

10:27:51 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY,**

2 **13TH OF OCTOBER 2004 AT 10.30A.M:**

3

4 CHAIRMAN: Good morning.

10:46:57 5

6 MR. O'NEILL: Good morning, Mr. Chairman, Members of the Tribunal. The first
7 witness listed for hearing today is Mr. Noel Corcoran. Mr. Corcoran --

8

10:47:09 10

9 MR. FINLAY: Sorry, Chairman. Just before Mr. Corcoran is called to the
10 witness box, perhaps he could be stood down for a moment. There is a
11 relatively urgent matter that I would like to bring to the Tribunal's
12 attention. It might be more productive to mention it at the outset rather
13 than later in the day. If the Tribunal would bear with me for a moment or two.
14 It arises in the following circumstances.

10:47:29 15

16 It relates to the scheduling of witnesses, and in particular to the scheduling
17 of two particular witnesses. And it arises in the following circumstances.

18

10:47:54 20

19 The Tribunal sent to us a schedule dated the 23rd of September with a list of
20 witnesses, including a list of witnesses for next week, starting on Tuesday the
21 19th of October and running provisionally to Friday the 5th of November 2004.

22 And since that date, obviously, we have prepared for this phase of this module
23 on the basis of that witness schedule. And as you know we were here until 20
24 past, half past four yesterday afternoon, and when we left the hearing

10:48:35 25

25 yesterday afternoon, as of that date we had no intimation of any kind that
26 there was to be any alteration in that schedule, and in particular no
27 intimation in respect of any witness that schedule might be brought forward.

28 We are of course well aware from experience that schedules can move backwards
29 and that has been the pattern over the years of the Tribunal.

10:49:03 30

10:49:03 1 Following the hearing yesterday I had a lengthy meeting for the purpose of
2 preparing for the balance of this week's witnesses, as per the schedule of the
3 23rd of September, and also will for the purpose of preparing for the witnesses
4 listed for attendance next week, starting on Tuesday the 19th.

10:49:25 5
6 And in relation to one particular witness, who has been the subject of previous
7 correspondence with the Tribunal, yesterday afternoon two important letters
8 were prepared, based on the 23rd of September witness schedule in relation to
9 that witness, and I believe both of those letters have actually been
10:49:45 10 transmitted to the Tribunal this morning. Logistically it wasn't possible to
11 have them typed and sent yesterday evening.

12
13 Now, at 9:30 this morning Mr. Miley, who is my solicitor, as you know, became
14 aware that a new schedule of witnesses had been faxed by the Tribunal's staff
10:50:12 15 yesterday evening, something we were not aware of until this morning. And the
16 significant aspect of that new schedule is that, it brings forward into this
17 week, Chairman, from next week two important witnesses. One is Mr. Jude
18 Campion, who now appears to be listed for attendance tomorrow, Thursday the
19 14th, and the other who I will turn to in a moment, is Mr. Dunlop.

10:50:45 20
21 If I just might mention the case of Mr. Campion for a moment. There are three
22 aspects to the re listing of Mr. Campion of which the Tribunal I believe ought
23 to be aware of this morning and now, and it's this. First of all, as far as
24 my clients are concerned, and when I say my clients, I include in this case
10:51:13 25 Mr. Miley and Miley & Miley, because of matters which appear in Mr. Campion's
26 statement, as the Tribunal will know. As far as my clients are concerned, the
27 preparation for the cross-examination of Mr. Campion is not yet complete, it is
28 underway and has been for some time, but it is not complete. And therefore I
29 cannot say, as of this morning, whether or not I would be in a position to
10:51:41 30 conduct a complete cross-examination of Mr. Campion tomorrow. There are some

10:51:47 1 questions I would be in a position to ask him, but other questions are still
2 the subject of the preparation that I have already mentioned to you a few
3 moments ago based on the witness schedule for the 23rd of September. That's
4 the first point.

10:52:02 5
6 The second point, Chairman, is that the correspondence to which I have
7 referred, and in particular the two letters which were, I understand from
8 Mr. Miley, transmitted earlier this morning, are relevant to Mr. Campion's
9 giving of evidence. They are relevant in two different respects, and I don't
10 wish to go into that correspondence now, they deal with two different issues
11 which arise, but one of them I will advert tomorrow, there is nothing
12 mysterious about it, the Tribunal is aware of it already. And it relates to
13 material which the Tribunal, has had in fact for some time, there is a file of
14 documents which we sent to the Tribunal which is relevant to the
15 cross-examination of Mr. Campion, and in one of the two letters, which were
16 finalised yesterday afternoon, set out the details, the details of that, in
17 other words, why the documents are relevant. They are not of course present
18 in the brief relating to this phase because they weren't in the original brief
19 which was sent out, and after we got the brief and saw the statement of
20 Mr. Campion, quite some time ago, a couple of months ago perhaps, Mr. Miley
21 sent to the Tribunal staff this important file of documents. It's file of
22 documents which I've personally reviewed, I have reviewed all of the documents
23 in the file, and in my view, for the reasons given in the letter, they are
24 relevant, very relevant some of them, to matters which are in Mr. Campion's
25 statement. They relate to matters affecting not only Mr. Caldwell, but also
26 matters relating to Mr. Miley and Mr. Miley's firm, Miley & Miley. So that
27 letter relates to how and is relevant to how, any cross-examination of
28 Mr. Campion is to be conducted. I would just wish the Tribunal to be aware of
29 that also.

10:54:18 30

10:54:18 1 And then the third point to mention in relation to Mr. Campion. It's merely a
2 logistical point, it has just to do with the layout of the latest witness
3 schedule. It occurs to me, but It's merely a tentative view, that if the
4 present anticipation is that he might take no more than half a day, he is
10:54:42 5 listed as one of two witnesses for tomorrow. My very respectful view is that
6 that's likely to be an optimistic assessment.

7
8 So those are three relevant issues which I wish to raise with the Tribunal for
9 the avoidance of any doubt or unnecessary problem tomorrow. If the Tribunal,
10:55:04 10 having heard me, and having considered the correspondence to which I have just
11 referred, is still minded to take the evidence of Mr. Campion tomorrow, it may
12 be necessary to discuss this further in the morning if the Tribunal is still of
13 that -- that's the first thing to mention.

14
10:55:20 15 The second point to mention, Chairman, relates to Mr. Dunlop. Mr. Dunlop
16 also, and again without any prior notice to us, as in the time that we left the
17 Tribunal yesterday evening, has been brought forward from next week to Friday
18 the 15th of October, this coming Friday.

19
10:55:44 20 We have been told that a statement is to be furnished to us in relation to Mr.
21 Dunlop's evidence, that has not occurred, this is Wednesday. I have,
22 obviously, no idea whatever what Mr. Dunlop is intended to say or why he is
23 coming here on Friday, and until that statement is available we won't have that
24 information, and therefore once again I cannot say this morning whether --
10:56:14 25 first of all, whether it would be necessary for me to cross-examine Mr. Dunlop,
26 and if it is necessary whether I will be in a position to do so on Friday,
27 depending on the contents of the statement we haven't received.

28
29 So in terms of the Tribunal's planning. I thought it would be appropriate and
10:56:32 30 proper that these matters might be brought to the Tribunal's attention this

10:56:35 1 morning. I don't wish to be in any way critical, but I can assure you from a
2 professional point of view, from the point of view of someone still attempting
3 to be a practicing barrister at the bar, as distinct from a member of the
4 Tribunal legal team, what has happened is causing enormous professional
10:56:55 5 difficulty on my side and Mr. Miley's side.

6
7 The last matter to mention, Chairman, is just an inquiry, is that in relation
8 to the latest change of plans. I see proposed for the coming Friday, the 15th
9 of October, the delivery of a costs judgement at two o'clock. I just wish to
10:57:18 10 make two inquiries in relation to that, if that still remains the intention of
11 the Tribunal might it be possible to learn this morning whether that related to
12 us? I had suspected that it mightn't --

13
14 CHAIRMAN: No, it doesn't.

10:57:31 15
16 MR. FINLAY: Yes, indeed. And secondly, I had hoped to discover whether if
17 that is the intention of the Tribunal, I had inferred, perhaps incorrectly from
18 the new schedule, that it wouldn't have been the intention resume any -- to
19 resume any hearings after lunch on that day.

10:57:59 20
21 CHAIRMAN: Yes. Well in relation to Friday, you are not concerned with any
22 of the rulings. And there will be no evidence taken after lunch.

23
24 MR. FINLAY: That was my inference from the listing. That's all, Chairman.
10:58:07 25 I just, be most anxious that the Tribunal be aware of and consider the other
26 points that I raised.

27
28 CHAIRMAN: All right.

29
10:58:16 30 MR. O'NEILL: Thank you.

10:58:17 1
2 MR. FINLAY: By the way, Chairman. I understand that the arrangements here
3 are complex and many stranded and it may well be, rather like ourselves, that
4 the individual members of the Tribunal, like myself until this morning were not
10:58:32 5 fully aware of the matters to which I just referred, but I thought that they
6 should be brought to your attention at the earliest opportunity.
7
8 CHAIRMAN: I think in relation to -- I can't be certain about this, in
9 relation to Mr. Dunlop's evidence, it's in relation to one particular aspect
10:58:48 10 which probably won't be of any direct concern to your client, but it may be.
11 But I'll -- we'll have to just check that.
12
13 MR. FINLAY: That's most helpful to know.
14
15 10:58:59 CHAIRMAN: And in relation to the correspondence about the re scheduling of
16 the witnesses, we will have to have a look at that. We will do so during a
17 break this morning, so that by 12 o'clock or so we will be in a position to
18 confirm the situation with you.
19
20 10:59:15 MR. FINLAY: That would be extremely helpful, I hope you don't mind my
21 intervening, I thought it was important that you should be aware of these
22 matters at this early stage.
23
24 CHAIRMAN: Okay. All right.
25 10:59:23
26 MS. COUGHLAN: Mr. Corcoran, please?
27
28 MR. MCALEESE: Chairman, Simon McAleese, solicitor. I haven't previously
29 sought representation for Mr. Corcoran, I don't propose to do so on this
10:59:39 30 occasion either, but simply as a courtesy to let you know that I am here with

10:59:43 1 him.

2

3 CHAIRMAN: Thank you.

4

10:59:45 5 **MR. NOEL CORCORAN, HAVING BEEN SWORN, WAS EXAMINED**

6 **AS FOLLOWS BY MS. COUGHLAN:**

7

8 MS. COUGHLAN: Good morning, Mr. Corcoran?

9 A. Good morning.

11:00:05 10 Q. 1 Mr. Corcoran, you are a tax consultant.

11 A. That's correct, yes.

12 Q. 2 And I believe you are carrying out your practice at present out in Kinsealy
13 with your associates in Dublin 17.

14 A. That's correct, yes.

11:00:18 15 Q. 3 When you were contacted by the Tribunal in October '02, you carried out some
16 searches with regard to your own files and records, and I believe apart from a
17 nominal ledger showing fees due by various clients, that you had no other
18 records or attendances with regard to Mr. Stanley or any of your dealings with
19 the Carrickmines lands.

11:00:37 20 A. That's correct, yes, I have no files in my possession.

21 Q. 4 And therefore, you wrote your statement purely from memory.

22 A. Yes, but I'd have a reasonably good memory, so it would be fairly accurate.

23 Q. 5 You submitted your statement on the 29th of October 2002 to the Tribunal.

24 A. Yes.

11:00:54 25 Q. 6 And if I can just take you to the beginning of the Carrickmines lands, you were
26 actually already dealing with Mr. Stanley in various land transactions I
27 believe?

28 A. Yes, my involvement with Mr. Stanley would have ranged over, he was a person
29 that had an acute knowledge, I suppose, of various lands around the city, would
11:01:17 30 be primarily in County Dublin, and I think a problem he was encountering as he

- 11:01:22 1 spoke with landowners, was that they would say "well what are the tax
2 implications of this if I sell my lands." And often there's as much folklore
3 as reality to people's perceptions of the amount of tax they would pay on a
4 transaction, so he asked me to prepare general notes in relation to, we'll say
11:01:45 5 Capital Gains Tax and Capital Acquisitions Tax and/or VAT, if the VAT was
6 relevant to a particular piece of land, and then specific notes in relation to
7 particular people that he was discussing possible land purchases with and the
8 lands in Carrickmines would have been exactly the same as that.
- 9 Q. 7 Okay. In relation to Carrickmines. We know from the documents that have
11:02:08 10 been submitted to the Tribunal that on the 9th of March 1988 that Mr. Stanley
11 received a letter of authority signed by the vendor, who was known as Robert
12 Tracey, to sell his lands for a purchase price of 540,000 pounds. So I take
13 it some time in and around March of '88, Mr. Stanley would have contacted you
14 specifically with regard to Carrickmines?
- 11:02:31 15 A. Well, he actually didn't. I was never involved, while I, as I say, wrote
16 memos for him in relation to general tax matters. I was never involved
17 thereafter in any of the transactions, like, I never met any of these potential
18 vendors of land with Mr. Stanley or on my own. I'm assuming that when they
19 received my memos that they approached their own financial advisors.
- 11:03:05 20 Q. 8 But with regard to Carrickmines did he give you some understanding or
21 instructions with regard to a deal he may have struck with Mr. Kennedy or
22 Mr. Tracey and what was your understanding of your initial instructions?
- 23 A. My involvement with the lands at Carrickmines was that, Mr. Stanley was of the
24 view, well he told me quite clearly, that he was being done out of his fee in
11:03:27 25 relation to Carrickmines.
- 26 Q. 9 When you say his fee. Do you mean an equity share or --
- 27 A. That's what I was led to believe, that he would get a percentage of the land in
28 recognition for the work that he had done in actually acquiring the land on
29 behalf of Mr. Kennedy.
- 11:03:44 30 Q. 10 So you understood that Mr. Stanley wasn't going to put up any money as such,

11:03:48 1 but that he had done an amount of work, whether it be referencing land or
2 negotiations with the then vendor?

3 A. Yes, that he was getting a free carry.

4 Q. 11 A free carry?

11:04:00 5 A. Yes.

6 Q. 12 This was your initial instructions?

7 A. That's right.

8 Q. 13 And did he suggest to you how this share was to be given to him or were you
9 advising him with regard to protecting his interest on that share?

11:04:14 10 A. Yeah. I was advised that he was to get a percentage of the transaction, and
11 initially it was not clear or was not stated to me how he was to get this,
12 whether he was going to get a particular acreage of land or whether he was
13 going to get actual money, but over a period, and from my recollection I
14 believe it could have been about a year to 15 months, his discussions with me,
11:04:43 15 in relation to Carrickmines, would have been him giving off that he was not
16 getting his due entitlements. And from my recollection, I remember saying to
17 him, well, you know, if you're entitled to your share of the lands or fee you
18 should sue them, and he in fact said he was intending to sue them. Now,
19 subsequently --

11:05:07 20 Q. 14 Well maybe if I can stop you there, the suing sums in '91 which is a bit later,
21 we're in '88. Maybe if I put up a contemporaneous document. It's at page
22 288, and see if any of this refreshes your memory as possibly the deal he had
23 said he had struck. This is an attendance dated the 31st of August 1988.

24 A. Uh-uh.

11:05:29 25 Q. 15 It is an attendance taken by Mr. Stanley's then solicitor, who was Gerry
26 Charlton, and also Ronan O'Siochain was his -- from Reddy Charlton McKnight,
27 they were his solicitors and it reads:
28 "Mr. Sam Stanley. 20 percent agreed with J Kennedy in Paisley. Kennedy
29 doesn't mind paying out one million as soon as it's available instead of 20
11:05:49 30 percent stake. They expect planning permission before Christmas. Kennedy

11:05:53 1 will pay fees of Paisley and also will pay the 1,000 for Stanley, ask Caldwell.
2 Lamira Limited IOM, company of SS, will hold shares for SS. Kennedy has also
3 agreed a shareholders agreement to protect interest of Sam Stanley."
4

11:06:17 5 If we can just take you through this document, do you have any recollection of
6 the one million pound agreement?
7 A. No, I have no recollection of a specific amount of money.
8 Q. 16 Of money.
9 A. No.
11:06:28 10 Q. 17 I see there that Lamira Limited is mentioned, this is the first company that
11 was suggested to be used in the shareholders agreement.
12 A. Uh-uh.
13 Q. 18 So I presume Mr. Stanley had been talking to you at this time, I presume that
14 you had organised for him this Isle of Man company?
11:06:45 15 A. Yes. The Isle of Man company came into it on the basis that, the only basis
16 on which I was advised by Mr. Stanley, that the only basis on which he would
17 receive his entitlement was by forming an Isle of Man company. And when I
18 asked why this was the case, I was told that Mr. Kennedy had transferred the
19 lands into an Isle of Man company called Paisley Park, and that he, if he
11:07:15 20 wished to have a shareholding in Paisley Park he must have an Isle of Man
21 company. Now, I then put him in touch with a company formation people to get
22 such a company, and obviously and I'm accepting that's the name of the company,
23 but I can't actually remember the actual name.
24 Q. 19 Was it your understanding that Mr. Kennedy told Mr. Stanley that he had to have
11:07:38 25 an Isle of Man company?
26 A. Absolutely. He was not going to get his share unless he actually did it
27 through an Isle of Man company.
28 Q. 20 And when Mr. Stanley was advising you or instructing you of this, would you
29 have made any alternative suggestions to him at this time?
11:07:59 30 A. Yes. I told him that it would have no benefit to him holding the ownership of

11:07:59 1 the company in an Isle of Man company, from a tax point of view. That as we
2 were dealing with Irish land there would be a tax implication on whether it was
3 a resident or a non-resident that was selling the land on the ultimate sale of
4 the land, but Mr. Stanley, and I clearly recollect this, said that he was not
11:08:19 5 interested in saving tax on this matter. All he was interested in was getting
6 his share of the land, and the only way he could do so, was by having an Isle
7 of Man company to be a shareholder in another Isle of Man company which
8 actually own the owned the land.

9 Q. 21 If you are his tax advisor at the time and you are advising that this isn't
11:08:42 10 necessarily the best deal, why do you think Mr. Stanley was adamant to go along
11 with the Isle of Man company?

12 A. Purely, as I say, to get his ownership because he was told that he wouldn't get
13 his share unless he did as he was told, to get an Isle of Man company. So it
14 was purely to get ownership, nothing to do with a tax saving or that.

11:09:01 15 Q. 22 Yes. The last sentence that I read there, "Kennedy has also agreed a
16 shareholders agreement to protect the interests of Sam Stanley." Did you have
17 any involvement in drafting this shareholders agreement?

18 A. None. I never saw it in my life.

19 Q. 23 If we just turn to page 296. On the screen, please.

11:09:24 20
21 This is just a note of John Caldwell, it's dated the 7th of September 1988.
22 There is just one sentence there at the end, "agreed Lamira Limited will be the
23 shareholding for Sam Stanley 20 percent agreed. John Caldwell drafted the
24 document".

11:09:44 25
26 So Mr. Stanley didn't send you this document at this point in time, although
27 you were advising him?

28 A. No.

29 Q. 24 Why do you think he didn't involve you in the --

11:09:52 30 A. I was only dealing with him intermittently, as my ledger note would show. I

11:09:57 1 mean, it was an intermittent thing I dealt with him, there was a few periods, I
2 think through the summer, June, July, August, September of 1988, and then,
3 like, very little happened, but there were months in between any meetings I had
4 with him, and then it was, I don't know whether it was '98 or '99. Again,
11:10:19 5 there was one month that there was a lot of activity, but that wasn't to do
6 with Carrickmines.

7 Q. 25 Would you have discussed with him when he said to you "I'm going to get a
8 million or 20 percent." Would you have said to him "well if you're going to
9 take 20 percent of the shareholding of a company, then you might be subject to
11:10:34 10 losses down the road if this land were to sell and you were subject to 40
11 percent CGT, and it mightn't work-out in your favour that you won't get
12 anything near a million or what you expect?"

13 A. Well I never heard the figure. I have no recollection of hearing a figure a
14 million pounds, what I did hear of was that he would get a 20 percent stake.

11:10:57 15 Q. 26 Or a fee, you had mentioned in your earlier --

16 A. As a fee, yes, his stake was a fee, a carry in the land.

17 Q. 27 True, but you also mentioned that he suggested that he might have got even some
18 acreage. There was various sort of --

19 A. I'm saying I did not know whether he was to get acreage or cash or, as it
11:11:16 20 turned out, a share in the company with the land, but at the time my
21 recollection is, that we were actually talking about land itself. Like, his
22 fee would have been in actual land, he would have been a partner with
23 Mr. Kennedy in the ownership of this particular land.

24 Q. 28 Right. If we go to page 2139, please?

11:11:38 25

26 This is an attendance taken again by his solicitor, Mr. Charlton, on Sam
27 Stanley.

28 A. Uh-uh.

29 Q. 29 And it reads, "Attendance on Noel Corcoran who telephoned from the Isle of Man.
11:11:52 30 He stated that the name of Sam Stanley's company given to us, namely Lamira,

11:11:57 1 was incorrect and should be Lamiro. However, Mr. Corcoran states that Lamiro
2 cannot be used, as it is an Isle of Man company and a Manx resident company
3 cannot hold a Manx asset i.e. the shares in Paisley Park. Accordingly, the
4 company will have to be a British Virgin Islands company and the name of it is
11:12:19 5 Xenon Limited, British Virgin Islands, 2 Myrtle Street, Douglas, Isle of Man."
6 Do you recollect going to the Isle of Man to organise, for Mr. Stanley, the
7 company structure?
8 A. I don't, but I'm accepting what's said there. I have no personal recollection
9 of it I think he might have been there on other business and this just
11:12:39 10 transpired. I have definitely no recollection of going specifically about it,
11 but I understand what's written there.
12 Q. 30 So you accept that you went to the Isle of Man?
13 A. Oh, yes. Oh, yes.
14 Q. 31 So at this point I take it that you then knew that the 20 percent shareholding
11:12:52 15 was agreed and they were going ahead to organise it into some company
16 structure, and clearly you formed a view about this because you went and did
17 some research, and it's your advice here that a "Manx resident company cannot
18 hold a Manx asset." Now that's not technically correct, I take it was a tax
19 structure.
11:13:11 20 A. I mean, I knew that he was getting his 20 percent interest in Paisley Park
21 Investments because otherwise he was not going to get any other basis for that,
22 so that was a given.
23
24 The particular issue there was that, the advisors in the Isle of Man, the
11:13:28 25 company formation people, advised that it was not practical for him to hold the
26 shares in an Isle of Man company, which was Paisley Park, by having that asset,
27 i.e. the shares in that company, so that it was better for him from an Isle of
28 Man perspective to hold it in a British Virgin Island company
29 Q. 32 Yeah, can you just expand on that and say why it wasn't practical or what were
11:14:02 30 the issues, I'm just not certain about it?

11:14:05 1 A. Well I think the, there would have been or potentially there would have been a
2 tax liability arising in the Isle of Man in the event that the Paisley Park
3 Investments sold the assets, and then there was a distribution to an Isle of
4 Man company, so there would be a tax liability in the Isle of Man. Now, I
11:14:23 5 wasn't, that wouldn't have interested me because, as I said earlier,
6 Mr. Stanley would have been liable in Ireland on any profits that he made out
7 of the sale of this business, irrespective whether he held it personally in an
8 Irish company or obviously in an offshore company as he did, but that would
9 have been an Isle of Man issue, it wasn't of any concern.

11:14:45 10 Q. 33 Did you advise him that it was better to be in the British Virgin Islands then,
11 that he would have to pay less tax if the asset was realised?

12 A. I would have been passing on advice that I received from the Isle of Man
13 people, it was just to avoid him having a liability in the Isle of Man. There
14 wouldn't be such a liability if a British Virgin Island company was used. So
11:15:06 15 that's all.

16 Q. 34 Of course. I see as well you were talking to Mr. Charlton, his solicitor at
17 this point.

18 A. Uh-uh.

19 Q. 35 Can you recollect discussing this with Mr. Charlton or in advance of this?

11:15:17 20 A. Well I can't, but I accept that it happened. I can't recollect discussing it
21 with Mr. Charlton at any stage, but I'm accepting the veracity of the statement
22 there.

23 Q. 36 It seems the company name Xenon Limited, in fact transpired to be Xenon
24 Investments Limited in the actual shareholders agreement that they subsequently
11:15:42 25 agree in June of 1989. You had said, Xenon Limited, British Virgin Islands, 2
26 Myrtle Street, and on page 338 there's another attendance by Mr. Caldwell,
27 which is dated the 7th of November 1988.

28
29 Where Mr. Caldwell is taking an attendance on Ronan O'Siochain, and he mentions
11:16:02 30 "Xenon Limited, Nabco Building, Main Street, Roadtown, Tortola, British Virgin

- 11:16:11 1 Islands." Would you have, in fact there's another document that maybe does
2 suggest that you rang back with this information. I will read it to you
3 first. Page 339.
4
- 11:16:20 5 It's a letter from Reddy Charlton McKnight to Sam Stanley. Of the 4th of
6 November 1988.
7
- 8 And the middle paragraph it says, "We have also heard from Noel Corcoran --"
9 this is one month later -- "in relation to the company, and we understand that
11:16:37 10 we are dealing with a company called Lamira Limited -- we understood that we
11 were dealing with a company called Lamira Limited. In fact, we now understand
12 that the company to be used is a company called Xenon Limited. We have so
13 informed John Caldwell and he is sending us fresh engrossments of the agreement
14 for execution."
- 11:16:59 15
16 Do you have a recollection of giving this new address of, Nabco Building or
17 doing some work at this point in time?
18 A. I don't. I would have just got that information from the formation people in
19 the Isle of Man, the name of the company and address of the company. So, I
11:17:15 20 would have passed on what I was told, but I wasn't involved in the shareholders
21 agreement or I had no subsequent involvement in the Isle of Man companies or
22 the British Virgin Island companies, so, I don't. But, I mean, the date in
23 this letter being the 4th of November, I mean, the last slide you showed me was
24 I think September.
- 11:17:34 25 Q. 37 Yes.
26 A. So I advised in September that, Lamira was being changed.
27 Q. 38 This November letter seems to suggest that they have heard from you again in
28 November. On my reading of it, I suggest you might have contacted them again
29 with the change of address.
11:17:51 30 A. Well I don't know they are just talking about the name not the address. I

- 11:17:55 1 have no recollection of ever talking to them about it, but I'm accepting what
2 they're saying.
- 3 Q. 39 The first share allotment which did happen, which gave Mr. Stanley the 20
4 percent, happened on the 22nd of November 1988, whereby he was given 20 B
11:18:12 5 ordinary shares, and the shareholders agreement isn't in fact executed until
6 some six months later, which is June of 1989.
7
- 8 Post the allotment of shares, a new contract was entered into. The first was
9 for the sum of 540,000 pounds, but in November of 1989, the 15th of November
11:18:41 10 1989, a new agreement was entered into and the purchase price was for 700,000
11 pounds. This contract was entered into between Mr. Kennedy directly with
12 Mr. Robert Tracey.
- 13 A. Uh-uh.
- 14 Q. 40 And it's after this that a dilution happens in the shares of Mr. Stanley, and
11:19:00 15 when you were advising Mr. Stanley at the outset, would you have discussed with
16 him the potential of a dilution of shares happening?
- 17 A. I'm not aware he had a dilution of shares, but, I mean, my understanding was
18 his shareholding in the company was to be given to him as a free carry. So
19 that the expectation, I didn't envisage that he would have a subsequent
11:19:22 20 dilution, that would have been something that occurred afterwards, and it was
21 never discussed with me by anybody.
- 22 Q. 41 Would you have discussed with him though a possible protection, if you are a
23 free carry and you are getting involved in a shareholding that there is a risk
24 that there might be a dilution?
- 11:19:38 25 A. There would be if the, an asset was held on a long-term basis, as it happened
26 that was the case. My understanding and discussions with Mr. Stanley conveyed
27 a sense that this land would be sold on sooner rather than later, it wouldn't
28 be envisaged that it would be held for 3 or 4 or 5 years or whatever. So I
29 got the sense that this thing was going to be purchased and whatever planning
11:20:02 30 permission obtained and sold on rather than being held on a long-term basis,

11:20:06 1 so.

2 Q. 42 There is just two final documents. In fact, they are dated post the dilution.

3 The dilution, just to let you know, happened in May of 1991, where his

4 shareholding was reduced to 1 per cent. And there is a document at page 1675,

11:20:23 5 please?

6

7 It's an attendance on Mr. Stanley. Again, taken by his solicitors. What's

8 happening at this point is the dilution has happened and they are advising

9 Mr. Stanley as to his legal protection. He is still maintaining he has a 20

11:20:40 10 percent interest and if I can just read, starting at the fourth paragraph.

11

12 "We had a discussion about the offshore company Xenon. This had been arranged

13 on his behalf by his accountant Mr. Noel Corcoran. We indicated that we

14 weren't advocates of the offshore structures. We felt that if SS was going to

11:21:01 15 continue with this offshore structure he should at least ensure that it is

16 returned to the Revenue Commissioners.

17

18 Alternatively, he should have the shareholding repatriated from Xenon into an

19 Irish company here. However, we suggested to him that these were matters on

11:21:16 20 which he is being advised by Mr. Noel Corcoran and should consult him thereon

21 and take his advice relative thereto. We weren't expert in this field.

22

23 SS felt that he would repatriate the shareholding into this state. Apart from

24 anything else it was quite expensive to maintain an offshore company

11:21:36 25 particularly when there was no income to fund the expenses which were annually

26 being incurred. Sam said that at the moment it is all outcome and no income.

27 Since it looked a long haul, he felt that the sensible thing to do was to

28 repatriate it, but he was going to discuss this with Noel Corcoran." This is

29 most post the dilution which happened in May of 1991, we are in November and he

11:22:08 30 is discussing with his lawyers the protection of what he sees as his 20 percent

11:22:08 1 interest that he was promised, as you say the no fee promise. Did Mr. Stanley
2 ring you at this time?

3 A. Well he may have done. I have never heard that he was diluted. I have no
4 recollection of discussing with him the possibility of repatriating the
11:22:20 5 company.

6 Q. 43 Well maybe if I read --

7 A. I had disclosed the company to the Revenue Commissioners so --

8 Q. 44 I don't want to trip you up, there's another document on 13th May 1992, which
9 suggests that you may have discussed the repatriation with him. Page 2106,
11:22:37 10 please?

11

12 And if we go to the end of the last paragraph, I will just read from, "I
13 explained to Senan Allen --" that was his barrister at the time -- "that at our
14 last consultation, we had discussed the possibility of Sam Stanley transferring
11:22:48 15 his share-holding from the Isle of Man to this jurisdiction. Sam Stanley
16 pointed out that he had discussed this with Noel Corcoran and that it was going
17 to cost him in the region of 4,000 to do so and obviously he didn't want to
18 commit himself to this until he knew that it would be worth while."

19

11:23:09 20 It seems that between that November meeting when they discussed the
21 repatriation, that you did have some discussions with Mr. Stanley about the
22 fact.

23 A. I may have, but I have no recollection. And again, if someone said that, I'm
24 not disputing it. But I have no recollection of discussing repatriating,
11:23:28 25 because my vivid recollection on this whole matter was that Mr. Kennedy was
26 insisting that Sam Stanley would only get his shareholding or his fee, whatever
27 you want to call it, on the basis that he formed an Isle of Man company. Now,
28 I would find it difficult then that he would accept that he could repatriate
29 that holding at a subsequent date, but maybe he did I mean, I don't know
11:23:52 30 because I wasn't involved with any discussions with these people.

- 11:23:58 1 Q. 45 I just want to put it to you, Mr. Corcoran, that obviously, because Xenon was
2 an entirely 100 per cent owned company by Mr. Stanley, that it was open to
3 Mr. Stanley obviously to repatriate it to this jurisdiction. And he seems to
4 have gone to you for advice on this and this is something that he could have
11:25:04 5 done. It was entirely open to him to do so.
- 6 A. Well he may have been able to do it as being the 100 per cent owner, but he
7 was, in my vivid recollection he was forced into being involved in the Isle of
8 Man structure. So why they forced him into the structure and then would allow
9 him out of the structure I don't understand, but I do not remember it being
11:25:27 10 discussed with me. I have and I have certainly no basis of remembering like
11 the cost region of 4,000 pounds because based on all of my deals with
12 Mr. Stanley from the ledger sheets I gave you, like, there are figures nowhere
13 near that. I don't know where that has come from whom or to whom those fees
14 would be paid.
- 11:25:48 15 Q. 46 Do you accept though there is a probability that he did discuss with you --
- 16 A. There is a possibility because I genuinely don't remember, I would surprised I
17 don't remember such an important issue as that.
- 18 Q. 47 You do recall in your statements that he was talking about suing Kennedy. So
19 I'm assuming that it's around this time that, when he met you to discuss the
11:26:07 20 repatriation that he is discussing suing Kennedy, this is the time when he is
21 taking legal advice on that point?
- 22 A. Uh-uh. Well he may have. I can't say that he wasn't, but he was talking
23 about suing Mr. Kennedy, like, for years, you know, over years, like, when he
24 was failing initially to get what he regarded as his just entitlement, and that
11:26:33 25 stopped when he got his shares in Paisley Park or was given the opportunity to
26 get shares in Paisley Park. So, subsequently then, and it probably might be
27 as a consequence of his dilution, etc, I wasn't involved in discussions with
28 him or his lawyers about that issue, I wasn't involved.
- 29 Q. 48 Thank you very much, Mr. Corcoran. If you would answer any other questions
11:27:01 30 from --

11:27:02 1

2 CHAIRMAN: Mr. Finlay, do you want to ask any questions?

3

4 MR. FINLAY: Thank you Chairman, I have no questions for Mr. Corcoran.

11:27:08 5

6 CHAIRMAN: Thank you very much. That concludes the evidence. Thank you
7 very much.

8

9 **THE WITNESS WITHDREW.**

11:27:15 10

11 MR. O'NEILL: The next scheduled witness is Mr. Jerry Carroll, but he
12 contacted us a little earlier this morning that whilst he is on his way he has
13 been delayed and he may be here very shortly. I would ask in those
14 circumstances if we could have fifteen minutes?

11:27:32 15

16 CHAIRMAN: We will take the opportunity to deal with Mr. Finlay's application.

17

18 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED**

19 **AS FOLLOWS:**

11:45:19 20

21 CHAIRMAN: Firstly, by way of general comment. The scheduling of witnesses
22 must be reviewed by the Tribunal on a daily basis, and the Tribunal must be
23 free to bring forward or put back witnesses as circumstances dictate. Where
24 particular difficulties arise for parties or their professional advisors, the
25 Tribunal will, as it always has done, endeavour the reasonable requests made in
26 those circumstances as best it can.

12:28:13 27

28

29 In relation to Mr. Finlay's application concerning the cross-examination of

30 Mr. Campion, who is scheduled as a witness tomorrow, Thursday. The Tribunal

12:28:37 30

intends to follow its revised schedule. If at the conclusion of your

12:28:42 1 cross-examination, Mr. Finlay, you have some issue of concern, you may bring
2 that to the attention of the Tribunal, and if -- and seek to have the witness
3 recalled, and if the Tribunal feels that that is justified, it will accede to
4 your request.

12:29:06 5
6 Finally, in relation to the submissions, you or your solicitor conveyed to the
7 Tribunal this morning in, which we received this morning in support of the
8 request that particular information be circulated relating to the evidence --
9 which will concern the evidence of Mr. Campion. The Tribunal has no objection
10 per se to the circulation of this documentation, but it has a concern at this
11 time, as to a possible solicitor/client privilege issue and requires some more
12 time to consider this aspect of the matter. In those circumstances, the
13 Tribunal will communicate Mr. Miley later this afternoon with a final decision
14 as to the circulation of this documentation.

12:29:52 15
16 The other issue, Mr. Finlay, that you raised concerned Mr. Dunlop's evidence.
17 And I think that --

18
19 MR. FINLAY: That has been clarified, thank you very much, Chairman. And the
12:30:04 20 position is now clear in relation to Mr. Dunlop.

21
22 CHAIRMAN: All right. So that concludes our views in relation to the
23 application made this morning.

24
12:30:16 25 MR. FINLAY: Very good, Chairman. And do I take it that your views just
26 expressed on behalf of the members of the Tribunal, extend to both of the
27 letters received by the Tribunal, the two letters that I referred to this
28 morning?

29
12:30:38 30 CHAIRMAN: Well that's in relation to the submissions made to the Tribunal

12:30:44 1 supporting the circulation of documentation?
2
3 MR. FINLAY: Yes and the second letter relating Mr. Campion.
4
12:30:50 5 CHAIRMAN: Yes. They will be considered, and Mr. Miley, I'm not quite so
6 certain about what the second letter is.
7
8 MR. FINLAY: As far as I know you have only considered one issue.
9
12:31:01 10 MR. FINLAY: Just to say, Chairman. The other letter is of more fundamental
11 importance --
12
13 CHAIRMAN: Well, we will have to consider both.
14
12:31:11 15 MR. FINLAY: Of course. It's part of a sequence of correspondence, and
16 broadly, it's part of a sequence of correspondence which relates to a request
17 for certain information made by Mr. Miley in the context of the forthcoming
18 cross-examination of Mr. Campion, that information has not been forthcoming,
19 and it relates to that aspect.
20
12:31:36 21 CHAIRMAN: All right.
22
23 MR. O'NEILL: I should say in relation to the second matter which Mr. Finlay
24 has raised. It is a matter which the Tribunal dealt with, I think, in
12:31:45 25 correspondence last Friday, to indicate that the queries that were being raised
26 touch upon the preliminary investigations of the Tribunal and to Tribunal
27 interviews of witnesses and that that information would not be disclosed. I
28 think that is correct, I don't have the document before me. But if that is so
29 --
12:32:05 30

12:32:05 1 CHAIRMAN: In the circumstances, Mr. Finlay, I think the best thing is for us
2 to look at all of the correspondence during the afternoon, and the Tribunal
3 will then contact Mr. Miley.
4

12:32:16 5 MR. FINLAY: That is most helpful. At any event, it's clear that at a minimum
6 I should be here tomorrow, and it may be that matters will have become further
7 clarified during the course of the day.
8

9 CHAIRMAN: Alright.

12:32:29 10
11 MR. O'NEILL: The remaining issues then sir, there are two witnesses listed
12 for hearing. A Mr. Carroll and a Mr. Finnegan. I should perhaps outline to
13 you the circumstances in which they were to give evidence today.
14

12:32:43 15 Both of these witnesses have given evidence already on Day 374, that is the
16 26th of March, 2003, in the Carrickmines 1 module of the Tribunal.
17

18 The essence of their evidence touched upon the fact that Mr. Carroll, as a
19 technician in Dublin County Council, was requested to prepare a map based upon
12:33:08 20 certain confidential information which was within the files of the council.

21 He prepared that map, and he handed that map to Mr. Finnegan, and it in turn
22 was considered by Mr. Kennedy.
23

24 If it was the case that Mr. Carroll would say that he would prepared this map
12:33:32 25 upon the instruction of the secretary of the then manager, Mr. George Redmond.
26 And as of the 26th of March 2003 Mr. Redmond was then awaiting trial in
27 relation to the criminal matter which was before Dublin Circuit Court, and
28 accordingly, no reference by name to Mr. Redmond was made in the course of the
29 testimony on that date.
30

12:34:00

12:34:00 1 The purpose of today's hearing of these two witnesses was to allow them to name
2 or certainly Mr. Carroll, to name Mr. Redmond as the person who required him to
3 carry out this act through his secretary, and to allow Mr. Redmond the
4 opportunity of examining or cross-examining Mr. Carroll in respect of that
12:34:21 5 matter.

6
7 Unfortunately, Mr. Redmond did not receive the documentation in advance of
8 today's hearing and has contacted the Tribunal to indicate that it is his
9 intention to cross-examine both Mr. Carroll and Mr. Finnegan on those issues.

12:34:39 10
11 In the circumstances, unfortunately, it would appear necessary to adjourn these
12 two witnesses until such time as Mr. Redmond is in a position to consider the
13 documents which are now being sent to him today, and I anticipate that that
14 will have to take place at some stage in the early part of next week perhaps.
12:35:00 15 As regards today's further hearings, I regret to say that we have to apply to
16 adjourn those.

17
18 CHAIRMAN: All right. We will adjourn until half ten tomorrow.

19
12:35:11 20 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**
21 **THURSDAY 14TH OCTOBER 2004, AT 10.30 A.M.**

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