60. No statements of the linked savings account have been retained by Ms Yadav or Abbey National (now Santander). It appears from the mortgage statements that the off-set account was set up at some point after the mortgage account was transferred on 13 June 2006 and that £20,000 was paid in by cheque on or around 5 March 2007. Ms Yadav has not been able to identify specifically how those savings were accumulated or any repayments made. Ms Yadav has stated they were from: (i) "*remaining savings*" after paying the deposit; (ii) "*saving whilst working*"; and (iii) "*money I was gifted in preparation for the birth of my first child*" in September 2006.
167. Regarding (i), as explained above, it does not appear that Ms Yadav would have had enough savings to pay the initial deposit, let alone to have any significant funds left over. If she had done it is unclear why she would not have put them towards the deposit. As to (ii), according to HMRC's records Ms Yadav's net income during this period was only

£21,430.81 in 2004/5; £29,187.04 in 2005/6; and £23,393.90 in 2006/7, before any costs (which would have included about £11,000 per annum in mortgage repayment costs). It is therefore unlikely she would have been able to accumulate significant new savings over this period. Regarding (iii) Mrs Odewale confirmed that she had given Ms Yadav money for her first child in 2006, although she was initially unable to recall how much, in cross-examination she estimated around £10,000. It is conceivable that some or all of this money was used put into the offset savings account thereby reducing the mortgage rather than being spent on the child.

168. It is the NCA's case that mortgage off-set payments were paid by Mr Odewale from property obtained by him through his unlawful conduct prior to this point. Mr Odewale was in prison from 2003 until October 2005. Mr Odewale in cross-examination admitted that he had sufficient funds (over £100,000) on his release from prison in 2005 to have made those payments. In March 2005 his confiscation order was quashed releasing (on his account) around £20,000 in cash and a watch that he sold for around £20,000. However, these are likely to have been the proceeds of previous identity theft frauds (such as those he was convicted of in 2003). As is apparent from the above, it appears Mr Odewale continued to obtain property unlawfully via identity theft frauds following his release from prison. Therefore, I consider it more likely than not that the off-set savings account was funded by the proceeds of Mr Odewale's unlawful conduct.
169. It therefore appears more likely than not that Mr Odewale contributed the entire sum of £187,612.07 (i.e. the initial deposit, plus off-set savings) to the £246,500 cost of buying Westbourne Terrace. Therefore 76.1% of the purchase price was funded by recoverable property. This was mixed with legitimate property, namely the mortgage capital and the regular repayments presumably from Ms Yadav's income. Under s.306 POCA only the portion of the property attributable to the recoverable property is recoverable. This means that 76.1% of Westbourne Terrace would be recoverable property. It follows that 76.1% of the proceeds of sale or £340,547.50 is recoverable property.
170. The NCA's case is that it is appropriate, applying the reasoning of Hamblen J in *SOCA v Pelekanos* to trace legitimate funds to legitimate payments. Since the mortgage loan is not challenged, the NCA contends it would be most appropriate to apply the legitimate funds in the mixed proceeds of sale to the discharge of that loan. Ms Yadav's position is, in effect, that each payment should be traced in proportions that match the original proportion of recoverable property to legitimate funds.
171. I agree with the NCA's submission that it would clearly be appropriate that the mortgage redemption should be traced to the legitimate funds provided by the bank originally, and I judge that the conveyancing fees deducted also should be treated as coming from the legitimate funds. This means that of the £395,107.74 Ms Yadav received, £340,547.50 (or 86.2%) represents recoverable property and £54,560.24 (or 13.8%) was legitimate. I will consider below what this means in terms of tracing into the Disputed Assets.
- Destination of Westbourne Terrace Sale Proceeds*
172. As explained above £385,000 of the proceeds of sale were transferred to Ms Yadav's Citibank account where they appear to have remained for over three years.
173. On 22 November 2007 Ms Yadav transferred £185,000 from the Citibank account to pay for the McLaren which was purchased by Mr Odewale from Romans International that day for £229,700 (it is unclear where the balance of £44,700 came from as bank statements of the relevant account are not available for this period).

174. The Defendants say that this payment of £185,000 was a loan to Mr Odewale and that they had agreed it would attract interest of "*around £1,000 a month*" and would be repaid "*at a mutually convenient time*". There was no written agreement relating to this loan. This loan is important for reasons that will become apparent when I consider the tracing of the funds in the Sainsbury's 841 account below.
175. This left £203,714.36 in the Citibank account, to which there were further occasional credits and withdrawals over time. On 16 October 2012 Ms Yadav loaned £100,000 to her sister, Mrs Baldwin, and her husband. The transfer went via her Santander 831 account. This was repaid by Mr Baldwin on 12 December 2012 into Ms Yadav's Santander 831 account and then transferred to Ms Yadav's Citibank account on 14 June 2013. There was no written agreement governing the loan and no interest was charged.
176. On 4 June 2015 £100,000 from the Citibank account was used to open Ms Yadav's Sainsbury's 841 account. A further £66,900 was used to open the Sainsbury's 637 account in Mr Odewale's name. Ms Yadav says that this was because the interest rate was reduced if the balance exceeded £100,000. Ms Yadav says that this was not a loan but rather was being held beneficially for Ms Yadav.
177. As will be apparent from the foregoing, the sale of Westbourne Terrace does not provide a legitimate explanation for how Ms Yadav and Mr Odewale funded their lifestyles. On the contrary it appears that the proceeds, in large part, represents recoverable property. I consider what this means for the tracing of the Disputed Assets (in particular the Sainsbury's 637 and 841 accounts) in the relevant sections below.

Disputed Assets: Mr Odewale's Assets

178. In light of my findings above, I now turn to a consideration of the Disputed Assets that are the subject of this claim. The NCA has conducted a detailed tracing exercise to demonstrate the Disputed Assets were either acquired through unlawful conduct, or ultimately represent property that was so acquired. This analysis has not, in the main, been challenged by the Defendants (at least from a factual perspective). Rather the Defendants have challenged whether (or to what extent) the ultimate sources of the property were recoverable or if property is mixed how it should be apportioned between recoverable and legitimate property. They also assert in some instances that they have a defence under s. 308 POCA because they acquired the property for value in good faith and without notice that it was recoverable. I set out below my analysis of each part of the Disputed Assets.

Patek 1

179. As explained above Patek 1 was obtained as a result of the Fitzpatrick Fraud in which I have concluded Mr Odewale was involved. It represents the funds that were fraudulently extracted from the Fitzpatricks' accounts. Therefore, Mr Odewale either obtained this property by unlawful conduct, as a party to the fraud, or at least received it otherwise than in good faith and with notice that it was recoverable from someone who obtained it through unlawful conduct. Subject to NatWest's claim it would represent recoverable property in his hands and he cannot have a defence under s.308 POCA. I deal with NatWest's claim below.

Patek 2

180. On 10 May 2016, Mr Odewale purchased Patek 2 from New Bond Street Pawnbrokers (the trading name for James Page Financial Services Limited) using a transfer of £80,000 from his Nigerian Zenith 237 account.

181. The funds in the Zenith 237 account originated from: (i) payments in from Mr Odewale's UK Barclays account with number ending in 127 ("**Barclays 127**"); and (ii) the £18,900 paid in by Trevari falsely described as salary.
182. Dealing with the Trevari sum first, as explained above the transfer from Trevari was not salary. Mr Odewale claims it was the disbursement of funds received for selling the Lapekun land in Nigeria in 2014. As explained above I do not consider that explanation credible and consider that these funds are more likely to be the proceeds of crime being laundered via accounts in the name of Trevari with the help of Mr Savage. Therefore, they are or represent recoverable property.
183. The NCA's case is that the transfers from the Barclays 127 account are ultimately traceable back to cash deposits. They say that in the circumstances of Mr Odewale's unlawful conduct set out above and lack of legitimate income, it should be inferred that the cash deposits were acquired through unlawful conduct or represent property so acquired. In addition, the transfers of the cash through multiple accounts constituted money laundering and therefore itself was unlawful conduct. Mr Odewale has not specifically explained the origin of this cash. In those circumstances I consider I can infer that the entire payment from the Zenith 237 account was made out of recoverable property.
184. On 31 May 2016 Patek 2 was deposited with Patek Philippe London (together with Patek 1 and Patek 3) for servicing. The repair docket states, "*client owned for a year*" when in fact Mr Odewale had had it in his possession for just 3 weeks. This suggests Mr Odewale lied to Patek Philippe when depositing the watch and strengthens the above conclusion that Patek 2 was obtained by unlawful conduct.
185. In the premises Patek 2 represents property obtained through unlawful conduct and so is recoverable property under s.305 POCA and the NCA is entitled to an order for civil recovery of it.

Patek 3

186. Patek 3 was purchased by Mr Odewale for £12,500 from Watches of Switzerland in London, paid for by a bank transfer from Mr Odewale's Barclays 127 account on 27 October 2009.
187. £2,500 of the purchase price was paid into the Barclays 127 account via a cheque transfer from an account controlled by Mr Odewale with Britannia, account number ending 913 ("**Britannia 913**") on 26 October 2009. The NCA says this is attributable to cash deposits plus an unidentified transfer into that account, and that it can be inferred in the circumstances of Mr Odewale's unlawful conduct described above that this was recoverable property. Mr Odewale has not addressed the origin of these funds at all. In all the circumstances I am driven to infer these funds were recoverable property.
188. The other £10,000 of the purchase price was transferred from Mr Odewale's Barclays account with number ending 586 ("**Barclays 586**") on 23 October 2009 and is attributable to the £155,000 proceeds of sale of the McLaren received on 23 September 2009.
189. The NCA contends that the purchase of the McLaren was part funded in the sum of £44,700 (19.5% of £229,700), by Mr Odewale from an unknown source. The NCA seeks to trace the £10,000 used to buy Patek 3 to these funds of an unknown source that contributed to purchase of the McLaren. The NCA seeks to infer that these funds were obtained through unlawful conduct (or represent property that was) on the basis that Mr Odewale has no explanation of the source of these funds, did not have any legitimate income at that time,

and was around that time engaging in identity theft frauds. In the circumstances described above I agree with that inference.

190. Alternatively, the NCA say it is able to trace the £10,000 to the balance of £185,000 used to purchase the McLaren from the recoverable proceeds of sale of Westbourne Terrace by Ms Yadav. Mr Odewale's case appears to be that *all* the funds used to purchase Patek 3 are traceable (via the McLaren) to the proceeds of Westbourne Terrace "loaned" to him by Ms Yadav. He of course maintains that is not recoverable property. As I have explained above I consider that £340,547.50 (or 86.2%) of the proceeds of Westbourne Terrace represented recoverable property. In circumstances where the origin of these recoverable funds was contributions by Mr Odewale, I consider that it is appropriate to trace any payments to Mr Odewale from Ms Yadav's account containing these funds, to the recoverable portion of those funds. They effectively represent a return of that recoverable property and its profits (which of course are themselves recoverable under s. 307 POCA). I therefore consider that the entirety of the £185,000 used to purchase the McLaren was recoverable and so was all its proceeds.
191. Accordingly, irrespective of which tracing route is applied I conclude that Patek 3 is recoverable property under s. 305 POCA as it represents property that was obtained from unlawful conduct. The NCA is therefore entitled to civil recovery.
192. Mr Odewale deposited this watch with Patek Philippe for servicing along with Patek 1 and Patek 2 on 31 May 2016. The repair docket records that Mr Odewale's instructions were: "*Wife's watch & wears all the time*". Again, it appears this was incorrect as Ms Yadav could not identify the watch and denies that she owned it. Mr Odewale's apparent attempt to disguise the provenance of Patek 3 strengthens my conclusion that it was obtained represents the proceeds of crime and so is recoverable.

Sainsbury's 637 Account

193. Mr Odewale's Sainsbury's 637 account was opened on 4 June 2015 and the balance (inclusive of accrued interest) now stands at £309,959. The tracing of this is complex. I summarise the tracing of the principal transfers into the account and my decisions regarding them below.

Payments from Trevari

194. The NCA explains that two inward transfers of £20,000 and £19,053.20 on 8 June 2015 and 29 April 2016 respectively can ultimately be largely traced to transfers of false salary payments (of £18,900 on 28 May 2015 and £19,053 on 25 April 2016) from Trevari. These were initially paid into the joint NatWest 837 account by CHAPS transfer. The 28 May 2015 payment was then paid into Mr Odewale's NatWest account ending 448 ("**NatWest 448**") by a transfer to £19,000 and then into the Sainsbury's 637 on 8 June 2015 (together with a further £1,100). The 25 April 2016 payment was transferred directly to the Sainsbury's 637 Account (with a further £946.80).
195. Mr Odewale agrees that certain of the contents of this account reflect payments from Trevari, but maintains that these were legitimate funds from the sale of the Lapekun Land in 2014. As explained above, I do not accept that account, and consider that in the circumstances of the unlawful conduct explained above they are likely to be the proceeds of Mr Odewale's unlawful conduct. These funds, including the additional unexplained £2,046.80, were therefore recoverable property.

Proceeds of Sale of Westbourne Terrace

196. The transfer to Sainsbury's 637 of £66,900 from Ms Yadav's Citibank Account on 8 June 2015 which I referred to in the above section on Westbourne Terrace can be traced to the proceeds of the sale of Westbourne Terrace. Mr Odewale and Ms Yadav accept that part of the balance of the Sainsbury's 637 account is attributable to the proceeds of Westbourne Terrace, but as explained above, they say that: (i) the proceeds of Westbourne Terrace are not recoverable; (ii) this was transferred by Ms Yadav to Mr Odewale to achieve a better rate of interest in Ms Yadav's Citibank Account; and (iii) this was transferred to Mr Odewale's account not as a loan but to be held beneficially for Ms Yadav. As set out above, I do not accept these explanations.
197. As explained above, I have concluded that £340,547.50 (or 86.2%) of the proceeds of Westbourne Terrace are attributable to the contributions of Mr Odewale from the proceeds of crime and so are recoverable. I consider that it would be appropriate to trace the recoverable funds into the transfers back to Mr Odewale. I have already traced £185,000 into the McLaren, but there are still sufficient recoverable funds in the Citibank account to trace them to the entirety of the £66,900 payment from Ms Yadav as a return of this recoverable property which remains recoverable in Mr Odewale's hands.

Sale of Watches

198. There was a transfer to the Sainsbury 637 account of £105,125.09 on 28 April 2016 by banker's draft from Ms Yadav and Mr Odewale's joint NatWest 837 account. NatWest 837 had been funded by a transfer of £503,116.32 on 25 April 2016, being the entire balance of another NatWest joint account held by Mr Odewale and Ms Yadav with account number ending 920 ("NatWest 920"). Other than the opening payment of £85,061 that had been transferred from another NatWest account (with number ending 449) on 1 September 2015, the NatWest 920 account had been funded largely from NatWest 837 itself as explained below.
- 198.1. £140,758.66 of the £503,116.32 transferred from NatWest 920 can be attributed to a payment on 29 January 2016 from the NatWest 837 account. This in turn is attributable to a payment from Govberg Jewelers on 27 January 2016 to whom Mr Odewale had sold the Patek 5004P that was the subject of the Davies Fraud. It therefore reflects the proceeds of the Davies Fraud.
- 198.2. A further £41,000 is attributable to a payment from Swiss Time Machine as payment for the Patek 5070J sold to them by Mr Odewale on 12 February 2016. As explained above the Patek 5070J was purchased by Mr Odewale for £42,000 on 3 February 2014, the funds for which were ultimately traceable back to cash deposits by Mr Odewale passed through a number of accounts in different names.
- 198.3. Mr Odewale accepts that certain of the funds in the Sainsbury's 637 account were derived from the sale of watches, which he maintains were legitimately acquired. However, I have already concluded that Mr Odewale was involved in the Davies Fraud (and I do not accept his account that he legitimately acquired the Patek 5004P from Mr Maxwell Schmidt). Therefore at least the £140,758.66 received for the Patek 5004P represented property acquired through unlawful conduct. Mr Odewale was not a bona fide purchaser for value without notice and so cannot have a defence under s. 308 POCA in relation to either the watch or the funds derived from them.

198.4. In those circumstances it would be appropriate to trace the entire £105,125.09 transferred to Sainsbury's 637 on 28 April 2016 to the proceeds of the Davies Fraud and therefore I consider that they represent recoverable property. If it is necessary, as it may be if NatWest elects to trace the proceeds of the Patek 5004P to Sainsbury's 841, to consider the other funds, in the circumstances and in absence of any credible alternative explanation I would be prepared to infer that they also represented the proceeds of Mr Odewale's identity theft frauds and so were in any event recoverable.

199. On 25 and 27 May 2016 there were further transfers of £2,000 and £10,100 into the Sainsbury's 637 account from Plus Enterprises Ltd (a business owned by Mr Oloidi under his pseudonym of Timmy Savage). This reflects repayment of the £12,100 purported loan to Plus Enterprises by Mr Odewale from his Barclays 127 account (in the name of Balogun) on 20 May 2016. These funds derived from the credit of £16,000 into the Barclays 127 account from Swiss Time Machine representing funds obtained from the sale of a Rolex watch serial number 571836Z1 on 19 May 2016.

200. Mr Odewale gave evidence that funds transferred to Mr Oloidi's businesses were short term loans. As explained above I do not accept that evidence. I infer from the source of the funds being a valuable watch, and the transfer of the funds through accounts in different names over a short time period, in the circumstances of the evidence that Mr Odewale was engaged in identity theft frauds involving watches, that these transactions were in fact an attempt to launder the proceeds of Mr Odewale's identity theft frauds. They therefore represent property obtained through unlawful conduct and are recoverable property.

Cash and miscellaneous

201. Further payments into the Sainsbury's 637 account are attributable to cash deposits as follows. There was a payment into Sainsbury's 637 of £20,000 on 29 June 2016 (by cheque) and two transfers on 4 July 2016 totalling £11,000, all from a Santander account held by Mr Odewale in the name of Balogun with account number ending 246 (“**Santander 246**”). That account had been entirely funded by cash deposits. There was a further transfer into Sainsbury's 637 of £29,000 on 25 July 2016 from Mr Odewale's Barclays account with number ending 228. The balance of that account was attributable to a cash deposit of £10,750 on 7 April 2015 and further cash deposits totalling £21,570 between 10 June and 21 June 2016. It had also received £2,990 and £1,500 from the Barclays 127 account which in turn had been credited with cash deposits totalling £5,000. These payments are therefore all ultimately attributable to cash deposits made into Mr Odewale's accounts.

202. There was also a transfer into Sainsbury's 637 of £13,100 on 9 June 2015 which is traceable to NatWest 448 but it has not been possible to trace this any further and no explanation has been given by Mr Odewale.

203. No specific explanations of these funds have been given by Mr Odewale but I understand his case is that this cash derived from trading in watches and other assets and/or gambling – explanations I cannot accept. In the circumstances explained above, and absent any credible explanation by Mr Odewale of where these funds came from, I consider that it can be inferred that they were derived from Mr Odewale's unlawful conduct through identity theft frauds and subsequent money laundering. They therefore represent property obtained by unlawful conduct and so are recoverable property.

204. There was a further inward transfer to Sainsbury's 637 of £1,800 from Ms Yadav on 6 June 2016 from an account she held with Santander with an account number ending 831 (“**Santander 831**”). This can be traced to a £400,000 credit received by Ms Yadav in her

Sainsbury's 841 account from Mr Odewale in purported repayment of the "loan" from Ms Yadav. As explained above in further detail below (when dealing with the Sainsbury's 841 account) I consider this is recoverable property.

205. As is apparent from the foregoing I have concluded that all the receipts in the Sainsbury's 637 account were recoverable property. Interest on these sums of £1,450.28 paid on 6 June 2016 is recoverable under s.307 POCA. Therefore, the entire balance of the Sainsbury's 637 account would be recoverable. This is subject to NatWest's claim, which I deal with below.

Disputed Assets: Ms Yadav's Assets

Sainsbury's 841 Account

206. The Sainsbury's 841 Account was opened on 4 June 2015 in Ms Yadav's sole name. It has been funded by two principal inward transfers. It was opened with a transfer of £100,000 from Ms Yadav's Citibank Account ("the £100,000"). On 28 April 2016, a further £400,000 ("the £400,000") was transferred by bankers' draft into the Sainsbury's 841 Account from Mr Odewale and Ms Yadav's joint NatWest 837 account. This in turn had been funded on 25 April 2016 by a larger sum of £503,116.32, being the entire balance of the NatWest 920 account, the origin of which is discussed in relation to the Sainsbury's 637 account above.

The £100,000

207. It is common ground that the £100,000 from the Citibank account is derived from the proceeds of sale of Westbourne Terrace. The Defendants of course dispute the recoverability of those proceeds and Ms Yadav submits that in any event at least 23.9% of the proceeds of sale were legitimate so that at least £23,900 should be treated as legitimate.
208. The NCA's case is that it is appropriate to trace £100,000 of this illegitimate amount to the Sainsbury's 841 account, in circumstances where it is less than the total recoverable property put into Westbourne Terrace and directly attributable to it. In principle I agree with this. In equity where traceable tainted funds have become mixed with legitimate funds, if the person holding the mixed funds has received them either with notice of their tainted nature, or gratuitously from the wrongdoer then they are treated as a "wrongdoer" for the purpose of the presumptions of equitable tracing, *Foskett v McKeown* [2001] 1 AC 102. Ms Yadav is in that position, I have concluded that she ultimately received these funds gratuitously from Mr Odewale and they were the proceeds of his frauds. Although it is not necessary to consider here, as explained below, I consider she had also had notice of their tainted nature. In those circumstances Ms Yadav would be presumed to dissipate her legitimate money in preference to the recoverable funds, *Re Hallet* (1879) 13 Ch. D 696, and unless she can prove funds are her own then it can be presumed they are the tainted funds. The remainder of the Citibank account funds are not the subject of this claim and it appears they have been dissipated. Although the tracing of recoverable property required under POCA is *sui generis* and so I am not bound by these equitable rules, I consider it appropriate to trace the recoverable funds to the preserved balance of the Sainsbury's 841 account in preference to legitimate funds.
209. However, as explained above I have concluded that £340,547.50 (or 86.2%) of the proceeds of Westbourne Terrace represents recoverable property and the remaining £54,560.24 (or 13.8%) represents legitimate property. While I would consider it appropriate to trace the recoverable funds to the Sainsbury's 841 account, I must not double count these funds. I have already traced £185,000 of the recoverable funds from the Citibank account to the purchase of the McLaren in 2007, and a further £66,900 to the Sainsbury's 637 account. Therefore, there remains only £88,647.50 of recoverable proceeds in the Citibank account,

and the remainder are legitimate. This means that I have to treat at least £11,352.50 of the £100,000 as legitimate funds and not recoverable.

210. However, as there has been approximately £34,000 of legitimate (and therefore unimpeachable) spending from the Sainsbury's 841 account, this exceeds the legitimate funds transferred in. Again, applying the equitable presumption that Ms Yadav has dissipated her own legitimate funds in preference to recoverable ones, I would consider it appropriate to treat the legitimate funds as having been paid away such that the remaining funds are all recoverable.

The £400,000

211. Although the £400,000 payment originated from the of £503,116.32 in the joint NatWest 920 account, Ms Yadav says that this account was in fact controlled solely by Mr Odewale and she had little knowledge of it. Mr Odewale's case is that these funds originated from sales of watches and land, including the payments from Trevari (supposedly deriving from the sale of the Lapekun Land) and Conwy Drive, gambling proceeds and Ms Yadav's ISA. The NCA has traced these proceeds as follows:

211.1. As explained above, (paragraph 198.4) in relation to the Sainsbury's 637 account, £140,758.66 of the funds received into the NatWest 920 account before payment on the two Sainsbury's accounts (£400,000 to Sainsbury's 841 and £105,125.09 to Sainsbury's 637) were derived from the sale of the Patek 5004P (the Davies Fraud) which I have concluded was recoverable property in Mr Odewale's hands. However, as £105,125.09 of this has already been traced to the Sainsbury's 637 account only the remaining £35,633.57 can properly be traced to the Sainsbury's 841 account to avoid double-counting. Ultimately, it will be for Nat West to elect which tracing route it will follow.

211.2. A further £83,000 of the £400,000 is derived from the sale of a Patek 5070P allegedly bought for Mr Bidace. I have explained in detail above the competing explanations for the origin of the funds used to purchase the Patek 5070P. I consider the origin was cash deposits likely to come from criminal activity and in light of that concluded that the Patek 5070P was likely to represent recoverable property.

211.3. The final £41,000 is derived from the sale of the Patek 5070J which is also traceable back to cash deposits. In light of Mr Odewale's criminal behaviour described above and the lack of any legitimate explanation for those deposits I am willing to infer that the Patek 5070J was also recoverable property. Ms Yadav seeks to trace £17,000 of the proceeds of the 5070J back to the proceeds of Westbourne Terrace, as these funds were paid from the Barclays 127 account that had been funded with £185,000 by Ms Yadav after the sale. However, I have concluded elsewhere that those funds were used to purchase the McLaren. I consider they were in any event recoverable.

211.4. In light of the foregoing the proceeds of all of these watches are recoverable property. The NCA says this means £264,000 is attributable to the sale of luxury watches but this falls to £159,633.57 once reduced to avoid double counting the funds traced to Sainsbury's 637. However as will become clear below this does not affect the conclusion as there is still in excess of £400,000 that can be traced to the Sainsbury's 841 account.

211.5. The NCA says £95,012.08 is attributable to transfers from Trevari into the NatWest 837 which ultimately ended up in the NatWest 920 account (in some cases via the

NatWest 448 account). Mr Odewale appears to contend the amount traceable to the Trevari payments was somewhat higher (approximately £150,000). As I have explained above, I do not accept that the funds from Trevari were legitimate funds deriving from sale of the Lapekun Land. Instead I have concluded that these funds are recoverable proceeds of Mr Odewale's unlawful conduct by identity theft frauds.

- 211.6. £29,589.65 are attributable to an ISA account in Ms Yadav's own name with Halifax account number ending 289 ("**Halifax 289**"). These funds are traceable back ultimately to cash deposits of £15,040 and cheque deposits totalling £10,000 of unknown origin paid into Ms Yadav's Britannia ISA account between July 2005 and July 2011 plus interest. These were moved to Halifax 289 on closure of the Britannia ISA. The funds were then transferred via the NatWest 837 account before ending up in the NatWest 920 account and ultimately back through NatWest 837 to the Sainsbury's 841 account. No explanation has been given for the origin of these funds. As explained above it is not credible to believe Ms Yadav had sufficient income, given her standard of living, during this period to be accumulating savings. In light of Mr Odewale's criminal activity during this period, and given the lack of legitimate explanation, it is inferred that these funds were ultimately the proceeds of Mr Odewale's unlawful activity and so are recoverable.
- 211.7. £65,933 of the £400,000 was transferred in from Mr Odewale's solicitors Vickers & Co from the sale of Conwy Drive. This, as explained above, is traceable back to a mixture of cash deposits into Mr Odewale's Britannia 913 account (including via sale of the Mercedes AMG) or funds provided by Mr Bidace. Ms Yadav's counsel submitted that Mr Bidace's contributions could have been legitimate in light of his evidence of having received significant funds on sale of his mothers' property. However, I did not accept Mr Bidace's evidence and I do not consider that the funds provided by Mr Bidace to Mr Odewale were legitimate; rather I consider they were part of arrangements between Mr Bidace and Mr Odewale to launder the proceeds of fraud. I conclude that these funds were derived from criminal property and being laundered through Conwy Drive and/or transfers between Mr Odewale and Mr Bidace and are therefore recoverable.
- 211.8. £33,000 of the £400,000 originates from cash originally paid into Mr Odewale's Britannia 913 account in June 2014 before being transferred via Mr Odewale's NatWest 837, NatWest account ending 489 ("**NatWest 489**"), and NatWest 448 accounts before arriving in the joint NatWest 920 account and becoming part of the funds transferred via the NatWest 837 account to Sainsbury's 841. It appears that Mr Odewale's case is that these were the proceeds of gambling and/or watch trading. As explained above, I do not accept this explanation. In the absence of a legitimate explanation, and given that Mr Odewale appears to have been engaging in identity theft frauds at around this time (for example the Davies Fraud), I conclude that these funds represent the proceeds of Mr Odewale's identity theft frauds and there are recoverable.
- 211.9. The NCA says that £20,000 of the £400,000 originated from two transfers from Mr Bidace into Mr Odewale's NatWest 837 account in June 2014. These passed through Mr Odewale's NatWest 489 and NatWest 448 accounts before ending up in the NatWest 920 account and from there formed part of the funds transferred via the NatWest 837 account to Sainsbury's 841. Mr Bidace's (and it appears Mr Odewale's) position seems to be that these funds were used to pay for the Patek 5070P or Conwy Drive. In any event it matters not as I have concluded that in the absence of any legitimate explanation that each of these sources are likely to represent the proceeds

of identity theft frauds being laundered through property and bank transfers between Mr Bidace and Mr Odewale and are therefore recoverable.

212. The above funds total just over £403,000. Therefore, in excess of £400,000 worth of recoverable property can be traced to the NatWest 920 account prior to the transfer of the £400,000 to Sainsbury's 841 (and I have already accounted for the funds traced to Sainsbury's 637). In accordance with the equitable presumptions explained above I can presume that the legitimate property is dissipated in priority to any recoverable property. Therefore, I accept the NCA's submission that the entirety of the £400,000 payment can properly be inferred to be derived from Mr Odewale's unlawful conduct through identity theft frauds as set out above and subsequent laundering. It is therefore recoverable property subject to any defences.

Ms Yadav's Case on the £400,000

213. However, the Defendants assert that the £400,000 transfer was a repayment by Mr Odewale of sums owed to Ms Yadav. This could theoretically avail Ms Yadav of a defence under s. 308 POCA. Ms Yadav says the £400,000 was repayment for the following:

213.1. The purported loan of £185,000 to Mr Odewale on 22 November 2007 to buy the McLaren, together with £101,000 in interest (charged at £1,000 per month for 101 months between November 2007 and April 2016).

213.2. The £66,900 which Ms Yadav transferred to Mr Odewale's Sainsbury's 637 account to achieve a better savings rate, which Ms Yadav says was held beneficially for her at all times.

213.3. Legal fees of approximately £32,944 (based on their solicitors' invoices) which Ms Yadav paid on behalf of Mr Odewale in the period July 2008 to September 2009.

213.4. Payments from Ms Yadav's Halifax ISAs of £25,000 and £4,589.65 which had been transferred into one of Mr Odewale's NatWest accounts on 1 and 2 October 2015 but which Ms Yadav considers had been held for her benefit.

214. This totals £415,483.65 although Ms Yadav says there are likely to be other monies lent and repaid between her and Mr Odewale over the course of their relationship. In particular she says that he had previously repaid about £20,000. However, Ms Yadav says that she accepted the £400,000 as "*full and final settlement*" when they came to rationalise their financial arrangements in April 2016 in anticipation of Mr Odewale's potential deportation. Mr Odewale largely supports this account.

215. The Claimants dispute that the £400,000 payment was a repayment. In particular this is on the basis that, in the absence of any written agreement, they do not accept that the £185,000 used to buy the McLaren in 2007 was in fact a loan bearing interest at £1,000 per month. They say this arrangement is unlikely because:

215.1. There is no written record of the arrangement. The Defendants submit that in a domestic relationship one might expect such agreements to be formed without the usual level of paperwork. This is undoubtedly true and was also the case for Ms Yadav's loan to her sister. However, the fact that there is no documentary evidence *at all* (not even a text message, email or note about it) from a period of over 8 years during which the loan was supposedly outstanding, coupled with the vagueness of the

alleged terms of "*approximately*" £1,000 per month of interest and until a "*mutually convenient time*", does cause serious doubt that such an arrangement did in fact exist.

- 215.2. The alleged interest of £1,000 per month or roughly 6.5% per annum (totalling £101,000 over the term) was an entirely uncommercial level of interest. That is true in today's low interest rate environment, and especially in a domestic context. The Defendants say that in 2007 this was a reasonable rate and similar to what Ms Yadav had been receiving on her Citibank account. That is true, but it still does not follow that Ms Yadav would charge Mr Odewale such a high apparently fixed rate on a non-commercial loan. The alleged interest rate is even harder to believe in light of the fact that when Ms Yadav loaned £100,000 to Mr and Mrs Baldwin in 2012 she does not appear to have sought to charge any interest. Ms Yadav's counsel submits that the loan was for use in Mr Odewale's "business" and so charging substantial interest is more understandable. I doubt that Mr Odewale's purchase of luxury cars (which he subsequently sold at a loss) could be described as his "business" and in any event the undocumented and vague terms do not bear the hallmark of a business-related arrangement.
- 215.3. Furthermore, if such a high rate had been agreed it is unclear why Mr Odewale (an economics graduate, who was allegedly using the loan for his "business") would have continued to pay such a high rate rather than repay the loan or try to renegotiate the interest rate, as commercial interest rates fell dramatically over the course of the loan. By the time of repayment the Bank of England base rate had fallen to just 0.5% and Ms Yadav's interest rate was then well above a commercial rate and had been for several years. Mr Odewale clearly had funds available to repay at least part of the loan during this period (for example the monies received from the sale of the McLaren in 2009 or the Lapekun Land in 2014). Yet he made no repayment of interest or principal and he instead says he used his funds to buy luxury watches and/or to gamble with. Mr Odewale did not have any coherent explanation for this.
- 215.4. Ms Yadav did not declare the £101,000 received in April 2016 to HMRC as income as she would have been required to do if it had represented interest. She says that this did not occur to her. It seems likely that it did not occur to her because she did not consider it interest.
- 215.5. Furthermore, the funds used to "repay" Ms Yadav were previously being held in Mr Odewale and Ms Yadav's joint NatWest 920 account. She therefore already had a joint interest in those funds and so it would have made little sense to repay her from these joint funds (she would be, in part, repaying herself). Ms Yadav says she was only added to these accounts for administrative purposes and had no beneficial interest in the money; again, this appears to be an explanation of convenience.
216. Accordingly, it appears that there never was such a loan, rather it appears that the transfer of £185,000 in 2007 was Ms Yadav returning funds that Mr Odewale had contributed to Westbourne Terrace. Furthermore, there is no contemporaneous evidence that further funds transferred to Mr Odewale's accounts were intended to be held for Ms Yadav's benefit. Rather it is likely that they were the return of illegitimate funds that Mr Odewale had provided to Ms Yadav through his contributions to the purchase of Westbourne Terrace or otherwise. The payment of Mr Odewale's legal fees appear to have simply been Ms Yadav using funds from her account (which were ultimately derived from Mr Odewale's criminal activities) for their joint spending, again there is no contemporaneous evidence that she expected repayment.

217. Finally, the alleged interest appears to have been invented to make up the shortfall. In any event as noted in *Chitty on Contracts*, Sweet & Maxwell, 33rd Edition (paragraph 2-181) it may be hard to conclude that arrangements between a couple co-habiting as if married are intended to create legally binding relations. In light of the lack of any written agreement and the uncertainty in the terms of the asserted agreement I cannot conclude that this sort of arrangement was intended to create any form of legal relationship, meaning it is impossible to treat at least the alleged interest as being returned "for value" – it was on any view gratuitous.
218. In those circumstances it appears that the payment of the £400,000 by Mr Odewale was entirely gratuitous. This means that Ms Yadav did not provide any value and so cannot have a defence under s. 308 POCA. The fact she has fabricated an explanation for this payment also leads me to infer that she did know that it represented criminal property and so would not have received it in good faith and without notice that it was recoverable.
219. Even if Ms Yadav's explanation was true and she had provided value (meaning market value), she would only have a defence under s. 308 POCA if she received the funds in good faith and without notice that it was recoverable property. Ms Yadav accepts that she was aware of Mr Odewale's previous convictions (and attended parts of the 2003 trial) but maintains that she believes he had changed his ways after the 2003 conviction and was innocent of the offences of which he was convicted in 2011. In those circumstances she submits she did receive the £400,000 in good faith and for value.
220. I cannot accept that submission. Ms Yadav has been in a relationship with Mr Odewale for 20 years, during which time he has been convicted of offences of fraud twice and has been arrested in relation to a further offence. She knows that he leads an expensive lifestyle, buying luxury watches and cars, and has hundreds of thousands of pounds passing through his numerous bank accounts (a number of which she holds jointly). She herself lives well beyond her legitimate means, living in expensive accommodation (paying £3,466 per month or nearly £42,000 per year in rent which she accepts she cannot afford), driving an expensive car, travelling extensively (to at least India, Morocco, Nigeria, South Africa, Cape Verde and Turkey within the past three years), and sending her children to private school, at fees of £37,000 per year which she accepts she cannot afford from her salary. This lifestyle was plainly funded in large part by Mr Odewale.
221. Yet Ms Yadav knew Mr Odewale has not had any significant employment earnings during the time they have been together. She recalled his most recent employment was some work for his brother in a supermarket and as a cleaner at Asda prior to their having children (and so prior to 2006). Her only explanation for where his funds had come from was trading watches and cars and gambling. However, she has not been able to point to any trades that she knew that had turned a profit. She says she did not know the details of his finances and she never asked where the money came from, she simply trusted him without making any enquiry in circumstances where an honest person clearly would have. She clearly deliberately turned a blind eye.
222. Ms Yadav contends that she was aware that Mr Odewale's accounts (and in fact their joint accounts) had been frozen in February 2016 and that she believed this was because a Suspicious Activity Report had been submitted to the NCA. She says that as those accounts were unfrozen prior to the £400,000 payment being made by Mr Odewale, she considered that the NCA must have checked out the funds and deemed them to be "clean". In those circumstances she says any suspicion she might have had was allayed. This is not a tenable position. The fact that she believed a Suspicious Activity Report had been submitted in respect of Mr Odewale's funds if anything should have caused Ms Yadav's suspicions to be

heightened. The fact that she jumped to this conclusion demonstrates she had at least some suspicion at this stage that the funds may be criminal. In all the circumstances, I cannot believe that the subsequent release of those accounts following complaints by Mr Odewale's solicitors, would have significantly allayed those suspicions.

223. In those circumstances Ms Yadav must have had actual notice that the funds were the proceeds of crime. Even if she was not actively participating in the laundering of those proceeds, she at least dishonestly chose to turn a blind eye to the illegitimacy of those funds. In any event Ms Yadav clearly knew the circumstances, which would have made it obvious to a reasonable and honest person that the funds she was receiving from Mr Odewale were probably improper in some way. If she had made any inquiries she would have found Mr Odewale could not provide any legitimate explanation to those funds as he has not been able to explain them to this Court. Ms Yadav therefore had notice either actual or constructive that the funds were recoverable – this notice is probably most aptly described as actual notice of the wilful blindness kind. In any event she cannot be described as having received the funds in good faith. She therefore has no defence under s. 308 POCA in respect of the £400,000 or any other funds received from Mr Odewale.
224. In light of the foregoing it is clear that the £400,000 was recoverable property and, as the £100,000 was also recoverable property, the entire balance of the Sainsbury's 841 account is recoverable property as it represents funds acquired by Mr Odewale through his unlawful conduct. However, this is subject to NatWest's claim as explained below.

Santander 649 Account

225. The Santander 649 account is an ISA account in the name of Ms Yadav opened on 28 March 2015. It has a current balance of £20,734.11. The NCA contends that, while legitimate funds were paid into this account previously, the current balance is attributable to recoverable property.
226. £25,740 of deposits into the Santander 649 account can be traced back to cash deposits originally paid into bank accounts controlled by Mr Odewale. This consists of the following payments. (i) £12,500 from cash deposits in February 2015 into Mr Odewale's Santander account with number ending 331 was transferred to his Barclays 127 account and then to Ms Yadav's Santander 831 before being transferred to open the Santander 649 account. (ii) £10,240, from a number of cash deposits into Mr Odewale's Britannia 913 account in April to May 2015, was paid by cheque into Ms Yadav's Santander 831 account on 8 May 2015 before transfer into the Santander 649 account on 13 May 2015. (iii) £3,000 from Mr Odewale's Santander 246 account (the entire balance of which had been funded by cash deposits). This was transferred by counter cheque to Mr Odewale's Barclays 127 account on 22 May 2015, before transfer to Ms Yadav's Santander 831 account on 29 May 2015 and then onwards to the Santander 649 account. Ms Yadav accepts that these funds were derived from Mr Odewale's cash deposits.
227. In the circumstances of Mr Odewale's unlawful conduct described above, and in the absence of any legitimate explanation of these funds, it can be inferred that this represented property obtained by Mr Odewale through his unlawful conduct and so is recoverable. There is no suggestion Ms Yadav gave any value and so cannot have a defence to these funds being followed into her hands.
228. A further £5,987.97 was received on 9 April 2015 from another ISA with the Coventry Building Society. That had been opened on 31 December 2012 with a deposit of £5,640 from Ms Yadav's Santander 831 account. The NCA says this can be traced to a £100,000

payment into the Santander 831 account, by Mr Baldwin (Ms Yadav's brother-in-law) on 12 December 2012. This was a repayment of the loan made by Ms Yadav to Mr and Mrs Baldwin out of the sale proceeds of Westbourne Terrace in October 2012. Ms Yadav disputes this tracing on the basis that the Santander 831 account had a balance exceeding £5,987.97 prior to the loan repayment (made up of legitimate salary payments). However, in any event the £100,000 that was repaid has already been traced to the Sainsbury's 841 or Sainsbury's 637 accounts. After receipt of repayment from Mr Baldwin into Santander 831 it was returned to the Citibank Account from where it was later paid out to either Sainsbury's 841 or 637 (as explained above) so it would be double-counting to trace it to this account. It therefore appears that this payment should be treated as deriving from Ms Yadav's legitimate funds.

229. The NCA also accepts that Ms Yadav did pay £4,500 of legitimate funds into this account from her salary. £2,500 of the opening balance and further payments of £1,000 were made on 25 April 2015 and 23 May 2015 via Ms Yadav's Santander 831 account were each derived from her salary from Imperial College. Together with the £5,987.97, this means £10,487 (approximately 31%) of the total £34,227 payments to this account are attributable to legitimate funds. Ms Yadav's position is that this means 31% of the current balance should be considered legitimate even if the remainder is recoverable, which I have concluded it is.
230. There had also been interest totalling £749.89 paid into the account as at 1 May 2016 and presumably it has earned further interest since. This interest has accrued to both legitimate and illegitimate funds and so a portion of it will be legitimate, depending on the proportion of balance that from time to time represented legitimate funds.
231. However, a number of payments have been made from this account. £5,000 was transferred out on 9 May 2017 apparently to Mr Odewale (via Ms Yadav's Santander 831 account). Further payments out of £1,000 on 18 July 2017, £500 on 19 July 2017 and £3,000 on 31 July 2017 were made to Ms Yadav's Santander 831 account from where they appear to have been spent on bills. Two days prior to the account becoming subject to the PFO, on 6 September 2017 £7,700 was transferred out of this account to Ms Yadav's Santander 831 account and subsequently used in large part (£7,675.25) to pay Ms Yadav's credit card bill (which reflected payments to her former solicitors). A total of £17,200 has therefore been transferred out of the account.
232. The NCA says it would be appropriate to trace the legitimate funds to the outgoing payments and, as the outgoing payments exceed the legitimate deposits (and any interest attributable to those deposits), this would mean the entire balance of the Santander 649 account is recoverable. There is no suggestion these outgoing payments can be traced to current assets of Ms Yadav or Mr Odewale. In those circumstances, I consider it would be appropriate to apply the equitable presumption that Ms Yadav (as a person with notice that the funds were tainted) has dissipated her own money and retained the recoverable property. I therefore treat the outgoing payments as having exhausted the legitimate funds in the account first and therefore that the remaining balance of the account represents property obtained through unlawful conduct and so is recoverable.

1SBO Plate

233. The 1SBO Plate was purchased by Mr Odewale on 17 June 2010 for £15,000. This was done in two payments: (i) a payment of £5,045 on 17 June 2010, from a Barclaycard held by Mr Odewale (the NCA has not been able to trace how the balance of this card was repaid); and (ii) a payment of £9,955 from Mr Odewale's Barclays 127 account on 30 June 2010. The NCA says this second payment is traceable back to the proceeds of sale of the McLaren

via a transfer on the same day from the Barclays 586 account into which the sale proceeds of the McLaren had been deposited on 23 September 2009. The NCA says this was derived from recoverable funds available to Mr Odewale and, insofar as necessary, the recoverable proceeds of sale of Westbourne Terrace (the majority of which are recoverable). The NCA seeks to infer that the Barclaycard payment also represents recoverable property. Mr Odewale's case is that all the funds are traceable to the McLaren and thence to the proceeds of sale of Westbourne Terrace and that this is not recoverable property. Ms Yadav submits that only 81% of the McLaren is traceable to Westbourne Terrace and that not all of those proceeds are recoverable.

234. As explained above I consider that the funds used to purchase the McLaren (from Westbourne Terrace or otherwise) were recoverable property and so the proceeds of the McLaren were recoverable. Therefore, in any event the £9,955 was recoverable. I am also willing to infer in the circumstances of Mr Odewale having no legitimate income that the Barclaycard funds also represent property obtained through unlawful conduct and therefore are recoverable property. I therefore consider the 1SBO Plate as a whole represents property obtained from unlawful conduct and is recoverable.
235. The plate is currently assigned to Ms Yadav's Audi RS4 and therefore in her possession and registered to her name. She contends that she has no beneficial interest in it and holds it (or ultimately the right to assign the number plate) as nominee for Mr Odewale. The NCA's case is that Ms Yadav is simply the owner of the registration. Ultimately, I do not think anything turns on this dispute, Ms Yadav accepts that she provided no value for the 1SBO Plate and so she could not have any defence against the claim for civil recovery of it, even if it is in her possession.

NatWest's Claim

Losses from the Fitzpatrick Fraud

236. NatWest claims that it has a proprietary interest in Patek 1 on the basis that the funds used to purchase Patek 1 were transferred by NatWest either as a result of a fraud on the bank or under a mistake of fact, namely that they were authorised to transfer those funds by Mr Fitzpatrick, under the principles in *Westdeutsche Landesbank v Islington LBC* [1996] AC 669 at 714 to 716 and as set out in *Re D & D Wines International Ltd* [2016] UKSC 47; [2016] 1 WLR 3179. The Fitzpatricks' accounts have been reimbursed as the bank was not entitled to set off the funds mistakenly disbursed against the Fitzpatrick's account balance or the chose in action it represents. It was therefore the Bank's funds that were disbursed and is the Bank that has suffered the loss and is to be considered the victim of the fraud. The Bank is therefore entitled to trace the funds disbursed to the watch dealer into Patek 1 as a direct substitution. It can follow Patek 1 into Mr Odewale's hands as, for the reasons explained above he was not a bona fide purchaser for value without notice.

It follows that NatWest has an equitable proprietary claim to Patek 1 – it is held on constructive trust for the bank. NatWest was deprived of the funds by unlawful conduct, and those funds were not recoverable immediately before NatWest was deprived of them. NatWest is therefore entitled to a declaration that Patek 1 is the bank's property, and under s.281 POCA, that Patek 1 is not recoverable property and for an order that it be delivered up to NatWest.

Losses from the Davies Fraud

237. NatWest claims that it is entitled to trace the proceeds of the sale of the Patek 5004P (the subject of the Davies Fraud) to either the Sainsbury's 841 account or a mixture of the Sainsbury's 841 account and the Sainsbury's 637 account.
238. As explained above, in the Davies Fraud NatWest paid over £162,500 to David Duggan Watches believing it to be instructed to do so by Mr Davies. It was therefore the victim of a fraud and operating under a mistake of fact. The balance of Mr Davies' account was restored on the basis that he did not authorise the transfer. Again, it is the Bank that has suffered the loss and is the victim of the fraud. Under the principle in *Westdeutsche Landesbank* the fraudulently procured Patek 5004P was therefore held on trust for NatWest as a direct substitute of the funds disbursed.
239. NatWest is therefore entitled to trace the proceeds of the Patek 5004P in equity. As explained above the proceeds were £140,758.66 paid by Govberg Jewelers to Mr Odewale and Ms Yadav's joint NatWest 837 account on 27 January 2016. This can be traced to the NatWest 920 account by payment on 29 January 2016, from where it can be traced as part of the £503,116.32 that was transferred to the NatWest 837 account on 25 April 2016. On 28 April 2016 those funds were then split between the £400,000 paid to the Sainsbury's 841 account and £105,125.09 paid to the Sainsbury's 637 account. On that basis I consider it is open to NatWest to elect to trace in equity as it suggests, either the entire proceeds of the Patek 5004P (£140,758.66) to the Sainsbury's 841 account or trace £105,125.09 into the Sainsbury's 637 account with the balance of the proceeds (£35,633.57) traced to the Sainsbury's 841 account. In either case it is entitled to a declaration that those funds are held on trust for NatWest and are not therefore recoverable property under s. 281 POCA (representing NatWest's lawful property that it was deprived of by unlawful conduct), and that they should be paid over to NatWest. I will therefore grant the relief NatWest seeks and make an order according to their election.

Conclusion

240. As will be clear from the foregoing, I have concluded that each of the Disputed Assets was ultimately derived from and so now represents property obtained through unlawful conduct in the form of identity theft frauds by Mr Odewale and/or others and the subsequent laundering of those proceeds. Therefore, each of the Disputed Assets are recoverable property within the meaning of Chapter 2 of Part 5 of POCA and a recovery order will be made to vest that property in the Civil Recovery Trustee. This is subject to NatWest's claims to Patek 1 and to trace the proceeds of the Patek 5004P to Sainsbury's 841 and/or 637 accounts. Patek 1 and the relevant proceeds will not be recoverable property under s. 281 POCA and relief will be given in favour of NatWest.