

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,

1ST FEBRUARY, 2007, AT 10.30 A.M:

10:16:17 1

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10:39:50 5 MR. QUINN: It had been intended to take Mr. Smyth first this morning.

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7 The Tribunal has been informed overnight that Mr. Smyth is unwell and it's

8 hoped to take his evidence at some future date.

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10:40:01 10 CHAIRMAN: All right.

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13 MR. QUINN: In the circumstances, I wonder could Mr. Gordon, please.

14

10:40:05 15 CHAIRMAN: Who?

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17 MR. QUINN: Mr. Larry Gordon will be the first witness.

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19 CHAIRMAN: I don't think there's anyone here.

10:40:12 20

21 MR. QUINN: Mr. Gordon is here.

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23 CHAIRMAN: Oh, is he? Sorry.

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MR. LARRY GORDON, HAVING BEEN SWORN,
WAS QUESTIONED BY MR. QUINN AS FOLLOWS:

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10:40:54 5 CHAIRMAN: Good morning Mr. Gordon. You can sit down.

6
7 MR. QUINN: Thank you, Mr. Gordon.

8
9 Mr. Gordon, I think you were elected to Dublin County Council in June 1991, is
10:41:05 10 that correct?

11 A. Yeah.

12 Q. 1 And I think you represent the Green Party and you represented the Stillorgan
13 ward, which would be close to the Dundrum Shopping Centre, is that correct?

14 A. Yeah.

10:41:14 15 Q. 2 And I think you were re-elected and in the split up of the Councils you became
16 a member of the Dun Laoghaire-Rathdown County Council, is that correct?

17 A. Yeah.

18 Q. 3 Now, you were written to by the Tribunal and asked to provide a narrative
19 statement in relation to your dealings with the persons involving the Pye
10:41:31 20 Lands.

21
22 And I think at 1747.

23
24 On the 3rd of November you responded to Mr. King in the following terms.

10:41:37 25
26 You said that as I remember it, the only person I met with an interest in the
27 Pye Lands was Mr. Aidan Kelly. I met him in his office in the Pye Centre at
28 his request as I recall it. I cannot remember much about our meeting only that
29 he wanted support for the rezoning of these lands. I told him that I wouldn't
10:41:54 30 do so and subsequently voted against the rezoning for a town centre on this

10:41:59 1 site. That was my only meeting with Aidan Kelly as a County Councillor.
2
3 That is as I can recall yours sincerely.
4

10:42:07 5 Is that it
6 A. Yes, to the best of my ...
7 Q. 4 Recollection?
8 A. Recollection, yeah.
9 Q. 5 Now, you were familiar, of course, with the Pye Lands in Dundrum?
10:42:14 10 A. Yeah.
11 Q. 6 And you knew that there had been a vote in relation to the lands in May 1991
12 and that map had gone on public display with the lands that is to say the
13 Dundrum site shown as being zoned for C, town centre development, isn't that
14 right?
10:42:30 15 A. Well I wasn't particularly aware of it when I came on the Council. It was only
16 as I was on the Council I got to know about the Pye site.
17 Q. 7 Yes. We know that the matter came back before the Council on the 16th of
18 October 1992. When there was debate and discussion and a vote on a series of
19 motions brought by councillors Fitzgerald and Mitchell, isn't that right?
10:42:59 20 A. Yes.
21 Q. 8 And if we could have 630, please.
22
23 This is a -- you will see there this is an extract from the minutes of the
24 meeting of October 1992. And you will see there a motion proposed by
10:43:14 25 Councillor Mitchell and seconded by Councillor Fitzgerald effectively asking
26 the Council to revert the zoning on the Pye Lands to the 1983 zoning together
27 with the amendment to the Written Statement. Do you see that?
28 A. Yeah.
29 Q. 9 Now, had Mr. Kelly spoken with you at that stage, Mr. Gordon?
10:43:31 30 A. I have no remembrance one way or the other.

10:43:35 1 Q. 10 You have no remembrance of speaking with Mr. Kelly or when you spoke with
2 Mr. Kelly?
3 A. I don't remember when I spoke with him.
4 Q. 11 Yes.
10:43:45 5 A. I couldn't tell you even the year.
6 Q. 12 I see. You abstained on that vote, isn't that right?
7 A. It seems so.
8 Q. 13 Yes?
9 A. I wouldn't have remembered but ...
10:43:58 10 Q. 14 We see that at 631.
11
12 You were the only Councillor to abstain, isn't that right?
13 A. It seems so, yeah.
14 Q. 15 Can you recall anything of your discussion with Mr. Kelly?
10:44:06 15 A. All I remember with Mr. Kelly was what I said in the original letter. He
16 commended me on my straightness and saying I wasn't going to vote for his.
17 Q. 16 Proposal?
18 A. Proposal. And he didn't contact me really after that as well.
19 Q. 17 Can you advise the Tribunal if anybody else contacted you in relation to that
10:44:31 20 site?
21 A. No. No. I'm pretty sure no.
22 Q. 18 Did you know Mr. Dunlop, for example?
23 A. I only met Frank, Mr. Dunlop once and it was related to I think it was
24 Quarryvale rezoning at some stage in the Dublin County Council offices in
10:44:50 25 O'Connell Street but ...
26 Q. 19 Other than that you had no contact with Mr. Dunlop?
27 A. No.
28 Q. 20 Mr. Richard Lynn?
29 A. Yeah, I met Mr. Richard Lynn mainly in connection Cherrywood.
10:44:59 30 Q. 21 And did you meet him in connection with this development?

10:45:10 1 A. No.

2 Q. 22 You would have been a local Councillor, isn't that right?

3 A. Yeah.

4 Q. 23 And Mr. Lynn has advised the Tribunal that he would have been in contact with

10:45:11 5 locally elected members and kept them informed as to the proposals for the

6 overall area of Dundrum. If Mr. Lynn gives that evidence, the Tribunal can

7 take it that you were one of the local -- you were a locally elected member

8 that wasn't contacted by Mr. Lynn?

9 A. Well he may have written to me. But honestly, I was snowed under by

10:45:32 10 representations and post so I, I mean, I don't remember speaking to him.

11 Q. 24 Yes?

12 A. Yeah but it's possible he wrote to me.

13 Q. 25 Yes. Your views in relation to the development of this site presumably would

14 have been well known and certainly were known to Mr. Kelly. You weren't going

10:45:48 15 to support his proposals?

16 A. No, I didn't intend to support his proposals.

17 Q. 26 As it happened. You didn't vote against or vote in favour of the other

18 proposals for the site?

19 A. Sorry, could you repeat that?

10:46:00 20 Q. 27 You did not support the other proposals, that is to say the proposals of

21 councillors Mitchell and Fitzgerald for the site?

22 A. I honestly can't remember that well. I thought I did eventually take the line

23 along with Councillor Fitzgerald. I thought that that was kind of the position

24 I arrived at. But my recollection would be that I eventually did support the

10:46:30 25 Labour Party's position on the issue.

26 Q. 28 Yes. In 1993 you supported a proposal confirming what had taken place in

27 October '92. In other words, in October '92 you had abstained?

28 A. Yeah.

29 Q. 29 On the proposal to revert it to the 1983 zoning. And then in November '93 you

10:46:51 30 actually voted?

10:46:52 1 A. Yeah.

2 Q. 30 To confirm that it be reverted to the 1983 zoning?

3 A. Yeah, I think so, yeah.

4 Q. 31 You in fact contributed to the debate I think in 1992, isn't that right? At

10:47:04 5 630.

6

7 If we could go just back.

8

9 You are listed as one of the contributors to the debate. You see there

10:47:11 10 following discussions to which councillors Mitchell, Fitzgerald, Lydon, Hand

11 Green, Gordon, Matthews

12 A. Yeah.

13 Q. 32 Contributed?

14 A. Yes, I see that, yeah. I wouldn't have remembered but yes.

10:47:22 15 Q. 33 Yeah. You can't recollect now what your contribution was to that debate?

16 A. I can't at all, sorry.

17 Q. 34 Do you recollect if there was a lot of local opposition to Mr. Kelly's

18 proposals to the site?

19 A. To be honest, I don't remember one or other. I think I remember that the

10:47:41 20 existing shopping centre and the village, well certainly the shopping centre

21 itself wasn't keen on the proposal to have a town centre site up the road. But

22 that's all. I wasn't very close to the ground and close to my constituents

23 about, you know, what their feelings were.

24 Q. 35 Yes?

10:48:06 25 A. I tended to vote according to my own beliefs.

26 Q. 36 And I think that in fact in 1993 it reverted to the 19 -- sorry the 1991 draft

27 zoning, that is C zoning, was confirmed on the site. But due to an amendment

28 to the Written Statement it became apparent in 1994 that the C zoning would not

29 support the anticipated development on the site, isn't that right, shopping

10:48:37 30 centre development on the site. And I think there was a debate at the Council

10:48:41 1 in December '94.
2
3 If I could have 2107, please.
4
10:48:44 5 You are again recorded as having contributed to that debate
6 A. Uh-huh.
7 Q. 37 Do you recall that meeting at that time?
8 A. I don't recall it that clearly. But the references on the monitor here, I
9 would remember having said that type of thing at the time, yes.
10:49:07 10 Q. 38 You had referred a document entitled 'Gateway to the Mountains'. This was a
11 publication which was distributed locally, isn't that right?
12 A. That's right, yeah.
13 Q. 39 You had been given a copy of that?
14 A. I would have been, yeah.
10:49:18 15 Q. 40 And you say that Dundrum had become a mecca for the Dunlaoghaire Rathdown area
16 and you referred that it could become, isn't that right?
17 A. That's right.
18 Q. 41 It would depends on the Planning Department to do their homework in respect of
19 the scale of shopping etc but that the benefits of the proposals for Dundrum
10:49:29 20 were obvious and you didn't want to put spanner in the works?
21 A. Yeah. That would have been more pro-development than I remember.
22 Q. 42 All right?
23 A. Than I would have been. But I probably felt that I had to face up to the
24 realities.
10:49:47 25 Q. 43 Yes. You see, it would be fair to say that you changed your mind over the
26 period between '92 and now December' 94 in relation to the development of the
27 site?
28 A. Well, I can't remember very strongly but it's possible I did. And probably not
29 because I would have especially liked it but because I would have faced
10:50:13 30 realities and your political realities that there was support for it maybe, I

10:50:19 1 don't know.

2 Q. 44 But in any event, your only recollection of speaking to anyone in relation to

3 the site is the meeting you had in Mr. Kelly's office at his request?

4 A. That's right.

10:50:27 5 Q. 45 When he asked you to support it although you can't date that meeting?

6 A. No, I can't.

7 Q. 46 Thank you very much, Mr. Gordon.

8

9 CHAIRMAN: All right. Anybody want to examine this witness?

10:50:38 10

11 MR O'DWYER: No questions.

12

13 CHAIRMAN: Thank you. Thank you very much, Mr. Gordon.

14 A. Thank you.

10:50:42 15

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17

18 **THE WITNESS THEN WITHDREW.**

19

10:50:43 20

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22 MS. DILLON: Mr. Richard Lynn, please.

23

24 I understand that there is an application before Mr. Lynn is sworn. An

10:50:51 25 application for representation on the part of Noel Smyth & Partners.

26

27 MR. LYNN: Yes, Chairman, Pdraig Lynn.

28

29 I appear on behalf of Mr. Lynn, instructed by Noel Smyth & Partners solicitors.

10:51:01 30

10:51:01 1 CHAIRMAN: All right. Granted.

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3 **MR. RICHARD LYNN, HAVING BEEN SWORN, WAS QUESTIONED**

4 **BY MS. DILLON AS FOLLOWS:**

10:51:34 5

6 CHAIRMAN: Good morning, Mr. Lynn.

7 A. Good morning.

8

9 MS. DILLON: Good morning, Mr. Lynn.

10:51:41 10

11 You have previously given evidence to the Tribunal in the course of the
12 Cherrywood Module, isn't that right

13 A. That's correct.

14 Q. 47 And in the course of that evidence to the Tribunal you recounted the fact that
15 during a certain period of time you were working for Monarch Properties and
16 that you were involved in the rezoning of the Cherrywood lands, is that right?

10:51:51 15

17 A. That's right.

18 Q. 48 And you now have provided a statement to the Tribunal in connection with your
19 involvement in the Pye Lands, isn't that right?

10:52:08 20

20 A. That's correct, Chairman.

21 Q. 49 And it would appear that your involvement in the Pye Lands, which we'll go
22 through in some detail in a moment, seemed to be running parallel or at the
23 same time that you were employed by Monarch, is that correct?

24 A. That's correct, Chairman, yeah.

10:52:22 25

25 Q. 50 Correct me if my earlier understanding of your evidence was incorrect, that you
26 were not employed exclusively by Monarch Properties?

27 A. I was employed by Monarch Properties but I carried out additional work other
28 than for the benefit of Monarch Properties.

29 Q. 51 Yeah?

10:52:41 30

30 A. If that makes any sense.

- 10:52:43 1 Q. 52 If I can ask you this then, Mr. Lynn, is it the position that during the period
2 '92 to '98 when you ceased employment with Monarch Properties that you were a
3 salaried employee of Monarch Properties?
4 A. That's correct, Chairman.
- 10:52:56 5 Q. 53 And you were contracted by Monarch Properties, as I understood your previous
6 evidence, as a salaried employee to provide services to Monarch in connection
7 primarily with the rezoning of the Cherrywood lands?
8 A. That's correct, Chairman.
- 9 Q. 54 Now, is it the position then that concurrent with that and at the same time you
10 operated a separate business?
11 A. That's correct, Your Honour.
- 12 Q. 55 And in -- and in a business, was that a business, it connected to or related to
13 the provision of lobbying services and that that business was available to
14 anybody else, is that the position?
10:53:25 15 A. Well, it wasn't confined to lobbying but generally speaking, yes, is the
16 answer.
- 17 Q. 56 Well would you like to describe. Put the proper description, Mr. Lynn, if you
18 would on the second business that you were involved in?
19 A. Well, it was similar to the role I was carrying out, I carried out on behalf of
10:53:46 20 Monarch Properties insofar as I provided my expertise and assessing sites,
21 determining the best development proposal for the site, making proposals,
22 following up the proposals, and then interfacing with elected members. Also
23 assembling teams to carry out that function of determining the best value and
24 also making planning applications, directing EIS's and providing planning
10:54:26 25 advice generally. I mean, I think you said lobbying. I don't like the term, I
26 told you that before.
- 27 Q. 57 I think representer is the way you felt would be a better description of the
28 services that you were providing for Monarch, I think is what you previously
29 told the Tribunal?
10:54:42 30 A. Yeah.

10:54:42 1 Q. 58 But is it the position then, Mr. Lynn, that during the period of the review of
2 the Development Plan and while you were engaged by Monarch Properties in
3 connection with the rezoning of the Cherrywood lands, that you were
4 independently operating a separate land related business?

10:54:56 5 A. That's correct, Chairman, yeah.

6 Q. 59 And in the course of the Cherrywood Module, you didn't make any reference, is
7 that correct, to that separate business?

8 A. I couldn't recall. If you asked me.

9 Q. 60 Yes?

10:55:13 10 A. I would have given an answer. I think in our various private interviews I told
11 you.

12 Q. 61 We'll come to the private interviews, Mr. Lynn in, a moment. I'm just asking
13 you now about your evidence in the Cherrywood Module. Can you recollect
14 whether or not in the course of that that you disclosed that at the same time
10:55:28 15 that you were working for Monarch property that you simultaneously had a
16 separate and independent business?

17 A. Well, I can't recollect. But if you had asked me the question I would have
18 answered it, that's as far as I can go.

19 Q. 62 And how did you operate this business, Mr. Lynn?

10:55:47 20 A. I don't follow the question. How?

21 Q. 63 Well how did somebody?

22 A. In the same manner as anybody would operate it.

23 Q. 64 Well did you have a company or was it a sole trader business?

24 A. Formed a company.

10:56:03 25 Q. 65 What was the company that you formed and when did you form it?

26 A. Well, the company to carry out the Pye development and other activities was
27 probably, was Property Development Services Limited.

28 Q. 66 And was that formed for the purpose of carrying out the Pye development?

29 A. Not explicitly. No, no. It was formed in order to, I suppose, to carry out
10:56:36 30 activities such as the Pye and the Pye fell into that. I think that you will

- 10:56:41 1 find that we engaged in a few other ventures as well.
- 2 Q. 67 Yes. And who were the directors and shareholders of Property Development
3 Services Limited?
- 4 A. Patricia Fearon was one and Eileen Murphy was the other.
- 10:56:57 5 Q. 68 Were you either a director or shareholder of Property Services Developments
6 Limited?
- 7 A. No, Chairman.
- 8 Q. 69 Were you the person who was providing the services on behalf of Property
9 Services Developments Limited?
- 10:57:09 10 A. I was one of the people providing that service. I was, if you like, a
11 consultant in the company.
- 12 Q. 70 And who else was providing services?
- 13 A. A person by the name of Patrick Lafferty.
- 14 Q. 71 Was he also at the same time an employee of Monarch Properties?
- 10:57:28 15 A. He was, yes, Chairman.
- 16 Q. 72 Was he a shareholder in Property Services Developments Limited?
- 17 A. No.
- 18 Q. 73 Was he a director?
- 19 A. No, Chairman.
- 10:57:37 20 Q. 74 So the position then, Mr. Lynn, is that if one looked at the documentation in
21 the Companies Office in connection with Property Services Developments Limited
22 one would not become aware from looking at that documentation that you had any
23 connection with Property Services Developments Limited, is that correct?
- 24 A. That's correct, Chairman, yeah.
- 10:57:57 25 Q. 75 Now, when the Tribunal initially asked you to provide information in connection
26 with your involvement to the Pye Lands, did you disclose to the Tribunal that
27 you had provided your services through a medium known as Property Services
28 Developments Limited?
- 29 A. I wasn't asked how it was provided. I answered any question that was put to
10:58:17 30 me. I've -- if you're saying I didn't. I'll accept.

10:58:23 1 Q. 76 The Tribunal wrote to you I think on the 6th of March 2006.

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At page 453, please.

4

10:58:28 5 In which you were provided with an extract from an interview you had had with

6

the Tribunal in which you'd referred to the Pye Lands. And you were asked then

7

to provide a detailed narrative statement regarding your involvement with the

8

Pye Lands. To include but not limited to the circumstances in which you came

9

to be involved in the Pye Lands, the purpose for which you became, the persons

10:58:52 10 who requested your involvement and the nature of your involvement with the Pye

11

Lands.

12

13 Now, you are now telling the Tribunal, Mr. Lynn, that the services that you

14 provided to whoever employed you in connection with the Pye Lands were provided

10:59:05 15 through a company called Property Services Development Limited, isn't that

16

right?

17

A. Property Development Services Limited.

18

Q. 77 Isn't that right?

19

A. That's correct.

10:59:14 20 Q. 78 And would you not consider that that might in some way define the nature of

21

your involvement with the Pye Lands?

22

A. No, in response to the.

23

24

CHAIRMAN: Can we see his response?

10:59:28 25

26

MS. DILLON: His response is at page 1298.

27

28

And going through 1298, 1299 and 1300.

29

10:59:41 30 I think subject to any correction you want to make, Mr. Lynn, that it's fair to

10:59:45 1 say that in providing that first narrative statement to the Tribunal you don't
2 disclose the involvement of Property Development Services Limited in the Pye
3 Lands, isn't that fair?
4 A. That is correct.

10:59:57 5 Q. 79 Yes. And can you just explain to the Tribunal why you didn't do so?
6 A. Well, I didn't think it was relevant. I was asked what my involvement in the
7 Pye Centre was. And I gave what my involvement was. Sorry, I beg your pardon.
8 I just can't the.

9 Q. 80 What do you want, Mr. Lynn?
11:00:23 10 A. I suppose I want a second or two just to see can I find this. It's okay. It's
11 okay. I'll try and read it from the, from this.

12 Q. 81 Do you want a hard copy of your statement, Mr. Lynn?
13 A. Oh, no, I have hard copies here, I just can't put my hand on it.

14 Q. 82 Could we get a copy, please, of Mr. Lynn's statement.
11:00:54 15
16 Now, I think it's fair to say
17 A. I have it.

18 Q. 83 Have you found it?
19 A. I have.

11:00:58 20 Q. 84 I think it's fair to say that throughout that statement you referred to
21 everything that is done in connection with the Pye Lands as being done by
22 yourself, isn't that right?
23 A. That is correct.

24 Q. 85 I was approached by Mr. Kelly. I probably drafted the motion. I approached
11:01:13 25 County Councillors, isn't that correct?
26 A. That's correct.

27 Q. 86 There is nothing in this document that would indicate to the Tribunal that in
28 fact you were providing services through the medium of a company, isn't that
29 right?
11:01:21 30 A. That is correct.

11:01:22 1 Q. 87 Now, I think subsequently the Tribunal wrote to you on the 11th, I think
2 subsequently on the 11th of January 2007.
3
4 The Tribunal wrote to you at 2467.

11:01:36 5
6 And asked you specifically about payments. Because you hadn't referred to
7 payments, isn't that right in your first statement?
8 A. That's correct.

9 Q. 88 And is that because you weren't --
11:01:45 10 A. I wasn't asked.

11 Q. 89 Is that because you weren't specifically asked?
12 A. Yes.

13 Q. 90 Even though you had been asked to provide a detailed narrative statement to
14 include but not limited to the four matters that were set out, isn't that
11:01:56 15 right?
16 A. And as far as I am concerned, I answered that correctly.

17 Q. 91 Yes. And insofar as you were providing a detailed narrative statement
18 regarding your involvement with the Pye Lands, you did not disclose to the
19 Tribunal that you provided your services through the medium of a company. And
11:02:11 20 you didn't provide any information to the Tribunal about how you were paid, is
21 that right? In the first statement.
22 A. That is correct, Chairman.

23 Q. 92 All right. I think subsequently the Tribunal wrote to you, through its
24 solicitor, on the 11th of January 2007.
11:02:25 25
26 At 2467.

27 A. Sorry, could I just.

28 Q. 93 Yes?
29 A. Draw your attention to an Affidavit of Discovery which you --
11:02:33 30 Q. 94 Yes I'm coming to that, Mr. Lynn. If we just follow the sequence. You are

11:02:38 1 referring to the one in May 2006?

2 A. Yes.

3 Q. 95 Yes?

4 A. In which PDS Limited is included.

11:02:45 5 Q. 96 Yes, I'm coming to that?

6 A. Yes.

7 Q. 97 What I'm dealing with at the moment, Mr. Lynn, isn't what the Tribunal asked

8 you to provide in your narrative statement to the Tribunal and what you

9 provided to the Tribunal in the context of the Pye Lands.

11:02:56 10 A. Yes. And I would repeat as far as I'm concerned, I made that narrative

11 statement correctly.

12 Q. 98 Yes. But you also accept --

13 A. I didn't include PDS Limited, that's correct.

14 Q. 99 I think the Tribunal did write to you at 2467 and asked you to set out details

11:03:14 15 of payments that you had received either when you were retained by Aidan Kelly

16 or Cabriole Construction or Joe O'Reilly or Castlethorn Construction because

17 you had indicated that you been retained in two capacities, isn't that right?

18 A. That's correct.

19 Q. 100 Initially by Mr. Kelly or Cabriole Construction and subsequently after the

11:03:31 20 receiver had sold the lands to Mr. Joe O'Reilly or Castlethorn Construction?

21 A. Alice developments, one or the other.

22 Q. 101 Through Alice Developments. You provided a statement in relation to that

23 matter.

24

11:03:42 25 At 2468.

26

27 Now, you say 'I make this further statement at the request of the Tribunal to

28 assist the Tribunal with regard to its inquiries. I do so to the best of my

29 knowledge and belief and based on my recollection because at this stage I've

11:03:58 30 not got access to all of the documentation that would have existed at the time.

11:04:02 1 Much of which was lost or misplaced. Earlier statement. I was a consultant
2 with PDS Limited, a company which provided consultancy services. Aidan Kelly,
3 Cabriole Construction retained PDS Limited assist with the Pye site and I
4 believe a payment of 34,848 pounds including VAT was received from Cabriole
11:04:21 5 Construction Limited by PDS Limited on the 14th of October 1994.
6
7 I believe this fee would have partly covered work to date on the zoning and
8 planning application made on the site. There were significant fees outstanding
9 in relation to the completion of the first planning application. The who
11:04:36 10 reassessment of the project and subsequent preparation of the second planning
11 application. I was in discussions with Aidan Kelly regarding a possible equity
12 share in the project but these negotiations came to nothing and were terminated
13 on the appointment of the receiver. After his appointment neither I nor to the
14 best of my knowledge PDS Limited had any other involvement with Aidan Kelly or
11:05:00 15 Cabriole Construction Limited with regard to the Pye lands. Joe Reilly,
16 Castlethorn Construction Limited retained the services of Richard Lynn and
17 Associates as consultants and payments were made by Alice Developments Limited
18 through Cedarcastle Investments Limited acting as agents for Richard Lynn and
19 Associates Limited as follows'
11:05:12 20
21 And you set out three payments there
22 A. That's correct.
23 Q. 102 And then all of the above were inclusive of VAT and in full settlement of the
24 agreed fee. These monies were subsequently paid over to Richard Lynn &
11:05:20 25 Associates Limited in January 2002 save for a small balance. After January
26 1999 neither my company nor myself had any further involvement with Joe O'
27 Reilly or Castlethorn Construction in respect of the Pye Lands?
28 A. The Pye Lands, that's correct.
29 Q. 103 Is it the position, Mr. Lynn, that if the Tribunal hadn't written to you to ask
11:05:40 30 you specifically about payments that that information in relation to

11:05:44 1 Castlethorn Construction was not considered by you to fall within the remit of
2 the request the Tribunal had made?
3 A. Castlethorn?
4 Q. 104 Yes.
11:05:57 5 A. But sure I had already advised that I had been retained by Castlethorn.
6 Q. 105 I'm asking you now about your statement. In connection with your involvement
7 in the Pye Lands. And what I'm asking you. Is it the position that because
8 you weren't specifically asked the question as to how you were paid when you
9 were providing your first statement that you didn't address the issue of PDS
11:06:18 10 Limited or Cedarcastle Investments Limited in your first statement?
11 A. The only thing I can say to you is that any narrative statement that I made to
12 you was in response to whatever question you put to me, including dates etc.
13 And as far as I'm concerned, I answered them properly. If there's no mention
14 of money, it meant that you didn't ask to be told of the money.
11:06:53 15 Q. 106 And when you in your first?
16 A. I have it here.
17
18 1299. I suppose Joe O'Reilly. I mean, it couldn't be any more up front other
19 than telling you that I was engaged by Joe O'Reilly, Castlethorn
11:07:14 20 Q. 107 Yes. But what you said was I was engaged. With respect to you, Mr. Lynn. You
21 do not disclose in fact it was Richard Lynn and Associates Limited that was
22 retained by Joe O'Reilly.
23 A. Well, I see them as one and the same thing.
24 Q. 108 Yes. In fact it is the position that Richard Lynn and Associates Limited did
11:07:32 25 not in fact provide any invoices directly to Castlethorn, isn't that correct?
26 A. That's correct, yes.
27 Q. 109 In fact, the invoices were provided through Cedarcastle Investments Limited,
28 isn't that correct?
29 A. That's correct, Chairman.
11:07:43 30 Q. 110 And it would appear from the documentation that has been provided to the

11:07:46 1 Tribunal by Cedarcastle Investments Limited, that the system that was operated
2 between your company, Richard Lynn and Associates, and Mr. O'Reilly's company,
3 Castlethorn Construction Limited, was that you invoiced Cedarcastle Investments
4 Limited and Cedarcastle Investments Limited invoiced Mr. O'Reilly's company, is
11:08:09 5 that correct?
6 A. Well it's the wrong sequence. Cedarcastle would have invoiced Alice
7 Developments Limited.
8 Q. 111 Alice Developments?
9 A. And in turn then Richard Lynn & Associates would have invoiced Cedarcastle.
11:08:21 10 Q. 112 So what was the purpose of that?
11 A. The purpose of that was too manage cashflow. I set up a company in 1997, '98.
12 I had been in local Government up to 1989.
13 Q. 113 Just take --
14 A. Sorry, it is relevant.
11:08:37 15 Q. 114 Which company did you set up, did you set up Cedarcastle Investments Limited?
16 A. No, no, no, I have no direct -- neither shareholder nor director with
17 Cedarcastle.
18 Q. 115 Were you ever a director or shareholder of Cedarcastle?
19 A. No.
11:08:51 20 Q. 116 Have you ever told the Tribunal that you were a director?
21 A. Yes, I did. And I corrected it in the subsequent interview. I had an
22 interview in 2000 and an interview in 2003. I corrected it in 2003.
23 Q. 117 Can you just explain the system of payments between Alice Developments and
24 Richard Lynn and Associates and the necessity for the intervention of
11:09:14 25 Cedarcastle Investments Limited?
26 A. Well the only reason Cedarcastle Investments Limited were involved was to
27 assist me in, as I said, I had been in local Government up to '89. I was then
28 an employee up to 1987. I then set up my own business. I didn't know how
29 successful I was going to be and I wanted to control cashflow. And that was to
11:09:40 30 the, good, bad or indifferent, that was the way that I managed not only for

11:09:52 1 Alice Developments but for other activities as well. And when the company
2 required money it pulled down the money from Cedarcastle as and when it
3 required it.

4 Q. 118 So if we just look at some of those documents. If we just look, first of all,
11:10:09 5 I think at the documentation that was provided by Cedarcastle Investments
6 Limited. And I think if we see page 2759.
7
8 Which is a letter to Mr. King from Mr. Joe Gormley of the 29th of January 2007.
9
11:10:32 10 And at paragraph two on the following page.
11
12 At 2760.
13
14 He says. The only dealings this company had was the collection of professional
11:10:42 15 fees on behalf of Richard Lynn and Associates Limited. I have appended a
16 schedule of all fees collected on behalf of that company along with copies of
17 invoices issued on their behalf. I am also attaching copies of all invoices
18 received from Richard Lynn & Co. Limited to collect those fees from this
19 company. The schedule extends beyond the dates requested in the interests of
11:11:02 20 clarity. The balance owing to Richard Lynn & Co. Limited is reflected in other
21 creditors and our balance sheet each year and currently stands at 150,000
22 pounds.
23
24 Do you agree with what Mr. Gormley states there?

11:11:14 25 A. First of all, can I say, I got this mound yesterday evening. I agree with his
26 balance of 150. And I agree with what he says there, yes.

27 Q. 119 Yes. And the schedule that was provided by Mr. Gormley at 2775?

28 A. I haven't got that far.

29 Q. 120 2775.

11:11:37 30 A. I'm sure that it agrees with my schedule. If it comes up 150 it's the same as

- 11:11:42 1 I have.
- 2 Q. 121 And in that schedule if you want time to consider it, Mr. Lynn. Mr. Gormley
3 sets out a series of companies to whom his company, Cedarcastle Investments
4 Limited, raised invoices on foot of services provided by Richard Lynn and
11:12:05 5 Associates?
- 6 A. That is correct.
- 7 Q. 122 Right. Now, at that time was Richard Lynn and Associates Limited raising
8 invoices at all to anybody?
- 9 A. Oh, it was. Oh, it was of course.
- 11:12:15 10 Q. 123 And what was the difficulty with Richard Lynn and Associates raising invoices
11 in respect, directly in respect of these developments that are listed there?
- 12 A. There had been no difficulty.
- 13 Q. 124 Then why wasn't it done?
- 14 A. I've told you. I was managing cashflow. That is the system that I adopted to
11:12:33 15 manage cashflow. My system.
- 16
- 17 CHAIRMAN: But if you, but, Mr. Lynn, if Richard Lynn and Associates is owed a
18 sum of money from, say, Alice Developments, where's the management of cashflow?
19 Why can't you just invoice directly Alice developments from Richard Lynn, get
11:12:54 20 the money into Richard Lynn's account? Why involve a third party, that
21 involves presumably additional expense and additional bureaucracy. I'm just
22 wondering what's the benefit of doing it this way by using this third party.
23 Is it to, and there may be good reason for, I'm not suggesting other. Is it to
24 keep secret the involvement of Richard Lynn
- 11:13:24 25 A. Oh, God no, no.
- 26
- 27 CHAIRMAN: But where's the? What's the benefit?
- 28 A. The advantage, Chairman, is very simple. Is that if the money's not in my
29 account but it is available to me, I'm able to manage the cashflow. There is,
11:13:46 30 there's no secret about the monies coming in. Any time that I would have

11:13:52 1 needed money it was there. And I suppose it was a way of generating goodwill
2 because Joe and I, Joe Gormley is one of the directors there. I would have
3 generated goodwill with Joe vis-a-vis other developments that we were involved
4 in. But there's no great secret, Chairman. There's no hidden agenda either.

11:14:14 5
6 MS. DILLON: If we just look at the very first item that's on that list. If
7 we just look at dates, first of all, on that list. If we see that the first
8 invoice is the 2nd of September 1998. That's raised by Cedarcastle. And the
9 transactions conclude, according to Mr. Gormley, on the 5th of October 2000,
11:14:34 10 isn't that right? If you look at the dates

11 A. Yes.

12 Q. 125 Right. And it would seem in that period of time, which is just over two years,
13 the total net amount of the invoices raised was 653,000 pounds?

14 A. That's correct.

11:14:47 15 Q. 126 Right. Together with VAT in the sum of 137,130 pounds?

16 A. Yes.

17 Q. 127 So that in effect what's happening here is Richard Lynn and Associates Limited
18 are doing work to the value of 653,000 pounds but Cedarcastle Investments
19 Limited is invoicing the persons for whom Richard Lynn and Associates does the
11:15:08 20 work, is that correct?

21 A. That's correct.

22 Q. 128 And subsequently, when you want money from Cedarcastle Investments Limited you
23 give Cedarcastle Investments Limited an invoice?

24 A. That's correct.

11:15:19 25 Q. 129 The effect of that would be that in the books of the employer, let's say for
26 example, Cherrywood Properties Limited, Richard Lynn and Associates would not
27 appear as a creditor, isn't that right?

28 A. Well I must say I don't know but if you tell me.

29 Q. 130 I mean, let's just take it in steps. If Cedarcastle Investments Limited is the
11:15:41 30 body that puts the invoice into Cherrywood Properties Limited in respect of

- 11:15:45 1 your services and an analysis of the books of Monarch will not disclose which
2 are Monarch Properties or Cherrywood Properties Limited?
- 3 A. No, it was neither Monarch nor Cherrywood Properties. Not Monarch.
- 4 Q. 131 Cherrywood Properties Limited is a subsidiary of Monarch Properties, isn't that
11:16:05 5 right?
- 6 A. Oh, no I don't think you're right.
- 7 Q. 132 It's a Monarch related company?
- 8 A. No.
- 9 Q. 133 All right?
- 11:16:11 10 A. No.
- 11 Q. 134 Cherrywood Properties is not a Monarch related company?
- 12 A. It's a Dunloe related company.
- 13 Q. 135 A Dunloe related company. And Cherrywood Properties Limited, an analysis of
14 their books would not disclose an invoice or monies due to Richard Lynn and
11:16:26 15 Associates Limited, is that correct?
- 16 A. That is correct.
- 17 Q. 136 And that is because it would disclose Cedarcastle Investments Limited?
- 18 A. That's correct.
- 19 Q. 137 As having put in an invoice or being a creditor of Cherrywood Properties
11:16:39 20 Limited, isn't that right?
- 21 A. That's correct.
- 22 Q. 138 And through that medium did you raise a success fee against Cherrywood
23 Properties Limited using that system?
- 24 A. Against whom?
- 11:16:56 25 Q. 139 Cherrywood Properties Limited?
- 26 A. No. My fee would have been agreed and I would have asked people in Dunloe and
27 people like Joe O'Reilly and whoever else is there, I think they're the only
28 two. That I wanted to be paid in a certain manner and they agreed and they did
29 it and there's no ...
- 11:17:19 30 Q. 140 Did you agree a success fee, Mr. Lynn?

11:17:22 1 A. Yes.

2 Q. 141 With Cherrywood Properties Limited in connection with the variation of the Dun
3 Laoghaire/Rathdown plan of 1997?

4 A. Yes.

11:17:29 5 Q. 142 And 1998?

6 A. Yes.

7 Q. 143 And did you agree a success fee with them in connection with changing the
8 science and technology zoning on the Monarch Properties lands?

9 A. Yes.

11:17:39 10 Q. 144 Were you asked here previously had you ever been paid a success fee?

11 A. I was asked previously had I been paid a success fee back in 1994. I take it
12 that's what you're referring because it's in the documentation, which I must
13 say is a complete mystery to me.

14 Q. 145 And did you ever tell the Tribunal previously in the Monarch Module that you
11:18:04 15 had charged and been paid a success fee in connection with the variation of the
16 Dun Laoghaire/Rathdown plan?

17 A. Well I can't recollect. But if I was asked that question I would have said
18 yes.

19 Q. 146 So is it the position then Mr. Lynn that the important thing as far as this
11:18:19 20 Tribunal is concerned, that we must get the question right. And if we don't
21 get the question right you don't provide the information is that the position?

22 A. That's being facetious.

23 Q. 147 Is that the position?

24 A. That is not the position and you damn well know.

11:18:34 25

26 CHAIRMAN: Can we see what Mr. Lynn was asked

27

28 MS. DILLON: Page 667, day 667. Sorry, page 96 of day 667.

29

11:18:49 30 Now, at question 666 the document that was being discussed is a document that

11:19:27 1 was at page 5180 of the Monarch brief. Which I think the Cherrywood brief.
2 Yeah, the Cherrywood brief which is in fact at 2483 of this brief.
3
4 And I'll come to it in a second.

11:19:44 5
6 And that is the document that shows zoning costs under the heading zoning cost
7 1,000 pounds to Richard Lynn. And you remember we had some discussion
8 A. I have.
9 Q. 148 About whether or not you had been paid a success fee of 100,000 pounds?
11:19:57 10 A. That's correct, I told you unfortunately that I wasn't. I didn't get it.
11 Q. 149 Yes. Did you tell the Tribunal that you had subsequently put in a fee for
12 100,000 pounds success fee in connection with the later rezoning of those
13 lands?
14 A. I didn't, Chairman, because I wasn't asked that question. I mean, I will refer
11:20:13 15 you to page No. 936, 937 where I indicated to you the activities that I was
16 engaged in.
17 Q. 150 Yes.
18 A. And they do include Cherrywood on behalf of the Monarch Group, Cherrywood on
19 Dunloe Group, Pye Centre, Castlethorn, probably that should be Alice
11:20:33 20 Developments Limited and etc. I have indicated to you the extent of my work
21 and whom I was working for. In relation to No. 2483. Now, I can't recollect
22 what I said.
23 Q. 151 If we just look --
24 A. But I'd be amazed if I said I didn't get it.
11:20:55 25 Q. 152 If you just look at the questions that are there. Under the original document
26 that was being considered at question 666. And the question was under the
27 heading zoning costs at 5180 on the same document I think prepared by you under
28 the heading zoning costs there is a figure of success bonus and yourself for
29 100,000 pounds and you say yes. Did you prepare the document and you say 'no I
11:21:19 30 think Mr. Sweeney prepared this one. I don't think I became aware.

- 11:21:22 1 Q: Were you in fact paid a success.
- 2 A: I wasn't no Chairman
- 3 Q: You were never paid a success fee -- were you paid a success fee by
- 4 Guardian Royal or Monarch
- 11:21:29 5 A: I was earlier paid a success fee and I think that success fee related to
- 6 7,500 pounds, isn't that right
- 7 A. That's right.
- 8 Q. 153 But this related going forward into the variation and then to the thereafter --
- 9 the next phase thereafter 'no I didn't get a success fee of 100,000 pounds'.
- 11:21:46 10 So that what you were discussing there was the variation and thereafter. Isn't
- 11 that right?
- 12 A. No, no. I mean, that's not what I'm discussing.
- 13 Q. 154 Okay?
- 14 A. What we're discussing there is my relationship with Monarch and whether in this
- 11:21:59 15 document, 2483 or a previous one 5180 that I got that particular success fee
- 16 and the answer is that I did not get that particular success fee from either
- 17 Monarch or anybody else. Subsequently, I was engaged by Dunloe when Dunloe
- 18 took over the Monarch assets or some of the Monarch assets, including
- 19 Cherrywood. And I had a success fee from them in relation to -- the variation
- 11:22:26 20 had commenced when Monarch were still the owners of the site or co-owners of
- 21 the site and the variation concluded after Dunloe had taken over the asset and
- 22 I was engaged by Dunloe to continue with the variation and I was engaged on a
- 23 success fee basis.
- 24 Q. 155 Right. And when you were giving evidence. In particular, when you were
- 11:22:51 25 answering the questions that were put to you on day 667 and you were being
- 26 asked about a success fee in the context of variation of the Dun
- 27 Laoghaire/Rathdown Development Plan. Did you give any evidence to the Tribunal
- 28 to indicate that you had in fact charged a success fee of 200,000 pounds in
- 29 connection with that activity?
- 11:23:08 30 A. No, Chairman. Because it didn't dawn upon me that that was pertinent. What we

11:23:14 1 were talking about on that day, and I think the Chairman will accept it, we
2 were talking about Monarch.

3 Q. 156 So is it the position then Mr. Lynn that insofar as your previous evidence in
4 the Monarch Module to the Tribunal was concerned. That you now accept that you
11:23:28 5 charged and received a success fee of 200,000 pounds in connection with the
6 variation of the 1993 Development Plan. And that that was not disclosed by you
7 in the course of the Cherrywood Module?

8 A. That was not disclosed by me because we were talking about Monarch Properties
9 as far as I was concerned.

11:23:51 10 Q. 157 You didn't understand that you were being questioned about success fees in the
11 context of the variation?

12 A. That's right.

13 Q. 158 But notwithstanding --
14

11:23:58 15 JUDGE FAHERTY: Sorry to interrupt. Can I just clarify. When you talk about
16 the variation. In Monarch the plan was made in '93 and the variation in '94,
17 '95 and then there was the review of the '93 plan as varied.
18

19 MS. DILLON: Yes.

11:24:12 20

21 JUDGE FAHERTY: And I'm just when the reference here to variation. Are we
22 talking about the '97 plan or is it an earlier variation?
23

24 MS. DILLON: I'd say it's the '97. It's the '97 plan, yes.

11:24:28 25

26 JUDGE FAHERTY: That's what I understand but I just wanted to ...
27

28 MS. DILLON: Yes.
29

11:24:33 30 Q. 159 And in fact, I think you would agree, Mr. Lynn, that in the course of the

11:24:37 1 Cherrywood Module, we dealt with the change of the cap on the retail centre,
2 isn't that right?
3 A. That's right, Chairman.
4 Q. 160 We dealt with the extension of the district centre zoned lands to increase the
11:24:47 5 acreage?
6 A. We did, we did, yeah.
7 Q. 161 And we dealt with the change of zoning from agriculture to science and
8 technology park?
9 A. We.
11:24:57 10 Q. 162 And we dealt with the extension of the science and technology park lands across
11 the roadway into what had been the golf course lands?
12 A. Eventually, yes.
13 Q. 163 Isn't that right?
14 A. That's right.
11:25:07 15 Q. 164 And throughout all of that evidence in which you were involved, did you ever
16 tell the Tribunal that you had charged a success fee of 200,000 pounds in
17 connection with your work on those activities?
18 A. Well I can't say that I -- unless you asked me the actual question it wouldn't
19 have dawned upon me to say it. But I go back to again, I did list that I had
11:25:33 20 been engaged by Dunloe or I suppose a subsidiary company, Cherrywood Properties
21 Limited, that my company Richard Lynn and Associates had been so engaged.
22 Q. 165 When you were asked at question 669 that you were never paid a success fee
23 by -- were you paid a success fee by Guardian Royal or Monarch?
24 A: I was earlier paid a success fee but this related to going forward into
11:25:57 25 the variation and into the thereafter.
26 And then you go on to say the next phase thereafter
27 A: No, I didn't get a success fee of 100,000.
28
29 By that you meant the Tribunal to understand that you had not got a success fee
11:26:09 30 from Monarch Properties but that --

11:26:11 1 A. Because we were talking about this page.

2 Q. 166 Yes.

3 A. This particular page.

4 Q. 167 Yes but you said that you didn't get a success fee of 100,000 pounds. Do you

11:26:20 5 accept that you did not disclose to the Tribunal in the course of the

6 Cherrywood Module that you charged a success fee of 200,000 pounds in respect

7 of the matters about which you were giving evidence to the Tribunal?

8 A. I accept that I didn't because I wasn't asked that particular question.

9 Q. 168 I see?

11:26:38 10 A. I gave my answers honestly. The question that was in my recollection of it was

11 that we were talking about page 2483. You were enquiring about this bonus or

12 success fee or success bonus it's called of 100 and I told you that I didn't

13 get it then or even later. What I did get was a success fee from the Dunloe

14 group.

11:27:08 15 Q. 169 Yes?

16 A. I can't help you any more than that.

17 Q. 170 At 2761.

18

19 JUDGE KEYS: It related to the same parcel of land didn't it? That is what I

11:27:17 20 can't understand or the same activities. Same activities, same parcel of land.

21 You come to the Tribunal. Everybody comes and say they want to cooperate, they

22 want to help us along the road. And then you're asked a very simple question

23 in the Cherrywood situation and you say you didn't receive a success fee. What

24 was to stop you saying but I got a success fee subsequently but it was from the

11:27:40 25 new owners of the property?

26 A. Because --

27

28 JUDGE KEYS: You don't have to be asked that?

29 A. Absolutely.

11:27:47 30

11:27:47 1 JUDGE KEYS: Why didn't you volunteer it?

2 A. Because it never crossed my mind to do so. You can appreciate when sitting
3 here it's a bit different than sitting where you are. What I was dealing with
4 was my recollection.

11:28:00 5

6 JUDGE KEYS: Yes?

7 A. Was this page of 24 -- sorry, put the glasses on again. 2483. Which had this
8 bonus success. And I was being quizzed about did I get it and blah blah and I
9 answered that.

11:28:13 10

11 JUDGE KEYS: Yes.

12 A. Now, in that context. If anybody said did you ever get the success fee from
13 Dunloe I definitely did. If you look at the documentation I disclosed that I
14 was retained by Dunloe.

11:28:26 15

16 JUDGE KEYS: Yes, but how is the Tribunal to know that you subsequently
17 obtained a success fee when you were being asked that question in the
18 Cherrywood Module. But I cannot understand why witnesses constantly come here
19 to the Tribunal, constantly say that they want to co-operate and help. And I
20 would have certainly thought that by volunteering that evidence would have been
21 most helpful and save a lot of cost in relation to discovery, swearing
22 affidavits of discovery and now spending a lengthy period of time
23 cross-examining, wondering why that wasn't volunteered in the last Module.
24 It's what you call being helpful.

11:29:06 25 A. I apologise if you -- all I can say to you in all honesty is that it never
26 dawned upon me that subsequent monies were what the Tribunal --
27

28 JUDGE KEYS: But that you were paid a success fee. The issue was were you
29 ever paid a success fee. And it's just very frustrating sitting here and
30 hearing this --

11:29:29 1 A. In the context of the discussion on that day, I wasn't paid the success fee
2 that was being particularly discussed.
3
4 JUDGE KEYS: Yes. But you said to Ms. Dillon that she was being facetious in
11:29:44 5 relation to the manner in which she put a question to you. I wonder if that
6 was a fair comment to her
7 A. Not in the manner.
8
9 JUDGE KEYS: The way she phrased it
11:29:54 10 A. Whether I had disclosed. My file is fairly thick in relation to what has been
11 disclosed.
12
13 JUDGE KEYS: Okay.
14 A. Could I just say. I hope I'm accurate. It wasn't entirely the same parcel of
11:30:11 15 land. I think Dunloe bought in additional.
16
17 JUDGE KEYS: Certainly formed part of the lands
18 A. Yes and it formed a vast majority of the land I accept.
19
20 JUDGE KEYS: Yes
11:30:21 21 A. There was a golf course, part of that came into the.
22
23 JUDGE KEYS: That's right.
24
25 MS. DILLON: Just ask you to turn your attention briefly and for a moment
26 Mr. Lynn to the subject matter of the invoice that you raised.
27
28 This is an invoice. And it's from Cedarcastle Investments Limited. Now, is it
29 the position that you have no involvement as a director or shareholder with
11:30:43 30 Cedarcastle Investments Limited

11:30:45 1 A. That's correct.

2 Q. 171 Now, did you previously?

3 A. Can I just -- I'm best friends with Joe Gormley. You know, so if you're asking

4 me do I know the people etc. etc. yes I do.

11:30:58 5 Q. 172 Yes. You attended at an interview of the Tribunal on the 24th of May 2000.

6 And you were asked at page 2487.

7

8 Question 200.

9

11:31:15 10 Q: Do you know what the company name is?

11 A: Cedarcastle, but I don't know whether it was actually Cedarcastle who

12 bought the actual lands. Pat Joe and myself from then have joined forces.

13 Q. 173 That's Mr. Gormley

14 A. That's right.

11:31:28 15 Q. 174 And Joe is Mr. ?

16 A. No, no, Joe is Mr. Gormley and Pat is Pat Hayden.

17 Q. 175 Pat Hayden?

18 A. Sorry, I can't again find it.

19 Q. 176 Question 200. If you can see it there?

11:31:41 20 A. I think you have to go back and I ...

21 Q. 177 In fairness to you, what I want to ask you. Are you talking there about

22 Cedarcastle Investments Limited?

23 A. No. Could you just go back about 197.

24 Q. 178 Its at the top of the page.

11:31:58 25 A. Well it's not on the top of this page. Here we are.

26 Q. 179 Yes?

27 A. Yeah, that was in relation to lands the subject of a planning application in

28 Lucan.

29 Q. 180 Yes?

11:32:25 30 A. Which I think was a material contravention. And I think the actual company is

11:32:34 1 Eleveden. It could be Eleveden Properties Limited or something limited or
2 Lucan. Cedarcastle is the wrong company. But in any event, even though I did
3 say and I acknowledge I said. I think I did correct it in the subsequent
4 interview.

11:32:52 5 Q. 181 We'll come to it in just one second.

6

7 At 2487, question 201

8 A. Yes.

9 Q. 182 You were asked at 201 Q: you are part owner of that land or part owner of the
11:33:04 10 company as far as the development at least?

11 A: I am a shareholder in Cedarcastle Limited who are carrying out the
12 development.

13

14 Was that Cedarcastle Limited, Cedarcastle Investments Limited who raised the
11:33:18 15 invoice in connection with what we've been discussing at all morning

16 A. Yes, that is the correct company, yeah.

17 Q. 183 Now, I think on the 26th of March 2003.

18

19 You attended at the Tribunal for another interview.

11:33:29 20

21 At at page 2485.

22

23 You were asked as to whether you were involved in building or development
24 companies and you say you were not in building or development consultants no.

11:33:42 25 Do you have any interest in a company called Cedarcastle

26 A: I have an ongoing relationship about Cedarcastle in relation to activities
27 to them to source and develop various lands.

28

29 Is that correct?

11:33:53 30 A. That's what I said, yes.

11:33:54 1 Q. 184 And you are then asked.
2 Q: Are you a shareholder in Cedarcastle;
3 A: I am not a shareholder, no.
4 Q: Are you a director.
11:34:01 5 A: I am not a director
6 A. That's correct.
7 Q. 185 Is that what you describe as your correction of what you had previously told
8 the Tribunal that you were a director of Cedarcastle?
9 A. That's correct.
11:34:09 10 Q. 186 And would you just explain now to the Tribunal what you mean by "an ongoing
11 relationship about Cedarcastle in relation to activities with them to source
12 and develop various lands?"
13 A. Well I suppose in the broad view, I have an ongoing relationship with the
14 personnel involved. Joe Gormley is a director of that company. He is also a
11:34:36 15 director of Eleveden. He is also a director of other companies. One company
16 Woodville we bought some lands out in Donabate. He also has an interest in
17 lands which I'm retained on in -- God where is it. In Johnstown, this side of
18 Naas. I mean, I am in contact with Joe on a daily basis so ...
19 Q. 187 And when you came to make your arrangement about the processing of invoices.
11:35:11 20 At that time you had a company called Richard Lynn and Associates Limited,
21 isn't that's right?
22 A. That's right.
23 Q. 188 And if we could look at 2755.
24
11:35:20 25 And this is an invoice in the name of Richard Lynn and Associates Limited dated
26 16th January 1988 where directors are described as Richard Lynn and Eileen
27 McCann. The address is given. Invoice for period up to 1997 to Dunloe
28 Management Services Limited, isn't that right?
29 A. That's correct.
11:35:38 30 Q. 189 And the amount is there together with VAT less an amount paid on account, isn't

- 11:35:41 1 that correct?
- 2 A. That is correct.
- 3 Q. 190 And I think that its fair to say that throughout all of 1998 Richard Lynn and
- 4 Associates provided invoices and was raising monies due to various people
- 11:35:55 5 including Dunloe but also other companies or people, isn't that right?
- 6 A. That is correct.
- 7 Q. 191 And therefore, you had no difficulty in raising certain invoices at that time
- 8 through Richard Lynn and Associates Limited?
- 9 A. Yeah, no difficulty.
- 11:36:07 10 Q. 192 So that in 1998 you had one practice of raising invoices through Richard Lynn &
- 11 Associates Limited, is that right? Certain invoices were raised through
- 12 Richard Lynn and Associates?
- 13 A. That's right.
- 14 Q. 193 And if one returns to look at the document provided by Mr. Gormley to the
- 11:36:24 15 Tribunal.
- 16
- 17 At page 2775.
- 18
- 19 And if we turn to that document. And we see that at the same time in 1998
- 11:36:35 20 invoices were raised to Cherrywood Properties Limited and Alice Developments
- 21 Limited by Cedarcastle Investments Limited on behalf of Richard Lynn &
- 22 Associates Limited, isn't that right
- 23 A. That's right.
- 24 Q. 194 Can you explain to the Tribunal the process whereby you selected which invoices
- 11:36:52 25 would be raised by Richard Lynn & Associates Limited and which would be raised
- 26 by Cedarcastle Investments Limited?
- 27 A. It's very simple. The larger ones I requested Cedarcastle to deal with. And
- 28 the smaller ones, those Dunloe ones you can see I was on a monthly retainer
- 29 with Dunloe. And I'd say any of the other ones were for smaller amounts, much
- 11:37:20 30 smaller amounts. So it was the magnitude of the invoice dictated.

- 11:37:27 1 Q. 195 You were keeping the larger amounts out of Richard Lynn & Associates Limited,
2 is that fair?
3 A. That is quite right.
- 4 Q. 196 And you were leaving that money with Mr. Gormley and Mr Hayden in Cedarcastle
11:37:38 5 Investments Limited?
6 A. That's right.
- 7 Q. 197 And it was available to you as and when you needed it, is that correct?
8 A. Yes, that's correct.
- 9 Q. 198 But the books of the paying company would not disclose any payments made to
11:37:48 10 Richard Lynn & Associates Limited because they would have been made to
11 Cedarcastle Investments Limited, isn't that right?
12 A. That's right.
- 13 Q. 199 Because the money had not been received by Richard Lynn & Associates Limited.
14 Your cash receipts book would not disclose the receipt of any money?
11:38:02 15 A. That's right.
- 16 Q. 200 In effect for whatever purpose, Mr. Lynn, is you were putting it in limbo,
17 isn't that right?
18 A. Yes, that's a fair description, yeah.
- 19 Q. 201 Because when one analyses the documentation provided by Mr. Gormley to the
11:38:16 20 Tribunal of the sum of 653,000 that was raised or that was invoiced by him on
21 behalf of your company. You didn't start drawing it down from Cedarcastle
22 until 2001, isn't that right?
23 A. That's correct.
- 24 Q. 202 So that even if payments were made in 1998 and 1999 on foot of the invoices by
11:38:36 25 Cedarcastle Investments Limited, that money remained in Cedarcastle Investments
26 Limited until you requested it from Mr. Gormley?
27 A. That's correct.
- 28 Q. 203 And is it the position that there was sufficient cash at all times in Richard
29 Lynn and Associates Limited that you didn't need to have recourse to this
11:38:52 30 money?

- 11:38:52 1 A. That's correct.
- 2 Q. 204 So that the whole purpose of this exercise was cashflow?
- 3 A. Managing cashflow.
- 4 Q. 205 I have to say, Mr. Lynn. And I'm sure I'm probably the only person here who
- 11:39:03 5 doesn't understand that. I'm going to ask you to explain that a little bit
- 6 more as to how the retention of monies in the hands of Mr. Gormley's company is
- 7 of assistance to the cashflow of Richard Lynn & Associates Limited, who are in
- 8 fact owed the money.
- 9 A. I can't advise you any further than I have. What I said is that it was the
- 11:39:23 10 system that I devised, be it good, bad or indifferent. My fear the whole time
- 11 is that I wouldn't have sufficient going forward, work would dry up or fees
- 12 would be delayed or whatever. And I wanted to ensure that I had sufficient
- 13 going forward. Maybe it is lucky I have done so.
- 14 Q. 206 And why didn't you open a deposit account in the name of Richard Lynn &
- 11:39:45 15 Associates Limited and put the money in?
- 16 A. There because I choose to do it this way.
- 17 Q. 207 That is the question Mr. Lynn, why did you choose to do it this way?
- 18 A. Because it was a personal choice to do it this way.
- 19 Q. 208 And is it not the case then that you were foregoing whatever interest you were
- 11:40:02 20 entitled to in Richard Lynn and Associates on the 653,000 pounds?
- 21 A. Not necessarily.
- 22 Q. 209 Had you an arrangement with Mr. Gormley about interest within Cedarcastle
- 23 Investments Limited?
- 24 A. It's an ongoing joke over pints the amount of interest that I'd be looking for
- 11:40:17 25 when I draw down the balance.
- 26 Q. 210 Have you ever sought interest from Cedarcastle Investments Limited in respect
- 27 of the money?
- 28 A. Interest, no.
- 29 Q. 211 That they had had on deposit for your benefit?
- 11:40:26 30 A. Anything I requested has been paid. And I've never made a request which wasn't

- 11:40:32 1 paid.
- 2 Q. 212 And is it the position that the only request you have made to be paid are net
3 figures plus VAT. You have never sought to be paid interest, is that correct?
4 A. That is quite correct.
- 11:40:42 5 Q. 213 So that in leaving funds of two or 300,000 pounds on deposit with Cedarcastle
6 Investments Limited you are prepared on behalf of Richard Lynn and Associates
7 Limited to forego whatever interest you would have been entitled to?
8 A. I wouldn't want to say that now. I am certainly negotiating with Joe that I
9 shall be repaid the interest on the monies. He has a different opinion on it.
- 11:41:05 10 Q. 214 Was interest any reason for revenue purposes Mr. Lynn, that you devised this
11 system?
12 A. Absolutely not. It was purely cashflow.
- 13 Q. 215 Purely cashflow?
14 A. Purely cashflow.
- 11:41:16 15 Q. 216 And it assists the cashflow of Richard Lynn and Associates that monies which
16 are substantial are collected by Cedarcastle Investments Limited and retained
17 by them?
18 A. I suppose it would be better to say purely the management of cashflow. It
19 assisted me personally in that manner.
- 11:41:32 20 Q. 217 And the system that you operated insofar as you wanted money from Cedarcastle.
21 If we could have page 2764.
22
23 And this is an invoice dated the 2nd of January 2002.
24
- 11:41:49 25 It's from Richard Lynn & Associates Limited to Cedarcastle Investments Limited
26 in connection with Cherrywood and it's the final instalment now due. I think
27 it's 190,460.71 with VAT making a figure of 228,552.84, is that correct
28 A. That's correct. That is the conversion to pounds.
- 29 Q. 218 Is that how you operated the recovery of the money from Cedarcastle. You
11:42:15 30 presented them with an invoice and the invoice was paid?

- 11:42:18 1 A. Yes.
- 2 Q. 219 And the funds were then lodged where, Mr. Lynn?
- 3 A. Lodged into Richard Lynn & Associates Limited.
- 4 Q. 220 Yes?
- 11:42:25 5 A. My bank is in Killester.
- 6 Q. 221 So that the money would come into Richard Lynn & Associates Limited?
- 7 A. And lodged, yeah.
- 8 Q. 222 Right. And do you still maintain that system with Cedarcastle Investments
- 9 Limited?
- 11:42:41 10 A. Yeah, you can see there's a balance.
- 11 Q. 223 I see. And are you still invoicing on behalf of Richard Lynn & Associates
- 12 Limited to other companies through Cedarcastle Investments Limited.
- 13 A. Oh, no, no, no, no.
- 14 Q. 224 When did you cease that practice Mr. Lynn?
- 11:42:57 15 A. The last monies came in on the 5th of October 2000, which were the Ashtown
- 16 Partnership. That's a Castlethorn development.
- 17 Q. 225 Is Castlethorn the company that developed Dundrum Town Centre or Alice
- 18 Developments or Mr Joe O'Reilly?
- 19 A. Joe O'Reilly certainly. I wouldn't know the particular -- I think it may have
- 11:43:20 20 gone through a few companies. I don't know whether it has been taken over
- 21 personally by Joe as of this point.
- 22 Q. 226 But at the time that you were?
- 23 A. But yes, it is the Castlethorn group or.
- 24 Q. 227 Is Mr. Joe O'Reilly one of the people behind Castlethorn and also one of the
- 11:43:35 25 people behind Alice Developments?
- 26 A. That's right.
- 27 Q. 228 And you did work for Mr. O'Reilly in connection with Alice developments and
- 28 Dundrum, isn't that right?
- 29 A. Yes.
- 11:43:43 30 Q. 229 And it's on foot of that that you received the money from Alice Developments

- 11:43:48 1 Limited, isn't that right?
- 2 A. My recollection, the Ashtown Partnership, that's in relation to lands at
- 3 Ashtown which are on the other side of the Phoenix Park.
- 4 Q. 230 Yes. I'm asking about Alice developments?
- 11:44:07 5 A. Was the Dundrum element.
- 6 Q. 231 I'm just looking at the second invoice?
- 7 A. Yeah.
- 8 Q. 232 Sorry.
- 9
- 11:44:12 10 Page 2775.
- 11
- 12 For Alice Developments Limited
- 13 A. Yeah.
- 14 Q. 233 Of 103,000 pounds plus VAT?
- 11:44:22 15 A. Yeah.
- 16 Q. 234 That was your fee in respect of the work you did on the second part of the
- 17 Dundrum Town Centre?
- 18 A. That's quite correct, yeah.
- 19 Q. 235 When you were retained by Mr. Reilly?
- 11:44:29 20 A. Joe O'Reilly.
- 21 Q. 236 And the mechanism that you employed for the receipt of your funds at that time
- 22 was that you didn't raise any invoice to Mr. O'Reilly although you agreed your
- 23 fee with him?
- 24 A. That's right.
- 11:44:39 25 Q. 237 You raised an invoice through Cedarcastle Investments Limited which was
- 26 presented to Alice Developments who paid Cedarcastle?
- 27 A. That's correct.
- 28 Q. 238 And in the fullness of time, when you needed the funds, you raised an invoice
- 29 through Richard Lynn and Associates to Cedarcastle Investments Limited?
- 11:44:55 30 A. That's correct.

11:44:56 1 Q. 239 And the effect of that would be that the creditors listing in Alice
2 Developments Limited wouldn't disclose Richard Lynn and Associates as a
3 creditor of the company?
4 A. Yes, yes, I would accept that.

11:45:06 5 Q. 240 And again, the cash receipts or the books of Richard Lynn and Associates
6 wouldn't disclose the receipts of these funds until such time as you actually
7 received them?
8 A. That's right.

9 Q. 241 In the meantime those abeyance or in limbo for your benefit?
11:45:21 10 A. That's correct.
11
12 MR. LYNN: I don't mean to interrupt Ms. Dillon's line of enquiry but
13 perhaps she might be in a position to indicate for my client's benefit. What
14 line of inquiry this is going down or what Tribunal concern these financial
11:45:35 15 arrangements relate to.
16
17 CHAIRMAN: Because we are investigating, we are enquiring as to the means used
18 to pay Mr. Lynn and the reasons for the payment to Mr. Lynn arising from, from
19 the Cherrywood project. And that's the reason why.

11:45:55 20
21 MR. LYNN: I just wonder, Chairman, is there any answer forthcoming or likely
22 to be forthcoming as to the fundamental reason as to why that was the system
23 that was set up.
24

11:46:05 25 CHAIRMAN: Well, I mean, we're hoping that Mr. Lynn might enlighten.
26
27 MR. LYNN: It seems to me that it isn't at this point in time, Chairman.
28
29 CHAIRMAN: Well, we decide the extent of the appropriate questioning of
11:46:20 30 Mr. Lynn on this particular issue.

11:46:22 1
2 MR. LYNN: Very well, Judge.
3
4 CHAIRMAN: Just, I want to ask, Mr. Lynn. In relation to the invoice that was
11:46:27 5 there a few minutes ago on the screen.
6
7
8
9 JUDGE FAHERTY: 2764.
11:46:36 10
11 CHAIRMAN: Can you put it up alongside.
12
13 JUDGE FAHERTY: And the other earlier document as well.
14
15 CHAIRMAN: What does final instalment now due?
16 A. That means that I had already been paid part of the Cherrywood and that was the
17 final instalment of the Cherrywood monies. Simple as that. If you look at
18 the -- there is a conversion you see. 2775 you'll find that that is, if you
19 add the two together you'll come up with. Joe's -- well he very kindly he's
11:47:15 20 put in the conversion so you should be able to follow it.
21
22 JUDGE FAHERTY: Could you put up the 2775 document and the 2764 side by side.
23 Is that possible?
24
11:47:35 25 MS. DILLON: Sorry, Judge. Do you want the first document? The schedule.
26
27 MS. DILLON: It's not possible to put the two of them up because of the way
28 its configured in the readable format. I think the first line is pounds and
29 the second line is Euros, as Mr. Lynn has pointed out.
11:47:56 30

11:47:56 1 JUDGE FAHERTY: Just increase that document one moment, please.
2
3 JUDGE KEYS: Mr. Lynn, could I just ask you one question. In relation to the
4 fee structure and in response to your counsel's questioning to us. Would it
11:48:37 5 not assist you also in planning your tax liability at the end of every year.
6 Until you draw down the monies you wouldn't become liable, I presume, for tax
7 on it, is that correct? So if you wanted to postpone
8 A. Tax never came into it.
9
11:48:52 10 JUDGE KEYS: I know. But it could be used for that as well. No?
11 A. Well I suppose my answer to you is if I drew it in, I probably would have put
12 it into pensions so there wouldn't have been any tax liability so.
13
14 JUDGE KEYS: It's a way of structuring when you want to pay
11:49:09 15 A. No.
16
17 JUDGE KEYS: Adding to your pension or pay into tax?
18 A. It had nothing to do -- it wasn't as, I don't know, as far seen as that. It
19 was purely survival would I have sufficient cash to go forward.
11:49:24 20
21 JUDGE KEYS: Oh, I can understand that. I'm trying to see what other
22 benefits could accrue from it?
23 A. And I do apologise if it's causing such.
24
11:49:34 25 JUDGE KEYS: It just entices us to ask more questions about it, that's all
26 A. It's a fairly unique system.
27
28 CHAIRMAN: All right, Ms. Dillon
29
11:49:49 30 MS. DILLON: Did you say it was a fairly unique system?

- 11:49:49 1 A. Sorry, I withdraw that remark.
- 2 Q. 242 If I can just take you back, Mr. Lynn. To 1992. And 1993. Can I ask you,
3 first of all, when you first became involved with the Pye Lands and with whom
4 you first became involved?
- 11:50:08 5 A. Yeah, my recollection of my involvement in the Pye Centre was that when the
6 vote was taken in October 1992 and there was a reversal of the earlier decision
7 taken in 1991 and I was approached and I'm nearly certain I was approached in
8 the foyer of Dublin County Council by Aidan Kelly. And he apparently knew
9 something about me because he approached me. He said who was. I mean, I was
11:50:42 10 aware that the Pye was -- I didn't know whom he was but I was aware that the
11 Pye Centre had had a reversal that day. He said he was the owner and he would
12 be interested in talking to me. So from that then a number of meetings took
13 place and I don't know whether you want me to go through that.
- 14 Q. 243 Was that before or after the 16th of October 1992, can you remember Mr. Lynn?
- 11:51:04 15 A. I would take it the first date was the 16th of October.
- 16 Q. 244 That's the day that the motion?
- 17 A. The day the motion. Because you'll appreciate, it's a long time ago. But I
18 can't see why I would have had any relationship with him. If he had been
19 successful on the 16th of October 1992 he would have had what he was looking
11:51:27 20 for, which was a C zoning. And had that been, had that been copper fastened on
21 that day it couldn't have been attacked again because it wouldn't have been a
22 material change. So there was no reason for me to be uninvolved in relation to
23 that until he lost it. And my recollection is his approach to me was on the
24 day he lost. And then I see from documentation that that was the 16th of
11:51:53 25 October.
- 26 Q. 245 And would it have been generally known at that time Mr. Lynn, that you were
27 available to provide these services of assisting people with the rezoning of
28 their lands generally or was the general understanding of your position is that
29 you were, you worked for Monarch and Monarch only, do you know?
- 11:52:10 30 A. The general understanding would have been I was a full-time employee of Monarch

11:52:15 1 Properties, yeah.

2 Q. 246 And you will have seen in the documentation, at page 789, that on the 5th of

3 October 1992. There is a reference in a Mr. Dunlop telephone attendance to

4 you. Apparently at 3:10 Richard Lynn had been in contact with Aidan Kelly.

11:52:32 5 Now Mr. Quinn asked Mr. Dunlop about that and he wasn't really able to provide

6 much assistance. Do you think that it's likely that you contacted Mr. Dunlop

7 on the 5th of October '92 about Aidan Kelly?

8 A. I find it very hard to believe that I did. Because as I say, my recollection

9 of putting the thing back together is that I would say my first contact with

11:52:57 10 him would have been on the 16th of October 1992 after his -- after the Pye

11 Centre had lost the vote. So I'm at a loss to help you on that.

12 Q. 247 So did you make an arrangement with Mr. Kelly about your fees?

13 A. I made an arrangement. I negotiated fees with him in relation to what we were

14 going to do. But I first had to assess. You see, I was taken in not just to

11:53:32 15 provide, if you like, a correction to the zoning. What had to be done and

16 having spoken to people in relation to where it was. It appeared to me that

17 what I had to do was to create a proposal that would be acceptable locally and

18 would be acceptable by management. And that that could go forward and then we

19 might be able to reverse the decision of the zoning. But in the context of a

11:54:08 20 known development and known acceptable development.

21

22 So my first, you might be able to help me -- my first involvement or my first

23 bit of work actually I wrote this

24 Q. 248 Gateway to the Mountains?

11:54:21 25 A. Gateway to the Mountain. I don't know whether you -- I don't have any copy.

26 Q. 249 I think it's in the undated part of the documents. It was circulated to all of

27 the councillors?

28 A. No, no, I have it here. I just wonder is there a date in that.

29 Q. 250 It's in the undated section of the document. There is nothing in it but from

11:54:38 30 the contents of it would appear to be a document that was probably created late

- 11:54:43 1 1992 or early 1993 is the best that I can do for you?
- 2 A. That's what I would have thought.
- 3 Q. 251 Yeah.
- 4 A. So it was really -- we set about, and that is what we did. We created that
- 11:54:59 5 document. And that document was fairly well received. Which had a number of
- 6 meetings on that.
- 7 Q. 252 So you had a fairly uphill task, is that right, Mr. Lynn, because the zoning --
- 8 there was obviously local opposition to the original proposals. The C zoning
- 9 on the lands. That zoning had been overturned in October 1992. And there was
- 11:55:16 10 going to be another public display following which the matter would come back
- 11 in before the Council?
- 12 A. That's correct.
- 13 Q. 253 Insofar as the zoning was concerned - the only people who could alter the
- 14 zoning were going to be the members of the Council, isn't that right?
- 11:55:29 15 A. Yes, and the members of the Council I suppose taking advice from management so
- 16 I think we're on a two horse. A, we're trying to convince the members of the
- 17 Council that this proposal was a good proposal. And also to dilute the
- 18 Manager's opposition to having the site developed as, if you like, as a full
- 19 district centre. And I think now, I haven't gone back through that document.
- 11:55:59 20 I think the various ingredients would have added to the lifeline of Dundrum and
- 21 I think that the later development, the development we see there today, is
- 22 loosely based upon that plan.
- 23 Q. 254 Upon the original -- Mr. Kelly's original submission prepared by you that was
- 24 first put into the Council outlined in Gateway to the Mountains and
- 11:56:27 25 subsequently in a planning application?
- 26 A. That's right, that's right.
- 27 Q. 255 Now, I think that in June of 19 --
- 28 A. I beg your pardon. I think -- I got confused in reading the papers. There
- 29 appears to have been a planning application lodged.
- 11:56:41 30 Q. 256 In November '93?

- 11:56:42 1 A. In photograph.
- 2 Q. 257 1st of November '93?
- 3 A. I don't think that that planning application reflected gateway to the
- 4 mountains.
- 11:56:53 5 Q. 258 October '94 is the planning application I think you're thinking about?
- 6 A. That's correct.
- 7 Q. 259 In June of 1993, just to get the chronology correct.
- 8
- 9 At page 1523. The Council passed proposed amendment to the Written Statement.
- 11:57:06 10 You will see there at paragraph 3.2 the proposed change to the Written
- 11 Statement arising from the successful Mitchell Fitzgerald motion, isn't that
- 12 right? And effectively this is the motion. This is the change to the Written
- 13 Statement that stayed in place notwithstanding the subsequent motion to change
- 14 the map, isn't that right
- 11:57:24 15 A. That is unfortunately correct, yes.
- 16 Q. 260 And I think it would appear to be the position and you can correct me if I'm
- 17 wrong that in making the preparation to change the map nobody seems to have
- 18 alerted themselves to the necessity for a motion to change the Written
- 19 Statement, would that be fair?
- 11:57:40 20 A. That is correct. And I'm still at a loss when I recollect the amount of work
- 21 we did in presenting the plan before we got the zoning, so people knew what we
- 22 were about. That a week later the Written Statement motion or the -- what had
- 23 been in the draft is confirmed without a vote. The Pye Centre naturally you'll
- 24 appreciate was highly controversial, it was hard fought, it was well
- 11:58:19 25 documented. Nobody could say they didn't know what we were trying to do. And
- 26 the following week there's an overturn.
- 27 Q. 261 I think you're just running ahead of yourself. This is June of 1993?
- 28 A. Oh, yeah but.
- 29 Q. 262 Written Statement which goes on public display?
- 11:58:35 30 A. That's right.

- 11:58:35 1 Q. 263 But -- that?
- 2 A. Comes back and is confirmed again on.
- 3 Q. 264 It is confirmed?
- 4 A. On the 12th of October.
- 11:58:43 5 Q. 265 November?
- 6 A. The Pye -- I beg your pardon. The 12th of November the Pye Centre. No, the
7 12th of October I thought.
- 8 Q. 266 12th of November '93?
- 9 A. 12th of November' 93. The zoning is corrected and a week later the thing
11:58:57 10 falls.
- 11 Q. 267 On the 12th of November 1993 that amendment to the Written Statement was
12 confirmed. And you will find that at page 905.
- 13
- 14 A. Yeah, and there is no vote on it.
- 11:59:09 15 Q. 268 No. It's confirmed by -- there's no motion.
- 16 A. That's right.
- 17 Q. 269 So?
- 18 A. That was.
- 19 Q. 270 It simply went through because there was no motion objecting to it, isn't that
11:59:22 20 correct?
- 21 A. And nobody alerted the members that this, that the effect of that. And in my
22 humble opinion, it was an incorrect way of going about it. And I would say
23 they were ultra vires in passing that. The Council had made a decision in
24 relation to full district centre zoning the previous week. And what they were
11:59:47 25 doing there in confirming that. They were overturning a decision taken the
26 previous week.
- 27 Q. 271 Be that as it may Mr. Lynn. The reality of the matter is that when the
28 Development Plan for 1993 was made. That was contained within the Written
29 Statement?
- 11:59:59 30 A. That is right.

12:00:00 1 Q. 272 The use that the Pye Lands could be put to. While the map showed the Pye Lands
2 zoned for C, isn't that the position. And that therefore there was a
3 continuing difficulty in connection with the Pye Lands that really became
4 apparent when the planning application was being lodged and there were
12:00:16 5 discussions with the planners in late 1994?

6 A. Yeah. Just to tell you now. It just wasn't that we were a little surprised
7 about it. When the planning application went in. Prior to lodging the
8 planning application there was pre planning discussions. And up to the week
9 prior to the decision being made, the indications to us was that it was
12:00:36 10 positive and it was only when it reached the Manager's table that we were told
11 that it was negative. And the reason it was negative was because of this, the
12 content of the Written Statement. And at that. I think we withdrew that
13 planning application I think.

14 Q. 273 I think that if -- effectively by the 2nd of November 1993 you successfully
12:00:57 15 overturned the map?

16 A. Yes.

17 Q. 274 Changes to the map?

18 A. Yes. We didn't overturn the Written Statement.

19 Q. 275 But had you been paid by Mr. Kelly Mr. Lynn, at this stage or what arrangement
12:01:07 20 had you made with Mr. Kelly about your fees.

21
22 CHAIRMAN: Can we take that up after? We have to take just a short break.

23
24 MS. DILLON: Yes.

12:02:00 25

26 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

27 **AND RESUMED AS FOLLOWS:**

28

29 MS. DILLON: Mr. Lynn, please.

12:17:20 30

- 12:17:35 1 Q. 276 I think before the break, Mr. Lynn, I had just been about to ask you about what
2 arrangements you had made with Mr. Kelly about your fees and how in what
3 circumstances you came to be paid in respect of the work that you had done.
- 4 A. I think I negotiated a fee of I think it was something like either 25 or 30,000
12:17:59 5 in relation to our works. And then the -- that was for the, if you like,
6 looking after the zoning aspect of the project. And latterly we were paid
7 something I think it was 34,000 including VAT, sometime in 1994. It was '93 or
8 '94 I think. Sorry.
- 9 Q. 277 Was that a payment in October 1994?
- 12:18:42 10 A. That was it, yeah.
- 11 Q. 278 Right. And was that a payment made to a company called?
- 12 A. PDS Limited.
- 13 Q. 279 Property Developments Services Ltd.?
- 14 A. Yeah. And that was more or less my recollection, part for the zoning works and
12:18:59 15 part for architectural and project management and generally running the
16 project. And thereafter I don't know how I can explain it, he was always short
17 of cash. So I started discussing with him an equity stake in the development
18 and those discussions were ongoing. And also at the time the various other
19 consultants, Henry J Lyons and John Reed etc, their fees as far as I recollect
12:19:44 20 were outstanding as well and they at some stage stopped work. Yet he couldn't,
21 until he got value on the site, he was in trouble with the bank. Until he got
22 value on the site they wouldn't release money to him. And then there was some
23 arrangement with Crazy Prices, Tesco, whoever they were, and there was a fee of
24 85,000 to be paid. But that was in respect of the second planning application
12:20:13 25 which we were preparing. And I think it is referred to in the documents.
- 26 Q. 280 Yes?
- 27 A. Etcetera.
- 28 Q. 281 Yes?
- 29 A. But I think the receiver was appointed by the ACC prior to us being able to, if
12:20:30 30 you like, finalise those plans. And we didn't receive any of the 85,000. I

12:20:40 1 hope that ...

2 Q. 282 If we just step back for a minute to 1993. And 1994 I think you received one

3 payment?

4 A. There was one payment only is my recollection.

12:20:49 5 Q. 283 And that was not a payment to yourself, is that right?

6 A. No, no, no, it's PDS Limited.

7 Q. 284 And I think that PDS Limited.

8

9 At page 2640, please.

12:20:59 10

11 Was incorporated on the 9th of July 1993. And the directors are Eileen Murphy

12 and Patricia Fearon, isn't that right?

13 A. Can you just give me. The answer is correct, yes.

14 Q. 285 And I think that the shareholding in that company is also Eileen Murphy and

12:21:17 15 Patricia Fearon?

16 A. That's right.

17 Q. 286 I think in your second statement to the Tribunal you described yourself as a

18 consultant to PDS?

19 A. Yes.

12:21:26 20 Q. 287 Is that correct?

21 A. That's the best description I could give, yes.

22 Q. 288 And I think that PDS operated a bank account with the Permanent T.S.B. that was

23 opened and was operated on the signatures, I think of Eileen Murphy and

24 Patricia Fearon.

12:21:46 25

26 2795.

27 A. That would be correct, Chairman.

28 Q. 289 And that I think was opened on the 5th of November 1993. You can see from the

29 document on screen that it's opened on the 5th of November 1993. It says at

12:22:02 30 the top?

12:22:02 1 A. Oh, yes, yes.

2 Q. 290 And I think the signatories are Eileen Murphy?

3 A. That's not in my documentation as far as I, I'm up at 786 the last.

4 Q. 291 That should be in your documentation.

12:22:17 5 A. Well, this is the last now I got yesterday.

6 Q. 292 It's 27?

7 A. 2786. But I have no difficulty. I can take it from here.

8 Q. 293 Yes?

9 A. Yeah, I accept that.

12:22:25 10 Q. 294 I think in fact and I think if we look at the, I understand that it was

11 couriered out yesterday morning. If we can work off the screen. If you have

12 any difficulty Mr. Lynn, I'll get you a hard copy.

13

14 At 2796.

12:22:43 15

16 We see that the first lodgement was 3,500 pounds. It is at the very top of the

17 page. It is the first entry down at the very top of the page

18 A. What entry was that?

19 Q. 295 I think that lodgement is the 5th of November 1993. 3,500 Pounds. And I think

12:22:59 20 there's a small lodgement on the 24th of August '94 of 359 pounds. And I

21 think then if we go down to the second last column there is the lodgement

22 attributable to ACC Bank of 34,848 pounds.

23 A. Yeah, that's the.

24 Q. 296 Payment?

12:23:16 25 A. The first payment. That's the only payment.

26 Q. 297 From?

27 A. From Cabriole.

28 Q. 298 From Mr. Kelly?

29 A. From Mr. Kelly.

12:23:24 30 Q. 299 Insofar as the first lodgement there is concerned of 3,500 pounds would that

- 12:23:29 1 have been on foot of work that was done by PDS Limited?
- 2 A. My recollection is that we opened that account by putting money both sides into
- 3 it. If it's 3,500, it is 1,750 each.
- 4 Q. 300 Was that funds put in by yourselves?
- 12:23:43 5 A. Ourselves personally.
- 6 Q. 301 And the first funds that are received by the company as income, is that
- 7 correct, is 34,848 pounds?
- 8 A. Yes, Chairman.
- 9 Q. 302 And if we turn to a clearer copy. At 2797. Which is a better copy of that?
- 12:23:58 10 A. Yeah.
- 11 Q. 303 And you will see that on the 14th of October 1994. The second entry on that
- 12 page is a deposit of 34,848 pounds attributable to ACC Bank?
- 13 A. Yes.
- 14 Q. 304 Isn't that right?
- 12:24:12 15 A. That's right.
- 16 Q. 305 Now, I think that that represents the proceeds, is that correct, of the payment
- 17 from Cabriole Limited or Mr. Kelly to your company or sorry?
- 18 A. PDS Limited.
- 19 Q. 306 Yes, to PDS Limited, is that correct?
- 12:24:30 20 A. That's right. That's an inclusive figure, VAT figure.
- 21 Q. 307 Is that the total amount of money that you received either?
- 22 A. Well PDS and/or me.
- 23 Q. 308 And/or you?
- 24 A. Yes.
- 12:24:42 25 Q. 309 Or any other corporate body with which you were involved from Mr. Kelly or
- 26 Cabriole?
- 27 A. Unfortunately.
- 28 Q. 310 Up to the time the receiver was appointed?
- 29 A. Unfortunately, yes.
- 12:24:52 30 Q. 311 And is it the position then insofar as Property Developments Services Limited

12:24:56 1 is concerned, you were a consultant to that company?

2 A. That's correct.

3 Q. 312 And were you effectively in control of that company?

4 A. Well it's fair to say that yes, I controlled the company.

12:25:08 5 Q. 313 Yes.

6 A. Well, sorry. I jointly controlled the company. Maybe that's a better way of

7 putting it.

8 Q. 314 That it wasn't just a case that you were a consultant to the company, isn't

9 that right?

12:25:25 10 A. Well I suppose, I acted as a consultant insofar as I was neither a shareholder

11 nor a director. But I had, I suppose I had a hands on involvement in all of

12 the activities of the company.

13 Q. 315 Were you an employee of that company?

14 A. No.

12:25:43 15 Q. 316 And when you say that you jointly were in charge of the company. Who was the

16 other person with whom you were in charge of the company?

17 A. Well the other person doing the work with me was Pat Lafferty.

18 Q. 317 Right. And can I show you page 2700.

19

12:25:58 20 Which is notes to the financial statements for Property Development Services

21 Limited for the year ended 31st of July '96. And I just want you to note at

22 note nine there, related party transactions. Property Development Services

23 Limited and Lyncan & Associates Limited are under the control of Richard Lynn

24 and Eileen Murphy. Do you agree with that statement?

12:26:21 25 A. No.

26 Q. 318 No?

27 A. No. I would agree with the Lyncan & Associates certainly but Property

28 Development Services was a joint, what would I say, joint control between

29 myself and pat.

12:26:46 30 Q. 319 Is that Mr. Lafferty?

- 12:26:46 1 A. I beg your pardon, Pat Lafferty, yes.
- 2 Q. 320 When your accountant in the notes to the Property Development Services Limited
- 3 stated that Property Development Services Limited and Lyncan and Associates
- 4 Limited are under the control of Richard Lynn and Eileen Murphy that in so far
- 12:26:54 5 as Property Developments Services Limited are concerned that's not correct
- 6 that?
- 7 A. Would not be. I suppose partly correct but it's not wholly correct.
- 8 Q. 321 Well what part of is correct?
- 9 A. We wouldn't be wholly in control.
- 12:27:06 10 Q. 322 Well who else was in control of the company?
- 11 A. Pat Lafferty and Patricia Fearon. Property Development Services Limited now.
- 12 Q. 323 Yes. That's what it says I think at the top of the page there?
- 13 A. Yeah.
- 14 Q. 324 Were the beneficial owners of Property Development Services Limited
- 12:27:22 15 Mr. Lafferty, yourself and Ms. Murphy?
- 16 A. No, Patricia Fearon and Eileen Murphy were the beneficial owners of it insofar
- 17 as they were the shareholders and directors.
- 18 Q. 325 They were the shareholders. But who controlled the company?
- 19 A. Well the work was carried out by both myself and Pat Lafferty.
- 12:27:48 20 Q. 326 But you weren't employees of the company?
- 21 A. The -- no, no, we weren't employees of the company, no.
- 22
- 23 CHAIRMAN: Mr. Lynn, if the company made a profit who got the profit
- 24 A. Patricia Fearon and Eileen Murphy.
- 12:28:07 25
- 26 CHAIRMAN: You didn't get a profit?
- 27 A. I got -- well save for I think there's -- Eileen Murphy, my wife and Patricia
- 28 Fearon is Pat Lafferty's wife. So it was the wives were the beneficiaries.
- 29
- 12:28:23 30 CHAIRMAN: But who, if the company made a profit and there was to be a

12:28:27 1 division of profits?

2 A. It would have been divided equally between Patricia and Eileen.

3

4 CHAIRMAN: Well is that in reality you and Mr. Lafferty?

12:28:36 5 A. Yes.

6

7 CHAIRMAN: Well, I mean, did your wife do any work in the company?

8 A. Oh, yes. I mean, whatever was requested of them to do like --

9

12:28:45 10 CHAIRMAN: But who was doing the work?

11 A. Well the actual planning work and the work which if you like took in the money

12 would have been done by both myself and Pat.

13

14 CHAIRMAN: So the people generating the

12:28:56 15 A. Yes.

16

17 CHAIRMAN: Whatever profit was to be made would be yourself and Mr. Lafferty

18 A. Yes, Chairman, yes. That didn't necessarily follow that when there was a

19 profit made I mean it was divided between the -- between Patricia and Eileen.

12:29:17 20 Save I think if you go down to, if you can go back up that account and go back

21 to the last page there's two payments of 700 and it's my recollection that's

22 the only money that Pat and I got out of the company.

23

24 MS. DILLON: I'm going to go through the bank statement in a moment.

12:29:33 25

26 I just want to deal with this issue about who was in control of the company

27 that received the money paid by Cabriole Limited in connection with the

28 rezoning or development of the Pye Lands. And I want to show you page 2695.

29

12:29:47 30 Of the profit and loss account of Property Development Services Limited. You

12:29:52 1 will note there that the turnover in 1995 for the company is confined to a
2 figure of 28,800. You see that?
3 A. 1996 is up on the board.
4 Q. 327 1995. If you look at the figure under 1995?
12:30:06 5 A. I beg your pardon, yes.
6 Q. 328 And that that figure is the Cabriole monies less VAT, isn't that right?
7 A. No.
8 Q. 329 I think that the funds that were received for the year ended 1995. The main
9 receipt that was made by the bank account of Property Development Services
12:30:25 10 Limited was the payment by Cabriole, isn't that right?
11 A. Sorry, I beg your pardon. It's possible that the 28 of it is but.
12 Q. 330 Yes.
13 A. You're asking was the 28,800. There's 800 there hanging around.
14 Q. 331 No. 28,800 plus VAT will give you 34,848 pounds apparently I am told.
12:30:49 15 A. It might be wrong.
16 Q. 332 Might be wrong. I fully accept that. Well what other income did the company
17 receive in the year ended 1995?
18 A. Sorry, Chairman. There's -- I mean if it is only 800 -- If I could see the
19 bank statement.
12:31:04 20 Q. 333 If you look at the bank statement.
21
22 2797
23 A. Sorry, would somebody just do the figure and we'll find out or 28,000 plus 21%
24 and we will find out or 28,800 plus 21%.
12:31:15 25 Q. 334 This is the bank statement in question. You will see that the main deposit
26 there is 34,848?
27 A. Yes. And that's definitely the Pye Centre, definitely.
28 Q. 335 Paid by ACC. And you say that is definitely the Cabriole money, isn't that
29 right?
12:31:38 30 A. Why are you saying that's 1995 rather than 1994.

- 12:31:38 1 Q. 336 For the year end 1995 the accounts and this is received in 1994.
- 2 A. I beg your -- what year end did we have?
- 3 Q. 337 You had the year end 31st of July '96 at 2695?
- 4 A. 31st of July is the year end?
- 12:31:49 5 Q. 338 Of July '96. And you are looking at the year end for 1996 and then you are
- 6 looking at the previous year's turnover in 1995. And what the accounts of
- 7 property --
- 8 A. I beg your pardon. Could you just give me the year ending for 1995. Would it
- 9 have embraced October 1994.
- 12:32:09 10 Q. 339 All I can give you is what's there. If I had anything else I would give it to
- 11 you. I'm informed by Mr. Quinn that 28,800 plus 21 percent VAT gives you
- 12 34,848 pounds.
- 13 A. Yes, I beg your pardon.
- 14 Q. 340 Based on that calculation and accepting that Mr. Quinn is correct in relation
- 12:32:26 15 to that matter, the figure of 28,800 pounds turnover for 1995 is likely to be
- 16 and is probably?
- 17 A. Certainly.
- 18 Q. 341 The Cabriole money?
- 19 A. Yes.
- 12:32:34 20 Q. 342 So that therefore the only funds received by Property Developments Services
- 21 Limited in 1995, in the year end 1995 was the payment in October 1994 from
- 22 Cabriole that?
- 23 A. Is correct.
- 24 Q. 343 Now, if we look then at what happened to the funds that were paid. And you
- 12:32:52 25 don't accept that it was a company under your control and that of Ms. Murphy.
- 26 You say that Mr.--
- 27 A. Not under our sole control. There are four people involved.
- 28 Q. 344 Yes.
- 29
- 12:33:04 30 At page 2698. Just in case there is any doubt about that issue.

12:33:09 1
2 On paragraph two in relation to turnover. You will see there under the
3 paragraph two. Turnover comprising the invoice value of goods supplied by the
4 company exclusive of value added tax. The amount of turnover by class of
12:33:23 5 activity is as follows. 12 months ended 31 July '96. And 25 months ended 31
6 July '95 which would include October 1994, 28,800 net of VAT
7 A. Yes.
8 Q. 345 So you accept now that that figure is the payment from Cabriole?
9 A. Oh, absolutely, yeah.
12:33:41 10 Q. 346 And that the funds which are lodged then to the account of PDS at 2797.
11
12 And the first significant withdrawal is at 2798.
13
14 And you will see there is a cheque for 11,000 pounds. Do you see that
12:34:07 15 A. Yes.
16 Q. 347 Withdrawal. And that sum is paid to Lyncan, an account of Lyncan & Associates
17 Limited?
18 A. That's right.
19 Q. 348 And was that a company in which Mr. Lafferty had any interest?
12:34:19 20 A. No.
21 Q. 349 Was that a company that was wholly owned beneficially by yourself and somebody
22 else?
23 A. And Eileen Murphy.
24 Q. 350 Yes. So that 11,000 pounds is being paid to your company if I can call it
12:34:32 25 that?
26 A. Sorry. At that stage Sharon Twyville was also involved with Eileen Murphy.
27 Laffertys had nothing to do with Lyncan if that's your question.
28 Q. 351 I think there is a lodgement of 2,000 pounds?
29 A. Yes.
12:34:48 30 Q. 352 And that in fact is a payment from Lincoln's account to this account?

12:34:53 1 A. Yes, I think we loaned money to the company.

2 Q. 353 Right.

3 A. And I think we did it a second time.

4 Q. 354 Yes. And I think if you go onto the next page, at 2799. There's a deposit of

12:35:09 5 2,000 pounds which again appears to be a transfer from the Lincoln account?

6 A. Yes, I think that was a further loan between the two companies.

7 Q. 355 And then there's a lodgement of 5,000 pounds which doesn't appear to be

8 attributable to Lyncan, do you know where that came from?

9 A. Well, you see the McCarthy Duignan.

12:35:30 10 Q. 356 That's the next one?

11 A. Yeah.

12 Q. 357 McCarthy and Duignan?

13 A. Now, it may have been part of that. That was a job we were doing in Navan,

14 Navan Shopping Centre.

12:35:39 15 Q. 358 Can I ask you about that, Mr. Lynn. When you say McCarthy Duignan are you

16 talking about a consortium involved in developing lands in Trim?

17 A. No, it was Navan Shopping Centre.

18 Q. 359 Was that a company, Mr. Duignan, was that Mr. Eamonn Duignan?

19 A. It is.

12:35:59 20 Q. 360 Was that a company with which Mr. Des Richardson and Mr. Frank Dunlop had an

21 involvement?

22 A. The company.

23 Q. 361 Uh-huh?

24 A. I don't think so. The people that we were involved in there was with Aidan

12:36:15 25 Duignan and Cathal McCarthy. Cathal or Colm, I think it's Cathal McCarthy.

26 Q. 362 And where was the development?

27 A. The development is -- my recollection now is the Navan Shopping Centre.

28 Q. 363 Did you ever meet Mr. Des Richardson in connection with that?

29 A. I've never met Mr. Des Richardson, full stop.

12:36:54 30 Q. 364 Was that a development at Kennedy Road in Navan?

- 12:36:54 1 A. I wouldn't know the thing but it's the large Navan Shopping Centre.
- 2 Q. 365 Shopping centre units?
- 3 A. Yeah.
- 4 Q. 366 And would it be a surprise to you to know that Mr. Richardson was involved in
- 12:37:02 5 that with Mr. Frank Dunlop?
- 6 A. If you ask me am I surprised.
- 7 Q. 367 Well did you know it at the time?
- 8 A. No, no, absolutely. If you asked me did I know it, no, I didn't know.
- 9 Q. 368 Did you know in 1995 Mr. Richardson, Mr. Frank Dunlop and Mr. McCarthy were
- 12:37:20 10 involved in that development?
- 11 A. No, Chairman. The only people that I knew were involved with that was the
- 12 McCarthy Duignan.
- 13 Q. 369 Yes. And what exactly were you retained to do, can you remember Mr. Lynn, i
- 14 connection with the development in Navan?
- 12:37:34 15 A. There was an extension to go on to the Navan Shopping Centre, is my
- 16 recollection. And Pat did the drawings for that.
- 17 Q. 370 Mr. Quinn tells me Mr. Dunlop, Mr. Richardson were not involved with Navan
- 18 Shopping Centre?
- 19 A. Navan.
- 12:37:58 20 Q. 371 Mr. Quinn tells me that they weren't involved. Were you providing
- 21 architectural services?
- 22 A. Yes.
- 23 Q. 372 And have you qualifications in architecture?
- 24 A. When you say was I. PDS was providing architectural services through Pat
- 12:38:11 25 Lafferty, yeah.
- 26 Q. 373 Was that what Mr. Lafferty did, he provided the architectural services?
- 27 A. Yes.
- 28 Q. 374 What did you provide?
- 29 A. In relation to Navan.
- 12:38:20 30 Q. 375 Well in relation to the company generally what were your services?

12:38:22 1 A. Well my services would have been I suppose sourcing business, providing
2 planning advice, and providing project management, assembling teams, I mean,
3 the normal range of activities that I continued to provide for clients. I
4 provided for PDS.

12:38:44 5 Q. 376 And would they have included advice on zoning and rezoning matters?
6 A. Yes.
7 Q. 377 Yes?
8 A. It came up in the Pye Centre. That was my role there.
9 Q. 378 And it would appear that in 1996 that you were retained or you received funds
10 into this company from Power Supermarkets?
11 A. Yes.
12 Q. 379 And was that in connection with the Pye Centre?
13 A. No.
14 Q. 380 Was that an unrelated supermarket, Power Supermarket but unrelated to the Pye
12:39:12 15 Centre?
16 A. It was unrelated.
17 Q. 381 And what services were you providing?
18 A. Will I tell you where it was for fear I'm told?
19 Q. 382 That's fine, yes?
12:39:21 20 A. My recollection again was it that was the Navan Shopping Centre and it had to
21 do with a license, license application.
22 Q. 383 What kind of a license?
23 A. Alcohol license.
24 Q. 384 An alcohol license. And do you have an expertise in?
12:39:38 25 A. No, no, I mean it was architectural services.
26 Q. 385 Were they provided by Mr. Lafferty?
27 A. Yes.
28 Q. 386 Right. And is it the position insofar as those accounts were concerned, did
29 you have withdrawal facilities or drawing facilities on those bank accounts?
12:39:54 30 A. Me personally?

12:39:55 1 Q. 387 Yes?

2 A. No, no, no. The only two signatories were the two directors.

3 Q. 388 So that the funds that were received to the benefit of the account were

4 available to you insofar as you were a person who would have regarded yourself

12:40:10 5 as being 50 percent owner together with your partner of the company, is that

6 right? Is that fair to say?

7 A. Well, no is the answer.

8 Q. 389 Right?

9 A. But it's not as perverse as that. The co-signatories were the two ladies. If

12:40:39 10 you like, they controlled how the monies came out of the company, save when we

11 had to pay some bills. And as I said before, I don't think either Pat or I got

12 anything out of the company save some expenses at the very end. Unless

13 something else occurs. That's my recollection. It's some time ago now.

14 Q. 390 So that the position is that you don't accept that you were a beneficial 25

12:41:09 15 percent owner of the company, if I can put it like that?

16 A. No.

17 Q. 391 Your position is that you provided consulting services to the company for which

18 the company invoiced and for what you yourself personally received minimal, if

19 little funds, is that correct?

12:41:23 20 A. That's correct. It was only expenses that I got out of it.

21 Q. 392 Yes. And it was into this company that the funds were put from Cabriole, is

22 this right?

23 A. That's right.

24 Q. 393 And out of those funds certain payments were made or certain withdrawals were

12:41:39 25 made and do you know where the funds went that were withdrawn from the bank

26 account other than the ones to which I have referred? Who is the person who

27 would know where the funds went that were withdrawn from the account?

28 A. Well, I mean, I would have known. I suppose the four of us would have known

29 where the monies were going. But they were just ordinary day-to-day expenses

12:42:07 30 of a company in carrying out, if you like, the architectural activities of the

- 12:42:25 1 company.
- 2 Q. 394 Who had the cheque book?
- 3 A. The cheque book was held jointly between the two directors because they were
- 4 the signatories to it.
- 12:42:27 5 Q. 395 And at 2798.
- 6
- 7 You see on the 19th of July there's a cheque for 4,000 pounds debited to the
- 8 account.
- 9 A. And that probably is the two loans that I mentioned coming back out. Is that
- 12:42:47 10 made payable to Lyncan and Associates.
- 11 Q. 396 I cannot tell you that. I do not have a copy of the cheque. Did you have any
- 12 other companies like this, Mr. Lynn?
- 13 A. No, no.
- 14 Q. 397 What about Lyncan and Associates, what did that do?
- 12:43:03 15 A. I beg your pardon except Lyncan & Associates.
- 16 Q. 398 So the position then is that the Property Development Services Limited provided
- 17 certain services through you for which you invoiced and for which monies were
- 18 received by the company.
- 19 A. Not only through me now.
- 12:43:17 20 Q. 399 And through Mr. Lafferty?
- 21 A. Yeah.
- 22 Q. 400 Then there is a separate company. Lyncan and Associates, is that right?
- 23 A. That's right.
- 24 Q. 401 And that company does not involve in any way Mr. Lafferty, is that right?
- 12:43:28 25 A. That's right, that's right.
- 26 Q. 402 That company also had bank accounts, isn't that right?
- 27 A. That's right.
- 28 Q. 403 And who operated those bank accounts?
- 29 A. That would have been operated by Eileen, Eileen Murphy.
- 12:43:39 30 Q. 404 And were you a director or shareholder of Lyncan and Associates?

- 12:43:44 1 A. I eventually became -- that was set up by two sisters. And they were going to
2 go into property management as distinct from if you like property development
3 or whatever but it never got off the ground. I eventually became a director
4 but I think only for the purposes of winding up the company.
- 12:44:07 5 Q. 405 And that company received monies from Property Services Development Limited,
6 isn't that right?
- 7 A. PDS.
- 8 Q. 406 It received money from PDS, isn't that right?
- 9 A. That's right.
- 12:44:21 10 Q. 407 Is it fair to say then that at the same time you had an interest in Lyncan and
11 Associates Limited. An interest in PDS Limited and an interest in Richard Lynn
12 & Associates Limited?
- 13 A. No, I don't think Richard Lynn and Associates would have been formed at the
14 same. Unless you tell me differently. I thought that the two of those had
12:44:43 15 been wound up prior to the establishment of Richard Lynn and Associates. I
16 would have thought. Sorry, I don't have the dates.
- 17 Q. 408 Just taking the two then. Property Development Services Limited and Lyncan and
18 Associates Limited, both of those were operating at the same time?
- 19 A. Yes. Property Development Services was set up because we were trying to
12:45:04 20 generate work towards I suppose going out on our own.
- 21 Q. 409 Did you have --
- 22 A. And the main job that we had was the possibility of the Pye Centre. So that's
23 if you like, that's where our focus was on.
- 24 Q. 410 Did you have any other corporate structure or entity in that period of time
12:45:26 25 when you were operating PDS Limited through which directly or indirectly you
26 invoiced for services in connection with land or property?
- 27 A. Well can you tell me when Richard Lynn and Associates was incorporated?
- 28 Q. 411 I can.
- 29 A. That was the only -- well, as far as I know.
- 12:45:48 30 Q. 412 6th of November '97.

- 12:45:51 1 A. November 1997. And I would have thought that these were wound up before that.
- 2 Q. 413 Before that?
- 3 A. Yeah. So.
- 4 Q. 414 So in the period leading up to these --
- 12:46:00 5 A. Those would be the only two companies. Now,.
- 6 Q. 415 I want to be very clear about. I'm not putting across to you, Mr. Lynn. I
- 7 want to be very clear about this. Prior to the establishment of Richard Lynn &
- 8 Associates Limited. Whether on the documentation you had an interest as
- 9 director or shareholder. For any services you were providing, whether as
- 12:46:24 10 property consultant, zoning consultant, architectural consultant, with
- 11 Mr. Lafferty, without Mr. Lafferty, or in any guise whatsoever. Are the only
- 12 two corporate entities with which you had an association directly or
- 13 indirectly, Property Developments Services Limited and Lyncan and Associates
- 14 Limited?
- 12:46:42 15 A. Now, could I say yes to that but.
- 16 Q. 416 Yes?
- 17 A. There are companies associated with Monarch of which I was a director sometimes
- 18 and a signature sometimes. But I don't think that's the context that you're
- 19 asking me the question.
- 12:47:01 20 Q. 417 No, I'm talking about your services?
- 21 A. No. Those two, yes.
- 22 Q. 418 Yes. And after you established Richard Lynn & Associates Limited, you invoiced
- 23 for your services through Richard Lynn & Associates Limited. That was your
- 24 main trading company?
- 12:47:14 25 A. Through that plus Cedarcastle, yes.
- 26 Q. 419 But your invoices --
- 27 A. My invoices, yes.
- 28 Q. 420 Your main trading company was Richard Lynn & Associates Limited?
- 29 A. May I say my only.
- 12:47:28 30 Q. 421 Your only?

- 12:47:28 1 A. Yeah.
- 2 Q. 422 And then separate and apart from that you had a system with Cedarcastle
3 Investments Limited whereby you raised invoices to Cedarcastle Investments
4 Limited who in turn raised invoices to development companies on your behalf?
- 12:47:39 5 A. That's right.
- 6 Q. 423 And those invoices were usually for large round figure sums?
- 7 A. Yeah.
- 8 Q. 424 And that money was left in Cedarcastle Investments until you needed it?
- 9 A. That's right.
- 12:47:50 10 Q. 425 And one of the companies whom you so invoiced was Alice Developments in
11 connection with work you did for Mr O'Reilly and Alice Developments Limited in
12 connection with the Pye Lands?
- 13 A. That's right.
- 14 Q. 426 Is that right? And in 1994 and 1995 when you became aware of the fact that
12:48:08 15 there was difficulties with the Written Statement. You were continued to be
16 retained by Mr. Kelly at that stage, is that right?
- 17 A. That's right.
- 18 Q. 427 But you did not receive any further fees from Mr. Kelly in connection with that
19 work?
- 12:48:21 20 A. That is right.
- 21 Q. 428 But you were subsequently retained by Mr. Reilly and paid those fees, is that
22 right?
- 23 A. That's right.
- 24 Q. 429 Now would you just outline --
- 12:48:29 25 A. You will appreciate that the lands didn't go directly from Mr. Kelly into
26 Mr. O'Reilly. They went through a receiver and then they went through I think
27 a Pascal Taggart and Sean, another guy, and then they went through to Joe
28 O'Reilly.
- 29 Q. 430 Were you retained by any of the intermediary parties?
- 12:48:48 30 A. No.

- 12:48:48 1 Q. 431 At any stage?
- 2 A. At any stage, no.
- 3 Q. 432 So that the two people, as opposed to companies, was Mr. Aidan Kelly on one
4 part and Mr. O'Reilly of the second part, is that correct?
- 12:48:58 5 A. That's correct, Your Honour.
- 6 Q. 433 Can I ask you first of all before we finish with Mr. Kelly. Did you ever have
7 any -- were you retained at any stage by Mr. Layden?
- 8 A. Mr. Joseph Layden no, Chairman.
- 9 Q. 434 All right. Did you ever seek any fees from Mr. Layden in connection with the
12:49:14 10 work you'd done on the Pye Lands?
- 11 A. No, Chairman. I don't think that I ever met Mr. Layden.
- 12 Q. 435 There appears to be correspondence?
- 13 A. There is some reference that I was to phone him about something.
- 14 Q. 436 It's your belief that you never met him?
- 12:49:27 15 A. It's my belief I never met him.
- 16 Q. 437 Right. But you never wrote or sought money from either Mr. Layden or
17 Mr. O'Donnell of Don-Lay Limited in connection with any work?
- 18 A. No.
- 19 Q. 438 Were you aware of any arrangement or agreement between Mr. Kelly and
12:49:41 20 Mr. Layden?
- 21 A. I was aware that he had various encumbrances on the land and I may have been
22 aware at that stage of -- I think I was aware of the name of Layden from
23 conversations but the extent of it etc. I wouldn't have been aware. Because my
24 recollection is one of the reasons he couldn't do A, B and C was he had to
12:50:14 25 re-organise the shareholding of the Pye Centre.
- 26 Q. 439 If I can just take you back to 2775 briefly for a moment, Mr. Lynn.
27
28 Which is this document in connection with the Cedarcastle arrangement, if I can
29 call it that.
12:50:30 30

- 12:50:30 1 And Cherrywood Properties Limited, Alice Developments Limited, Castlethorn
2 Construction, Raconteur Limited, Ashtown Partnership and Castletown
3 Construction. It would follow, would it not, Mr. Lynn, that an arrangement
4 would have to be made with somebody in each of those companies that you would
12:50:47 5 be able to bill your fees in a particular way
- 6 A. That's correct, yes.
- 7 Q. 440 Right. So that there would be an individual in each of those companies with
8 whom you made that arrangement, I suggest?
- 9 A. That's correct.
- 12:50:56 10 Q. 441 And you and not anybody else, in Richard Lynn and Associates would have made
11 that arrangement?
- 12 A. Only me, yes.
- 13 Q. 442 Insofar as Alice Developments Limited is concerned, your arrangements were made
14 with who exactly?
- 12:51:09 15 A. With Joe O'Reilly.
- 16 Q. 443 And not with anybody else?
- 17 A. And not with anybody else.
- 18 Q. 444 And insofar as Castlethorn Construction is concerned. Who did you make your
19 arrangements with?
- 12:51:19 20 A. Well it was either with Noel Smyth or sorry, sorry with Castlethorn.
21 Castlethorn would be Joe O'Reilly only.
- 22 Q. 445 And insofar as the Ashtown Partnership is concerned?
- 23 A. That's Castlethorn as well. That's Joe O'Reilly. They asked for a change in
24 the invoice from Castlethorn into Ashtown that's why you get a change there.
- 12:51:44 25 Q. 446 So it would seem insofar as starting at the bottom of the list?
- 26 A. Those three 33's are part of the one project Ashtown.
- 27 Q. 447 That comes to 100,000?
- 28 A. Yes.
- 29 Q. 448 Approximately?
- 12:52:03 30 A. Yes, yes in effect subject to the change of name to Ashtown Partnership that's

- 12:52:03 1 a Castlethorn. Certainly in that umbrella Castlethorn.
- 2 Q. 449 And the person if I understand you correctly with whom you made arrangement
- 3 with the payment of your fees was Mr. Joseph O'Reilly?
- 4 A. That's right.
- 12:52:14 5 Q. 450 And if you move up then to the next Castlethorn Construction in the sum of
- 6 100,000 pounds. That again is Mr. Joe O'Reilly and is that in connection with
- 7 202B. Is that in connection Cherrywood or is it a separate?
- 8 A. No, that was Adamstown.
- 9 Q. 451 Is that out in Lucan?
- 12:52:33 10 A. That's correct.
- 11 Q. 452 Right. And then if you go to Alice Developments Limited. That's also
- 12 Mr. O'Reilly, isn't that right?
- 13 A. The Alice developments as far as I recollect. That's the Pye Centre and Joe
- 14 O'Reilly.
- 12:52:48 15 Q. 453 Yes. So it seems to be and correct me if I'm wrong, subject to the Raconteur
- 16 payment. The average fee seems to be in the order of 100,000 pounds per
- 17 payment, would that be fair?
- 18 A. Towards the large project, yes.
- 19 Q. 454 Right. Of those, three of those projects were Mr. O'Reilly's projects?
- 12:53:07 20 A. That's right.
- 21 Q. 455 And insofar as Cherrywood Properties Limited was concerned. That's the Dunloe
- 22 Ewart development you referred to earlier, is that right?
- 23 A. Yes, that's right.
- 24 Q. 456 In connection with what were formerly the Monarch lands?
- 12:53:19 25 A. That's right.
- 26 Q. 457 In connection with the variation of the Dun Laoghaire plan?
- 27 A. I don't know whether it was the variation now or the review of the plan. It's
- 28 the 1998 review.
- 29 Q. 458 Yes. I think it was. I think it was the variation?
- 12:53:35 30 A. Was it? The early one.

- 12:53:38 1 Q. 459 Now, maybe not. I mean ...?
- 2 A. Well it could have been that the first one was the variation and the second one
- 3 ...
- 4 Q. 460 I'll just get you the actual document. Sorry. Yes.
- 12:54:03 5
- 6 It's 2761.
- 7
- 8 1997, 1998 and variations of the Development Plan and you'll see the work
- 9 involved changing the retail cap, extension of the district centre and zoning
- 10 from agriculture. And it's in respect of that, that the agreed fee was 200,000
- 11 pounds, isn't that right?
- 12 A. Well you can see above there in one and two it was both.
- 13 Q. 461 Yes?
- 14 A. For the variation plus the review.
- 12:54:32 15 Q. 462 Yes. And the agreed fee is 200,000 pounds, isn't that correct?
- 16 A. That's correct, yeah.
- 17 Q. 463 And then you put in. Cedarcastle put in there balance now due, isn't that
- 18 right?
- 19 A. Yes.
- 12:54:40 20 Q. 464 And then I think that at 2761 there is a second invoice which is dated 1998.
- 21 At 2762?
- 22 A. Sorry. I was looking at 2761.
- 23 Q. 465 If you look at 2761 first.
- 24 A. Yeah.
- 12:54:55 25 Q. 466 Sorry. At 2761.
- 26 A. Yeah.
- 27 Q. 467 It's dated 1999. And the amount is 100,000 pounds plus VAT?
- 28 A. I do beg your pardon. Which page are we looking at 2761 or 2762.
- 29 Q. 468 2761?
- 12:55:16 30 A. This yoke is on it. If I take it out. 2761.

- 12:55:20 1 Q. 469 Yes.
- 2 A. Okay.
- 3 Q. 470 That's 100,000 pounds plus VAT?
- 4 A. That's right.
- 12:55:23 5 Q. 471 Dated January 1999. And the agreed success fee is 200,000 pounds?
- 6 A. That's right.
- 7 Q. 472 And then at 2762.
- 8
- 9 A. Would be the balance I presume.
- 12:55:34 10 Q. 473 Of that invoice?
- 11 A. Yeah.
- 12 Q. 474 Yes. And then if we go back to --
- 13 A. I'd imagine it's the other way around. One says instalment now due and the
- 14 other says the balance.
- 12:55:44 15 Q. 475 Yes?
- 16 A. It's just the way you put it to me I think. Yeah, the first one is 2762
- 17 appears to be the 2nd of September 1998. Sorry. And the other one then
- 18 follows on that.
- 19 Q. 476 And at page 2775.
- 12:56:01 20
- 21 You will see recorded there that invoices were raised in those amounts to
- 22 Cherrywood Properties Limited and that they were apparently paid, isn't that
- 23 right
- 24 A. They were, yes.
- 12:56:14 25 Q. 477 And then if you go down to the invoices received from and paid to Richard Lynn
- 26 and Associates. In the cases in which you put in invoices they do not
- 27 necessarily match the amount of the invoices raised by Cedarcastle, isn't that
- 28 right?
- 29 A. That's right.
- 12:56:27 30 Q. 478 So that most of the invoices that are raised by Cedarcastle are in the sums of

12:56:32 1 100 or in one case 150,000 or a split on 100,000, isn't that right?

2 A. Well, I think the first two relate to the total of the Cherrywood because I

3 think there's something that that invoice for 190,000 says the balance of

4 Cherrywood.

12:57:00 5 Q. 479 Yes?

6 A. So I initially took out 50 in punts and then 190 was the balance of that.

7 Q. 480 There in Euros?

8 A. I mean, thereafter sometimes I took out -- related it back latterly then it was

9 just payments on account if you like.

12:57:07 10 Q. 481 It would appear in some cases there is a time lag of a year, two years or even

11 going into a third year before you seek repayments of the funds that have been

12 placed by Cedarcastle?

13 A. That's right.

14 Q. 482 Is there anything, Mr. Lynn, about your evidence that you'd like to clarify or

12:57:21 15 change in any way?

16 A. God? I don't think so unless you want to point something out that you want

17 further clarification on.

18 Q. 483 No thank you very much, Mr. Lynn.

19

12:57:36 20 CHAIRMAN: All right. Are there any questions for Mr. Lynn?

21

22 MR O'DWYER: I have no questions.

23

24 CHAIRMAN: Do you want to ask your client questions?

12:57:44 25

26

27

28 MR. LYNN: I have no questions.

29

12:57:48 30 JUDGE FAHERTY: Just one thing. Could I have that back once again,

12:57:53 1 Ms. Dillon.
2
3 2775. That's the last document.
4
12:57:58 5 As I understand it, Mr. Lynn, this is a schedule provided by Mr. Gormley from
6 Cedarcastle Investments Limited
7 A. That's right.
8
9 JUDGE FAHERTY: I just want to ask you the first invoice that Cedarcastle
12:58:12 10 referred to there is the 2nd of September '98. Cherrywood Properties Limited
11 A. Yes.
12
13 JUDGE FAHERTY: And they invoiced Cherrywood obviously?
14 A. Cherrywood Properties, yeah.
12:58:23 15
16 JUDGE FAHERTY: Cherrywood Properties for 100,000?
17 A. That's right.
18
19 JUDGE FAHERTY: Now, as I understand it, Mr. Gormley had no direct interaction
12:58:33 20 with Cherrywood, is that correct?
21 A. That's correct.
22
23 JUDGE FAHERTY: So can you -- well somebody must have alerted Cedarcastle to
24 bill Cherrywood Properties Limited?
12:58:47 25 A. Oh, I did that.
26
27 JUDGE FAHERTY: Yes. And this seems to be the first invoice, isn't that
28 correct?
29 A. That's correct.
12:58:53 30

12:58:53 1 JUDGE FAHERTY: And am I right in thinking that this is referable to the Draft
2 Plan, is that right?
3 A. Yes. Either the variation or the review of the plan.
4

12:59:05 5 JUDGE FAHERTY: Yes. Well we saw the document a few minutes ago where there
6 was
7 A. An agreed fee of 200 for the two activities.
8

9 JUDGE FAHERTY: Yes. For the moment though as I understand it. That
12:59:18 10 Cedarcastle invoice two different times?
11 A. Yes.
12

13 JUDGE FAHERTY: I know your invoice refers to the two as a global and you make
14 reference to having been paid some part of it?
12:59:29 15 A. Yes.
16

17 JUDGE FAHERTY: Obviously on the 2nd of September 1998 did you instruct
18 Cedarcastle?
19 A. Yes. I would have asked them to issue.
12:59:36 20

21 JUDGE FAHERTY: And as I understand it, the Dun Laoghaire/Rathdown '98 plan,
22 was that January 1998 that was ...
23 A. Adopted.
24

12:59:47 25 JUDGE FAHERTY: Yes. I think it might be now. I wouldn't like to hold you to
26 that or myself either. I have a memory that it might have been January 1998
27 A. It may well have been.
28

29 JUDGE FAHERTY: Yes. And you've answered already Ms. Dillon that you had made
13:00:05 30 arrangements with various individuals within companies?

13:00:09 1 A. Correct.
2
3 JUDGE FAHERTY: To be allowed to bill?
4 A. That's right.
13:00:12 5
6 JUDGE FAHERTY: Like this. And who in the Cherrywood Properties Limited had
7 you made that arrangement with, Mr. Lynn?
8 A. Cherrywood, either with Noel Smyth or more probably with Philip Byrne, who was
9 the MD.
13:00:25 10
11 JUDGE FAHERTY: Right. And do we have a copy? Is there a copy of the first
12 invoice available, Ms. Dillon?
13
14 MS. DILLON: The first.
13:00:35 15
16 JUDGE FAHERTY: 2nd of September 1998.
17
18 MS. DILLON: 2762.
19
13:00:38 20 JUDGE FAHERTY: Thank you. Oh, yes. And when did Mr. Smyth and Dunloe, when
21 did they take over from Monarch can you recall?
22 A. About 1997, maybe the tail end of '96 into '97.
23
24 JUDGE FAHERTY: I see
13:01:17 25 A. I think. That was when the transfer from the -- it was the assets or some, the
26 vast majority of the assets of Monarch Group were bought in by Dunloe. They
27 didn't buy the company is my recollection anyway.
28
29 JUDGE FAHERTY: I see. Thank you.
13:01:41 30

13:01:41 1 CHAIRMAN: All right. Thank you very much Mr. Lynn

2 A. Thank you.

3

4 CHAIRMAN: Two o'clock.

13:01:45 5

6 MS. DILLON: Yes, Sir.

7

8

9

13:02:01 10 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

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13:02:01 1 **THE TRIBUNAL RESUMED AS FOLLOWS AT 2:00 P.M.:**

2

3

4

14:10:53 5 MR. QUINN: Good afternoon, Sir.

6

7

Senator Lydon, please.

8

9

14:11:17 10

11 **SENATOR DON LYDON HAVING BEEN SWORN,**

12 **WAS QUESTIONED BY MR. QUINN AS FOLLOWS:**

13

14

14:11:33 15 MR. QUINN: Thank you Senator Lydon

16

17

CHAIRMAN: Good afternoon, senator

18

19 MR. QUINN: You gave evidence to the Tribunal in the Ballycullen Beechill

14:11:41 20 Module?

21

A. Yes, that's right.

22

Q. 484 And I intend first of all, just to deal with the matter which has arisen in

23

relation to that Module. And then Ms. Muldoon your colleague in the Council in

24

1992 and '93 has one or two questions for you.

14:12:02 25 A. Ms. Muldoon?

26

Q. 485 Yes. Do you remember Councillor Muldoon?

27

A. I do. I see her over there.

28

Q. 486 Yes. And then after that I intend to ask you some questions arising out of the

29

current Module, that is to say the Pye Module.

14:12:11 30

- 14:12:11 1 You will recall when you gave evidence Senator Lydon, I think it was in, was it
2 February of this year, the 21st of February of this year I think. You gave
3 evidence to the Tribunal concerning payments that you had received from
4 Mr. Chris Jones
- 14:12:27 5 A. Correct.
- 6 Q. 487 Do you recall that? And after you had given evidence a matter came to light
7 and you were written to in relation to it. And then the Tribunal tried to
8 reconvene for the purposes of hearing and putting the matter to you. And I
9 think from time to time we had difficulty in?
- 14:12:44 10 A. Yeah.
- 11 Q. 488 Co-ordinating dates?
- 12 A. I was out for a while there.
- 13 Q. 489 Yes. And I think before that, I think in November of this year you were at a
14 conference in Saint Petersburg in furtherance of your Oireachtas duties, I
14:12:57 15 think you were a member of the Seanad?
- 16 A. That's right.
- 17 Q. 490 Were you representing the Seanad?
- 18 A. Every time I go abroad like that I represent the committee, the European
19 Affairs Committee.
- 14:13:07 20 Q. 491 Are you the Chairman of the European Affairs Committee?
- 21 A. No no.
- 22 Q. 492 Just a member of it?
- 23 A. I am spokesperson on Foreign Affairs in the Senate and I am a member of the
24 European Affairs Committee.
- 14:13:16 25 Q. 493 You have been appointed to the be the spokesperson for Foreign Affairs?
- 26 A. There are two people. There's one Pascal Mooney and I'm the other with human
27 rights and overseas developments assistance.
- 28 Q. 494 That's an appointment that you've held for some time, is it Senator Lydon?
- 29 A. Yes.
- 14:13:34 30 Q. 495 Of the current Dail?

- 14:13:35 1 A. I am spokesman on European affairs two or threes times before that.
- 2 Q. 496 I think before that you had been overseas in December as well, isn't that
- 3 right? Was that also in your capacity as spokesperson?
- 4 A. Yes.
- 14:13:46 5 Q. 497 In connection with the same committee?
- 6 A. Yes.
- 7 Q. 498 And do you travel on your own in those committees?
- 8 A. No, there would always be one or two members. On some occasions on my own. A
- 9 member of the committee with me. I think there was in December.
- 14:13:59 10 Q. 499 Yes. Now,?
- 11 A. Secretary or something. Of the committee that is.
- 12 Q. 500 Now, just to put the, just by way of back ground and to put the Ballycullen
- 13 position in focus. I think you had given evidence on the previous occasion
- 14 that you had told the Fianna Fail inquiry. If I could have page 884 of the
- 14:14:19 15 Ballycullen brief.
- 16
- 17 Of payments which you had received from developers. And I think you identified
- 18 the receipt of 1,000 pounds from Monarch Properties in the 1993 Senate Election
- 19 and the 1997 Senate Election. And I think you accepted on the last occasion.
- 14:14:33 20 That that in fact should have been 2,500 pounds in 1993.
- 21 A. That's right.
- 22 Q. 501 I think you referred to 1,000 pounds you'd received from Mr. Frank Dunlop for
- 23 election purposes, isn't that right?
- 24 A. That's right.
- 14:14:42 25 Q. 502 And then in the course of the last Module or prior to the last Module you had
- 26 given evidence on the 29th of April 2003 of payments, of two payments of 5,000
- 27 pounds which you had received. And I think at that time you had identified the
- 28 donor of one of those payments as being Mr. Chris Jones, isn't that right?
- 29 A. Correct.
- 14:15:02 30 Q. 503 And then subsequently I think you were written to on the 13th of January 2006.

14:15:07 1 At page 916, please. Of the Ballycullen brief.
2
3 And paragraph two of that letter to you asked you to provide details in your
4 statement of any payments or benefits you had received from or on behalf of
14:15:20 5 those listed at one, together with details of the manner of such payments or
6 the benefits when such payments or benefits were made and by whom and where
7 they were made and the reasons therefore and the persons referred to included
8 Mr. Christopher Jones, isn't that right?
9 A. Yeah.
14:15:35 10 Q. 504 And I think in response to that, if we could have 3111, please.
11
12 That's a letter of the 26th of January 2006.
13
14 3112.
14:15:44 15
16 In response to that query you say our client recollects that he was a candidate
17 for election to the Seanad following upon the General Election of November
18 1992. The Seanad campaign would have commenced at the time of the General
19 Election and the Seanad election concluded, concluding in the early part of
14:16:00 20 1993.
21
22 During the course of the Seanad campaign Mr Christopher Jones gave our client
23 by way of a donation the sum of 5,000 pounds. Our client believes to the best
24 of his recollection that the overall contribution made by Christopher Jones
14:16:12 25 amounted to about 7,000 pounds. Evidence in regard there to was given by our
26 client to the Tribunal at a previous hearing and I referred to that previous
27 hearing a moment ago. Isn't that right
28 A. That's correct, yeah.
29 Q. 505 And then you came, as I say, you gave evidence.
14:16:33 30

14:16:33 1 If we go to day 613.
2
3 At page 18 you you gave evidence concerning the 2,000 pounds which you had
4 received you say from Mr. Jones at a meeting with him in April of 1992, isn't
14:16:38 5 that right?
6 A. Well I, yeah.
7 Q. 506 At question 126.
8
9 JUDGE FAHERTY: It's not up yet.
14:16:47 10 A. I agree with whatever I said.
11 Q. 507
12 MR. QUINN: Page 18 day 613.
13
14 And you give your recollection of meeting with Mr. Jones, having a discussion
14:16:57 15 with him on a number of different matters and then Mr. Jones saying to you and
16 then he said 'I must give you something for you your election campaign,
17 whatever happens, for your fund or something.' This I don't know if he gave me
18 the 2,000 at the time or sent it to me afterwards. I think he gave it to me at
19 the time. But the reason he did that was it was important that you know how do
14:17:18 20 I put this. It was the same reason that he gave me 5,000 later on. I'm
21 talking about the amount not the actual gift or the donations. I had an
22 involvement with a third party that he knew very well
23 A. That's true, yes.
24 Q. 508 And he was very appreciative of my efforts with this third party which had gone
14:17:34 25 on over a number of years unremunerated and he said we are very grateful to you
26 and I would like to help you along the way, something like that?
27 A. Yeah.
28 Q. 509 And we see at 2935.
29
14:17:42 30 A cheque which has been discovered to the Tribunal by the Bank of Ireland.

14:17:47 1 It's the last of a series of two other cheques. In the sum of 2,000 pounds and
2 dated the 27th of April 1992 and it's signed Chris Jones.
3
4 Now, the payee, it's the very bottom cheque. The payee is not readily apparent
14:18:05 5 from the poor quality of the cheque that we have received.
6 A. Cash in my account, yeah.
7 Q. 510 And that was lodged to your account, isn't that right?
8 A. Sorry.
9 Q. 511 At 3442.
14:18:14 10
11 We see it being lodged to the account of yourself and your wife.
12 A. That's right.
13 Q. 512 On the 28th of April 1992 as being part of a lodgement of 2,505.68, isn't that
14 right?
14:18:26 15 A. Yes.
16 Q. 513 And I think on the 5th of June of 2002. If we look at 3441.
17
18 You identified a lodgement of the sum of 2,505.68 as including a cheque from C
19 Jones isn't that right for 2,000 pounds at the very top of that page, please
14:18:47 20 A. Yes, I see it all right.
21 Q. 514 Now, again, on day 613. At page 41 and 42.
22
23 You gave evidence to the Tribunal of the circumstances under which you came to
24 receive a sum of 5,000 pounds from Mr. Jones at a meeting in the Goat Grill,
14:19:05 25 isn't that right
26 A. Yes.
27 Q. 515 And that would have been in November 1992, isn't that correct?
28 A. Yeah, I thought he gave it to me at the time. He said afterwards he sent it to
29 me that's all.
14:19:18 30 Q. 516 On the day?

14:19:19 1 A. Yeah.

2 Q. 517 If we could have 3174.

3

4 We see a copy of that cheque dated 12th of November 1992. Made payable to

14:19:26 5 Mr. Don Lydon.

6

7 Again at 2940 we see that cheque being lodged to your account together with the

8 other cheque for 5,000 pounds, evidence of which you had given previously,

9 isn't that right?

14:19:36 10 A. That's correct.

11 Q. 518 Now, if I could stay, if I may, with day 613.

12

13 And if we could have page 54, please.

14

14:19:52 15 Now, I think you also admitted, I think, on the day to having received a sum of

16 500 pounds from Mr. Jones in 1999, isn't that right?

17 A. I'd be almost certain that was for the Local Elections, yes.

18 Q. 519 3187. If we stick for the moment now with day 613.

19

14:20:17 20 I just want to read to you just some of the evidence on day 613.

21

22 You were being asked about a possible -- possible meetings with Mr. Jones after

23 the successful vote in relation to the Ballycullen Beechill matter which I

24 think had taken place in October 1993. And I think the confirmation vote had

14:20:39 25 been on the 28th of October 1993, isn't that right?

26 A. I don't know. It could be, yeah.

27 Q. 520 And I think Mr. Jones, you had written to Mr. Jones and Mr. Jones had written

28 to you, isn't that right? In November 1993. And if we go to page 55. And

29 look at question 429.

14:21:01 30

14:21:01 1 So you say between the 28th of October and the 3rd of November 1993 he had
2 written to you and you had responded to him and he was now responding to your
3 letter again.

4 A: If I wrote to him to say thank you for your nice letter he must have
14:21:16 5 written to me.

6 Q: This is him writing to you

7 A: I beg your pardon. I'm sorry, I misread the thing entirely

8 Q: Sorry

9 A: I must have written to him then, yes

14:21:27 10 Q: So after 29th of October 1993 you would have written to him you think or
11 the 28th of October 1993 and he wrote to you on the 3rd of November 1993
12 thanking you for your letter and suggesting that he would contact you and
13 arrange to meet with you, isn't that right ?

14 A: Yes.

14:21:42 15 Q: Did that contact take place.

16 A: I don't know. I just, I don't think so.

17 Q: Other than the 500 pounds cheque which I have referred to a moment ago in
18 June 1999, the cheque for 2,000 pounds in April 1992 and the cheque for 5,000
19 pounds in November 1992, did you receive any money from Mr. Oliver Brooks,
14:22:03 20 Frank Brooks, Chris Jones, Derry Hussey or Ballycullen Farms ?

21 A: No.

22 Q. 521 You recall that evidence, Mr. Lydon?

23
24 And if we look at 2103 of the Ballycullen brief we'll see that letter to which
14:22:20 25 I made reference.

26
27 And it's a letter to you from Mr. Jones thanking you for a letter that you had
28 sent him, isn't that right? Following on the successful vote on the 28th of
29 October '93. And you will know, Mr. Lydon, Senator Lydon, at this stage that
14:22:38 30 as a result of an Order For Discovery against Mr. Jones' back records and if we

14:22:43 1 could have 3735.
2
3 A cheque came to light dated the 9th of December 1993. It's a cheque made
4 payable to cash. It's in the sum of 2,000 pounds. And you will see the
14:22:55 5 reverse of the cheque gives details of a bank account into which the cheque was
6 lodged
7 A. Yes.
8 Q. 522 And Mr. Jones has given evidence that that is a cheque that he may in fact have
9 given to you. And you were written to in relation to it.
14:23:08 10
11 At 3770. On the 9th of March 2006.
12
13 And I think you, through your solicitors, responded at 3772.
14
14:23:19 15 And what I want to put to you, Senator Lydon, is first of all, that that
16 appears to suggest that there was a further payment to you from Mr. Chris Jones
17 in 1993.
18 A. It would seem to be, yes.
19 Q. 523 Yes. A cheque for 2,000 pounds, isn't that right?
14:23:36 20 A. That's right.
21 Q. 524 That would bring the payments to you from Mr. Jones in the 1992, 1993 period to
22 9,000 pounds?
23 A. Yes.
24 Q. 525 Can you give any explanation to the Tribunal Senator Lydon, as to how that
14:23:51 25 additional payments of 2,000 pounds was not disclosed by you to the Tribunal
26 either in your correspondence with it or indeed in your evidence?
27 A. I can. Do you have a copy of a letter that was written.
28 Q. 526 3772.
29
14:24:06 30 It's on the screen. Perhaps rather than referring to the letter Senator Lydon

14:24:10 1 A. I would like to see the letter read into the thing. That's the complete answer
2 to it there.

3 Q. 527 All right, I'll read the letter into the record for you Senator Lydon. It is
4 dated 15th of March 2006.

14:24:22 5
6 And it's from your solicitors, as I say, and it's addressed to Mr. Donal King,
7 solicitor to the Tribunal.

8
9 And your solicitor says that "on Thursday afternoon, March 9th, our client was
10 at his office in Seanad Eireann when he received a message and a fax from
11 ourselves, Edge Manning & Co. his solicitors which was a copy of a fax received
12 by us earlier on the same day from Mr. Donal King, solicitor to the Tribunal.

13
14 The fax from Mr. King requested details regarding a cheque from Mr. Chris Jones
14:24:49 15 in the sum of 2,000 pounds dated the 9th of December 1993, on the back of which
16 was written the account number of his bank accounts.

17
18 Our client rechecked the lodgements which he was asked by the Tribunal to
19 reconcile. And there was no question regarding a cheque for 2,000 pounds in
14:25:04 20 December 1993. Our client has two sets of bank statements, one supplied to him
21 by the Tribunal and one sent to him by a Ms. Emer Lumden, solicitor, legal
22 section, Bank of Ireland. This section is situated in Cabinteely, Dublin. The
23 set supplied by Ms. Lumden to the Tribunal.

24
14:25:24 25 The examination of both sets of statements by our client revealed that the copy
26 of the statement of December 1993 was missing from both sets, which would
27 explain why a lodgement of 2,000 pounds did not figure in the list of
28 lodgements required to be reconciled by the Tribunal.

29
14:25:38 30 Senator Lydon contacted the legal section only to finds that Ms. Lumden was not

14:25:43 1 present. He spoke to Mr. Liam Lavelle whom he understands was the Head of the
2 Legal Section and assigned another solicitor, Ms. Soracha Monaghan, to check
3 matters for him.
4

14:25:55 5 Our client spoke with Ms. Monaghan on the telephone and subsequently faxed a
6 letter to her on March 10th 2006 requesting a copy of the statement for
7 December 1993, a photocopy of all lodgement slips, front and back, for December
8 1993 and any information she might discover about Mr. Jones' cheque, copy of
9 this letter attached herewith.

14:26:14 10
11 Later on Friday afternoon, Ms. Monaghan faxed him a copy of the December 1993
12 statement that had somehow failed to be included in the statements provided to
13 him by the Tribunal. He noticed a lodgement for 2 141.66 on the 15th of
14 December and asked Ms. Monaghan to investigate this further, as it was the only
15 lodgement in December large enough to accommodate a lodgement of 2,000 pounds.

16
17 Ms. Monaghan also faxed a copy of a letter that she had sent to Mr. Ray Scott,
18 Manager, Bank of Ireland, Blackrock requesting information from him. Copy
19 attached herewith. This information will be forwarded to the Tribunal as soon
20 as it is received.

21
22 We had hoped to be in receipt of this further correspondence. However, it is
23 not to hand but will be furnished as soon as it comes to hand.
24

14:26:59 25 When our client was asked some years ago to account for all lodgements over 500
26 pounds received since 1980 he would not have accounted for this cheque as he
27 had no documentation available to him and he did not notice the missing page.
28 Significantly when the Tribunal subsequently wrote to him asking him to explain
29 some lodgements, it did not request any explanation of this cheque or lodgement
14:27:20 30 because of course the Tribunal did not have the statement available to it and

14:27:23 1 no more than himself did not notice that a page was missing. There seems
2 little doubt however that this cheque was from Mr Jones and was lodged to
3 Senator Lydon's account. Our client has no recollection of the events leading
4 up to the receipt of this cheque or whether it was sent to him or given to him
14:27:38 5 in person. It is possible that he was in contact prior to he receiving the
6 cheque but he has no record of this period and as of all of this occurred so
7 many years ago, that he just cannot remember how it happened.

8
9 One thing he does remember was Mr. Jones' extreme kindness and his gratitude
14:27:55 10 for matters that have only been alluded to in passing and about which our
11 client is not free to be specific, except to say that they had nothing
12 whatsoever to do with rezoning.

13
14 Yours sincerely".

14:28:07 15

16 A. That's true.

17 Q. 528 Now, can I now ask you, Senator Lydon, to give an explanation to the Tribunal
18 for your failure to advise it that you had received a further 2,000 pounds from
19 Mr. Chris Jones?

14:28:23 20 A. I think the explanation is on the letter there. It didn't show up on my bank
21 statements that I got from either the bank or from the Tribunal. No way I
22 could know it.

23 Q. 529 If I could have 3778, please.

24

14:28:34 25 This is a bank statement for your account and that of your wife, joint savings
26 account. The statement date is the 31st of January 1994. And it discloses a
27 lodgement in the sum of 2,141.66

28 A. But that wasn't in the statements that I got from the bank nor was it in the
29 statements that I got from the Tribunal.

14:28:54 30 Q. 530 Is it your evidence to this Tribunal, Mr. Lydon, that had you received that

14:28:59 1 statement from either the Tribunal or the bank that looking at that statement
2 you would have recalled that you had received a cheque made payable to cash
3 from Mr. Chris Jones in December 1993?
4 A. I probably wouldn't, no.

14:29:13 5 Q. 531 So now can I ask you again, Senator Lydon, if you would give an explanation to
6 the Tribunal, if you would, please, as to why you failed to tell the Tribunal
7 that you had received a further payment of 2,000 pounds in a cheque made
8 payable to cash from Mr. Chris Jones when you were here giving evidence earlier
9 last year?
10 A. Because I had no record of it.

11 Q. 532 Had you forgotten that you had received such a generous donation from
12 Mr. Jones?
13 A. I had no recollection of it at all.

14 Q. 533 There was no election in December 1993?
14:29:42 15 A. There was.

16 Q. 534 No. There was an election in November December '92, Senator Lydon?
17 A. Oh, sorry.

18 Q. 535 I am suggesting to you that there was no election in December '93?
19 A. That's right, yeah.

14:29:53 20 Q. 536 Why would Mr. Jones give you a cheque in December 1993?
21 A. God only knows. I mean, I think he said he felt sorry for me or something but
22 I don't think that's a reason. You can receive a donation any time, you see.
23 There's nothing to it. I have no idea at this stage why he sent it to me but
24 he sent it to me anyway. I think he said in his evidence that he felt that I
14:30:20 25 was under a lot of pressure.

26 Q. 537 He said?
27 A. That's all I can say.

28 Q. 538 He did indeed say in evidence that you had been complaining about pressure at
29 that time, isn't that right?
14:30:33 30 A. He said that.

- 14:30:34 1 Q. 539 Yes.
- 2 A. I'm not sure that I was complaining, no.
- 3 Q. 540 You had supported Mr. Jones' proposals in relation to Ballycullen Beechill
- 4 throughout '92 and '93, isn't that right?
- 14:30:46 5 A. Absolutely.
- 6 Q. 541 And in 1992 you had received two payments from him. One for 2,000 and one for
- 7 5,000?
- 8 A. Correct.
- 9 Q. 542 The Ballycullen Beechill confirmation had taken place on the 28th of October
- 14:30:58 10 1993, isn't that right?
- 11 A. I don't know but if you say so, yes.
- 12 Q. 543 And you had written to Mr. Jones following on the confirmation of that
- 13 decision, isn't that right?
- 14 A. It appears so, yes, yes.
- 14:31:13 15 Q. 544 And he had responded to you, isn't that right? In correspondence.
- 16 A. Yes.
- 17 Q. 545 And you had been asked if you had met Mr. Jones or if you'd received any
- 18 further payments from Mr. Jones in evidence, isn't that right?
- 19 A. I would think so, yes, yes.
- 14:31:27 20 Q. 546 And you had told the Tribunal?
- 21 A. Oh, yeah.
- 22 Q. 547 That you had not received any such payments, isn't that right?
- 23 A. That's correct.
- 24 Q. 548 That's incorrect now, isn't that right? In the light of this?
- 14:31:35 25 A. That's right.
- 26 Q. 549 Yeah.
- 27 A. That cheque. I mean, even in his own first statement, for example, he doesn't
- 28 make any illusion to that cheque because he didn't know it was there either.
- 29 Q. 550 If we could have 1230.
- 14:31:49 30

14:31:49 1 3rd of November 1993 from Mr. Chris Jones.
2
3 And in that letter, doesn't he conclude his letter by advising you that he
4 would contact you shortly and arrange to meet for a chat some evening, isn't
14:32:00 5 that right?
6 A. That's right.
7 Q. 551 You had been asked if that meeting had taken place, isn't that right? And you
8 had no recollection of it taking place?
9 A. I don't know whether it did or not, no.
14:32:08 10 Q. 552 Now, we know that Mr. Jones had a meeting or had an entry in his diary for the
11 8th of December 1993.
12
13 If we could have 3736, please.
14
14:32:17 15 For a lunch in the Goat Grill. And I think the previous meeting you had had
16 with Mr. Jones was also in the Goat, isn't that right?
17 A. Well I don't know if I met him once or twice in the Goat. But if he says so,
18 yeah.
19 Q. 553 The first time you met him was in April '92 and he gave you 2,000 pounds, isn't
14:32:35 20 that right?
21 A. I thought that was in his office now, I'm not sure.
22 Q. 554 I'm not saying that you met him. On the first occasion you are quite correct.
23 You did meet him in his office, that was in April '92. According to your
24 evidence that was your first meeting with him?
14:32:47 25 A. That's probably right, yes.
26 Q. 555 You got 2,000 pounds at that time?
27 A. I think it was arranged through Mr. Brooks, yeah.
28 Q. 556 And then you met him in the Goat Grill, that was your second meeting in,
29 November 1992 after the vote. And he gave you 5,000 pounds, isn't that right?
14:33:03 30 A. Yes, he sent it to me, I think, he said after that.

- 14:33:06 1 Q. 557 And do you think it's possible that you met Mr. Jones again in 1993 in the Goat
2 Grill on the 8th of December?
3 A. It's possible, of course, yeah.
- 4 Q. 558 And is it possible that at that meeting he gave you a further 2,000 pounds?
14:33:19 5 A. Well I don't know if he gave it to me or sent it to me I don't honestly know.
- 6 Q. 559 If we could have 3735, please.
7
8 There is no doubt, Mr. Lydon or Senator Lydon but that for the fact that the
9 number appears on the reverse of that cheque. That is to say the number of
14:33:36 10 your bank account?
11 A. There is no doubt about the number.
- 12 Q. 560 No doubt about the number. It's also equally true but for that number being
13 highlighted on the back of that cheque, this Tribunal would never be aware of a
14 further payment to you from Mr. Chris Jones of 2,000 pounds, isn't that right?
14:33:52 15 A. I don't believe it ever come to light from me or Mr. Jones or from anywhere.
- 16 Q. 561 Can I ask you, Senator Lydon. Why was that cheque made payable to cash?
17 A. I have no idea. Apparently he did that from time to time, I think he said that
18 once somewhere. I think when he was paid out of his own accounts he used to
19 make them out to cash or something, I don't know. That's a question for him, I
14:34:14 20 really don't know.
- 21 Q. 562 No reason if this were a legitimate political contribution to you, Senator
22 Lydon, that the cheque could not be made payable to Senator Don Lydon, isn't
23 that right?
24 A. That's right. But it was a legitimate donation.
- 14:34:29 25 Q. 563 That you had completely forgotten about and failed to tell the Tribunal about?
26 A. I don't know that.
- 27 Q. 564 It only came to light as a result of the investigative work of this Tribunal,
28 isn't that right?
29 A. Sorry, I missed the last question.
- 14:34:42 30 Q. 565 It only came to light as a result of the investigative work of this Tribunal?

14:34:43 1 A. I think it came to light in the investigative work of his son who actually
2 turned up the cheque.

3 Q. 566 No. I suggest to you Senator Lydon, the cheque was supplied to the Tribunal on
4 foot of discovery, a Discovery Order against Mr. Jones' bank accounts?

14:34:56 5 A. Yeah.

6 Q. 567 And the discovery that the cheque had been lodged to your account was something
7 that was discovered by the Tribunal.

8 A. All right then, that's fine.

9 Q. 568 And brought to your attention?

14:35:04 10 A. That's fine, sure.

11 Q. 569 Because it picked up on the number on the reverse of the cheque, isn't that
12 right?

13 A. That's right.

14 Q. 570 And you can't give any explanation to the Tribunal as to why that cheque was
15 not brought to the attention of the Tribunal either in your correspondence or
16 in your evidence?

17 A. I can't because I've no record of it.

18 Q. 571 Yes?

19 A. That's what the whole investigation was about. Getting the letters. I had two
20 sets of accounts. It wasn't in either of them. Sure how could I know it.

14:35:26 21 Q. 572 No. You had been supplied, I think, with lodgements and bank statements and
22 you were asked to identify the source of lodgements, isn't that right?

23 A. Yes.

24 Q. 573 And there are several lodgements to your account that you are unable to give a
25 true explanation for other than to say that they were cash lodgements?

14:35:46 26 A. I didn't know this was one there, that's a different thing entirely. If there
27 is a lodgement of a 1,000 or 2,000 and I don't know where it came from that's
28 one thing, but this one I didn't even know existed. I know you maybe don't
29 answer questions. Are you implying that I'm trying to hide it or something?

14:36:07 30 Because that's not the case at all.

- 14:36:09 1 Q. 574 I am really bringing it to your attention and giving you an opportunity to
2 correct the record, Senator Lydon?
- 3 A. Okay. That's corrected.
- 4 Q. 575 I had asked you previously, as you can see from the transcript which I put on
14:36:19 5 the screen. If you had received any further monies from Mr. Jones and you had
6 responded -- you had said no. You didn't say that you weren't, not to your
7 recollection or not as a result of any searches. You had no recollection?
- 8 A. I was almost certain. Sure at that time I didn't know about it. Sure how
9 could I say yes.
- 14:36:38 10 Q. 576 You've told the Tribunal that in 1992 the largest contributions you had
11 received were the two 5,000 pounds cheques?
- 12 A. Yes.
- 13 Q. 577 One of which was from Mr. Jones?
- 14 A. Yes.
- 14:36:47 15 Q. 578 I think the second largest 2,500 from Monarch?
- 16 A. All right.
- 17 Q. 579 That was your evidence?
- 18 A. All right.
- 19 Q. 580 I think the third largest contribution was a sum of 1,000 pounds from Mr.
14:36:59 20 Dunlop?
- 21 A. That's correct, I think.
- 22 Q. 581 And that was during the election, isn't that right?
- 23 A. Sometime in January I think.
- 24 Q. 582 Yes. You had received the 1,000 from Mr. Dunlop?
- 14:37:11 25 A. Yeah, he sent it to me unsolicited.
- 26 Q. 583 Yeah. This is a cheque for 2,000 pounds received from the same source as the
27 5,000 pounds and indeed the other 2,000 pounds. Are you seriously telling the
28 Tribunal, Senator Lydon, that you could not remember whether you received 5, 7
29 or 9,000 pounds from Mr. Jones in '92, '93?
- 14:37:31 30 A. Seriously telling the Tribunal that if you hadn't provided me with all of this

14:37:34 1 information I wouldn't remember any of this stuff.

2 Q. 584 That you'd have completely forgotten a cheque for 2,000 pounds which was

3 greater than the third largest contribution you'd received during the election

4 in '92?

14:37:45 5 A. Yeah.

6 Q. 585 And you had received it at a time when no election had been taken place?

7 A. That's correct, yes.

8 Q. 586 Now, Mr. Lydon, I understand that Councillor Muldoon has some questions of you.

9

14:38:02 10 And I appreciate it if you would just ...

11

12 CHAIRMAN: Just before Ms. Muldoon starts.

13

14 Could I just ask you on that, on the question of the 2,000. Did you

14:38:12 15 associate -- would you know, even in hindsight, associate or do you think you

16 might have then associated at all this payment of 2,000 with the support that

17 you'd given to Mr. Jones as rezoning project?

18 A. I honestly wouldn't. If you'd notice. I mean, when Mr. Hussey was

19 interviewed, for example. He said Mr. Jones is likely to do things on a grand

14:38:37 20 scale. He gave out money, left right and centre. I was far from the only

21 person who got lots of money from him.

22

23 CHAIRMAN: No. That might explain the extent of his generosity. Did you in

24 your own mind associate a link?

14:38:50 25 A. No.

26

27 CHAIRMAN: Between your work as a Councillor voting in support of rezonings

28 which were likely to benefit Mr. Jones. Did you see a link between his

29 generosity towards you?

14:39:06 30 A. You place me in a delicate position I will explain it as best I can, as I've

14:39:12 1 done before.
2
3 There were two 5,000 pounds cheques. Both of these were from gentlemen who
4 were appreciative of things I'd done for third parties. Now, Mr. Jones did not
14:39:23 5 allude to this in his evidence. He said because I was stuck or looking for
6 money or something like that. He could have alluded to it but it would have
7 reopened something that's best to stay closed. That's all I can tell you.
8
9 CHAIRMAN: But besides that. I mean that's nothing to do with rezoning.
14:39:39 10 A. No.
11
12 CHAIRMAN: But you didn't, you don't see any link between the -- this 2,000 or
13 the total of 9,000 received from Mr. Jones?
14 A. I don't really because.
14:39:51 15
16 CHAIRMAN: And your votes?
17 A. I didn't propose whatever it was, that place because I was looking for money.
18 I proposed it because I thought it was a good idea.
19
14:40:02 20 CHAIRMAN: No, I understand that you are making that point. But given the
21 fact that amount of money was given to you. Would you have seen a link
22 between -- a lot of people looking at this evidence would say, well, he must
23 have been or he was likely to have been, if you like, rewarding you for voting
24 in favour of his project.
14:40:28 25
26 Now, that's really the issue.
27
28 Did you see any link between your votes and the extent of his generosity?
29 A. No, no, I didn't. I saw that Mr. Jones. You've met him and what I said before
14:40:40 30 and I say it again. He's a very, very, kind generous man. And he will think

14:40:47 1 nothing of giving money to anybody. And that's what he did. He gave money at
2 different times to different councillors when there was no votes on or no
3 elections on. And I was no different to anybody else.

14:41:00 5 CHAIRMAN: Well, did you -- were you concerned about taking that sort of
6 money, that level of money?

7 A. Not in the slightest, no.

9 CHAIRMAN: Given that this was at a time when they were -- when you were
14:41:15 10 effectively voting to support Mr -- although I know you say that that wasn't
11 the purpose of your vote but the effect of your vote was to support Mr. Jones.

12 A. But if there were conditions attached to the receipts of any monies from
13 anybody during the whole Development Plan I would have not have taken them. I
14 never did. This wasn't any different.

14:41:39 15 CHAIRMAN: But would you see something wrong in taking money, that level of
16 money, at a time when you were voting or likely to have to vote on a project
17 which would be beneficial to Mr. Jones?

19 A. No, that wasn't in my mind. I can't speak for Mr. Jones. It wasn't on his
14:42:04 20 mind and it certainly wasn't on mine. All I can say is that you've met the
21 man. I'm sure if there's a Senate campaign tomorrow and I'm looking for
22 another he'd give me another donation. He's just that kind of a fella.

24 CHAIRMAN: You don't see any conflict arising?

14:42:20 25 A. Conflict?

27 CHAIRMAN: Either by way of perception or fact between a Councillor taking
28 substantial sums of money from a developer at a time when that same Councillor
29 is being called upon to vote on projects which would be beneficial to the ...

14:42:40 30 A. I think, Judge, we've always to look at the intention and the motive. There

14:42:44 1 was no intention of any kind on his or my part. Or no motive. I mean, he
2 didn't say, look, I'll give you this if you vote for that or something. That
3 never happened at all.
4

14:42:55 5 CHAIRMAN: No. I'm talking about the appearance or the perception rather than
6 ...
7 A. Well different people have different perceptions. It doesn't appear that way
8 to me.
9

14:43:04 10 CHAIRMAN: But you wouldn't see that perception as being a reasonable one?
11 A. I suppose you could stretch a point and say that there's a perception. But it
12 wasn't -- it didn't -- it's not the reality. That's the best way.
13

14 CHAIRMAN: Would you have a different view now?
14:43:20 15 A. No, I wouldn't have a different view now. If he gave me money again I'd take
16 it.
17

18 CHAIRMAN: Even though you might be voting next week on something
19 A. Only if it's connected in some way with the vote and it wasn't.
14:43:30 20

21 CHAIRMAN: No. If there's no obvious or stated connection between a vote,
22 your vote and the receipt of money from an individual. In other words, if
23 nothing is said such as I'll give you 2,000 if you vote in my favour. If
24 nothing like that is said, do you see anything wrong between now, between the
14:43:55 25 practice of taking some thousands of pounds or Euro from ...
26 A. If I can answer you, Judge. Nowadays things are different. First of all,
27 there's a limit in what you can get. In those days there was no limit. I
28 didn't do anything illegal or even immoral.
29

14:44:13 30 CHAIRMAN: What's the limit now?

14:44:16 1 A. I think it's 1,000 or something, I don't know.

2

3 CHAIRMAN: Would you see any difficulty?

4 A. First of all, you wouldn't be offered any nowadays because everybody is so

14:44:27 5 careful since this Tribunal started. Things have changed completely. In those
6 days you must remember people could get any amount of money from anybody.

7

8 CHAIRMAN: Would you see yourself any difficulty or would you be concerned
9 about taking, say, 900 Euro if the limit is 1,000, if the legal limit is 1,000?

14:44:44 10 A. I'd probably be more careful these days, yes.

11

12 CHAIRMAN: Careful of what though?

13 A. Careful, as you say, of the perception. But, I mean, that's about all really.

14

14:44:55 15 CHAIRMAN: All right. Ms. Muldoon, do you want to ask Mr?

16

17 MR O'TUATHAIL: Mr. Chairman, before Ms. Muldoon makes her contribution. I
18 want to put it on the record. And I want to query.

19

14:45:11 20 We have no notice whatever that Ms. Muldoon is going to put questions to
21 Senator Lydon.

22

23 Ms. Muldoon was present during the Beechill and Ballycullen Module.

24

14:45:21 25 CHAIRMAN: If there is any difficulty arising for Mr. Lydon from a question,
26 because he doesn't have notice.

27

28 MR O TUATHAIL: He does not have notice. And the only notice we got was
29 momentarily before the Tribunal sat this afternoon.

14:45:33 30

14:45:33 1 CHAIRMAN: All right. Well that's a fair point. So --

2

3 MR O TUATHAIL: And next --

4

14:45:38 5 CHAIRMAN: If there is a difficulty arising or if Mr. Lydon has a

6 difficulty --

7

8 MR O TUATHAIL: I have the difficulty, Mr. Chairman, representing Mr. Lydon

9 and so has my team.

14:45:47 10

11 Because we are not aware of what issues are going to be raised or whether in

12 any form they might constitute allegations of any type from Ms. Muldoon.

13

14 So that I would prefer, much prefer to have proper notice of this.

14:46:04 15

16 We got a letter from the Tribunal. We have a letter from the Tribunal in

17 relation to this recall in relation to Ballycullen. And the letter is the 6th

18 of November 2006.

19

14:46:17 20 And since that date to today, we've had no notice whatever that another party

21 was coming along to question a party who had a full opportunity to question

22 when this particular matter was being dealt with in 1993 -- in 2003.

23

24 CHAIRMAN: Well ...

14:46:39 25

26 MR O TUATHAIL: 2006.

27

28 CHAIRMAN: Well what we can do is rather than -- I mean, if necessary we can

29 bring Mr. Lydon back on another date to, as I understand it, Ms. Muldoon has

14:46:54 30

only a small number of questions.

14:46:56 1
2 But what we can do is we can rise for a few minutes to allow, if Ms. Muldoon is
3 happy to do this. To allow Ms. Muldoon indicate through Counsel for the
4 Tribunal what areas she is going to ask questions of Mr. Lydon.

14:47:14 5
6 Now, if that presents you with a difficulty, we will certainly ask Ms. Muldoon
7 and Mr. Lydon to come back on another date after you've had notice. Isn't that
8 the simplest way of ?
9

14:47:27 10 MR O TUATHAIL: It sounds reasonable, Mr. Chairman.
11

12 CHAIRMAN: We'll just rise for five minutes.
13

14 MR O TUATHAIL: All right, Mr. Chairman.
15

14:47:33 16

17

18

19 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

20 **AND RESUMED AS FOLLOWS:**

14:47:54 21

22

23 CHAIRMAN: Have we sorted out the?

24

25 MR O TUATHAIL: Yes, Mr. Chairman. No objection whatever.
26

14:55:51 27

28 CHAIRMAN: All right.
29

30

MR O TUATHAIL: And apologies almost for embarrassing my own client.

14:55:55 30

CHAIRMAN: No, it was a fair enough. Mr. Lydon.

14:56:03 1
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CHAIRMAN: Now, Ms. Muldoon finally, you're off.

14:56:13 1

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THE WITNESS WAS QUESTIONED BY MS. MULDOON AS FOLLOWS:

3

4

MS MULDOON0: Good afternoon, Cathaoirleach, Senator Lydon.

14:56:18 5

A. How are you.

6

Q. 587 My name is Mary Muldoon.

7

8

I was an elected member of Dublin County Council. And I represented the

9

Rathfarnham area from June 1985 to December 1993. I was a member of South

14:56:32 10

Dublin County Council from January 1994 to June 1999. I am representing myself

11

here today.

12

13

There are three matters pertinent to your evidence on the Ballycullen Beechill

14

Module which continue to cause me considerable concern

14:56:52 15

A. Uh-huh.

16

Q. 588 And I propose to take each of these separately, if that is agreeable to you?

17

A. Yes, of course. Go ahead.

18

Q. 589 Firstly, if I may have day 613, page 52.

19

14:57:02 20

Lines 27 and 28.

21

22

And here you will notice that in your evidence you made an unsolicited personal

23

comment about me in response to a general question from Mr. Quinn.

24

14:57:21 25

You say "Councillor Muldoon was a very difficult lady to deal with". Do you

26

see that?

27

A. I do.

28

Q. 590 Can you please explain to the Tribunal what you meant by "very difficult" in

29

that context?

14:57:39 30

A. I think honestly, I never found you difficult, myself. I think I read it

14:57:52 1 somewhere, someone else said it. And I shouldn't have said it about you. And
2 if it's offensive to you in any way, I deeply regret saying it. I apologise
3 most sincerely and I would like to withdraw it, I'm very sorry. That's all.

4 Q. 591 Thank you very much senator. And now in order to correct any possible wrong
14:58:02 5 impression which your statement may have created in the minds of the public I
6 must ask you were you implying some kind of impropriety on my part?
7 A. Not in the slightest.

8 Q. 592 Were you inferring that I was being uncooperative in carrying out my mandate as
9 a public representative?
14:58:17 10 A. No, no.

11 Q. 593 Were you implying folly or stupidity on my part regarding me as unwilling or
12 incapable of taking a pragmatic view on planning in County Dublin for the sake
13 of some misguided principle?
14 A. Certainly not! No.

14:58:34 15 Q. 594 Thank you. For the record, the fact is that I always voted conscientiously
16 relying on my own informed judgement and in most instances on the professional
17 recommendations of the Planning Manager whose opinion I respected
18
19 Contrary to the spin put abroad about me for some for their own ends, I was not
14:58:58 20 ideologically opposed to all development, as the voting record will show.
21
22 Do you accept that this is true?
23 A. I do accept that that's true, yes.

24 Q. 595 Thank you.
14:59:08 25
26 Today when the European Environment Agency cites Dublin as a worst case
27 scenario for urban sprawl, when there are almost 1,300 housing units on those
28 very same Ballycullen lands, and when the local M50 approach and exit roads are
29 routinely choked with traffic at peak times, can you understand why I might
14:59:32 30 have voted as I did?

14:59:34 1 A. Yes, of course.

2 Q. 596 Now, you stated that I was very difficult to deal with?

3 A. I'm sorry, I didn't get that last bit.

4 Q. 597 You stated that I was very difficult to deal with. Can you please identify for

14:59:48 5 the Tribunal what kind of dealing you imagine you had with me during the course

6 of the making of the 1993 Development Plan?

7 A. I don't honestly think I had any dealings with you ever.

8 Q. 598 Well I would agree with you there. Because it is the case, isn't it, that

9 although you and I may have exchanged polite greetings, if we met face-to-face.

15:00:07 10 We never held even the briefest of conversations during the entire eight and a

11 half years of our mutual membership of Dublin County Council?

12 A. That's true.

13 Q. 599 All right?

14 A. I think actually what happened is I probably saw that comment somewhere or I

15:00:20 15 read it somewhere, it went into me and I repeated it unconsciously and that's

16 it.

17 Q. 600 Thank you. And I accept your apology.

18 A. Thank you.

19 Q. 601 I would like you to appreciate and accept that my only abiding memory of you,

15:00:34 20 apart from your tabling of the Ballycullen rezoning motion happens to be about

21 a meeting in the Council Chamber when you were involved in a rather dramatic

22 physical altercation with Councillor Trevor Sergent when you tried to arrest a

23 cheque from his grasp?

24 A. That's right, I remember that.

15:00:52 25 Q. 602 So I think we'll put that to bed.

26 A. Okay.

27 Q. 603 Thank you very much. Now my second problem and again I am not alleging

28 anything here. But I am extremely concerned about the mapping error which led

29 to an extra 17 acres of extremely valuable land being rezoned instead of the 60

15:01:07 30 on your motion.

15:01:08 1
2 So if I could have the opening statement for Ballycullen Beechill Module.
3
4 Day 606, page 15.

15:01:16 5
6 And this is Ms. Dillon's opening statement of the 8th of February 2006.
7 A. Uh-huh.
8 Q. 604 And it clearly summarises this particular issue.
9

15:01:32 10 The net effect of this so-called error was that councillors unwittingly rezoned
11 for housing 77 instead of the 60 acres referred to in your motion. And this
12 for the most part, but not solely, because of an error in the map that
13 accompanied it.
14

15:01:52 15 Now, page 153 Ballycullen Beechill, brief.
16
17 "I am not aware of any other instance during the making of the County
18 Development Plan where members were misled in this manner. And I was so
19 concerned about it that I wrote in January 1996 to Donnelly Neary and Donnelly,
15:02:19 20 the Newry Solicitors, who had invited concerned members of the public to
21 contact them if they suspected corrupt practices in the planning processs in
22 County Dublin. And I just mention this in order to underline for you the
23 seriousness with which I regarded and still regard this discrepancy. Do you
24 understand?

15:02:46 25 A. It was a very serious discrepancy.
26 Q. 605 70 acres?
27 A. I don't know what the Tribunal said. But at the time I don't know how it
28 happened.
29 Q. 606 Did you personally?
15:02:47 30 A. And the Manager didn't even notice it, you know.

- 15:02:49 1 Q. 607 Did you personally draw the outline of the Ballycullen lands on the map?
- 2 A. Not at all, no.
- 3 Q. 608 Do you know who drew it?
- 4 A. I don't.
- 15:02:58 5 Q. 609 Who gave you the map for signature?
- 6 A. I forget now. It was either ...
- 7 Q. 610 Was it Mr. Dunlop?
- 8 A. I think it was, yeah. Dunlop.
- 9 Q. 611 Mr. Hand?
- 15:03:08 10 A. Mr. Hand or Mr. Dunlop, I don't know which at the time, I don't remember now
- 11 but ...
- 12 Q. 612 All right. And when did you first notice the discrepancy of almost 30 acres
- 13 between the area outlined on the map itself and the legend on its right-hand
- 14 side?
- 15:03:22 15 A. I didn't even notice it. Nobody at the Council noticed it at the time, not
- 16 even the Manager. Nobody noticed it. When they voted I don't think anybody
- 17 looked at it even. The Manager didn't notice it so.
- 18 Q. 613 All right. Now, I know you visited the site. Did you query the exact area of
- 19 the entire farm with Murray O'Laoire personnel?
- 15:03:42 20 A. I don't know who Murray O'Laoire are.
- 21 Q. 614 They are the people whose names are attached to that particular map?
- 22 A. I didn't is the answer, no. I never had any dealings with them
- 23 Q. 615 With Mr. Chris Jones?
- 24 A. No.
- 15:03:55 25 Q. 616 Mr Derry Hussey?
- 26 A. Nobody.
- 27 Q. 617 Neither the two Brooks brothers?
- 28 A. No.
- 29 Q. 618 Okay?
- 15:04:00 30 A. I walked around the farm. That's all I did with Ollie Brooks and I think

- 15:04:05 1 Franky Brooks was there at the same time. You know those men.
- 2 Q. 619 All right. Well did you ever raise any query with anybody as to who drew the
- 3 horizontal line across the map immediately beneath the area A1, because that
- 4 would enclose the actual area to be zoned?
- 15:04:22 5 A. I haven't the slightest idea.
- 6 Q. 620 All right. Now, your evidence has been that you were very scrupulous when
- 7 proposing or seconding motions associated with the Development Plan?
- 8 A. I said I always walked the land and looked to see was it a good proposal or
- 9 not.
- 15:04:37 10 Q. 621 Well a number of times, and I don't want to delay the Tribunal, a number of
- 11 times during the course of your evidence. Day 613, pages 7, 11, 12, 30, 60 and
- 12 61 you make comments which would indicate that you were extremely careful,
- 13 extremely scrupulous both with regard to looking at the land in question,
- 14 judging whether it was a viable proposal or not and also with regard to the
- 15:05:05 15 motion.
- 16
- 17 You say on page 7, for instance, of day 613.
- 18
- 19 "We went up to look at the lands and Franky Brooks was there the same day and
- 15:05:16 20 we had a look around the farm. He showed me, he was quieten enthusiastic. He
- 21 was putting this here and that there and so on.
- 22
- 23 And then when you were asked again on page 11, line 16., whether you would
- 24 question a motion that would be put before you for signing you said I would
- 15:05:35 25 question the proposal.
- 26 A. Yeah, it was a good proposal.
- 27 Q. 622 Yes. On page 12 you said "anything I ever proposed or seconded I always
- 28 visited. I only proposed or seconded a few things and I always looked at
- 29 them"?
- 15:05:49 30 A. That's the truth, yeah.

15:05:50 1 Q. 623 And where you were asked on page 30 were you prepared to sign any motion given
2 to you by Mr. Dunlop or anybody on his behalf you said "no, no. I told you I
3 wouldn't sign anything. I explained this before. I put a third or fourth on
4 anything just to get it on the floor. If I was proposing or seconding anything
15:06:11 5 I always went to visit the place" etc.
6
7 And again, as I say, I don't want to delay the Tribunal but further on you say
8 it on page 60 again and on page 61 you say it.
9
15:06:21 10 But is it not a fact then that you really didn't examine this map at all? You
11 really signed it?
12 A. I said I examined the site. The site. I walked the land.
13 Q. 624 Yes. But when you received the document into your hands for signature it was
14 presented to you, you accepted it as a fait accomplis without any question
15:06:44 15 whatsoever?
16 A. Yes, I assumed it was the same place, yeah.
17 Q. 625 Well I feel that that shows some degree of irresponsibility.
18 A. I see.
19 Q. 626 And in your prior statements on page 19. Prior statements, Donal Lydon page
15:06:58 20 19.
21
22 You state "again, with the signing of maps or motions this was often done in
23 the hall as a favour with little thought given to it"
24 A. That's correct.
15:07:10 25 Q. 627 Why should anybody sign a motion or map as a favour to anybody?
26 A. I don't know but they did all the time. Especially if they were third or
27 fourth or fifth signatures, they just popped them down. You saw that yourself
28 organising a motion.
29 Q. 628 I don't think it was a habitual thing. And was this not a series business that
15:07:31 30 was worthy of more than "little thought?"

- 15:07:34 1 A. It was. That's exactly the point I made. If I was proposing something I would
2 go and look at it properly, yeah.
- 3 Q. 629 So when did you finally become aware that 77 acres and not 60 had been rezoned?
4 A. I think probably when the Tribunal started.
- 15:07:50 5 Q. 630 Well, will it surprise you then when I tell you that this was public knowledge
6 on the day following the confirmation vote?
7 A. No, it wouldn't. Because if you said it was public knowledge maybe I knew it
8 then. I wouldn't be thinking about it, I don't know.
- 9 Q. 631 Well the 29th of October 1993. If I could have Ballycullen Beechill brief
10 pages 2093, 2094 and 2095. In fact, any one of those will illustrate it.
11 These are extracts from the Irish Independent and the Evening Herald.
12
13 And all three refer to the areas zoned for housing as 77 acres. And equally,
14 the Evening Press of the same date quoted 77 acres, although this extract is
15:08:38 15 not included in the brief.
16
17 And would this not indicate very clearly that what is described euphemistically
18 as the mapping error was known to somebody before the confirmation vote had
19 been taken on the 28th of October.
- 15:08:54 20 A. Well with all due respects the man I blame for that is the Manager. If he
21 didn't notice it, none of the staff noticed. It was their problem.
- 22 Q. 632 I see, Senator, thank you very much.
23
24 The final item that I wish to discuss very, very briefly is your motion.
- 15:09:09 25
26 And if I might have page 152 of the Ballycullen Beechill brief.
27
28 Do you see the section that Ballycullen House be preserved for heritage centre
29 purposes
- 15:09:25 30 A. Yes, I do.

- 15:09:26 1 Q. 633 Can I ask you, was this very laudable aspiration one of the significant factors
2 in convincing you that this was a good proposal?
3 A. No.
4 Q. 634 You didn't consider it important?
15:09:38 5 A. Oh, I didn't say that. I said it was a nice thing to preserve it all right. I
6 always preserve.
7 Q. 635 And I know that you were very interested in the allocation of 130 acres of open
8 space and also in the low density housing proposal?
9 A. Yes.
15:09:53 10 Q. 636 But do you recall having viewed Ballycullen House when you visited the farm
11 with Mr. Oliver Brooks?
12 A. Not from the inside. I looked at the outside. I wasn't in it, no.
13 Q. 637 And did you discuss its preservation with him on that occasion?
14 A. No.
15:10:06 15 Q. 638 Were you --
16 A. I don't recall discussing it. I would say I didn't, no.
17 Q. 639 Well, were you aware that when you signed the motion Ballycullen House had
18 already been demolished earlier that year?
19 A. That's the first time I ever heard it. Just now.
15:10:23 20 Q. 640 You don't actually recall seeing Ballycullen House, do you? And yet you signed
21 a motion that it be preserved?
22 A. Unless it was the farmhouse they lived in. There was a farmhouse there. A big
23 house I think that they lived in or Frank lived in with his family. If that's
24 Ballycullen House that's the only one I know. I don't recall discussing it
15:10:43 25 with either of the Brooks brothers or anybody else.
26 Q. 641 And yet you put down that Ballycullen house be preserved for?
27 A. I didn't write the motion. I just thought it was a good motion to sign.
28 Q. 642 Were you even aware that as a result of the confirmation of your motion the
29 intention to preserve Ballycullen House for heritage centre purposes was
15:11:02 30 incorrectly included in the Written Statement of the 1993 Development Plan?

15:11:06 1 A. No.
2 Q. 643 I see. Thank you very much, Senator Lydon. Thank you, Chairman.
3 A. You are more than welcome. May I compliment you on your research.
4
15:11:15 5 CHAIRMAN: Thank you, Ms. Muldoon.
6
7 Now, we'll revert to.
8
9 MR. QUINN: Yes, I was now proposing to deal with the Pye.
15:11:24 10
11 MR O TUATHAIL: Sorry. I wanted to deal with -- I wanted to deal with the
12 recall element there on that cheque.
13
14 CHAIRMAN: All right. That's fine.
15:11:32 15
16 MR O TUATHAIL: If I could deal with that immediately. If that's convenient.
17
18 CHAIRMAN: Yes, certainly, yeah.
19
15:11:38 20 CHAIRMAN: Are you going to deal with issues raised by Ms. Muldoon?
21
22 MR O TUATHAIL: Oh no, not at all, we are very grateful to her. We're not
23 querying on anything.
24
15:11:47 25 I just want to deal with Mr. Quinn's going back over that issue about the 2,000
26 pounds cheque that didn't come to light until late in the proceedings of the
27 Tribunal.
28
29 CHAIRMAN: All right.
30

THE WITNESS WAS QUESTIONED BY MR. O'TUATHAIL AS FOLLOWS:

- 15:12:04 1
- 2
- 3
- 4 Q. 644 MR. O'TUATHAIL: Senator Lydon, the letter which you wrote in explanation to
- 15:12:06 5 the Tribunal's query of the 15th of March 2006 has been read into the record by
- 6 Mr. Quinn. Now, I just want to ask you a few questions about that, the
- 7 identification of that cheque and how it came about.
- 8
- 9 What was your -- could I ask you. Looking through the records I see that the
- 15:12:33 10 Tribunal would first have asked you about these cheques in relation to I think
- 11 the Quarryvale motion. We're not dealing with that. But in date terms that
- 12 was about the 29th of November 2004. And in relation to Ballycullen Beechill,
- 13 the query was raised on the 27th of January 2006. And the accounts were
- 14 supplied to you by the Tribunal. Is that your recollection or can you confirm
- 15:13:03 15 that you were asked in or about January 2006 by the Tribunal to give an
- 16 explanation for various cheques you were queried about. Can you confirm that,
- 17 that?
- 18 A. I beg your pardon. I didn't realise you were talking to me. I thought you
- 19 were talking to the Judge. Sorry. I am sorry.
- 15:13:27 20 Q. 645 Senator Lydon, I'm simply asking you about. I'll ask you this way maybe. That
- 21 on the 27th of January 2006. The Tribunal wrote to you and queried three
- 22 different cheques with you. They sent you a query about?
- 23 A. Yes, yes, yes.
- 24 Q. 646 They sent you a query about cheques of the 10th of December, 21st of December
- 15:13:50 25 '92 and 23rd of December '92?
- 26 A. Uh-huh.
- 27 Q. 647 And prior to that, in November 2004 in relation to Quarryvale they had also
- 28 queried these cheques among others?
- 29 A. Yes.
- 15:14:07 30 Q. 648 I'm just dealing now with the Ballycullen Beechill response. The queries

- 15:14:14 1 raised on the 27th of January 2006 by the Tribunal did not include this cheque
2 for 2,000 pounds, isn't that correct?
- 3 A. Yes.
- 4 Q. 649 And what I'm just, I want to inquire. Your modus operandi, in the letter of
15:14:33 5 explanation of the 15th of March 2006 you refer to two sets of bank statements.
6 Now, one of those was the set supplied by the Tribunal, isn't that correct?
- 7 A. Yes.
- 8 Q. 650 The other set was sent to you by Ms. Emer Lumden, the solicitor of the legal
9 section, Bank of Ireland, Cabinteely?
- 15:14:54 10 A. They were both exactly the same. I think perhaps the bank supplied the
11 Tribunal first and they sent them to me first.
- 12 Q. 651 Here you are Senator Lydon in, 2006, dealing with cheques in 1992. So you were
13 14 years after the event?
- 14 A. Uh-huh.
- 15:15:11 15 Q. 652 So how did you refresh your memory or how did you make your inquiries in
16 relation to these queries from the Tribunal? Can you tell us again what modus
17 operandi you operated?
- 18 A. I would go to the bank statements. You see we had no bank statements. We
19 never saved them except what they sent us. I'd look up and see if there's any
15:15:32 20 lodgement that would account for these things. The only things we ever had
21 were lodgement slips. At the back of those sometimes my wife wrote what they
22 were, cheque in cash and I supplied all of those to the Tribunal. But if the
23 page wasn't there I couldn't find it. And that's when I wrote to Ms. Lumden or
24 whatever.
- 15:15:51 25 Q. 653 In fact the missing page. That is the bank originally sent you accounts and
26 independently of you they sent the same accounts?
- 27 A. To the Tribunal.
- 28 Q. 654 To the Tribunal, isn't that correct?
- 29 A. Correct.
- 15:16:02 30 Q. 655 And both sets of accounts, as sent by the bank, was missing the same page?

- 15:16:09 1 A. Yes.
- 2 Q. 656 And it was on that page that this particular cheque apparently, was mentioned,
3 isn't that right?
- 4 A. It's the only place we could account for it, yeah.
- 15:16:19 5 Q. 657 And then the next queries to you was during the Ballycullen Module when there
6 was a late discovery made by the Jones Group or by Mr. Jones personally, this
7 numbered cheque, only stamped on or written on the back of the cheque. This
8 came to light, isn't that correct?
- 9 A. Yes.
- 15:16:40 10 Q. 658 Yeah.
- 11 A. There were two cheques I think came to light that day. One for me and one for
12 somebody else.
- 13 Q. 659 Well the one from somebody else I think was never followed up or we haven't
14 heard anything further about that one, is that?
- 15:16:51 15 A. Well, I don't know anything about it, no.
- 16 Q. 660 But the one -- but the one concerning yourself. When that came to light. That
17 was in on the 9th of March 2006 when -- that was when you were queried about
18 that. And in response to that you wrote your letter of reply ultimately of the
19 15th of March 2006, isn't that correct?
- 15:17:16 20 A. Yes.
- 21 Q. 661 And I think?
- 22 A. You are throwing out those dates, I think that's the right dates, yes.
- 23 Q. 662 I have the advantage because I'm looking at some of the dates here and some of
24 the correspondence.
- 15:17:36 25 A. Okay.
- 26 Q. 663 And your explanation is simply that because the 2,000 pounds did not figure in
27 the statement supplied either by the bank direct to you or by the Tribunal
28 direct to you that you didn't query it?
- 29 A. I couldn't.
- 15:17:45 30 Q. 664 Yeah. And I take it that had the accounts from the bank been full and correct,

15:17:56 1 which they were not, that of course you would have dealt with it?

2 A. It -- well I feel that, you see, the Tribunal asked me to account for every

3 lodgement over 500 pounds and then some of them were queried afterwards. So

4 either I or the Tribunal would have found it, yeah.

15:18:09 5 Q. 665 But I think the nub of the question posed by Mr. Quinn today is why when you

6 first replied to the Tribunal in relation to these matters, some 12 years after

7 this cheque was, would have been received by you, why you didn't remember it.

8 A. Just, how I would remember it.

9 Q. 666 Well is there anybody can remember the source of a cheque looking back at

15:18:37 10 records 12 years old. Isn't that the -- with page missing?

11 A. I think he seemed to think that I should remember it but I didn't remember it.

12 Q. 667 I think. Well, now, just moving on from there very briefly.

13

14 I have a transcript reference here. It's the Ballycullen Module, 9th of March

15:19:07 15 2006. Page 168. I don't know if that could be got up on screen.

16

17 If it's convenient. 9th of March 2006. Page 168 of the transcript.

18

19 MR. QUINN: If we could have a day number.

15:19:22 20

21 JUDGE FAHERTY: 613 might it be.

22

23 MR O TUATHAIL: Judge Faherty may have it there.

24

15:19:29 25 JUDGE FAHERTY: I haven't but I know Ms Muldoon referred to page 613.

26

27 MR. QUINN: Yes, Mr. Lydon's.

28

29 JUDGE FAHERTY: Mr Lydon was only here one day. It has to be that day.

15:19:34 30

15:19:34 1 MR O TUATHAIL: Yes, it is question 909. Derry Hussey is giving evidence.
2 Mr. Quinn is leading his evidence.
3
4 I can read it out for convenience if there's any difficulty in sourcing it now.
15:19:45 5
6 Now, this is Mr. Quinn to Derry Hussey, question 909.
7
8 "In terms of Mr. Jones' personal payments by which I mean payments made by
9 Mr. Jones personally rather than through the vehicle of the Jones Group, I
10 think you would have been aware in general terms that he made donations
11 personally" and Mr. Hussey says "yes I would."
12
13 And then question 911.
14
15:20:08 15 "I mean, he would have done it either to politicians that he admired or
16 politicians that he would have had a connection with or indeed the Brooks or he
17 knew their family or something like that" And the answer to that is "yes" And
18 it's elaborated somewhat. It's not highly relevant.
19
15:20:27 20 But coming to the nub of the questions then raised by with Mr. Quinn with
21 Mr. Hussey on that occasion.
22
23 Question 914.
24 Q: I think you said in your evidence that Mr. Jones liked to do things on a
15:20:41 25 grand scale or did things on a grand scale, is that what you were referring to?
26 and the answer from Mr. Hussey
27 A: Yeah, certainly. When it came to that kind of thing he did do it on a
28 grand scale".
29
15:20:53 30 So that the previous gift by Mr. Jones to you, the previous donation or

15:20:59 1 whatever we want, contribution of 5,000 pounds, would that, would you have any
2 knowledge Senator Lydon. Would he have given equivalent or more sums to other
3 councillors around that period?

4 A. Well, I wouldn't know offhand what other councillors received. But I know that
15:21:20 5 the figures that presented at the time, there were substantial donations to all
6 kinds of people, I think from all parties even.

7 Q. 668 And I think that the Tribunal have the records, of course, and have the
8 evidence in that regard. That there were a good number of other donations in
9 that period to councillors, either County Councillors or County Councillors
10 running for elections to the Dail perhaps that would be equal to or greater
11 than 5,000 pounds, the bigger of the sums that you received, the largest of the
12 sums you received?

13 A. I think so, I'm not sure but I couldn't answer.

14 Q. 669 Yeah. And that is leaving aside any extraneous motivation that Mr. Jones has
15:22:11 15 had to give you, to be generous towards you in terms of political
16 contributions. Would that be correct to say that?

17 A. Yes, it sounds correct to me, yes, yes.

18 Q. 670 Thank you Senator Lydon.

19
15:22:25 20 CHAIRMAN: All right. Thank you.

21

22

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30

THE WITNESS WAS QUESTIONED BY MR. QUINN AS FOLLOWS:

- 15:22:30 1
- 2
- 3 Q. 671 MR. QUINN: Senator Lydon, I now propose to deal with the Pye Lands, if that's
- 4 agreeable to you?
- 15:22:38 5 A. Yes.
- 6 Q. 672 You were written to I think on the 20th of September and a statement was sought
- 7 from you.
- 8
- 9 On the 11th of October at 1310.
- 15:22:47 10
- 11 Again too through your solicitors you supplied effectively a statement to the
- 12 Tribunal in relation to your involvement in the Pye Lands. And in keeping with
- 13 what I have done earlier, I propose to just read that statement for the moment
- 14 and ask you to confirm its contents if I may?
- 15:23:06 15 A. Yes.
- 16 Q. 673 It is as I say, dated the 11th of October 2006.
- 17
- 18 And the letter provides as follows.
- 19
- 15:23:11 20 "Dear Mr. King, we thank you for your letter of the 20th of September 2006 and
- 21 for the extension of time granted to reply thereto thus enabling us to consult
- 22 fully with our client.
- 23
- 24 We should at first state that our client is responding to the issues raised in
- 15:23:24 25 your above letter to the best of his recollection concerning events which
- 26 occurred more than 12 years ago.
- 27
- 28 Senator Lydon has studied the two motions, associated maps, provided with your
- 29 aforesaid letter.
- 15:23:33 30

15:23:33 1 The locus of this planning matter is within the area which was then Councillor
2 Lydon's electoral ward and therefore it would be understandable that his
3 support would be canvassed in relation thereto.
4

15:23:44 5 His recollection is that this particular development had somewhat convoluted
6 problems, the full details of which Senator Lydon is not in a position to
7 recollect.
8

9 To the best of his memory, this site either in whole or in part, was the
15:23:55 10 subject of motions and votes before Dublin County Council, motions which had
11 different outcomes at different times.
12

13 And at 1311.
14

15:24:02 15 As a local Councillor interested in promoting development and providing
16 employment Senator Lydon was at all times in favour of the development of the
17 site in question. This involved voting either for or against motions on or
18 about a half dozen occasions. His guiding principle we are instructed was to
19 secure the development of the site in order for it to achieve the accruing
15:24:22 20 economic benefits.
21

22 On the two occasions abstracted in the correspondence copied to us, he
23 recalls putting his name on motions 622 and 643 of the Tribunal brief at the
24 request of Councillor Tom Hand. His reasons for so doing were as already
15:24:38 25 stated above, to see the development of the site which was at the time occupied
26 as a rather run down Crazy Prices outlet and bowling alley. Our client was
27 fully familiar with the site throughout the various changes of motion which
28 sometimes including the entire site and at other times a portion thereof and
29 notes in passing that it is currently the site of the resplendent Dundrum
15:25:00 30 Shopping Centre.

15:25:00 1
2 In regard to your inquiry re the persons with whom he had contact on this
3 matter. He would have had discussions on such with his fellow members of
4 Dublin County Council.

15:25:08 5
6 In relation to the motion on page 643 of the Tribunal brief as set out in the
7 headed paper of Kieran O'Malley & Co. Limited. Our client feels that it is
8 quite possible that the owner of the site at the time Mr Aidan Kelly, whose
9 name and address is on the letter dated the 5th of October 1993, had possibly
10 canvassed his support.

11
12 However, as to the text of the motion on the letter dated 5th of October 1993,
13 our client has no idea as to who drafted same. Likewise, our client has no
14 recollection in relation to the text of the motion on page 622 of the Tribunal
15 brief as to who provided the draft thereof. In so far as the letter may
16 request us to respond to the documents supplied by the Tribunal in this Module,
17 we note the allegations made by Mr. Frank Dunlop and the advice that our
18 clients rejects same.

19
15:25:51 20 Yours sincerely on behalf of Mr. Don Lydon.
21

22 Mr. Lydon, is that your evidence in relation to this particular Module?

23 A. It is. Well I'd probably augment it now.

24 Q. 674 Yes. You were familiar with the Pye site?

15:26:07 25 A. Yes, it was right in the middle of my constituency.

26 Q. 675 Yes. And you had ...

27 A. My local area, sorry.

28 Q. 676 Your local area. And you knew Mr. Kelly and possibly maybe Mr. Lynn?

29 A. Mr. Who.

15:26:18 30 Q. 677 Mr. Layden?

15:26:19 1 A. Layden.

2 Q. 678 Yes. Mr. Joe Layden?

3 A. I knew Mr. Kelly all right. Mr. Lynn, I may have met. I think his daughter

4 was a member of my Cumann for a while, he's not a man I know. I'd know

15:26:32 5 Mr. Kelly all right. Mr. Kelly was always around the village. He was the kind

6 of man you would meet often. He used to go to residents meetings and I think I

7 met him at Fianna Fail functions as well.

8 Q. 679 And I think your evidence as appears from that letter seems to suggest that in

9 relation to the 1993 motion which you signed, you had discussed the matter with

15:26:52 10 Mr. Kelly or Mr. Kelly had discussed the matter with you, isn't that right?

11 A. Yes, I think he had, yeah, yes.

12 Q. 680 But you had voted I think in favour of a C zoning on that site in May 1991,

13 isn't that right?

14 A. Yeah, the first motion was.

15:27:07 15 Q. 681 By Councillor Hickey Mitchell motion?

16 A. Yeah.

17 Q. 682 And you had voted in favour of that, isn't that right?

18 A. Yes.

19 Q. 683 And you say that Mr. Kelly, who was known to you, had not discussed the matter

15:27:21 20 with you at that time?

21 A. I don't think he had actually.

22 Q. 684 Even though you would have met him and you would have known him and the site

23 was in your constituency?

24 A. I think it was after that that he got fairly active.

15:27:30 25 Q. 685 Yes?

26 A. You see, when there was no hassle about this. Fianna Fail and Fine Gael

27 proposed it and it went through all right. And it was only afterwards when the

28 two ladies got into the sort of battle that things began to change.

29 Q. 686 Yes. But even when councillors Fitzgerald and Mitchell got involved in the

15:27:51 30 matter and in 1992 it is still your evidence I think as appears from your

- 15:27:56 1 statement that Mr. Kelly had not approached you even at that stage, isn't that
2 right?
- 3 A. Had he not approached me in 1992?
- 4 Q. 687 Yes?
- 15:28:04 5 A. No, I think he probably had discussed it with me at that stage. That's when
6 Tom Hand brought the motion to sign is it?
- 7 Q. 688 If we look at 1311. This is your statement now Senator Lydon. And in your
8 statement you say. If you look at the third last paragraph. "In relation to
9 motion 643" that's the November 1993 motion, we'll call it?
- 15:28:26 10 A. 1993, yes.
- 11 Q. 689 "Our client feels that it is quite possible that the owner of the site at the
12 time, Mr. Aidan Kelly, whose name and address is on the letter dated that had
13 possibly canvassed his support"
- 14 A. Yes.
- 15:28:35 15 Q. 690 That's the first mention of Mr Kelly seeking your support in your statement?
- 16 A. Yes.
- 17 Q. 691 Are you now telling the Tribunal that Mr. Kelly sought your support prior to
18 1993?
- 19 A. He probably did, yeah. I mean, I wouldn't just imagine that Tom Hand would
15:28:55 20 come along with a motion and I signed it. I believe that Mr. Kelly probably.
- 21 Q. 692 Yes?
- 22 A. I would say he did, yes.
- 23 Q. 693 You see, that's what surprised me, Senator Lydon about your statement. That
24 you would give the impression in your statement that the first time Mr. Kelly
15:29:09 25 had approached you was in 1993 and not in 1992 at least when you had co-signed
26 a motion supporting his proposals, do you understand?
- 27 A. Maybe I left it out. You see this is a long time ago. I don't always remember
28 these things until I start reading through it.
- 29 Q. 694 On the -- you definitely signed the motion in 1992, isn't that right?
- 15:29:29 30 A. Correct.

- 15:29:30 1 Q. 695 If we could have 1306. This is a motion which would have been supportive of
2 the position being adopted by Mr. Kelly, isn't that right, and Mr. Layden?
3 A. Absolutely.
4 Q. 696 On this site?
15:29:42 5 A. Modifying the position adopted by Fitzgerald and Mitchell.
6 Q. 697 Yes. Now, can you tell the Tribunal when you signed that motion?
7 A. When?
8 Q. 698 Yes.
9 A. I have no idea. Probably before it was, a week or so before the meeting,
15:29:56 10 whatever that was.
11 Q. 699 The meeting was on the 16th of October 1992?
12 A. Well it was probably sometime before, that I don't know when exactly.
13 Q. 700 How long before the 16th of October?
14 A. I have no idea. Probably a couple of weeks, a week.
15:30:07 15 Q. 701 A week?
16 A. I don't know how long it has to be in.
17 Q. 702 In fact it would appear that it had to be in, as early as the 28th of May 1992.
18 A. Well then it was probably around that time maybe.
19 Q. 703 Can I ask you, Senator Lydon, did you know that Councillor Fitzgerald and
15:30:23 20 Mitchell were seeking a different proposal for this site when you came to sign
21 that motion?
22 A. I can't answer that, I don't honestly remember.
23 Q. 704 Did you discuss the motion with anyone?
24 A. Not particularly, no.
15:30:39 25 Q. 705 And are you saying that Mr. Kelly never spoke to you about?
26 A. Oh, sorry, I thought you meant councillors, I beg your pardon. Yeah, probably
27 discussed it with Mr. Kelly. I think Mr. Kelly wrote the motion.
28 Q. 706 You think Mr. Kelly wrote the motion.
29 A. Yes, I think he wrote both motions or the second one came from somebody called
15:30:56 30 Kieran O'Malley. I think Mr. Kelly had a big input into it.

- 15:30:59 1 Q. 707 We will assume for a moment that Mr Kelly had written this motion?
- 2 A. All right.
- 3 Q. 708 Can we take it that he would have discussed the motion or its contents with
- 4 you?
- 15:31:05 5 A. He would but he mightn't have done it in great depth. We know that I would be
- 6 supportive of the place.
- 7 Q. 709 Yes. Did you walk the Pye Lands?
- 8 A. Oh, many a time.
- 9 Q. 710 Yes. With Mr. Kelly?
- 15:31:16 10 A. No, no, no, no, no.
- 11 Q. 711 With Mr. O'Malley, his planner?
- 12 A. No, no, I never met Mr. O'Malley. Sure I knew the place. I often went to
- 13 Crazy Prices and the Bowling Alley. Every Councillor from that place would
- 14 know that place inside out. Myself and Paddy Hickey and Mitchell, Hand and
- 15 Eithne Fitzgerald.
- 15:31:44 15
- 16 Q. 712 When did you first discover that Mr. Dunlop was involved with Mr. Kelly and the
- 17 promotion of this site?
- 18 A. Oh, it was much later on I think.
- 19 Q. 713 How much later on?
- 15:31:48 20 A. I don't know, probably maybe October sometime. I don't know.
- 21 Q. 714 In October '92?
- 22 A. I'm trying to vent these things. The answer is I do not know.
- 23 Q. 715 Well did you know before the 16th of October '92 that Mr. Dunlop was involved?
- 24 A. I can't answer that either. I don't know whether I did or not. Mr. Dunlop had
- 15:32:07 25 very little to do with me on this particular thing you see.
- 26 Q. 716 But you had an ongoing relationship at this time, particularly in relation to
- 27 the Ballycullen lands, isn't that right?
- 28 A. When you say relationship.
- 29 Q. 717 Well Mr. Dunlop and yourself were in communication in or around this time,
- 15:32:21 30 isn't that right? We went into that in some detail, Mr. Lydon, in the

15:32:26 1 Ballycullen Module?

2 A. You have to understand how this worked. Mr. Dunlop was present at every

3 meeting of the Development Plan. And we'd meet him in the hall or something.

4 And maybe saying to him. You see, the way you put it you think we'd have sat

15:32:41 5 down and had a big discussion with him. No, never.

6 Q. 718 Well do you accept that Mr. Dunlop was retained by Mr. Kelly to lobby in

7 relation to this site?

8 A. Yes, I do now, yes.

9 Q. 719 And do you accept that Mr. Dunlop was retained to lobby that he would have

15:32:55 10 lobbied councillors that he knew and had contact with?

11 A. I would imagine that he'd have lobbied all 78 councillors but I don't think he

12 did.

13 Q. 720 Well did he lobby you, Mr. Lydon?

14 A. That I'm not sure. He probably would have mentioned to me somewhere. He

15:33:10 15 wouldn't need to lobby me because I was supportive.

16 Q. 721 But you were supportive and you had co-signed the motion. Surely that makes it

17 all the more probable that he would have discussed it with you?

18 A. No, he'd know I was on board. I mean, why would he want to.

19 Q. 722 He might also be concerned to find out from you as a co-signatory of the motion

15:33:30 20 who else was on board?

21 A. The whole Fianna Fail party was supportive of it all the time.

22 Q. 723 You see Mr. Dunlop has given evidence to the Tribunal, and you will have seen

23 and your solicitors will have brought it to your attention, Senator Lydon, that

24 he was brought on board to keep yourself and Councillor Hand?

15:33:46 25 A. I know, I saw that. That's insane.

26 Q. 724 Yes?

27 A. I mean, that's total --

28 Q. 725 And for that purpose he gave money for your support to you, either in the

29 environs of your place of employment or in the environs of Dublin County

15:34:01 30 Council.

- 15:34:03 1 A. I didn't ever get money from Frank Dunlop for anything like that. That's the
2 first thing. Secondly, he did not have to keep me sweet on that thing. I was
3 supportive of it. If I could just explain to you for a second. I probably
4 won't get in here again, I just want to say this. this is not about zoning this
15:34:19 5 is a political thing. There is four councillors in the area, there is myself
6 and Paddy Hickey for Fianna Fail, Eithne Fitzgerald and Olivia Mitchell for
7 Fine Gael and Labour. Olivia and Paddy put down the first motion and it went
8 through no bother. After that Eithne Fitzgerald got in on the act and Mulveys
9 in Dundrum were getting a bit easy, big Fine Gael people and they were probably
15:34:41 10 mentioning it to Olivia. And Olivia and Eithne were always good friends but
11 they were always one, because they both wanted to be TD's and you must remember
12 shortly after that Eithne Fitzgerald got a huge vote of 17,000 and she was gone
13 the next time.
14
15:34:56 15 So this was so that they could go to political meetings or residents' meetings
16 and say we're modifying the proposals of the Fianna Fail people. Eventually it
17 came back again and we won again. Unfortunately we forgot to modify the
18 Written Statement and so the Manager, who I believe had no time for Aidan Kelly
19 in the first place, wrote it. And that's the whole story
15:35:20 20 Q. 726 The motion which you had countersigned, Senator Lydon. You're saying that was
21 a Fianna Fail motion isn't that right?
22 A. No, not not Fianna Fail. Tom Hand is Fine Gael.
23 Q. 727 That's exactly the point I'm coming to Senator Lydon. You're ahead of me. The
24 motion was signed by Fine Gael Councillor for the area, Senator Hand, isn't
15:35:39 25 that right?
26 A. Yeah.
27 Q. 728 I suggest to you far from it being a Fianna Fail Fine Gael divide. That this
28 motion had been signed by a Fine Gael -- a Fine Gael Councillor for the area,
29 isn't that correct?
15:35:51 30 A. Yes.

- 15:35:52 1 Q. 729 Can you give any explanation to the Tribunal if what you say is correct why
2 Councillor Hand would have signed the motion. In fact, if you are to be
3 believed asked you to countersign the motion?
- 4 A. Just give me the question.
- 15:36:07 5 Q. 730 Yes. If what you say is correct. Why would Councillor Hand, Fine Gael, local
6 Councillor sign a motion?
- 7 A. Because everybody in that area wanted this site developed. Can I refer you to
8 a page? If you look at one thing. I have it here and you probably will be
9 able to bring it up. I probably haven't got it here now. But there was a
10 meeting in 1994. It's page Pye Lands brief 2105 or DP 105, page 108.
11
- 12 Q. 731 This is a meeting in December '94, is it?
- 13 A. If you go through that you will see Councillor Hand, Councillor Butler,
14 Councillor Mitchell, Councillor Matthews, Councillor Lydon, Councillor Gordon,
15 Councillor Doohan were all in favour of this development. There's nobody
16 against it. The only bits and pieces that are in this are political jockeying
17 so that some people could say well we didn't do too much. We all did little.
18 They all wanted the site developed. It was a complete and utter eyesore.
19 Crazy Prices was a run down place. I have to be careful what I say after the
15:37:15 20 last time there. it was a terrible place. And this man Kelly, found out
21 afterwards, was trying to get something done with it for years and years and
22 years. And every time he got near it something happened. Eventually the banks
23 took over from him and he couldn't get the final zoning. The minute somebody
24 else took over it went like that.
- 15:37:36 25 Q. 732 Senator Lydon, I understood you to say that this vote in October '92 boiled
26 down to a split between Fianna Fail on the one hand and Fine Gael Labour on the
27 other hand. What I'm suggesting to you is that if that were correct, why would
28 the local Fine Gael Councillor, Councillor Hand, sign the motion and ask you to
29 co-sign the motion?
- 15:37:57 30 A. I'll tell you in a nutshell. Tom Hand wanted to see development. So did

- 15:38:02 1 Olivia Mitchell but she couldn't go ahead of Eithne Fitzgerald. They were both
2 going for a Dail seat. That's what it's all about. Eventually Olivia did get
3 elected after Eithne went out. They were always sort of going along like that.
4 There was no hassle between the councillors in the area. I got on very well
15:38:24 5 with both of them and Larry Gordon when he came in and he took Paddy Hickey's
6 seat. But there was jockeying always between the two women for places. That's
7 the way I saw it. I can't say that's for sure but that's the way I saw the
8 whole thing.
- 9 Q. 733 Was Councillor Hickey a Councillor in October '92?
- 15:38:42 10 A. No, he was in -- Councillor Gordon then came in. He was a Green Councillor, a
11 very nice man.
- 12 Q. 734 Are you saying Senator Lydon, that Mr. Dunlop did not give you 1,000 pounds in
13 cash as he alleges in relation to this matter?
- 14 A. I'll just say it one more time. I've said it in here so many times. Mr.
15:39:02 15 Dunlop never gave me any cash never, ever, ever!
- 16 Q. 735 Are you also saying that you discussed this motion with Councillor Hand and
17 with Mr. Aidan Kelly?
- 18 A. I don't know what discussion I had with Tom Hand but I'd say I would have
19 discussed it with Aidan Kelly all right.
- 15:39:17 20 Q. 736 Do you recall signing the motion and the map?
- 21 A. I don't. I don't know when it was, no.
- 22 Q. 737 Do you know who asked you to sign the motion and the map?
- 23 A. The first time was Tom Hand. I'm nearly certain of that.
- 24 Q. 738 How can you be so certain if you have no recollection of signing?
- 15:39:31 25 A. Some things I remember and some things I don't.
- 26 Q. 739 You remember about signing it?
- 27 A. Tom often came to me with motions to sign. Sometimes I'd sign them and
28 sometimes I wouldn't. If I thought they were good proposals as I said often
29 I'd sign them and if I didn't I wouldn't.
- 15:39:45 30 Q. 740 I understand you to be telling the Tribunal and Senator Lydon that you have no

15:39:46 1 recollection of signing the motion. At the same time you're telling the
2 Tribunal that you signed it at the behest of Councillor Hand?
3 A. Well I know it wasn't Dunlop that asked me so. I don't think Kelly asked me.
4 So the only man left was Hand. I'm nearly certain it was Tom Hand, yeah.

15:40:03 5 Q. 741 So you are saying that you believe that you signed it at the request of
6 Councillor Hand stems from the fact that you have no recollection of either Mr.
7 Dunlop or Mr. Kelly asking to you sign it?
8 A. No, I think I remember signing it because Tom Hand asked me.

9 Q. 742 When and where did Councillor Hand ask to you sign?
15:40:15 10 A. I think he asked me in at the Council Chamber one day in the hall somewhere.
11 But you must remember now, these things happened years ago. And there were so
12 many of these things happening. If you produce a statement from Tom Hand that
13 there's not much I can do about it. That's my recollection of it.

14 Q. 743 Now, I think that you spoke on that motion on the day on the 16th of October
15:40:41 15 '92. The motion was not reached, isn't that right? It was unnecessary to deal
16 with the motion?
17 A. '92 no, because there was two motions before it. One was unanimous and then
18 the next one was I think by Eithne and Mitchell and the next one was to limit
19 the development.

15:40:56 20 Q. 744 Can I ask you Senator Lydon do you ever recall speaking to Mr. Lynn about the
21 motion.
22 A. Mr. Lynn?

23 Q. 745 Mr. Richard Lynn?
24 A. About the 1992 motion.

15:41:05 25 Q. 746 Either the '92 or indeed the '93 motion?
26 A. Certainly not 1992. The 1993 motion it's possible I spoke to him about it. I
27 don't have a clear recollection. It's quite possible, yeah.

28 Q. 747 If we could have 1308.
29
15:41:20 30 Do you recall signing the 1993 motion

- 15:41:23 1 A. Not particularly, no, but I know I signed it.
- 2 Q. 748 It's obvious that you signed it Senator Lydon, isn't it?
- 3 A. I signed that I think in at the Council Chamber, probably in at the Council. I
- 4 think I signed that in at the Council Chamber. The hallway somewhere.
- 15:41:36 5 Q. 749 This was the second motion concerning these lands within your district signed
- 6 by you, isn't that right?
- 7 A. That's correct.
- 8 Q. 750 Both signed in the hall of the Council Chamber and both signed at the behest,
- 9 you believe, of Councillor Hand, the Fine Gael local Councillor?
- 15:41:52 10 A. Well I think so. That could have been it even at Aidan Kelly's behest. Now I
- 11 can't say for certain. It was either one of them.
- 12 Q. 751 Had the motion been signed by Councillor Lohan when you came to sign it?
- 13 A. I think so, yeah.
- 14 Q. 752 Did you --
- 15:42:08 15 A. I don't know. I mean I think so obviously my name is after his, you know.
- 16 Q. 753 Did you know that councillors Matthews and Fox were likely to sign?
- 17 A. It I'm not sure I did, but, I mean, I don't even know who obtained all of those
- 18 names.
- 19 Q. 754 Do you have any recollection of Mr. Kelly or indeed Mr. Layden speaking to you
- 15:42:27 20 about this motion?
- 21 A. Mr. Layden, I've no recollection of at all. I may have met him but I don't
- 22 have any recollection. Mr Kelly probably would have spoken to me about this as
- 23 well. Mr. Kelly is a very, how do I put it, a very persistent type of man. He
- 24 has his own ideas about where he's going sort of. And he would be a very
- 15:42:48 25 persistent man, that's the only way I can describe it. I think he may have got
- 26 the backs up of the -- I better be careful what I say, I think he may have got
- 27 the backs up of the Manager
- 28 Q. 755 Evidence has been given by Councillor Mitchell that Mr. Layden had Fianna Fail
- 29 associations or would have been associated with Fianna Fail?
- 15:43:07 30 A. I think so, I said that his daughter was a member of my Cumann for a couple of

- 15:43:12 1 years, yeah.
- 2 Q. 756 But does that mean that you know his daughter quite well?
- 3 A. Reasonably well, yeah.
- 4 Q. 757 Did his daughter ever speak to you and seek your support for the Pye Lands?
- 15:43:23 5 A. Not at all, no, no, no.
- 6 Q. 758 Did Mr. Layden ever speak to you concerning Pye?
- 7 A. Not to the best of my knowledge, no.
- 8 Q. 759 Did you say that Mr. Kelly was also a member of Fianna Fail?
- 9 A. I think well he certainly supported Fianna Fail functions and he supported
- 15:43:39 10 Fianna Fail fundraisers. Whether he was actually a member of the party I
- 11 cannot answer.
- 12 Q. 760 Did Mr. Kelly or Mr. Layden ever support you?
- 13 A. No.
- 14 Q. 761 No?
- 15:43:49 15 A. You mean give me money for election.
- 16 Q. 762 Well money for any purpose?
- 17 A. Well no I don't think I ever asked them, no.
- 18 Q. 763 Did --
- 19 A. I hardly know. I don't know Mr. Layden at all. Mr. Kelly I'd know. I don't
- 15:44:02 20 think I ever asked him for donation nor I don't think he ever offered me one
- 21 Q. 764 In relation to both motions, Senator Lydon. Were these motions discussed at
- 22 the Fianna Fail meetings in Conways?
- 23 A. That I don't know either. They could have been.
- 24 Q. 765 If they were discussed can the Tribunal take it that certainly in relation to
- 15:44:20 25 the first motion, you would have been speaking to the motion and asking for
- 26 support for it?
- 27 A. Well I'll explain what it was about, yeah.
- 28 Q. 766 You were the only Fianna Fail signatory on the first motion, isn't that right?
- 29 A. Yeah.
- 15:44:32 30 Q. 767 So therefore, if it were discussed it would have been discussed at your behest,

- 15:44:37 1 isn't that right?
- 2 A. No. They discussed different things. Even if you weren't there maybe Trevor
- 3 Matthews might have got up and said this is next door to us, we want to
- 4 develop, I don't know.
- 15:44:46 5 Q. 768 But you were the Fianna Fail signatory to the motion, isn't that right?
- 6 A. I mightn't have got to the meeting. I said to the Tribunal before I used to
- 7 leave the hospital at one o'clock and by the time I got in there these things
- 8 were nearly over.
- 9 Q. 769 Can I ask you did you speak to any of your colleagues and seek their support
- 10 for the motion signed by you in 1992?
- 11 A. I could have. I don't have any clear recollection. I'm sure I might have,
- 12 yes.
- 13 Q. 770 As a matter of probability, do you know Senator Lydon you would have discussed
- 14 the matter with party colleagues?
- 15:45:14 15 A. You see, can I explain to you. You don't discuss it with them. You say look
- 16 at this thing is in the middle of Dundrum. It's a terrible thing. We need it
- 17 developed. I just like you to support it, that's all.
- 18 Q. 771 Can we agree on this. Either motion would have allowed for development, it may
- 19 not have allowed for the development that Mr. Kelly and Mr. Layden would
- 15:45:33 20 desire. It would have allowed for development, isn't that right?
- 21 A. That's right.
- 22 Q. 772 It's a question of what type of development?
- 23 A. And how much.
- 24 Q. 773 Remember than whether there would be a development?
- 15:45:41 25 A. Yes.
- 26 Q. 774 That was the issue.
- 27 A. That was always the dispute too between say Councillor Mitchell and Fitzgerald
- 28 or maybe Councillor Hickey and myself or.
- 29 Q. 775 I don't propose to go through the lodgements to your accounts in or around the
- 15:45:56 30 period when Mr. Dunlop says he paid you in relation to this. Because I think I

- 15:46:00 1 went through them on a previous occasion?
- 2 A. We did, yeah.
- 3 Q. 776 They coincided I think with previous lodgements, isn't that right.
- 4
- 15:46:07 5 If we have 2394
- 6
- 7 I think there are some lodgements there that you have been unable to give
- 8 particulars to the Tribunal about, isn't that right
- 9 A. I went through this again last night. I have no -- Mr. Gallagher examined me
- 15:46:24 10 on this when I was doing the first motion. And he went through all of those
- 11 with me. Secondly, I explained to you when you were examining me that I had
- 12 cash in hands. And thirdly, I have the answers that I sent to the Tribunal
- 13 before in relation to these things. But we can run through them if you like.
- 14 Q. 777 Just to clarify. When you say you had cash in hands. I think you are
- 15:46:44 15 referring to the fact that you had withdrawals from your accounts which you say
- 16 you kept by way of cash in your hand, isn't that all right?
- 17 A. That's nearly always my practice, yes.
- 18 Q. 778 Right. It is also the case I think that yourself and Mr. Dunlop were in
- 19 contact with each other in or around this period, isn't that right? And on the
- 15:47:00 20 eve of this vote. You in fact had rang Mr. Dunlop and tried to make contact
- 21 with him, isn't that right? And you've given evidence of that in the
- 22 Ballycullen Module, isn't that right, of those contacts?
- 23 A. Whatever you say. I have to say. When you say you'd have contact with Mr.
- 24 Dunlop or their relationship with Mr. Dunlop. Mr. Dunlop was always there. He
- 15:47:20 25 was outside each meeting with a list of the councillors ticking them off. He
- 26 did that for the whole Development Plan. It was his modus operandi. So he
- 27 spoke to everybody.
- 28 Q. 779 Can you give any details to the Tribunal, Senator Lydon, of the contacts you
- 29 had with Mr. Lynn in relation to that second motion in November '93?
- 15:47:40 30 A. I don't know what relationship I had with Mr. Lynn at that stage in relation to

15:47:45 1 it. Sorry, when I say I know. I believe that Mr. Kelly took on Mr. Lynn
2 because I don't think he'd much faith in Mr. Dunlop.

3 Q. 780 Did he tell you that, Senator Lydon?

4 A. I don't know if he actually told me. But I gathered that from what he said
15:48:05 5 sometime, yeah.

6 Q. 781 Yes. That he had brought Mr. Lynn on board to replace Mr. Dunlop because he?

7 A. I think so, yes.

8 Q. 782 And you think he --?

9 A. I don't believe Mr. Dunlop actually did very much for anybody in fact. In
15:48:18 10 fact, he was let go by most of the people he was employed with after he'd got
11 the money. It was the same in Monarch, it was the same in Ballycullen. It was
12 the same in Gerard's, you know.

13 Q. 783 Is there any reason, Senator Lydon, why you didn't put forward the motion to
14 amend the Written Statement?

15:48:37 15 A. You can, indeed. I just didn't think of it. That's about the height of it.
16 Neither did anybody else at the time. I know it's a standing. I want to
17 saying about that. I believe, again, that if it was anybody else but Mr. Kelly
18 the Manager would have brought this to our attention. I don't think that he
19 actually liked Mr. Kelly. That's hearsay. You admit hearsay in this Tribunal.
15:48:59 20 I'm saying it to.

21 Q. 784 You you are saying that the Manager was motivated by animosity towards Mr.
22 Kelly in his dealings with this matter?

23 A. Motivated by what?

24 Q. 785 That he was motivated?

15:49:10 25 A. By.

26 Q. 786 By malice towards Mr. Kelly?

27 A. Bias.

28 Q. 787 Bias or malice?

29 A. Malice, sorry. Oh, no I wouldn't say "malice". It's just that Mr. Kelly was
15:49:32 30 the type of man who would keep at something and at something and I don't think

15:49:32 1 he was prepared to modify his proposals and so the Manager. You see, if you go
2 in for planning for anything, even for a house, you have to discuss the matter
3 back and forth and give a bit and take a bit.

4 Q. 788 Thank you, Senator Lydon.

15:49:42 5
6 CHAIRMAN: Are there any parties?

7
8 MR O'DWYER: No, I have no questions.

9
15:49:47 10 CHAIRMAN: Do you want to ask questions?

11
12 MR O TUATHAIL: No questions, Chairman.

13
14 CHAIRMAN: Do you want to ask questions?

15:49:53 15
16 JUDGE FAHERTY: I just want to ask you, Senator Lydon.

17 A. Yes, Chairman.

18
19 JUDGE FAHERTY: When you were promoting the '93 motion.

15:50:02 20 A. Yes.

21
22 JUDGE FAHERTY: We know it had gone back. By the time it came up again '93 it
23 was zoned as it had been in 1983, isn't that correct?

24 A. That's correct way back again.

15:50:12 25
26 JUDGE FAHERTY: As a result of Ms. Fitzgerald. And you and Mr. Hand tabled
27 the motion then for to go back to the 1991, the town centre?

28 A. Not the 1993. It was the other, there were four or five people on the motion
29 in '93.

15:50:28 30

15:50:28 1 JUDGE FAHERTY: Yes, it was absolutely. Mr. Lohan and Mr. Fox and
2 Mr. Matthews and yourself and Mr. Hand.
3 A. Yes.
4

15:50:34 5 JUDGE FAHERTY: You went back, you wanted to go back to the 1991 draft?
6 A. Yes.
7

8 JUDGE FAHERTY: And you just said there that Mr. Kelly wasn't prepared to
9 modify his proposals. And I just want to ask you did you discuss modification
10 with Mr. Kelly at the time?
11 A. I honestly, Judge, I can't remember. But he -- I'm only just pointing out that
12 the character of the man as I observed it. That if he wanted to paint
13 something black, grey was no use to him. It was just black or black.
14

15:51:05 15 JUDGE FAHERTY: That's what I wanted to ask you. Because ultimately
16 Mr. Kelly, no matter how adamant he might be, didn't have the making of the
17 Development Plan?
18 A. No.
19

15:51:14 20 JUDGE FAHERTY: That was obviously a matter for the Council?
21 A. Yes.
22

23 JUDGE FAHERTY: And he knew that these lands. You had said earlier that they
24 were an eye sore and needed to be developed?
15:51:23 25 A. Yes.
26

27 JUDGE FAHERTY: I think Mr. Quinn pointed out they were always going to be
28 developed they had residential and industrial C1 zoning on it at the
29 Quinnsworth or the Crazy Prices site, isn't that correct?
15:51:36 30 A. I think if you look at the Manager's meeting in 1994 it was going to be

15:51:39 1 developed.

2

3 JUDGE FAHERTY: If I go back a bit. From 1993?

4 A. Yes.

15:51:43 5

6 JUDGE FAHERTY: The idea was that there was always going to be development at

7 this site?

8 A. Yes.

9

15:51:47 10 JUDGE FAHERTY: And it was a mixed development, that was promoted in the '83

11 Plan?

12 A. Well ...

13

14 JUDGE FAHERTY: It was Residential, it was industrial?

15:51:55 15 A. It was three different things.

16

17 JUDGE FAHERTY: Yes, yes. And there was a lot of debate and we've seen I

18 think from evidence here that Ms. Mitchell, who had promoted the town centre

19 in '91, had changed her mind by October '92. And had gone back to the '83

15:52:13 20 Plan?

21 A. That's correct.

22

23 JUDGE FAHERTY: And evidence has been that there was pressure from the old

24 Dundrum Village Centre and they didn't want the town, the centre moving?

15:52:22 25 A. Yes.

26

27 JUDGE FAHERTY: Exactly.

28 A. I think they eventually sold out at a profit and that was probably their

29 motivation.

15:52:29 30

15:52:29 1 JUDGE FAHERTY: Can I ask you. Just in terms of what you -- what your vision
2 for the area. Did you --

3 A. I envisaged the whole area would be developed from Crazy Prices if you know
4 that. All the way down.

15:52:41 5
6 JUDGE FAHERTY: Yes

7 A. Down as far as the Dundrum Shopping Centre, which is the old existing one. And
8 that is in fact what's happening at the moment.

9
15:52:50 10 JUDGE FAHERTY: Yes

11 A. It's one big long village and it's not a place for traffic. And there might be
12 two crossroads through it. I would imagine this place as a beautiful village,
13 the whole place developed with hotel, lake, little shops, cinemas and the big
14 shopping centre. I didn't envisage a shopping centre as big as it was built
15 eventually. I am being honest with you. I couldn't imagine that. There is
16 all sorts of parking and different levels. I'm sure you'll have seen it. I
17 did imagine that the whole village would be developed on one big site.

18
19 JUDGE FAHERTY: Yes. When you were confronted with obviously what was on the
15:53:27 20 plan and what Mr. Kelly wanted. Did you ever consider putting in your, if you
21 like your twopence worth in terms of your own -- as opposed to, as I understand
22 it, you were asked to sign a motion. You and others in fairness to you, it
23 wasn't just yourself, there was four others. It seems to be largely at the
24 behest of Mr. Kelly?

15:53:57 25 A. But that's mainly the way things happened in the Council. Somebody asked to us
26 do something and then they get involved in it. But I would -- you see, there
27 is no good proposing something if nobody's going to develop it. Excuse me just
28 until I get a drink. You can propose all you want but if there is no
29 development behind it, it probably won't happen. There is a big long history
15:54:10 30 attached to this site. And as you know what happened when Mr. Taggart finally

15:54:17 1 got it. He sold it on to Castlethorn and it was just developed immediately.

2

3 JUDGE FAHERTY: Thank you. Senator

4 A. Thank you, Judge.

15:54:26 5

6 CHAIRMAN: All right. Thank you very much, Senator Lydon.

7

8

9

15:54:31 10 **THE WITNESS THEN WITHDREW.**

11

12

13 MR. QUINN: It's ten o'clock tomorrow morning.

14

15:54:33 15 CHAIRMAN: Ten o'clock tomorrow.

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19 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**

15:55:18 20 **FRIDAY, 2ND FEBRUARY, 2007, AT 10:00 A.M.**

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