

09:42:55 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY**

2 **23RD SEPTEMBER 2008 AT 10.30 AM:**

3  
4 MR. QUINN: Good morning, Sir. Mr. John Butler please.

10:35:21 5  
6 **MR. JOHN BUTLER (HAVING BEEN SWORN) WAS QUESTIONED AS**

7 **FOLLOWS BY MR. QUINN:**

8  
9 CHAIRMAN: Good morning, Mr. Butler.

10:35:41 10 Q. 1 Good morning, Mr. Butler.

11 A. Good morning.

12 Q. 2 Mr. Butler, you, together with Mr. Niall Kenny and Mr. Tom Williams  
13 developed a site at Cloughran, you purchased and developed a site at  
14 Cloughran in County Dublin, isn't that correct?

10:35:56 15 A. No, that's incorrect.

16 Q. 3 I see.

17 A. We purchased the site, we didn't develop it.

18 Q. 4 Okay. You purchased a site with a view I think to developing it, isn't  
19 that right?

10:36:03 20 A. With a view to building a Courtyard Restaurant there and later on we had  
21 aspirations of building an hotel.

22 Q. 5 Yeah, I think the Tribunal wrote to you in February of 2001, having  
23 previously tried to make contact with you at addresses in the UK and if I  
24 could have page number 11 of the brief, you were written to in, as I say,  
10:36:27 25 February 2001 by the solicitor to the Tribunal and it was a letter  
26 repayments of monies to elected representatives and officials, isn't that  
27 right? If you look at the screen, Mr. Butler --

28 A. Sorry.

29 Q. 6 -- the documents that I call up will appear on the screen.

10:36:44 30 A. Yes.

10:36:44 1 Q. 7 If you have any difficulty reading any of those documents I can undertake  
2 to provide you with hard copies, do you understand?  
3 A. Yeah, okay. Thanks very much that's grand, yeah, no they are quite clear  
4 here.

10:36:56 5 Q. 8 And in that letter I think the Tribunal advised you that it was inquiring  
6 into whether monies were paid and/or benefits provided to elected  
7 representatives or public officials by any persons, isn't that correct?  
8 A. Correct.

10:37:11 9 Q. 9 And then further provided that the Sole Member as he was at the time, had  
10 asked the writer to write to you to request information as to whether or  
11 not you had directly or indirectly on your own behalf or on behalf of any  
12 other person or company, made any payments or monies or provided any  
13 benefits to any elected representatives or public officials, is that  
14 correct?

10:37:29 15 A. That's correct.

16 Q. 10 At any time. And I think it also went on to request and to advise you  
17 that the request extended to any payments which may have been made or  
18 benefits provided to or through Frank Dunlop or any other intermediary,  
19 isn't that correct?

10:37:43 20 A. Correct, yeah.

21 Q. 11 And it said in the event that any such payments were made or in the event  
22 any such benefits were provided the Sole Member of the Tribunal had asked  
23 me to request you to provide a detailed narrative statement setting out of  
24 the circumstances etcetera under which the payments were made, isn't that  
25 correct?

10:37:57 26 A. Yes.

27 Q. 12 So you knew you were being there requested to provide the Tribunal with  
28 any information concerning payments directly or indirectly made by you or  
29 anyone with whom you were associated to any public representative, elected  
30 representative or public official, and or Mr. Frank Dunlop?

10:38:12

- 10:38:16 1 A. Correct.
- 2 Q. 13 And I think on the 12th March 2001, if I could have page 13 please, you  
3 wrote to the Tribunal and I think you said that you "wished to state that  
4 no money was paid by you, directly or indirectly on your behalf to any  
10:38:36 5 company to any elected representative or public official", isn't that  
6 right?
- 7 A. Correct, yeah.
- 8 Q. 14 And then I think, in the next paragraph you went on to say "However, Frank  
9 Dunlop did request that we pay an amount due to him by invoices raised  
10:38:47 10 from Saatchi and Saatchi. We believe that this was a bill owed by the  
11 Fianna Fail party." And you go on to say "another amount of 750 pounds  
12 was paid for a table at the Fianna Fail dinner" and then you enclosed  
13 correspondence in relation to the matter, which you said was self  
14 explanatory?
- 10:39:06 15 A. Which correspondence is that now?
- 16 Q. 15 Now, I think that in fact as it transpired the correspondence you referred  
17 to wasn't enclosed and your accountants, if we look at page 17 on the 14th  
18 March 2001, wrote to the Tribunal referring to your correspondence and  
19 advising that you had discovered that you had not included the enclosures  
10:39:26 20 referred to in that letter and that you had asked them to pass them on.  
21 And if we look at page 14, I think we see a letter, or a draft of a letter  
22 from Farrell Grant Sparks Tax Consultants Limited to an inspector of taxes  
23 in the Revenue Commissioners, dealing with Construct Sales Limited and  
24 Corporation tax add back in respect of two payments to Saatchi and  
10:39:50 25 Saatchi, isn't that correct?
- 26 A. That's correct, yes.
- 27 Q. 16 And I think that was the correspondence you had intended to enclose with  
28 your letter, you had neglected to do so. You had instructed your  
29 accountants to do so and your accountants within days of you sending on  
10:40:09 30 your letter to the Tribunal had in fact been onto the Tribunal enclosing

10:40:09 1 that correspondence, isn't that correct?

2 A. That's correct, yeah.

3 Q. 17 And if we go back to page 13 and we go back to your letter, I think it

4 would be fair to say that you were advising the Tribunal that no payments

10:40:22 5 had been made to any public representatives or local authority officials,

6 no payments had been made to Mr. Dunlop. However, a payment which was due

7 to Mr. Dunlop had been paid at his request to Saatchi and Saatchi on

8 behalf of Fianna Fail.

9 A. Yes.

10:40:37 10 Q. 18 That's what you were advising the Tribunal in March 2001?

11 A. That is incorrect, that's what I thought at the time, I didn't have access

12 to any of the papers.

13 Q. 19 Yes.

14 A. And that in fact had nothing to do with the Courtyard.

10:40:51 15 Q. 20 Yes, but in March 2001, that's what you were advising the Tribunal?

16 A. Correct, yes.

17 Q. 21 Yes. Now, I think you were again written to by the Tribunal on the 20th

18 January 2006 at page 20?

19 A. Okay.

10:41:09 20 Q. 22 And that should appear on screen, and you were again advised to the

21 Tribunal was proceeding to a public hearing in relation to the Cloughran

22 lands on a date to be fixed. You were advised in that regard you ought to

23 be aware that Mr. Dunlop had alleged that a sum of 10,000 pounds or

24 possibly 15,000 pounds was paid by you to him for the purpose of securing

10:41:29 25 councillor's support for the rezoning of those lands. And again you were

26 asked for a detailed narrative statement in relation to that, isn't that

27 correct?

28 A. That's correct, yeah.

29 Q. 23 And that was a letter of the 20th January 2006 and if we look at page 22,

10:41:43 30 I think on the 14th February 2006 the Tribunal received a letter from,

10:41:49 1 headed notepaper Custom Linen Solutions?

2 A. Yeah, that's my company in the United States.

3 Q. 24 That's your company in the United States. I think it's a letter, it's

4 purportedly signed by you, is it signed by you, Mr. Butler?

10:42:04 5 A. That's signed by me, yeah.

6 Q. 25 Yes. And I think in response to that letter of the 20th January, you had

7 the following to say.

8

9 "Your letter of the 20th January has been forwarded to me. I am not aware

10 of any money being paid to Frank Dunlop for the purpose of securing

11 councillors support for the rezoning for the above lands."

12 A. Corrected.

13 Q. 26 You said "Myself and my then partners, Niall Kenny and Tom Williams,

14 acquired the land with the intention of building an hotel".

10:42:30 15 A. Correct.

16 Q. 27 Not a restaurant, an hotel?

17 A. No. Well, to be clear about that we started out looking for a restaurant.

18 Q. 28 Yes.

19 A. And then we got the yard and all, said my God wouldn't an hotel be great

10:42:42 20 here, you know, it was an aspiration of building an hotel that we started

21 off looking for the courtyard because we were doing very well in The

22 Courtyard in Donnybrook, and then we got the opportunity, we said we

23 started looking around, in fact we had looked -- we got one in Glasnevin

24 and it fell through.

10:43:01 25 Q. 29 I will be going into that in some detail in a moment, just at this stage,

26 Mr. Butler, I am dealing with the correspondence and your contact with the

27 Tribunal.

28 A. Okay.

29 Q. 30 Do you understand?

10:43:13 30 A. Sorry, I understand.

10:43:14 1 Q. 31 And you had be asked for a detailed narrative statement as I say on the  
2 20th January and this is your response, isn't that right?  
3 A. Yes.  
4 Q. 32 And there is, all I am highlighting at this stage is that your second  
10:43:26 5 response to the Tribunal at this time refers to the acquisition of the  
6 lands with the intention of building an hotel?  
7 A. Yes.  
8 Q. 33 And then you go on to say "I initially met Frank Dunlop with my partners  
9 and we appointed him to handle the public relations work for the project.  
10:43:43 10 I had very little contact with him, save when I met him casually" isn't  
11 that right?  
12 A. That's correct.  
13 Q. 34 Then you go on to say "No payments were made by me directly or indirectly  
14 to Frank Dunlop." Full stop.  
10:43:56 15 A. Yes.  
16 Q. 35 You said "The payments for his professional services was made by our  
17 accountants Coopers and Lybrand". Full stop.  
18 A. That's correct.  
19 Q. 36 And that was your position on the 14th February 2006?  
10:44:09 20 A. Yes, that was my understanding.  
21 Q. 37 Well, presumably when you came to write these letters, Mr. Butler, you had  
22 checked any available records so as to ensure that you were not going to  
23 mislead the Tribunal, isn't that right?  
24 A. I had no available records, I had no records whatsoever.  
10:44:26 25 Q. 38 Okay.  
26 A. I have been out of the country for years.  
27 Q. 39 Okay. So the position therefore is that your knowledge of what had  
28 transpired in the period 1993, in or about 1993 --  
29 A. Yes.  
10:44:37 30 Q. 40 -- wasn't augmented in anyway from any documentation that you had between

10:44:48 1 the period of March 2001, when you first responded to the Tribunal and  
2 February 2006 when you gave this response to the Tribunal, is that  
3 correct?

4 A. Sorry could you repeat that now?

10:44:56 5 Q. 41 You say you had no documentation in your possession and nothing to look  
6 towards in order to assist you in your recollection of what had transpired  
7 between yourself and your partners and Mr. Dunlop?

8 A. Correct yeah, because we had split up and I had very little contact with  
9 them in those years, in fact with Tom Williams, none.

10:45:18 10 Q. 42 But it was your recollection, leaving aside any assistance you might have  
11 got from documentation or from your colleagues or your partners, it was  
12 your recollection in February 2001, that the only payments to Mr. Dunlop  
13 were payments made at his request to Saatchi and Saatchi on behalf of  
14 Fianna Fail, and it was your recollection in February 2006 --

10:45:39 15 A. Sorry --

16 Q. 43 -- that there were no payments made to Mr. Dunlop directly or indirectly  
17 other than a payment for his professional services made by Coopers and  
18 Lybrand your accountants?

19 A. My recollection as regards Saatchi and Saatchi was completely wrong, it  
10:45:54 20 was nothing to do with the courtyard.

21 Q. 44 Yeah.

22 A. Again subsequently when the documentation came through, I found myself to  
23 be wrong.

24 Q. 45 And I think that on the 22nd September 2006, your solicitors had further  
10:46:10 25 correspondence with the Tribunal and then ultimately on the 21st March  
26 2007, after the last public hearing and the hearing of evidence in this  
27 module, if we look at page 2144 your solicitors wrote as follows on your  
28 behalf to the Tribunal.

29

10:46:31 30 For the attention of Marcelle Gribbin "Dear Madam, further to the above

10:46:35 1 and to your recent correspondence indicating the Tribunal's intention to  
2 take Mr. Butler's evidence on the 27th March. Mr. Butler will be in South  
3 Africa on that date.

10:46:44 5 His current medical advice is that he should not attend at the Tribunal at  
6 this time and he is still recovering from his recent serious illness.

7  
8 Notwithstanding, Mr. Butler is most anxious to finalise his involvement  
9 with the Tribunal and subject to the Tribunal being in a position to  
10 facilitate him on his attendance, in terms of taking any necessary breaks  
11 etcetera he would propose to return to Ireland to be available to the  
12 Tribunal during the week of either April 10th or 17th.

13  
14 Thereafter he will be the US and would next be available to the Tribunal  
10:47:11 15 following the 14th May.

16  
17 We have been in a position to go through the substantial paperwork and  
18 transcripts of evidence with Mr. Butler and while that has been  
19 particularly difficult given the lack of indexation or reference on most  
10:47:25 20 of the documentation, Mr. Butler is anxious to advise the Tribunal of the  
21 following which may clarify matters.

22  
23 1. Mr. Dunlop's accounts documentation is in error in refers to Scafform  
24 Limited. Mr. Dunlop only ever dealt with Mr. Butler in his capacity as  
10:47:39 25 having an interest in the lands at Cloughran and not in his capacity as  
26 having any connection with Scafform.

27  
28 2. Mr. Dunlop's fee notes, invoices and accounts documentation.

29 It is clear that Mr. Dunlop's evidence is at times contradictory and  
10:47:58 30 unclear but it is noted that the Tribunal has adopted a suggestion that

10:48:01 1 payments were made to Mr. Dunlop on a number of occasions as referred to  
2 throughout the transcripts. It is the position of Mr. Butler that on an  
3 analysis of the all the documentation and information available that the  
4 only payments made in relation to the lands at Cloughran are as follows:

10:48:16 5  
6 A. A sum of 3,025 pounds in January 1993 to Mr. Dunlop's invoice 793 and  
7 in relation to which the Tribunal has furnished us with a copy of the  
8 Blackfern cheque corresponding with same.

9  
10:48:30 10 B. A payment of 5,100 pounds which is a payment from Blackfern as  
11 indicated on the cheque contained at page 1948 of the brief and clearly  
12 incorrectly invoiced by Mr. Dunlop's office to Scafform Limited and  
13 recorded in Mr. Butler's accounts as being a payment from Scafform Limited  
14 when patently it was not.

10:48:51 15  
16 The further lodgement recorded in Mr. Dunlop's cash book of 6,050 and  
17 represented an invoice number 865 contained at page 1888 of the brief,  
18 Mr. Butler believes was a payment by Blackfern and we are making inquiries  
19 with the bankers for both Blackfern and Scafform to try to absolutely  
10:49:10 20 establish that position."

21  
22 If I just stop there for a moment, Mr. Butler, have you had any success in  
23 your inquiries with your bankers in that regard?

24 A. I believe not, we are still trying. I know longer own Scafform.

10:49:31 25 Q. 46 Yes.

26 A. And haven't since 1999 I believe. Now, I have tried to get from the bank  
27 I went in to the bank, I have tried to get it, the bank, the present bank  
28 of Scafform, which has since been taken over again is, didn't know, they  
29 no record, and I believe it was another bank which would be the Farm  
10:49:51 30 Centre in the Naas Road so, we have requested that they would go through

10:49:57 1 their -- I believe, I asked them could I go to Head Office and they said  
2 no, you have got to go through your bank. So I have got a blank from  
3 them, but I will continue and I believe I will get the copies of those  
4 cheques for my solicitor.

10:50:19 5 Q. 47 Now, your letter goes on as follows "It is Mr. Butler's belief that the  
6 pro forma invoice number 044 issued by Mr. Dunlop's office in April 1993,  
7 was nothing more than a fee note as evidenced by the fact that a reminder  
8 letter was sent (and which we note was sent to Mr. Tom Williams who never  
9 had at any time any connection Scafform). Mr. Butler believes that that  
10:50:41 10 pro forma invoice does not reflect any payment and the payments made on  
11 foot of that demand for payment are accurately reflected in the invoices  
12 864 and 865.

13  
14 In that regard it is further noted that Mr. Dunlop would appear to have  
10:50:55 15 been operating on a cash receipts bases in terms of his invoicing. We  
16 note that the payment of 3,025 is reflected in invoice 793 in January of  
17 1993 and that the further payments in June are reflected in invoices 864  
18 and 865. Accordingly, it would appear clear that the pro forma invoice  
19 number 044 was nothing more than a fee note. It is further noted that Mr.  
10:51:20 20 Dunlop in line with an accounting receipts basis of accounting raised the  
21 invoices subsequent to payment on the 17th of June 1993.

22  
23 C. Mr. Butler further acknowledges and accepts that further payments were  
24 made by Blackfern to Mr. Dunlop as reflected in the cheques obtained from  
10:51:37 25 the banks in the sum of 7,000 and 3,000 respectively. Mr. Butler does not  
26 believe that any further payments were made to Mr. Dunlop or anybody on  
27 his behalf either by cheque or in any other manner. It is noted that the  
28 total of the payments noted above amount to 24,175 pounds.

29  
10:51:56 30 D. It is further noted that the Coopers and Lybrand account indicates

10:52:02 1 total payments to Mr. Dunlop in the sum of 23,025 pounds. Mr. Butler is  
2 not in a position to explain that discrepancy, save to note that the  
3 account of Coopers and Lybrand contains numerous errors. Inter alia, it  
4 is noted that the payment recorded at 29,613 pounds is incorrect in the  
10:52:20 5 sum of 500 pounds and further it is noted that Coopers and Lybrand account  
6 omits various expenses incurred not the least of which were the Coopers  
7 and Lybrand own fees.

8  
9 In the circumstances Mr. Butler is only in a position to rely on his own  
10:52:34 10 memory which at this remove is necessarily somewhat limited and the  
11 documentation as now furnished and which records payments as set out  
12 above.

13  
14 As indicated we are making inquiries with the banks for Scafform and  
10:52:46 15 Blackfern to clarify the position in relation to the payment of 6,050  
16 pounds and if we receive any further information from them in that regard  
17 we'll immediately forward it to you.

18  
19 Finally, and as regards the Saatchi payments from Construct Sales and  
10:53:01 20 Blackfern, Mr. Butler would like to clarify his original communications  
21 with the Tribunal within it was suggested that those payments were made at  
22 the request of Mr. Dunlop. Having now had the benefit of all the  
23 documentation it is clear that that was not correct and that those  
24 payments made were entirely unrelated to the lands at Cloughran and  
10:53:21 25 equally unrelated to Mr. Dunlop.

26  
27 You might kindly confirm a date when it would have convenient for  
28 Mr. Butler to attend as outlined above."

29  
10:53:32 30 MR O'DOHERTY: Sorry, Chairman. Just before Mr. Quinn leaves that letter,

10:53:33 1 I just noted there was a typographical error in paragraph two of that,  
2 just as it's open on 02145 at -- page 02145 at paragraph B of that, in the  
3 middle of it, where I had written -- the third line of that "Mr. Dunlop's  
4 office to Scafform Limited and had recorded" clearly that should be in Mr.  
10:54:02 5 Dunlop's accounts and not Mr. Butler's accounts, just for the sake of  
6 clarification. Thank you, Chairman.  
7

8 CHAIRMAN: Yes.  
9

10:54:10 10 Q. 48 MR. QUINN: So Mr. Butler, is it fair to say that by March of 2007 --

11 A. Yes.

12 Q. 49 -- your position in relation to your relationship with Mr. Dunlop had  
13 altered somewhat from what you had originally told the Tribunal in March  
14 2001 and in 2006, in February 2006 in that first of all the pick-me-up  
10:54:33 15 payments to Saatchi and Saatchi had nothing whatsoever to do with Mr.  
16 Dunlop?

17 A. That's correct.

18 Q. 50 Contrary to what you had originally told the Tribunal?

19 A. Yes.

10:54:40 20 Q. 51 And secondly, contrary to what you had advised the Tribunal in February  
21 2006, namely that payments made to Mr. Dunlop for his professional  
22 services were made by your accountants Coopers and Lybrand that that too  
23 was incorrect and in fact payments, leaving aside the level of payments,  
24 but that payments had in fact been made, other than from Coopers and  
10:55:02 25 Lybrand to Mr. Dunlop?

26 A. Well, that was my information received from my partners, I didn't know who  
27 the payments were made but I inquired before, and I said they were made  
28 through Coopers and Lybrand.

29 Q. 52 Is it your evidence to the Tribunal that, Mr. Butler, that you never made  
10:55:21 30 any payments to Mr. Dunlop and that when you came to advise the Tribunal

10:55:25 1 in February 2006, that payments were made by Coopers and Lybrand you were  
2 relying on what was told to you by your partners?

3 A. That's correct.

4 Q. 53 And in 2006, I think you advised the Tribunal that you had very little  
10:55:38 5 contact with Mr. Dunlop, save when you met him casually, is that correct?

6 A. That's right.

7 Q. 54 Is that still your position?

8 A. Still my position.

9 Q. 55 Yes. So your partners and -- are we talking about Mr. Williams and  
10:55:53 10 Mr. Kenny? I -- they misled you into believing that the payments made to  
11 Mr. Dunlop in 1993 were made by them and they misled you into believing in  
12 fact they were made by Coopers and Lybrand?

13 A. I think these factual, I don't think they meant it mislead me, because  
14 Coopers and Lybrand did the final account, they were the accountants, the  
10:56:18 15 accounts were handled by Coopers and Lybrand for that transaction.

16 Q. 56 If we go to page 22 again, in your letter to the Tribunal you do not at  
17 that time advise the Tribunal that you are relying, for your information  
18 in relation to the payments to Mr. Dunlop on what's been told to you by  
19 your partners?

10:56:38 20 A. That's correct, I didn't.

21 Q. 57 Isn't that correct?

22 A. That's correct.

23 Q. 58 But it's your evidence now that in February 2006, Mr. Williams or  
24 Mr. Kenny told you that in fact the payments had been made by Coopers and  
10:56:53 25 Lybrand?

26 A. Yes.

27 Q. 59 Was it Mr. Williams or Mr. Kenny that told that you?

28 A. I can't remember.

29 Q. 60 We are only talking about two years ago, Mr. Butler.

10:57:00 30 A. I still --

- 10:57:01 1 Q. 61 Who were you speaking with?
- 2 A. I can't remember which one of them it was.
- 3 Q. 62 You can't remember whether it was Mr. Kenny or Mr. Williams that told you
- 4 that the payments were made by Coopers and Lybrand?
- 10:57:14 5 A. No, I can't.
- 6 Q. 63 Well, which of them did you check with?
- 7 A. I would have contacted Mr. Kenny I believe.
- 8 Q. 64 Okay, so can we take it that it was Mr. Kenny that misled you then?
- 9 A. Well, I can't say.
- 10:57:28 10 Q. 65 Were you speaking to Mr. Williams?
- 11 A. I spoke with him briefly and Mr. Kenny briefly, I hadn't seen them for a
- 12 long, long time. And I don't know which of them it was.
- 13 Q. 66 You had received correspondence from the Tribunal and you had been asked
- 14 for a statement in relation to the relationship with Mr. Dunlop and you
- 10:57:54 15 had been advised of what Mr. Dunlop was alleging, isn't that correct,
- 16 that's obvious from the letter, we see that letter of the 20th January
- 17 2006 at page 20?
- 18 A. Yes.
- 19 Q. 67 You recall receiving -- your response in February is a response to that
- 10:58:09 20 letter, isn't that correct?
- 21 A. Yes, yes.
- 22 Q. 68 So this was correspondence received from the Tribunal in relation to
- 23 Cloughran, you were being advised of what Mr. Dunlop was alleging and you
- 24 were being asked for a detailed narrative statement?
- 10:58:25 25 A. Yes.
- 26 Q. 69 You said that you had two brief conversations with Mr. Kenny and
- 27 Mr. Williams and as a result of those conversations, if we go to page 22
- 28 you responded to the Tribunal in a four paragraph letter, where you said
- 29 that no payments had been made to Mr. Dunlop directly or indirectly by you
- 10:58:44 30 and that payments that were made to him for his professional services were

10:58:48 1 made by your accountants Coopers & Lybrand?

2 A. Yes.

3 Q. 70 You don't say in the letter that that's information given to you by your

4 partners or partner, nor do you say on whose instructions the payments

10:59:01 5 were made?

6 A. Sorry would you repeat that?

7 Q. 71 You don't say on whose instructions Coopers & Lybrand made the payments?

8 A. Well it wasn't on my instructions.

9 Q. 72 Well, perhaps if we go back to the very beginning, Mr. Butler. Just going

10:59:23 10 back to the late '80s, there is no doubt but that yourself and

11 Mr. Williams and Mr. Kenny were involved in The Courtyard restaurant?

12 A. That's correct, yeah.

13 Q. 73 And that was a very successful enterprise, isn't that correct?

14 A. That's correct, yeah.

10:59:47 15 Q. 74 And I think you had an interest in other properties, for example there is

16 a company Quodsemper Limited which you have seen in the brief at 2317, a

17 company which appears to have transferred lands at City Quay to

18 Mr. Desmond Richardson, you will have seen that, indenture again in the

19 brief, at 2319, this is a transfer of the 26th October 1989?

11:00:15 20 A. This is City Quay.

21 Q. 75 Yes.

22 A. That was nothing to do with the courtyard.

23 Q. 76 I am dealing now, Mr. Butler, with your relationship with people who are

24 witnesses in this module, do you understand? And Mr. Richardson is a

11:00:29 25 witness in the module.

26 A. Oh I get you, yeah.

27 Q. 77 So you would have known Mr. Richardson, presumably and you knew, in 1989?

28 A. I knew Mr. Richardson, yeah, in 1989, yeah, obviously, yeah.

29 Q. 78 And this company, Quodsemper Limited is a company that you have an

11:00:48 30 association with, isn't that right? If we look at 2317 I think you are

11:00:52 1 registered as a director of that company?

2 A. Quad Simple Limited was the company that owned City Quay.

3 Q. 79 Yes.

4 A. Oh right.

11:01:22 5 Q. 80 It appears to be the company that transferred the interest in City Quay to

6 Mr. Richardson, if we revert to 2319, this is the indenture of transfer,

7 do you see that?

8 A. Yeah, like I knew that the City Quay was sold to Richardson, he then had

9 -- I think it was a company --

11:01:42 10 Q. 81 Did you know Mr. Richardson before the sale?

11 A. I met him before the sale, I didn't really know him, I met him.

12 Q. 82 Had Mr. -- what about Mr. Collins?

13 A. Mr. Collins had introduced me to Mr. Richardson who wanted to buy the

14 property.

11:01:56 15 Q. 83 Yes. So your association with Mr. Collins dates back to at least 1989?

16 A. Well, my association with Mr. Collins would, around that period yeah, but

17 I had known him in 1960 or '70, I hadn't seen him for 20 years then I met

18 him again.

19 Q. 84 Yes. And was Mr. Collins an auctioneer in 1989 or an estate agent or how

11:02:20 20 did he come to introduce you to Mr. Richardson.

21 A. Well he was kind of -- he was I believe at that stage he was involved with

22 an architectural practice called Pilgrim.

23 Q. 85 Yes. And did he approach you?

24 A. That's how I met him again.

11:02:38 25 Q. 86 Yes. Did he approach you, Mr. Butler, or had you the property for sale

26 with a firm of estate agents?

27 A. No the property was not for sale, he approached me and asked me would I

28 like to sell it.

29 Q. 87 Did he tell you who was intending on purchasing it, did he identify the

11:02:57 30 purchaser for you?

11:02:58 1 A. I believe so, I obviously he must have.

2 Q. 88 Yes. Did you know Mr. Richardson at that stage?

3 A. I may have met him but I didn't know him as such.

4 Q. 89 Yes.

11:03:06 5 A. I may have met him at one of the dinners, the Fianna Fail.

6 Q. 90 Just in relation to the dinners, I think that you will have seen in the

7 brief a function on the 9th December 1988 at 2329?

8 A. Yes.

9 Q. 91 This is the names of the those who attended a dinner, I think it may have

11:03:25 10 been in Kilmainham in December 1988, and if you look at the number of

11 persons attending there, about halfway down you will see "John Butler"?

12 A. Yes.

13 Q. 92 Who appears to take a table of ten, do you see that?

14 A. That's correct.

11:03:40 15 Q. 93 Is that you, Mr. Butler?

16 A. That's me.

17 Q. 94 Is that a Fianna Fail dinner?

18 A. That's a Fianna Fail dinner, yeah.

19 Q. 95 Who would have approached you concerning that dinner and invited you to

11:03:50 20 attend the dinner?

21 A. I don't know.

22 Q. 96 Could it have been Mr. Collins and Mr. Richardson?

23 A. It could have been, could have been.

24 Q. 97 I think Mr. Richardson also attended that dinner, we see his name, he had

11:04:06 25 two tables in fact, do you see that, further down from you?

26 A. Yeah.

27 Q. 98 I think Mr. Collins, if we look at the second last entry, just one in,

28 Mr. Collins also attended the dinner.

29 A. Yes.

11:04:20 30 Q. 99 Was it your custom to attend a dinner in Kilmainham on a reasonably

11:04:25 1 regular basis and take a table and bring guests to the dinner?  
2 A. At that time, around -- before I, you know when I was here in the country  
3 I would definitely have gone to it.  
4 Q. 100 Yes.  
11:04:37 5 A. It would be --  
6 Q. 101 This would have been in the late '80s, early '90s?  
7 A. I was away but I would often get back for that dinner.  
8 Q. 102 Yes. Would it be fair to say you would have met Mr. Collins and Mr.  
9 Richardson at that dinner?  
11:04:51 10 A. Certainly I would have, yeah.  
11 Q. 103 That was a dinner in the nature of a fundraiser, isn't that right?  
12 A. Yes.  
13 Q. 104 For Fianna Fail?  
14 A. For Fianna Fail, yes.  
11:05:00 15 Q. 105 Would it be unfair to suggest that you would have been regarded as  
16 supportive of Fianna Fail, going back at least to 1988 and probably prior  
17 to that?  
18 A. Oh most definitely. Going back to my father's time, you know.  
19 Q. 106 Yes.  
11:05:17 20 A. And gosh, going back to building stages for them outside Trinity College  
21 in the '60s, you know.  
22 Q. 107 Yes. Just going forward slightly then if we go to '95 or '96 at 1993,  
23 this is a further list discovered to the Tribunal of people who may have  
24 attended a dinner on the 6th December, either as I say 1995 or 1996 and  
11:05:44 25 the first person on that list again taking a table of ten is yourself,  
26 Mr. Butler, do you see that?  
27 A. Yes, that's right, yeah.  
28 Q. 108 And again --  
29 A. That would be me too, Johnnie would be -- kind of known in the old days.  
11:05:58 30 Q. 109 Yes. And again would it be fair to say that Mr. Collins and Mr.

- 11:06:02 1 Richardson would have been attending those dinners over the years?
- 2 A. Without a doubt, yes.
- 3 Q. 110 I any fact Mr. Dunlop attended the dinner from time to time and he appears
- 4 to have been in attendance in '95 or '96?
- 11:06:15 5 A. I don't believe I ever met Mr. Dunlop, I know I didn't meet Mr. Dunlop at
- 6 any of those dinners, definitely.
- 7 Q. 111 Ever?
- 8 A. Ever.
- 9 Q. 112 In your casual meetings with Mr. Dunlop, never -- none of those casual
- 11:06:29 10 meetings ever coincided with those dinners?
- 11 A. No, the first time I met Mr. Dunlop was in --
- 12 Q. 113 January '93?
- 13 A. Yes, yes.
- 14 Q. 114 We'll come to that in a moment?
- 11:06:41 15 A. Okay, never met Mr. Dunlop before, never even met him.
- 16 Q. 115 Now, if we again stay with the late 1980s, I think there were a series of
- 17 companies with which you were associated in the late 1980s, including
- 18 companies that either had an interest in or ran the restaurant, the
- 19 Courtyard Restaurant, isn't that correct, for example I think a company
- 11:07:07 20 Blackfern Limited, if we could have 445 is a company that was incorporated
- 21 in October 1988?
- 22 A. Yes, that's correct, yeah.
- 23 Q. 116 I think both yourself and Mr. Williams are recorded as being directors of
- 24 that company, is that correct?
- 11:07:22 25 A. That's correct yeah.
- 26 Q. 117 Would it be fair to say Mr. Kenny was also associated with that company?
- 27 A. Without a doubt, we were third shareholding each.
- 28 Q. 118 Yes. Although Mr. Kenny wasn't registered as either a shareholder or
- 29 director, is that right?
- 11:07:35 30 A. I believe so from the paperwork, yeah.

- 11:07:37 1 Q. 119 Do you recall or can you assist the Tribunal as to why he wasn't so  
2 recorded?  
3 A. I don't know why he wasn't.  
4 Q. 120 Now, I think you were also involved with the company Scafform Limited, I  
11:07:49 5 think you advised us that that company has been sold on in the late '90s,  
6 isn't that right?  
7 A. '99 I think it was, yeah.  
8 Q. 121 Certainly the late '80s you would have been associated with the company,  
9 isn't that correct?  
11:08:01 10 A. Oh that was my company.  
11 Q. 122 That was a company independent of the Courtyard Restaurant?  
12 A. Totally. That was my own business from 1964.  
13 Q. 123 Yes, if we look at 433 I think we see that the company was incorporated on  
14 18th August 1965?  
11:08:16 15 A. '65. Yeah '64 the name came to mind, started working you know.  
16 Q. 124 The company that we will be dealing with later, Construct Sales Limited at  
17 440, again is a company with which you have an association or had an  
18 association and company appears to have been incorporated on 9th June  
19 1980?  
11:08:37 20 A. That's correct, yeah.  
21 Q. 125 Is that company, did that company have any involvement with the  
22 restaurant?  
23 A. No, none whatsoever.  
24 Q. 126 And then at, I think there is a company Golden Crescent Limited which was  
11:08:50 25 incorporated on the 5th February 1987 at 471, and it would appear that  
26 that company was incorporated on the 5th February 1987, if we look at 469,  
27 again I think you are recorded together with Mr. Williams as being a  
28 director of that company?  
29 A. Yes, that's correct, yeah.  
11:09:10 30 Q. 127 And was that a company associated with the restaurant?

11:09:13 1 A. Yes.

2 Q. 128 And was Mr. Kenny associated with that company?

3 A. Yes.

4 Q. 129 What was that company's association with the restaurant can I ask you?

11:09:25 5 A. I can't recall. It was either the property holder or the operations

6 company.

7 Q. 130 Well, what about Crescent Haven Limited at 1576, which appears to have

8 been incorporated on 16th February 1987, was that company associated with

9 the restaurant?

11:09:47 10 A. Crescent Haven was the company that ran the restaurant.

11 Q. 131 That was the company that ran the restaurant?

12 A. Yes.

13 Q. 132 And Golden Crescent was the company that owned the restaurant?

14 A. I'm not sure now which --

11:10:02 15 Q. 133 What about --

16 A. Between Golden Crescent, I think -- between Golden Crescent and Blackfern,

17 I don't know which one owned the company.

18 Q. 134 Right.

19 A. Owned the premises sorry.

11:10:17 20 Q. 135 Yes. But there are three companies associated with the restaurant?

21 A. Yes.

22 Q. 136 Crescent Haven, Golden Crescent and Blackfern?

23 A. Correct, yeah.

24 Q. 137 Well presumably one of them owns the premises and one of them runs the

11:10:30 25 business from the premises?

26 A. At that period in time I'm not sure which was which.

27 Q. 138 What about the third company?

28 A. I'm not sure -- when was that formed, Crescent Haven because that's still

29 in effect, that now owns the premises?

11:10:46 30 Q. 139 That company appears to have been incorporated on the 16th February 1987

11:10:51 1 if we look at 1576 which is on screen, date of incorporation?  
2 A. Yes.  
3 Q. 140 You see that a charge, equitable charge by way of deposit of title deeds  
4 was created on 13th April 1988 and that charge was registered on the 25th  
11:11:07 5 April 1988?  
6 A. Yes.  
7 Q. 141 Does that help you in establishing whether or not that company was  
8 involved in owning or running the restaurant?  
9 A. Well, I know it owns the restaurant now but I'm not sure what the  
11:11:20 10 combination was, I haven't an idea, what was the one Golden?  
11 Q. 142 Crescent. If a charge, can we agree on this, Mr. Butler, that if Crescent  
12 Haven Limited created a charge over the property it tends to suggest that  
13 it owned the property, would you agree with me?  
14 A. I would, yes, I'd agree with you.  
11:11:45 15 Q. 143 Therefore that leaves Golden Crescent and Blackfern then, Limited?  
16 A. Yes.  
17 Q. 144 Blackfern Limited?  
18 A. Yes.  
19 Q. 145 As two companies which either ran the restaurant or had some other  
11:11:57 20 association with the restaurant?  
21 A. Well they were -- I believe, running the restaurant.  
22 Q. 146 In any event yourself and Mr. Williams and Mr. Kenny had a one third  
23 interest in all three companies, and you had a one third interest in the  
24 restaurant?  
11:12:17 25 A. Yes.  
26 Q. 147 And the operation of the?  
27 A. And the ownership of it, yes.  
28 Q. 148 Would it be fair to say, Mr. Butler, that at some stage in the late '80s  
29 you decided that you might branch out and invest some of the profits from  
11:12:39 30 the restaurant?

11:12:40 1 A. Yes.

2 Q. 149 And was that the beginning of your involvement ultimately with the

3 Cloughran lands?

4 A. Yes.

11:12:54 5 Q. 150 And I think you referred to some attempt at the acquisition of a property

6 in Glasnevin, isn't that right?

7 A. Yes.

8 Q. 151 Of course Glasnevin is a built up area, obviously if you managed to

9 acquire property there you could easily develop a restaurant, isn't that

11:13:11 10 right?

11 A. Well, it was from my recollection, it was a kind of a restaurant, that you

12 could make into a nice restaurant, you know, I believe we were gazumped on

13 that property.

14 Q. 152 Yes, for whatever reason that sale fell through.

11:13:25 15 A. It did, yeah.

16 Q. 153 Was Mr. Collins involved in sourcing that property for you?

17 A. I can't remember.

18 Q. 154 What about Mr. Sean Dillon?

19 A. Well, that would sound right, but I can't remember.

11:13:37 20 Q. 155 Yes. Now, I think in March 1989 a Mr. Molloy placed property at Cloughran

21 for sale with his estate agent Mr. Flanagan, if we look at 535 please. Do

22 you see a brochure there, Mr. Butler, on screen, describing property

23 comprising 42 stables and an indoor arena?

24 A. Yes, yes.

11:14:16 25 Q. 156 Now, I think Mr. Sean Dillon invoiced you in relation to his involvement

26 in the sale of that, those lands, isn't that right?

27 A. I believe so, yes.

28 Q. 157 And I think that you also acquired lands from Mr. Morgan adjacent to these

29 lands, isn't that correct?

11:14:36 30 A. That's right, yes.

- 11:14:37 1 Q. 158 So there were two plots of land effectively acquired, the Molloy lands and  
2 Morgan lands?  
3 A. Yeah, Molloy lands were acquired afterwards, some time afterwards, I'm not  
4 sure what date.
- 11:14:49 5 Q. 159 And were you involved, Mr. Butler, in the acquisition of either property?  
6 A. Not really. It was -- I believe it was -- you see I would have been out  
7 of the country and it would -- I believe it was, I'm only -- I believe it  
8 was Tom Williams, and Niall would have been the person who knew the  
9 auctioneer.
- 11:15:20 10 Q. 160 This is Mr. Dillon, is it?  
11 A. Yes, Niall would have known Mr. Dillon. I had met him, but Niall knew  
12 him.  
13 Q. 161 Yes.  
14 A. That was different.
- 11:15:30 15 Q. 162 What about Mr. Collins, had he any role in identifying these lands for  
16 you?  
17 A. He had, he was actively looking, and I believe he came up with the  
18 auctioneer.  
19 Q. 163 Yes. And who gave Mr. Collins instructions?  
20 A. I can't remember.
- 11:15:53 21 Q. 164 And what instructions would have been given to him? I mean after all you  
22 had Mr. Dillon.  
23 A. I would say, this is only guessing now, that I would say probably myself  
24 if you find anything out around the north side, we're looking for a  
25 restaurant, it would have been a casual comment to Mr. Collins.
- 11:16:15 26 Q. 165 Yes. So you think that Mr. Collins may have been involved in sourcing  
27 these lands?  
28 A. I'm only guessing, but I think he may have been.
- 11:16:33 29 Q. 166 If he did source the lands, presumably he would have reported back to one  
30 of the three of you then, advising you that he had found these lands?

- 11:16:37 1 A. Yes.
- 2 Q. 167 And of the three of you who do you think he might have approached?
- 3 A. Most likely myself, but I can't remember.
- 4 Q. 168 Indeed Mr. Williams in his evidence was of the view that the lands in
- 11:16:47 5 Cloughran came through Mr. Collins, a friend of yours?
- 6 A. Yes.
- 7 Q. 169 Now, I think Mr. Dillon, in September of 1989, if we can have 533 please,
- 8 wrote to your solicitor, Mr. Gerald Kean?
- 9 A. Oh yeah, Kenny and others.
- 11:17:16 10 Q. 170 Yes. Advising that further to correspondence he could confirm that he had
- 11 arranged the purchase of the above ground on behalf of the mutual clients
- 12 Mr. Niall Kenny, John Butler and Tom Williams etcetera, do you see that?
- 13 A. Yes.
- 14 Q. 171 Were there others involved in the purchase of those lands?
- 11:17:36 15 A. No.
- 16 Q. 172 Did Mr. Collins have any interest in the those lands?
- 17 A. Absolutely not.
- 18 Q. 173 Were you holding an interest for Mr. Collin in those lands?
- 19 A. No, I was not.
- 11:17:45 20 Q. 174 What do you think Mr. Dillon is referring to there as Niall Kenny, John
- 21 Butler, Tom Williams etcetera?
- 22 A. I don't know.
- 23 Q. 175 Now, he identifies the purchase price in that document as 165,000 pounds,
- 24 isn't that right?
- 11:18:03 25 A. Yes.
- 26 Q. 176 Were you involved in negotiating that contract?
- 27 A. No.
- 28 Q. 177 Did you ever meet Mr. Molloy or Mr. Flanagan or any of his
- 29 representatives?
- 11:18:17 30 A. Sorry could you repeat that?

- 11:18:19 1 Q. 178 Did you ever meet with Mr. Molloy who was the vendor or his representative  
2 Mr. Flanagan, the estate agent?  
3 A. Flanagan -- I can't recall meeting with Mr. Flanagan, but I did meet with  
4 Mr. Molloy.
- 11:18:37 5 Q. 179 Yes.  
6 A. Very early on, before we had purchased the land.
- 7 Q. 180 Who introduced to you Mr. Molloy?  
8 A. I don't know it could have been Mr. Collins, yes, but I can't remember.
- 9 Q. 181 Well, if Mr. Collins had introduced you to Mr. Molloy, presumably you  
11:18:59 10 would have negotiated with Mr. Molloy for the purchase of the lands?  
11 A. I didn't negotiate for the purchase.
- 12 Q. 182 Did Mr. Collins negotiate it?  
13 A. I don't know from our side --
- 14 Q. 183 What I am trying to do, Mr. Butler, if you forgive me is that Mr. Molloy  
11:19:17 15 who is selling the lands has a Mr. Flanagan an estate agent, isn't that  
16 correct?  
17 A. Yes.
- 18 Q. 184 But purchasing the lands appears to have been yourself, Mr. Collins and  
19 Mr. Dillon, Mr. Collins and Mr. Dillon both retained by you for the  
11:19:34 20 purchase, isn't that right?  
21 A. By me.
- 22 Q. 185 By you, when I say bay you, by yourself, Mr. Kenny and Mr. Williams?  
23 A. Yes, I believe so.
- 24 Q. 186 Yes. So all three of you seem to have been involved, from a purchasing  
11:19:47 25 point of view, acting through either you, Mr. Collins or Mr. Dillon?  
26 A. I would have spoken with Molloy very early on and --
- 27 Q. 187 On the introduction of Mr. Collins?  
28 A. On the introduction, I believe Mr. Collins, I can't say for sure, but I  
29 believe it was him.
- 11:20:12 30 Q. 188 Yes.

11:20:14 1 A. Then it passed over to Niall and Tom because they were more active, they  
2 were the restaurateurs, they were more active in the business and I  
3 believe it was Tom completed the sale.

4 Q. 189 That he negotiated the sale, is it?

11:20:36 5 A. Well negotiated the final figures.

6 Q. 190 Yes. With Mr. Molloy?

7 A. With Mr. Molloy. Sorry I'm not sure who with, you know?

8 Q. 191 But you think he carried out the negotiations and negotiated a purchase at  
9 165,000?

11:20:56 10 A. I do think that, yes.

11 Q. 192 Yes. We see for example at 538, Mr. Flanagan confirming to Mr. Molloy's  
12 solicitors, Frank Ward and company, the sale of these lands?

13 A. Yes.

14 Q. 193 And the proposed purchaser is not Mr. Williams but a Mr. John Butler, the  
15 Courtyard Restaurant, do you see that?

11:21:13 16 A. Yes, I do.

17 Q. 194 And in fact I think the contract for the purchase of those lands, which is  
18 at 1423, again identifies the purchaser as a Mr. John Butler of the  
19 Courtyard Restaurant?

11:21:33 20 A. Yes.

21 Q. 195 Did you pay Mr. Collins in relation to his involvement in introducing you  
22 to these lands?

23 A. No, I didn't pay him.

24 Q. 196 What arrangement had you with Mr. Collins?

11:21:54 25 A. I'm not aware of the arrangement. I had no arrangement with Mr. Collins,  
26 I'm not aware of what the arrangement was.

27 Q. 197 Well would you agree with me that Mr. Collins was your contact and your  
28 friend?

29 A. Yes.

11:22:17 30 Q. 198 He certainly wasn't Mr. Williams' or Mr. Kenny's contact or friend?

- 11:22:17 1 A. No, you're dead right.
- 2 Q. 199 If he were involved presumably he was likely to be involved to the extent
- 3 that he was likely receive monies from the involvement or his involvement
- 4 with the lands?
- 11:22:25 5 A. I don't believe that is correct, but I can't say for definite.
- 6 Q. 200 So you think he was acting perhaps as a friend to you in introducing you
- 7 to lands?
- 8 A. Yes and also he had an involvement in a practice called Pilgrim.
- 9 Q. 201 Yes.
- 11:22:39 10 A. And I think they had hoped to get the work out of it, that was --
- 11 Q. 202 His consideration was in the nature of Pilgrim receiving monies, is that
- 12 correct, his architectural firm.
- 13 A. Architecture practice yes, getting the work.
- 14 Q. 203 Yes. So he wasn't getting a finder's fee and he certainly wasn't being
- 11:23:02 15 included in the purchase of the lands?
- 16 A. It was not included in the purchase of the lands that's for sure.
- 17 Q. 204 And he wasn't getting a finder's fee?
- 18 A. Not that I know of.
- 19 Q. 205 If he were you were the only one that would know of it, isn't that right,
- 11:23:16 20 since you were his contact?
- 21 A. Well, I should have known about it, if he was, yeah.
- 22 Q. 206 And you think that he involved himself in sourcing these lands for you
- 23 because he knew that his practice, Pilgrim, would get the contract as
- 24 architects to develop the lands?
- 11:23:33 25 A. Correct.
- 26 Q. 207 And at this stage is it your evidence to the Tribunal that this, these
- 27 lands and the adjoining lands, which were acquired a month or two later,
- 28 green field site effectively, was -- were acquired at that time for a
- 29 restaurant?
- 11:23:50 30 A. By that time we had aspired to an hotel as well.

- 11:23:54 1 Q. 208 Yes. Now, if I could --
- 2 A. That's my recollection.
- 3 Q. 209 If we can just deal with the payment for these lands, at 2105 there is
- 4 there is a bank statement it's Thomas Williams, 1 Belmont Avenue,
- 11:24:14 5 Donnybrook, Dublin 4. I think Belmont Avenue was the address of the
- 6 courtyard?
- 7 A. Correct.
- 8 Q. 210 It appears to be a deposit account of Tom Williams, do you see that?
- 9 A. Yes.
- 11:24:26 10 Q. 211 And it's at 45233-040 account?
- 11 A. Yes, yes.
- 12 Q. 212 We'll call that the 040 account. Is that an account in Mr. Williams sole
- 13 name or is that an account, a deposit account held in Mr. Williams name
- 14 for your benefit and for your other partner's benefit, Mr. Kenny?
- 11:24:52 15 A. Yes it would have been.
- 16 Q. 213 Yes. So that was an Allied Irish Bank account, we see there a debit of
- 17 16,500 pounds on the 19th September 1989, do you see that halfway down?
- 18 A. I do, yeah.
- 19 Q. 214 Can the Tribunal take it that that is the deposit payable on foot of that
- 11:25:13 20 contract at 1423, being 10 per cent of the 165,000 recorded there?
- 21 A. Oh well I believe so, yes.
- 22 Q. 215 The source of the funds in that account, Mr. Butler, would they have been
- 23 the proceeds of retail income from the restaurant in the courtyard?
- 24 A. I'm not sure whether it was retail income or borrowings, I can't tell you.
- 11:25:52 25 Q. 216 I think when that contract was finally concluded I think the property was
- 26 taken by Mr. Kean in trust, isn't that right, were you aware of that? If
- 27 we look at the transfer at 568?
- 28 A. Yes.
- 29 Q. 217 This is an indenture of conveyance of those lands, Mr. Butler, and they
- 11:26:21 30 appear to have been a transfer from the owner Mr. Molloy, on the one part,

11:26:28 1 to the purchaser, whose there described as Gerald Kean of and subject --  
2 sorry Exchequer Street, Dublin in trust, do you see that?

3 A. Yes, I do.

4 Q. 218 What can you tell the Tribunal about Mr. Kean taking the conveyance in  
11:26:47 5 trust?

6 A. I don't know, I don't know what the reason for it was but it would have  
7 been in trust for the three of us.

8 Q. 219 Yes. I should have asked you, Mr. Butler, before I left the circumstances  
9 surrounding the purchase of the property and the actual consideration for  
11:27:13 10 the property, if I could show you 549, this is an invoice from Mr. Dillon  
11 in relation to his involvement in the acquisition of the lands, do you  
12 understand, and it was sent to Mr. Kenny in September of 1989, and the  
13 covering letter is at 548 and it's headed fees Cloughran Stud Farm it  
14 says:

11:27:35 15

16 "Dear Niall, I attach our fee invoice in the above for your attention. I  
17 expect to have further substantial information relating to the adjoining  
18 and adjacent lands in the very near future."  
19

11:27:48 20 And then the accompanying invoice discloses a fee due of 5,625 pounds, do  
21 you see that?

22 A. Yes.

23 Q. 220 Do you see where the fee is calculated as a percentage of the purchase  
24 price?

11:28:02 25 A. Yes.

26 Q. 221 And do you see where there is a reference there to a purchase price of  
27 180,000 pounds?

28 A. I do, yes.

29 Q. 222 Can you explain or give any explanation to the Tribunal as to how that  
11:28:16 30 figure came to be included in the invoice as opposed to the apparent

11:28:29 1 purchase price of 165,000 pounds?

2 A. I can't because I had no dealings with Mr. Dillon.

3 Q. 223 And you say you had no dealings in relation to the negotiations which led

4 to the purchase?

11:28:40 5 A. Not --

6 Q. 224 Other than you were introduced to the vendor at some stage by Mr. Collins?

7 A. And then subsequently Tom Williams took over for me.

8 Q. 225 He took over for you and Mr. Kenny presumably?

9 A. I imagine, he took over from me anyway because I wasn't involved --

11:29:02 10 Q. 226 If we go back to 548 again this is the covering letter, would you agree

11 with me that Mr. Dillon is also advising Mr. Kenny in relation to

12 adjoining or adjacent lands?

13 A. Yes.

14 Q. 227 These are the Morgan lands, isn't that right?

11:29:28 15 A. Yes.

16 Q. 228 Did Mr. Collins introduce to you Mr. Morgan or the Morgan lands?

17 A. I had nothing to do with the Morgan lands.

18 Q. 229 Did you know that you were likely to acquire the Morgan lands?

19 A. Yes.

11:29:39 20 Q. 230 Were you kept apprised of the Morgan lands and negotiations in relation to

21 the acquisition of those lands?

22 A. On a very light basis, Sean Dillon was dealing with Niall Kenny.

23 Q. 231 Yes. Was it Mr. Dillon and Mr. Kenny between them that concluded the

24 purchase of the Morgan lands?

11:30:01 25 A. I don't know, Tom Williams could have been involved.

26 Q. 232 Do you know if Mr. Collins was involved in the acquisition of the Morgan

27 lands?

28 A. I don't.

29 Q. 233 Or do you know if Mr. Rowe who was a colleague of Mr. Collins, in Pilgrim,

11:30:17 30 if he were involved in the Morgan lands?

11:30:21 1 A. I don't. I don't know what his involvement would have been, Tim Rowe, he  
2 was an architect.

3 Q. 234 Yes. Mr. Williams thought that you were involved in the acquisition of  
4 the Morgan lands?

11:30:37 5 A. No.

6 Q. 235 He thought you were the most likely person to have negotiated with  
7 Mr. Morgan?

8 A. I didn't negotiate with Mr. Morgan.

9 Q. 236 Now, I think if we look at 565, I think Mr. Kean solicitor asked Pilgrim  
11:30:55 10 for a report in relation to the Molloy lands and that report was supplied  
11 in October 1989, isn't that right?

12 A. Yes.

13 Q. 237 You see that on screen, if we look at 566 we see -- he deals with the  
14 planning history on the lands?

11:31:11 15 A. Okay.

16 Q. 238 This was probably a pre-planning or pre-closing inquiry made by Mr. Kean  
17 isn't that right, I think the sale, we saw a moment ago, or the transfer  
18 appears to have been completed in November '89 and this is October '89?  
19 Did you know that Pilgrim were providing that report at that time?

11:31:37 20 A. I can't remember.

21 Q. 239 You say that your initial interest in these lands were for the development  
22 of a restaurant and then you progressed to the concept of an hotel, is  
23 that right?

24 A. Correct, yes.

11:31:52 25 Q. 240 Was it --

26 A. Niall was a hotelier and so was Tom, you know.

27 Q. 241 Was it ever your intention to develop housing on the lands?

28 A. No, not to my knowledge.

29 Q. 242 The reason I ask you that, Mr. Butler, is if we look at 574 there is a  
11:32:08 30 letter to your solicitor Mr. Kean dated 2nd November 1989 from a

11:32:12 1 Ms. Corrigan, who was a tax advisor and came to give you tax advice, do  
2 you understand?

3 A. Yes.

4 Q. 243 And she is referring to a fax message which she has received on the 2nd  
11:32:24 5 November, she says:  
6  
7 "I also refer to my telephone conversation with your secretary before  
8 lunch. As I explained to her, Ciaran had a brief conversation with Niall  
9 Kenny on the telephone prior to Niall's departure for holidays in relation  
11:32:40 10 to the purchase of this property and Ciaran understood that the project  
11 represented a new departure for Niall, John and Tom in that he understood  
12 they wished to acquire a site with development potential on which it was  
13 intended that a housing estate would be constructed." Do you see that?

14 A. That was never any intention of ours at all.

11:33:01 15 Q. 244 Would you agree with me that the idea of a restaurant being placed in the  
16 immediate term on this green field site was a non-starter?

17 A. No, I wouldn't agree with that at all.

18 Q. 245 The site was a complete green field site, isn't that right?

19 A. No it was not.

11:33:19 20 Q. 246 There was no construction on the site other than disused stables, isn't  
21 that right?

22 A. No there was a cottage, there was stables, a fabulous courtyard there,  
23 there was lunging rings, there was a barn and there was several buildings.

24 Q. 247 Now, in relation to the Morgan lands, the adjoining Morgan lands, there  
11:33:43 25 was nothing -- well what was on the Morgan lands?

26 A. Green field.

27 Q. 248 Yes. And I think Mr. Murnaghan acquired those lands in trust for you,  
28 isn't that right, if we look at 582, this is the transfer of the 22nd  
29 December 1989 of the Morgan lands in consideration of a payment of 50,000  
11:34:06 30 pounds?

- 11:34:09 1 A. I believe so, yeah.
- 2 Q. 249 And you see the contract in relation to those lands, although it's only  
3 signed by the purchaser Mr. Murnaghan at 1381 it's a transfer from  
4 Mr. Morgan to you, no address given, for 50,000 pounds, with the deposit  
11:34:26 5 of 5,000 pounds, 10 per cent deposit, do you see that?
- 6 A. Yes.
- 7 Q. 250 And Mr. Murnaghan has given evidence to the effect that in 1993, if we can  
8 have 1445, in writing up a manuscript of his involvement with you in  
9 relation to the matter, that's the consortium, if you look at this third  
11:34:50 10 item there, 27th November he says "Returning contracts duly signed and  
11 forwarding cheque 25,000 pounds balance of deposit, amendments made to  
12 contract", do you see that?
- 13 A. Yes.
- 14 Q. 251 What can you tell the Tribunal about a 25,000 pounds as opposed to 5,000  
11:35:09 15 pounds deposit being paid in relation to these lands?
- 16 A. I don't know, I had nothing to do with paying that money. I was away at  
17 the time.
- 18 Q. 252 Yes. Mr. Murnaghan, in evidence, said that he regarded this as the 50,000  
19 as very small consideration for this land at this time?
- 11:35:36 20 A. I believe it wasn't, the land at the time was land-locked. From what I  
21 remember we had a right-of-way, an agricultural right-of-way, that was the  
22 only access to the lands.
- 23 Q. 253 Mr. Murnaghan, in evidence, said in addition that he took the unusual step  
24 of having a statutory declaration prepared because as he understood it,  
11:36:12 25 the manner which you came to acquire the lands was unusual and you didn't  
26 give him a lot of information about it, that is the consortium didn't give  
27 him a lot of information about it, and he refers to a draft statutory  
28 declaration which he says he had prepared at that time and we see it at  
29 1378.
- 11:36:34 30

- 11:36:34 1 Did you know that Mr. Murnaghan had reservations at that time about the  
2 manner which you were negotiating or acquiring these lands at this time?
- 3 A. I didn't, because Niall and Tom were dealing with them.
- 4 Q. 254 He has also said in evidence that the instructions to enter into this  
11:36:50 5 contract for 50,000 pounds came from all three of you, although it was  
6 Mr. Kenny who advised him that the purchase price was 50,000 pounds?
- 7 A. Well, it would have been Mr. Kenny and Mr. Williams were dealing with him,  
8 I wasn't.
- 9 Q. 255 And again can you tell the Tribunal why it was necessary for Mr. Murnaghan  
11:37:12 10 to take the conveyance of these properties in trust?
- 11 A. I don't know.
- 12 Q. 256 Had there been any discussion amongst the three of you concerning who  
13 would acquire these lands at this time or what entity would own the lands?
- 14 A. Well, the only thing I can think of, and this is complete -- that I can  
11:37:33 15 think of, was that it may have been that we were trying to put it in a  
16 company that would be tax efficient. Now, that's a complete guess.
- 17 Q. 257 Now, just in relation to the source of funds for this and the other land,  
18 if I could have 1553, this is a bank statement, it's very poor quality I'm  
19 afraid, Mr. Butler, so you will have to forgive me, but it appears to be a  
11:38:00 20 statement of an account 01795-157, do you see that at the very top?
- 21 A. Okay, yes I can read that, yes.
- 22 Q. 258 The statement appears to be issued to John Butler esquire, care of the  
23 Courtyard Restaurant, do you see that?
- 24 A. Yes.
- 11:38:17 25 Q. 259 Although Mr. Kenny's name appears on the account, it seems to be  
26 something, something number 2 account?
- 27 A. Yeah, it says Niall Kenny. John Butler up on top.
- 28 Q. 260 Thomas Williams and Niall Kenny number 2 account?
- 29 A. Where is Thomas Williams?
- 11:38:37 30 Q. 261 Do you see Niall Kenny number 2 account?

- 11:38:39 1 A. Yes.
- 2 Q. 262 If you just go above that would you agree the first word is John, just  
3 above the word Niall?
- 4 A. Yes.
- 11:38:45 5 Q. 263 And then if we move over?
- 6 A. Butler it looks like.
- 7 Q. 264 Then you see the word Thomas?
- 8 A. Where is Thomas? Oh, yes, yes continuing on from me, yes.
- 9 Q. 265 So would it be fair to say, Mr. Butler that that probably reads John  
11:39:01 10 Butler, Thomas Williams, Niall Kenny number 2 account?
- 11 A. Yes.
- 12 Q. 266 And was that an account held in 1989 in Allied Irish Banks in Donnybrook?
- 13 A. Yes, it must have been.
- 14 Q. 267 Was the source of the funds for that account, what were the source of the  
11:39:20 15 funds for that account, can you recall?
- 16 A. It would have been from the Courtyard.
- 17 Q. 268 And I think that there appears to be a debit there of the 2nd December  
18 1989 of 150,000 pounds, and can the Tribunal take it that that's a debit  
19 to fund the acquisition of either the Molloy or the Morgan lands?
- 11:39:43 20 A. Yes. There is -- what's the balance on it, can you read the balance on  
21 it? I think the balance.
- 22 Q. 269 I think the balance appears -- what I can do, Mr. Butler, is try and give  
23 you the original of the document as received by the Tribunal over the  
24 break and you might have a look at it?
- 11:40:10 25 A. If it was a debit of 150 I presume, you know, I'm just again guessing, I  
26 can't -- I'm sure it was for, relating to the land.
- 27 Q. 270 Yes. If we look at 1555 this is another account, this time it is an  
28 account number either 0 or 9, 1795-07 -- possibly 4 or 5, do you see that  
29 up at the top?
- 11:40:46 30 A. Yes.

- 11:40:46 1 Q. 271 And this is an account, the statement goes to John Butler Esquire, care of  
2 the Courtyard Restaurant and then again it appears to be a Butler, Thomas  
3 Williams, Niall Kenny, is it a current account?  
4 A. Current account, yeah.
- 11:41:04 5 Q. 272 And if we look at that account we see two debits one on the 21st December  
6 and the other on the 5th January, one for 25,000 pounds and the second for  
7 25,000 pounds, do you see that?  
8 A. Yes, yes.
- 11:41:23 9 Q. 273 Sorry both debits appear to be on the 21st December and the balance  
10 outstanding on the 5th January is 50,000 taking account of the two, 25  
11 debits, isn't that right?  
12 A. Yes.
- 13 Q. 274 And again can you assist the Tribunal in the source of the funds for that  
14 debit?  
11:41:39 15 A. I don't know the source of funds.
- 16 Q. 275 And account Tribunal --  
17 A. But it would have either been from the Courtyard or by way of overdraft, I  
18 didn't deal with that, Tom Williams dealt with that, with the finances,  
19 yeah.
- 11:41:56 20 Q. 276 But in any event by late 1989, would it be fair to say that the Molloy and  
21 Morgan hands had each been acquired and had been transferred to the name  
22 of Mr. Murnaghan and Mr. Kean, two solicitors and held in trust for  
23 yourself and Mr. Williams and Mr. Kenny?  
24 A. Correct.
- 11:42:15 25 Q. 277 And I think Mr. Dillon, at 583, in early January 1990 was writing, was  
26 being written to sorry by Mr. Williams, concerning the fees he had put in,  
27 isn't that right?  
28 A. Yes.
- 29 Q. 278 If we look at the second paragraph of that letter "It is our opinion that  
11:42:34 30 your invoice for services in relation to the Cloughran Farm is quite

11:42:38 1 unacceptable. I understand that we did promise you full fees in relation  
2 to any purchase subsequent to your efforts re Glasnevin, however this was  
3 based on the understanding that you were to find the property, carry out  
4 the entire negotiations and present us with virtually a fait accompli.

11:42:55 5  
6 However, the situation with regard to the Cloughran Farm is entirely  
7 different. First of all, the property was found by ourselves, the  
8 negotiations with regard to the purchase price etcetera was carried out by  
9 myself" that's Mr. Williams. "You merely confirmed our suspicion that we  
11:43:10 10 should complete the deal".

11  
12 Do you recall a dispute arising in relation to the fees claimed by  
13 Mr. Dillon?

14 A. No, I don't. Tom Williams dealt with that.

11:43:25 15 Q. 279 I think Mr. Dillon was a friend of Mr. Kenny's?

16 A. Yes.

17 Q. 280 And Mr. Collins was a friend of yours?

18 A. Correct.

19 Q. 281 And I think Mr. Williams was here telling Mr. Dillon that in fact you had  
11:43:36 20 found the property yourselves?

21 A. We had found it, yes.

22 Q. 282 Would it be more correct to say that Mr. Collins had found the property  
23 for you?

24 A. I can't remember.

11:43:47 25 Q. 283 Well, I understood you to say that you had said to him if there were any  
26 properties you would have been interested and that he had introduced you  
27 to Mr. Molloy?

28 A. But what I'm saying is that I can't definitely say, but I can guess and  
29 all I am doing is guessing at these things. Like it's 15 years ago, I  
11:44:09 30 can't remember.

- 11:44:10 1 Q. 284 Yes, but he certainly had some role in relation to the acquisition of the  
2 lands?
- 3 A. Oh, yes, oh yeah, no doubt about that.
- 4 Q. 285 And he had a role in relation to finding a purchaser in relation to other  
11:44:21 5 property in 1989 for you, namely the City Quay property which you sold to  
6 Mr. Richardson?
- 7 A. Not in relation to the purchase of it.
- 8 Q. 286 No, in relation to the sale of it?
- 9 A. In relation to the sale of it, yeah. I bought that myself.
- 11:44:36 10 Q. 287 Yes. So he had found lands that you could buy and he had found a  
11 purchaser for lands that you were selling?
- 12 A. Correct.
- 13 Q. 288 Yes. And in January 1990, if we look at 585 I think, there was the  
14 suggestion that a company, Castlebrook Developments Limited, would be  
11:44:55 15 involved, isn't that right, do you see that letter between the two  
16 solicitors Mr. Murnaghan and Mr. Kean?
- 17 A. I was not involved in that at all, I know nothing about that.
- 18 Q. 289 Mr. Murnaghan is advising Mr. Kean solicitor here of the following in  
19 paragraph two.
- 11:45:12 20
- 21 "John Butler has discussed with us Castlebrook Developments Limited and he  
22 we would be obliged if you could please let us have a copy of the  
23 memorandum and articles thereof". Do you still say that --
- 24 A. That is incorrect.
- 11:45:25 25 Q. 290 That's incorrect. Mr. Murnaghan is incorrect in that recollection?
- 26 A. Yes.
- 27 Q. 291 Was there any particular reason why you had two separate solicitors  
28 representing the consortium at this time?
- 29 A. Very much so. Niall fell out with Denis Murnaghan, I don't know why he  
11:45:40 30 fell out, and Kean Solicitors would have been, came from Niall's end of

- 11:45:45 1 it. I had no involvement in the solicitors situation.
- 2 Q. 292 But both solicitors seemed to have been acting at the same time, isn't
- 3 that right, in late 1989?
- 4 A. Well I'm -- I believe so from what I see, but you know, I wasn't -- I was
- 11:46:04 5 aware that there was a transfer going on from one solicitor to the other
- 6 but I couldn't give you dates.
- 7 Q. 293 That's at a later stage, but when you were acquiring the lands in 1989,
- 8 you appear to have been using two different solicitors?
- 9 A. I can't -- I don't know why, I wasn't dealing with them directly.
- 11:46:24 10 Q. 294 And you say that you have no knowledge of this company, Castlebrook
- 11 Developments Limited, even though Mr. Murnaghan appears to suggest in this
- 12 letter that he had discussed the company with you?
- 13 A. I have no recollection of discussing any company, Castlebrook
- 14 Developments, is there any -- who are they?
- 11:46:47 15 Q. 295 I was hoping you could help us, Mr. Butler, since you are referred to in
- 16 that letter in January 1990 as having discussed it, the company with
- 17 Mr. Murnaghan's solicitor?
- 18 A. I'm not -- I have no recollection of that at all.
- 19 Q. 296 Did you have any contact with Mr. Murnaghan or Mr. Kean at this time?
- 11:47:09 20 A. My recollection is that I went in to sign a document in Murnaghan's but I
- 21 had no other discussion with him.
- 22 Q. 297 Did you sign one of the contracts perhaps?
- 23 A. Perhaps.
- 24 Q. 298 And the, neither conveyance has been stamped at this stage, isn't that
- 11:47:27 25 right, the stamp duty outstanding on both conveyances and as far as an
- 26 outside observer is concerned, both properties have been acquired in trust
- 27 by the two solicitors in their own name, isn't that right?
- 28 A. At that stage.
- 29 Q. 299 Yes.
- 11:47:42 30 A. Okay. Yes.

11:47:44 1 Q. 300 I think Mr. Kenny was writing to solicitor Mr. Kean at 604, advising him  
2 that he didn't want to be involved as a director or shareholder and didn't  
3 want to have, he wished to have a nominee hold the shares on his behalf as  
4 he did not wish to be publicly identified with the project in any shape or  
11:48:04 5 form, do you see that letter?

6 A. I do, yeah.

7 Q. 301 Did you discuss with Mr. Kenny his reasons for wishing to be, not to be  
8 associated with the venture?

9 A. I can't recall.

11:48:23 10 Q. 302 And I don't think Mr. Kenny is registered as a director or shareholder of  
11 any of the companies involved with the restaurant in Donnybrook, is that  
12 right, either --

13 A. Correct yeah, that's correct, yeah.

14 Q. 303 Now, Mr. Kean I think declared that he held the property in trust, isn't  
11:48:40 15 that correct? If we look at 605, but the trust is in favour of  
16 Mr. Murnaghan, solicitor. You see that trust dated the 13th June 1990, if  
17 you look at paragraph three, he says "I say that the property referred to  
18 in the said deed has been purchased by me in trust for Denis Murnaghan. I  
19 say that I have no legal or equitable interest in the property nor have I  
11:49:04 20 any claim either legal or equitable in the said property".

21 A. I don't know anything about that.

22 Q. 304 You know nothing about this?

23 A. I know nothing about this, no.

11:49:16 25 CHAIRMAN: Right Mr. Quinn we are just going take a short ten minute  
26 break.

27

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

29 **AND RESUMED AGAIN AS FOLLOWS.**

11:49:31 30

- 12:10:42 1 CHAIRMAN: Now, good afternoon, Mr. Butler.
- 2 Q. 305 MR. QUINN: Good afternoon, Mr. Butler. Before the break I think we were
- 3 discussing your acquisition of these lands?
- 4 A. Yes.
- 12:10:52 5 Q. 306 And we were in 1990, isn't that right?
- 6 A. 1990, yes.
- 7 Q. 307 And I think the lands were still being held in trust throughout 1990,
- 8 isn't that right, for yourself and Mr. Williams and Mr. Kenny, isn't that
- 9 right?
- 12:11:04 10 A. I believe so.
- 11 Q. 308 And I think if we look at 610, we see Ms. Corrigan on the 6th September
- 12 1990 was giving you some tax advice in relation to the structure which
- 13 might hold the lands, isn't that correct?
- 14 A. Yes.
- 12:11:17 15 Q. 309 And I think at that stage she was recording your expectation to shortly
- 16 apply for planning permission for an hotel, conference centre and leisure
- 17 facilities on the lands, isn't that right, we see it in the first
- 18 paragraph?
- 19 A. Yes, but I personally wasn't dealing with that.
- 12:11:32 20 Q. 310 You weren't dealing with that?
- 21 A. No.
- 22 Q. 311 Do you know anything about her efforts in relation to that application?
- 23 A. All I know is that she -- I met Ciaran Corrigan I believe, maybe with Ann,
- 24 once and then two boys were dealing with it after that.
- 12:11:50 25 Q. 312 And I think in September 1990 her suggestion, or one of her suggestions if
- 26 you go to 613, was that the consortium might use a Cypriot company, isn't
- 27 that right?
- 28 A. Yes.
- 29 Q. 313 Might consider using a Cypriot company, isn't that right?
- 12:12:07 30 A. Yes.

- 12:12:07 1 Q. 314 I think as we go forward in the correspondence 1462 in particular in  
2 October 1990, she firmed up on the whom concept of a Cypriot company being  
3 used and the advantages of such a company or such structure being used to  
4 hold the land, isn't that right? And I think in time, if we go to 624,  
12:12:25 5 she was being advised of such a company, namely a company entitled  
6 Silverstone Investments Limited, do you recall that company being proposed  
7 as a company which would hold these lands?
- 8 A. I don't.
- 9 Q. 315 Yes. That was a company that appears to have been incorporated on 27th  
12:12:41 10 March 1989 and she was being advised from abroad on the 6th November 1990  
11 that this company was available, and I think there was discussions  
12 involving some of the consortium and Ms. Corrigan and the Central Bank in  
13 relation to the possibility of the property being transferred to this  
14 company?
- 12:13:01 15 A. I was aware that they were talking to the Central Bank or had written to  
16 the Central Bank, I don't know which.
- 17 Q. 316 And in fact they both discussed the prospect and wrote to the bank in  
18 relation to the matter, you can see at 653 a letter in July 1991 to the  
19 bank, where this company was being identified as a company which might be  
12:13:26 20 involved, isn't that right?
- 21 A. Yes, you can see from the top there Niall Kenny and Tom Williams.
- 22 Q. 317 If we go to the next page then 654 under the heading "non-resident  
23 investors", I think you were being identified as a non-resident investor  
24 and as someone who had invested 250 pounds CYP, which I presume is Cypriot  
12:13:47 25 money?
- 26 A. Yes.
- 27 Q. 318 And further loan not exceeding 70,000 pounds. And I think there was  
28 another entity Associated Business Consultants Limited identified as  
29 non-resident investor?
- 12:14:01 30 A. That I don't recall at all, I don't know who they were.

- 12:14:06 1 Q. 319 You were never consulted about any of that is that what you are saying?
- 2 A. No I was -- I knew -- the reason that I was given, I think there was
- 3 exchange control if I'm correct, it's only a guess again.
- 4 Q. 320 That's correct.
- 12:14:19 5 A. It was to address exchange control.
- 6 Q. 321 Yes.
- 7 A. The only thing I know is that we were turned down, that was my, the extent
- 8 of my involvement in it.
- 9 Q. 322 Yes. We have saw a moment ago Ms. Corrigan being advised of the existence
- 12:14:41 10 of that company in that correspondence in 1991, isn't that right, 624 --
- 11 sorry in November 1990?
- 12 A. Yes.
- 13 Q. 323 Now, if we go forward to the 8th October 1991 at 669, I think that
- 14 Ms. Corrigan is writing to the Central Bank exchange control department in
- 12:15:02 15 relation to Silverstone Investments Limited, isn't that correct?
- 16 A. Yes.
- 17 Q. 324 If we go to 670, I think she is advising the Central Bank that John Butler
- 18 had invested the equivalent of 250 pounds CYP and advance loans of 70,000
- 19 pounds, had you advanced 70,000 pounds worth of loans to Silverstone
- 12:15:21 20 Investments Limited?
- 21 A. John Butler?
- 22 Q. 325 Yes.
- 23 A. No.
- 24 Q. 326 She says that the funds originated from an account maintained by
- 12:15:30 25 Mr. Butler in the State and she attaches a certificate in relation to the
- 26 matter, do you know anything about that, Mr. Butler?
- 27 A. No. Unless it was one of the accounts that you have previously shown to
- 28 me, which would be an account --
- 29 Q. 327 One of the accounts held with Mr. Williams an Mr. Kenny, is it?
- 12:15:50 30 A. Yes, yeah.

- 12:15:51 1 Q. 328 And she says, do you see the next paragraph "Our clients, having acquired  
2 interests in Silverstone Investments Limited in March 1989" do you that?  
3 A. Yes.
- 4 Q. 329 Would it be fair to say you had not acquired any interest in Silverstone  
12:16:04 5 Investments Limited in March 1989?  
6 A. I don't know.
- 7 Q. 330 Well, if for example we revert to 624 and we see her being advised in  
8 November 1990 of the entity Silverstone Investments Limited, can we take  
9 it that you weren't, or you hadn't acquired an interest in that company in  
10:16:21 10 March 1989?  
11 A. I don't know. It could have been a company formed that I signed the  
12 documents of, I just don't know.
- 13 Q. 331 Yes. Would it be fair to say that both yourself and your partners were  
14 very anxious that this venture, the acquisition of these lands would be  
12:16:40 15 maintained in a company or an entity which wouldn't be associated directly  
16 with your obviously associated with you, isn't that right?  
17 A. Could you repeat that, I don't know what you mean by that, just to clarify  
18 that?
- 19 Q. 332 Yes, okay. I'll rephrase that.
- 12:16:58 20 A. Yes.
- 21 Q. 333 That whoever owned the lands, it was intended that it wouldn't be  
22 yourself, Mr. Williams and Mr. Kenny, that would be the obvious owners of  
23 those lands.
- 24 A. I'm not sure on that one.
- 12:17:19 25 Q. 334 Well, you weren't registered.
- 26 A. I mean as far as I was concerned we were looking to the accountants to  
27 give us the most tax efficient way of using the lands.
- 28 Q. 335 Yes. But any search of any register or any, of the Land Registry or the  
29 Registry of Deeds wouldn't disclose yourself, Mr. Williams and Mr. Kenny  
12:17:45 30 as owners of the lands in 1990 or 1991. The owners would have been

- 12:17:51 1 Mr. Kean and Mr. Murnaghan, isn't that right?
- 2 A. I believe so, yes.
- 3 Q. 336 Now, in 1991 I think, you set about having plans prepared and you
- 4 instructed Pilgrim in relation to that, if we look at 1386 I think Pilgrim
- 12:18:10 5 wrote to you outlining the, their proposals for an outline planning report
- 6 in relation to the lands. And if we look at 1387, a document dated 20th
- 7 August 1991, it shows the proposal for a seven story hotel and a 12 and a
- 8 half acre element comprising a mix of uses complimentary to the hotel.
- 9 A. Yes.
- 12:18:44 10 Q. 337 Were you aware of that?
- 11 A. I was aware of that, yes. This was the vision.
- 12 Q. 338 Yes.
- 13 A. That we were, you know, we aspired to a lot of things then, you know.
- 14 Q. 339 If we look at 1402 the accompanying documentation, disclosed the identity
- 12:19:02 15 of the client as Denis Murnaghan, do you see that?
- 16 A. I do.
- 17 Q. 340 And was the planning, was it intended that the planning application would
- 18 be made in Mr. Murnaghan's name?
- 19 A. I'm not -- I don't know.
- 12:19:14 20 Q. 341 And the maps that that refers to appear to have been dated February '91,
- 21 do you see that?
- 22 A. Yes.
- 23 Q. 342 So would it be fair to say that between February '91 and August '91,
- 24 Pilgrim were engaged in a process of preparing proposals for a planning
- 12:19:31 25 application comprising a 7 story hotel, which included bedrooms, 160
- 26 bedrooms, a conference suite, restaurant, bar, lounge, etcetera, together
- 27 with 12 and a half acres of a mixed uses complimentary to that?
- 28 A. How many acres?
- 29 Q. 343 12 and a half acres, if we look at 1387?
- 12:19:53 30 A. Yeah, okay. Yes, I would -- like Niall was dealing with that, Niall and

- 12:20:15 1 Tom were dealing with that, I know we were -- the intention was to go for  
2 as much as we could on the site.
- 3 Q. 344 Yes, of course the site he was zoned B at that stage, a matter or a fact  
4 identified in that report at 1389 and B was an objective to provide and  
12:20:32 5 protect further development of agriculture?
- 6 A. Yes.
- 7 Q. 345 Whilst it provided for agricultural development only, nonetheless one of  
8 the uses which was open for consideration was a hotel use, isn't that  
9 right?
- 12:20:49 10 A. Correct.
- 11 Q. 346 Were you involved in any of the negotiations with the planners in relation  
12 to your proposals?
- 13 A. No.
- 14 Q. 347 And at 1388, Pilgrim are advising that the application and in particular  
12:21:02 15 the hotel site had been the subject of lengthy discussions with officers  
16 of the planning sanitary services and roads forward planning departments  
17 on technical, policy and other matters during the last six months, that  
18 was -- this was prepared in August '91?
- 19 A. August '91, yeah.
- 12:21:21 20 Q. 348 Who was involved in those discussions with the planners?
- 21 A. I would believe, again I don't know, it would have been Pilgrim.
- 22 Q. 349 On your behalf?
- 23 A. Yes, and if anybody from our side, it would have been Niall and Tom, but I  
24 can't say that, I mean I don't know.
- 12:21:48 25 Q. 350 And I think that adjoining owners, Aer Lingus I think or Aer Rianta had  
26 been in contact with you in relation to their lands and you wrote to the  
27 consultants for Aer Rianta in February of 1992 in relation to discussions  
28 you had had with them, isn't that right? If we look at 753, this is a  
29 letter of the 13th February '92?
- 12:22:16 30 A. Yes.

12:22:16 1 Q. 351 It's signed John Butler Scafform Limited, do you see that?  
2 A. Yes.  
3 Q. 352 It says.  
4  
12:22:21 5 "Thank you for your letter of the 27th. I have since discussed the  
6 proposition with my co-owners of the property and we would be delighted to  
7 cooperate with the scheme provided that the following conditions are met.  
8  
9 1. That Aer Rianta would give permission for the proposed road up to from  
12:22:37 10 the roundabout. This would also serve to open up their own land.  
11  
12 2. That Aer Rianta or Aer Lingus would not object to planning permission  
13 for our development which I indicated to you.  
14  
12:22:45 15 3. That they would provide a piped drain where it goes through our  
16 property of sufficient size to take surface water from the development."  
17 A. Yes.  
18 Q. 353 Were you in discussions with Aer Rianta in relation to the --  
19 A. I remember having a meeting with Aer Rianta.  
12:23:06 20 Q. 354 Who else attended that meeting?  
21 A. I believe just Tim.  
22 Q. 355 That's Mr. Collins?  
23 A. Tim Rowe.  
24 Q. 356 Tim Rowe?  
12:23:07 25 A. Sorry Tim Rowe the architect.  
26 Q. 357 Yes.  
27 A. Yes.  
28 Q. 358 And were Aer Rianta looking for certain concessions from you as adjoining  
29 landowner on their proposed development on their site?  
12:23:19 30 A. Aer Rianta kind of wrote us off at that meeting, that's my recollection of

12:23:23 1 it. They showed us basically what they considered was a red alert area  
2 that had been drawn in, in pencil or in crayon over our site and said you  
3 can't do anything there, we walked out that have meeting saying well this  
4 is a bad situation.

12:23:45 5 Q. 359 Had you been hoping to negotiate a trade off for a development of your  
6 site for the development of their site?  
7 A. Well, we were -- it was an investigative meeting and it wasn't a trade off  
8 as such, it was what can we do around here that will compliment the whole  
9 lot, we want to build a hotel, what would compliment that, what do you  
10 call it, that section of land, if you look at the map it's kind of goes up  
11 to the main road at the -- they were between us and the end of that  
12 training runway.

13 Q. 360 Who had sought that meeting?  
14 A. I believe it was -- again I don't know, I believe it was Tim.

12:24:33 15 Q. 361 Mr. Rowe?  
16 A. Mr. Rowe, I believe so, I can't say for sure but --

17 Q. 362 Now, we know that in August '91 you had outlined planning report produced  
18 which I showed a moment ago which is 1386 of the brief and it was your  
19 intention at that stage notwithstanding the zoning, the agricultural  
12:24:53 20 zoning on the lands to make application for the hotel and ancillary  
21 facilities, isn't that right?  
22 A. Correct, yeah.

23 Q. 363 That application was never lodged, isn't that correct?  
24 A. Could you repeat that, it was never lodged?

12:25:12 25 Q. 364 Did you ever apply for planning permission for a hotel on this site?  
26 A. I don't think so. I don't know, it was our intention to apply for it,  
27 that's all I know, you know.

28 Q. 365 And certainly that was your intention in August '91, and I suggest to you  
29 it was your intention in December '91 or November '91 because it we look  
12:25:39 30 at 725, at a meeting with the Central Bank, you weren't in attendance at

12:25:48 1 this meeting, Mr. Butler, but you will see Mr. Kenny advised that the  
2 Cloughran site would be the subject affidavit planning application and  
3 there would almost certainly be objections and that consequently  
4 development of the site would not commence for roughly 12 months. So by  
12:26:01 5 November '91 it was still your intention apply for permission?  
6 A. I believe so, it was always our intention. You caught me when you said we  
7 didn't apply.  
8 Q. 366 It was your intention, and then you had your meeting with Aer Lingus or  
9 Aer Rianta, isn't that right?  
12:26:15 10 A. Aer Rianta.  
11 Q. 367 And they wrote you off, you say?  
12 A. Yes.  
13 Q. 368 And eventually --  
14 A. They were very arrogant in their approach, totally -- you know, who are  
12:26:24 15 you, you are not entitled to be here, that sort of attitude, you know.  
16 Q. 369 Ok. And then I think by early '93 you were meeting Mr. Dunlop in relation  
17 to the possible rezoning of the site?  
18 A. Yes.  
19 Q. 370 So would it be fair to say that in, throughout '91 it was your intention  
12:26:38 20 to make application for planning permission for an hotel?  
21 A. Yes.  
22 Q. 371 You had the meeting with Aer Rianta or Aer Lingus?  
23 A. Yes.  
24 Q. 372 They were not supportive of your proposals for the site?  
12:26:47 25 A. Absolutely not.  
26 Q. 373 And then no application was put in for an hotel or ancillary facilities  
27 and early '93 you decided to have the site rezoned?  
28 A. Yes.  
29 Q. 374 Now, can I ask you why you didn't apply for permission, was it because of  
12:27:04 30 the feedback from Aer Lingus/Aer Rianta at that meeting in '92?

12:27:13 1 A. I don't know, but I presume it was on the advice of the architects.

2 Q. 375 Mr. Rowe.

3 A. Mr. Rowe.

4 Q. 376 Or Mr. Collins?

12:27:19 5 A. Yes, I presume, that's a presumption.

6 Q. 377 So would it be fair to say that Pilgrim, that is Mr. Rowe, Mr. Collins,

7 were advising you in relation to the potential for this site and in 1991

8 their advice was that whilst it was zoned agricultural, nonetheless an

9 application for a hotel etcetera would be open for consideration and you

10 might get it, and at some stage after November '91, you had this meeting

11 with the representatives of Aer Rianta and Aer Lingus. Nothing came of

12 that meeting, in fact it was a very unsatisfactory meeting from your point

13 of view and no application was lodged thereafter?

14 A. Yes.

12:27:55 15 Q. 378 And that at some stage it was decided or you were advised that it would be

16 necessary to change the zoning on the site?

17 A. Yes.

18 Q. 379 And all of this advice was coming through to you from Pilgrim, namely

19 Mr. Rowe and Mr. Collins?

12:28:18 20 A. Yes. I would say Mr. Rowe, not Mr. Collins, because he wouldn't have been

21 familiar with that type of thing.

22 Q. 380 Had Mr. Collins any role to play in this period '91/'92?

23 A. I don't believe so.

24 Q. 381 Now, there is an entry in Mr. Dunlop's diary, sorry telephone attendance

12:28:25 25 for the 11th January 1993 at 798, you will have seen this in the brief?

26 A. Mr. Dunlop's, yes.

27 Q. 382 Yes, this is Mr. Dunlop's telephone attendance, Mr. Butler, you will see

28 there at 10:13 on the morning of the 11th January Mr. Tim Collins rings

29 and advises Mr. Dunlop that he is in the office and then at 11:05 there is

12:28:47 30 a message "Tim Collins wants to set up a meeting on Wednesday at 10

12:28:50 1 o'clock, himself and John Buckley", but Mr. Dunlop said it is John Butler,  
2 do you see that?

3 A. Yeah, I do.

4 Q. 383 And if we move to page 800 of the brief, this is an extract from Mr.  
12:29:03 5 Dunlop's diary for Wednesday 13th and he has an entry top right hand  
6 corner and it says "10 o'clock John Butler and Tim Collins re lands at  
7 airport", do you see that?

8 A. Yes.

9 Q. 384 And Mr. Dunlop's evidence to the Tribunal has been that Mr. Collins  
12:29:20 10 brought you to that meeting with him on the 13th?

11 A. That's not correct.

12 Q. 385 Okay. I suppose you better tell the Tribunal, Mr. Butler, of your  
13 recollection of your meeting?

14 A. My recollection it have is very simple; I met Mr. Dunlop, we were at a  
12:29:39 15 meeting in Ambrose Kelly's office because at that time Pilgrim had been  
16 taken over by Ambrose Kelly, I think that's what -- and Tim Rowe and Tim  
17 Collins were in that office. I went to a meeting in that office and I  
18 can't remember whether Niall and Tom were there. In fact they weren't  
19 because Mr. Dunlop passed the window, there were open windows and Tim  
12:30:10 20 Collins said I want to introduce to you this man.  
21  
22 So I went out, I was introduced to him, it was very brief, and I don't  
23 remember the sequence of it, but I either went back to Tom and Niall and  
24 said look this is a man who is a lobbyist and we should use him because  
12:30:35 25 the timing was very, very late that we decided go for rezoning, there  
26 wasn't much time left.  
27  
28 The next time I met Frank Dunlop was down at the hotel beside the council  
29 offices. I have no recollection of ever being in his office. I believe  
12:30:56 30 Niall and Tom were, but not me.

12:31:01 1 I met him at the hotel beside the council offices in O'Connell Street, I  
2 don't recall the name of the hotel it's --  
3 Q. 386 The Royal Dublin I think.  
4 A. That's it. That's it. Yeah. I met him there and he gave me a few pages  
12:31:24 5 with all the councillors names on it, a picture of the councillors and  
6 what party they belonged to, if any.  
7  
8 My recollection of employing Frank Dunlop was to introduce us to the  
9 councillors. Between the three of us we knew very few councillors. This  
12:31:57 10 he did and he did a very good job I have to say, he introduced us to all  
11 the councillors or got meetings with them. I remember one in particular  
12 with Pat Rabbitte and the reason I remember it is he said our development  
13 was great but he wasn't going to -- very shortly he cut me off as well and  
14 said I'm not going to support you, in his office in the council offices,  
12:32:24 15 in the chairman's office  
16 Q. 387 Can I just go back a moment, Mr. Butler, if I may?  
17 A. Yeah.  
18 Q. 388 You have described your first meeting with Mr. Dunlop as a meeting which  
19 you say took place by chance in the offices of Ambrose Kelly?  
12:32:34 20 A. Yes, an introduction, it wasn't a meeting, yes.  
21 Q. 389 Yes. And you hadn't gone to the Ambrose Kelly's office to meet by prior  
22 appointment with Mr. Dunlop, you happened to be there?  
23 A. Correct.  
24 Q. 390 You were there with Mr. Rowe and Mr. Collins?  
12:32:47 25 A. Correct.  
26 Q. 391 And you were presumably there in relation to your development at  
27 Cloughran?  
28 A. Correct.  
29 Q. 392 And your discussions in relation to that development had to have been in  
12:32:56 30 the context of your proposals to build an hotel etcetera on the site?

- 12:33:01 1 A. Correct.
- 2 Q. 393 And that was going nowhere, isn't that right, in 1991 you had been
- 3 preparing to lodge plans in relation to it, those plans had never been
- 4 lodged, you had your very unsuccessful meeting with Aer Rianta or Aer
- 12:33:16 5 Lingus?
- 6 A. Correct.
- 7 Q. 394 And at some stage you suggested or intimated Mr. Rowe you thought
- 8 suggested that the way forward might be to change the zoning on the site?
- 9 A. I believe so.
- 12:33:26 10 Q. 395 Yes. And at that meeting with Mr. Rowe and Mr. Collins, were you
- 11 discussing the change of zoning on the site?
- 12 A. I can't remember.
- 13 Q. 396 Well, would you agree you were hardly discussing a planning application?
- 14 A. No, no, what would happen -- you see I would have to play catch up all the
- 12:33:50 15 time because I'd come in from the UK or, you know, I think it was mainly
- 16 the UK because I had businesses over there. And I was very busy over
- 17 there, we did things like the British Open Golf and all this sort of thing
- 18 which was a very hands on business. Now, I would come in and do what I
- 19 could when I was here.
- 12:34:04 20 Q. 397 Yes.
- 21 A. So that was probably one of those meetings, a catch up meeting.
- 22 Q. 398 Now, you had this site, you had bought this site, you had intended to
- 23 develop this site, no development was taking place, you were no nearer
- 24 getting planning and it was suggested to you that you might take advantage
- 12:34:20 25 of the review which was under way in relation to the Development Plan to
- 26 improve the zoning on the site?
- 27 A. Yes.
- 28 Q. 399 And an industrial zoning would be far more favourable and much more likely
- 29 to give you the planning that you required on the site?
- 12:34:32 30 A. I think so, I think you are correct in that, that's an assumption but I

- 12:34:36 1 think you are correct.
- 2 Q. 400 And you were discussing this with Pilgrim who had at this stage been taken
- 3 over by Ambrose Kelly?
- 4 A. Yes.
- 12:34:43 5 Q. 401 And your contact s within Pilgrim were Mr. Collins and Mr. Rowe?
- 6 A. Correct.
- 7 Q. 402 Mr. Collins an old friend of yours and Mr. Rowe the architect?
- 8 A. Yes.
- 9 Q. 403 And you were meeting with them, you can't say when, but at a meeting
- 12:34:57 10 involving a discussion on the rezoning of the lands, the contribution of
- 11 Mr. Collins to that meeting was to introduce to you Mr. Dunlop?
- 12 A. Yeah. There was a window, like a glass window and he passed, he said I'll
- 13 introduce you to that man.
- 14 Q. 404 He brought Mr. Dunlop to meet with you?
- 12:35:15 15 A. Mr. Dunlop was going in to see somebody else, I don't know, it was very
- 16 brief.
- 17 Q. 405 What did Mr. Collins, how did Mr. Collins introduce to you Mr. Dunlop?
- 18 A. God I can't remember.
- 19 Q. 406 Did he introduce you as somebody who had an interest in lands in North
- 12:35:29 20 County Dublin that required rezoning in review of the Development Plan?
- 21 A. I can't remember but I presume something like that.
- 22 Q. 407 What did Mr. Collins tell you Mr. Dunlop could do for you?
- 23 A. Mr. Dunlop could introduce us to all the, all of the councillors.
- 24 Q. 408 All of the councillors?
- 12:35:44 25 A. Yes.
- 26 Q. 409 Now, I know you said you will very little contact with any of the
- 27 councillors but I think you have agreed with me this morning that you had
- 28 been yourself involved to some limited extent within Fianna Fail going
- 29 back to 1988 and probably prior to that?
- 12:35:58 30 A. Without a doubt, way prior to that.

- 12:35:59 1 Q. 410 Way back. And that involvement had been with Mr. Collins?
- 2 A. No. I met Mr. Collins again you know on the, when he was involved with
- 3 Pilgrim, but I hadn't seen him for years, I had known him in the '70s I
- 4 think, 1970s when he had a business --
- 12:36:16 5 Q. 411 No but we are now in the late '80s, isn't that right?
- 6 A. In the late '80s I met him again.
- 7 Q. 412 Yes. Your meeting had been very productive, he had found lands for you in
- 8 North County Dublin and he had found a purchaser for you in relation to
- 9 other lands, isn't that right, namely Mr. Richardson?
- 12:36:33 10 A. Yes.
- 11 Q. 413 And he has been with Pilgrim and he is with project and now he is with
- 12 Ambrose Kelly and they are advising you in relation to your Cloughran
- 13 site?
- 14 A. The project, could you enlighten me on that I am not sure.
- 12:36:48 15 Q. 414 At some stage Pilgrim architect or Ambrose Kelly became project
- 16 architects?
- 17 A. Right okay, I think so, right.
- 18 Q. 415 And you are having a discussion with him about the rezoning of lands but
- 19 you know that he is someone that is like yourself has some involvement in
- 12:37:03 20 politics, isn't that right?
- 21 A. I don't have involvement in politics at all.
- 22 Q. 416 Your involvement is as supporter?
- 23 A. Yes, my father was and, you know, from as long as I can remember.
- 24 Q. 417 Yes. You say you didn't, you didn't know?
- 12:37:20 25 A. I was not political if you like.
- 26 Q. 418 Had Mr. Collins or Mr. Rowe advised you that the review of the Development
- 27 Plan was something that would require the support of councillors, or the
- 28 majority of councillors in Dublin County Council?
- 29 A. Yes.
- 12:37:32 30 Q. 419 And --

- 12:37:33 1 A. Tim Rowe I think it was, Tim Rowe basically dealt with us when the  
2 architectural situation came into being.
- 3 Q. 420 On this particular date, I think Mr. Collins present at your discussions?  
4 A. Yes.
- 12:37:45 5 Q. 421 And by complete chance Mr. Collins identifies Mr. Dunlop to you as someone  
6 who can be of assistance to you?  
7 A. Correct.
- 8 Q. 422 And he introduces to you Mr. Dunlop?  
9 A. Mm-hmm.
- 12:37:56 10 Q. 423 And you have a brief chat with Mr. Dunlop presumably?  
11 A. Yes.
- 12 Q. 424 And did you on your own, off your own bat at that meeting, retain the  
13 services of Mr. Dunlop or did you report back to your other colleagues?  
14 A. I reported back to my other colleagues.
- 12:38:12 15 Q. 425 Okay. Now, when you reported back to your colleagues were you able to  
16 tell them that Mr. Dunlop was someone who had been recommended to you by  
17 Mr. Collins as being of assistance in a possible rezoning of these lands?  
18 A. Yes. In assistance in meeting councillors because he did not, again we  
19 did not know any of the councillors.
- 12:38:30 20 Q. 426 Yes. I appreciate that, before you didn't retain Mr. Dunlop there and  
21 then when you met nipple Mr. Ambrose Kelly's office?  
22 A. No.
- 23 Q. 427 But you knew what Mr. Dunlop could do for you and you knew that he was  
24 someone that was recommended to you by someone you trusted, namely  
12:38:43 25 Mr. Collins?  
26 A. Correct.
- 27 Q. 428 Did you discuss with Mr. Dunlop an outline of the fees that he was likely  
28 to charge for his assistance?  
29 A. No.
- 12:38:51 30 Q. 429 When you were reporting back to your colleagues were you not concerned

- 12:38:54 1 that you should be able to tell them how much this process would cost and  
2 how much Mr. Dunlop would charge?
- 3 A. No because I wasn't, again I wasn't the lead person in this venture  
4 because the guys were at home all the time and I was away.
- 12:39:09 5 Q. 430 Well, when you met up with Mr. Williams and Mr. Kenny did they know that  
6 the lands required to be rezoned?
- 7 A. I believe so.
- 8 Q. 431 And had they discussed the possible rezoning of the lands with Mr. Collins  
9 and Mr. Rowe?
- 12:39:25 10 A. I believe so.
- 11 Q. 432 And had they begun the process of seeking support from the councillors for  
12 the rezoning of the lands?
- 13 A. Yes, I believe so as well.
- 14 Q. 433 That was under way?
- 12:39:36 15 A. I think that was under way.
- 16 Q. 434 And that would have been under way when you met with Mr. Collins and Mr.  
17 Rowe?
- 18 A. I believe so, again I can't, you know, again just giving you my belief, I  
19 can't say for definite somebody could come in and say no.
- 12:39:49 20 Q. 435 Yes. And was Mr. Rowe and Mr. Collins assisting them in that process at  
21 that time?
- 22 A. Mr. Rowe was.
- 23 Q. 436 Yes. And the assistance that would have to be provided at that stage was  
24 assistance with introductions to councillors?
- 12:40:05 25 A. No.
- 26 Q. 437 Well, what was it that Mr. Kenny and Mr. Williams were doing at this time  
27 to facilitate the rezoning of the lands?
- 28 A. We were -- they were working with Tim Rowe.
- 29 Q. 438 Yes.
- 12:40:17 30 A. And they were compiling a whole load of documents to support the rezoning.

- 12:40:35 1 Q. 439 And what were they going to do with the documentation?
- 2 A. What were they -- well, present it to the council I presume.
- 3 Q. 440 But you knew and they knew that it was the councillors that matters isn't
- 4 that right, because it was the councillors that had the vote on the
- 12:40:53 5 rezoning?
- 6 A. Yes, yes.
- 7 Q. 441 So they were in -- deeply involved with Mr. Rowe in preparing
- 8 documentation for the councillors, even though they didn't know the
- 9 identity of any of the councillors or very few of the councillors?
- 12:41:07 10 A. Yes. We didn't know what way, we -- the three of us, would not have any
- 11 experience in how to do this, we were looking for advice on how to do it.
- 12 Q. 442 If we revert now 798 and we take the entries, taken in Mr. Dunlop's
- 13 telephone attendances for that 11th January 1993 attendances, you say that
- 14 that 11:05 attendance on Mr. Collins, where he says he wanted to set up a
- 12:41:35 15 meeting with himself and Mr. Buckley, which Mr. Dunlop has said is you,
- 16 Mr. Butler, that that never happened?
- 17 A. No, never happened.
- 18 Q. 443 And if we look at Mr. Dunlop's diary for the 13th of January 1993 at 800,
- 19 page 800 of the brief, you say that there was never a meeting on the 13th
- 12:41:57 20 between yourself and Mr. Dunlop and Mr. Collins?
- 21 A. No, there was never a meeting.
- 22 Q. 444 Because that meeting you describe the first meeting in Ambrose Kelly's
- 23 office was a chance meeting and not something that one would find in Mr.
- 24 Dunlop's diary, isn't that right?
- 12:42:12 25 A. Correct.
- 26 Q. 445 If we go again to page 801 of the brief, if we look at the diary -- this
- 27 again is a telephone attendance taken from Mr. Dunlop's diary for the 15th
- 28 January, which two days later that the meeting of the 13th, if you look at
- 29 the 3:15 entry he gives the following, records the following:
- 12:42:30 30

12:42:30 1 "John Butler", a number is given, "going ahead, wants to talk with you".  
2 Do you see that?  
3 A. Yes.  
4 Q. 446 Do you recognise that telephone number?  
12:42:40 5 A. Yeah that is Scafform's telephone number.  
6 Q. 447 And again you presumably say that that has no relevance whatsoever to any  
7 discussions you had with Mr. Dunlop or any contact you had with him?  
8 A. It has no relevance to --  
9 Q. 448 Yes, it never occurred you never rang Mr. Dunlop and said --  
12:42:59 10 A. Oh no, I believe I rang Mr. Dunlop and he said he would meet me down at  
11 the council offices.  
12 Q. 449 Yes. He said he would meet you at the council offices?  
13 A. From this now looking at it here now, that it was probably in between this  
14 time, the meeting in Ambrose Kelly's office and this phone call, if that  
12:43:29 15 would be the time that I went back to my partners and said look we need to  
16 do this.  
17 Q. 450 Yes. Did you tell your partners it was Mr. Collins that had recommended  
18 Mr. Dunlop to you?  
19 A. I don't know what I said to my partners.  
12:43:41 20 Q. 451 But in any event, you say there was never a meeting at Mr. Dunlop's  
21 offices attended by yourself and Mr. Collins?  
22 A. No.  
23 Q. 452 And certainly no meeting took place on the 13th January?  
24 A. No meeting took place on the 13th -- now it may, when you say no meeting  
12:43:56 25 took place, certainly no meeting took place in Mr. Dunlop's office. He  
26 may have met me that night down at the hotel, that's the night I am  
27 talking about.  
28 Q. 453 No, no that might have been a later meeting, but the sequence of the  
29 documentation, Mr. Butler, is as follows; on Monday 11th there is a record  
12:44:14 30 of a message being left for Mr. Dunlop from Mr. Collins where Mr. Collins

- 12:44:22 1 asks or seeks to set up a meeting for himself, yourself and Mr. Dunlop for  
2 the Wednesday?
- 3 A. Yes.
- 4 Q. 454 There is on the Wednesday a record in Mr. Dunlop's diary of such a meeting  
12:44:32 5 at 10 o'clock.
- 6 A. Yes.
- 7 Q. 455 And then on the Friday there is a record of a message being left by you  
8 for Mr. Dunlop saying that you were going ahead and you wanted to talk?
- 9 A. There was no meeting with Mr. Dunlop. There was a phone call to Mr.  
12:44:50 10 Dunlop and looking at this piece of paper, it may have been the Friday and  
11 I arranged to meet him down at the council offices at which I have already  
12 told you.
- 13 Q. 456 How long after that Friday meeting would, how long would it have taken  
14 after that?
- 12:45:07 15 A. I don't know. I don't know it could have been the Friday, it could have  
16 been the -- I don't know.
- 17 Q. 457 Well, if we go to the following Monday, the 18th, which is at page 802, if  
18 we look at 803 of the brief, there is a 4:20 note of a phone call from you  
19 to Mr. Dunlop's office, do you see that, John Butler?
- 12:45:28 20 A. Yes.
- 21 Q. 458 If we go to the following Wednesday, the 20th at 806, on the morning of  
22 the Wednesday, there is a 9:45 note of a meeting or a phone call from you  
23 to Mr. Dunlop's office where it's message is moving around, call back at  
24 10:30, do you see that?
- 12:45:44 25 A. Yeah.
- 26 Q. 459 Now, there is no record of a message being received at 10:30 which would  
27 suggest that you made contact with Mr. Dunlop at 10:30?
- 28 A. At 10:30.
- 29 Q. 460 You see the third entry, Mr. Butler, 9.45?
- 12:46:00 30 A. Yeah I see, yes.

- 12:46:03 1 Q. 461 John Butler-moving around call back at 10:30?  
2 A. Yes.  
3 Q. 462 If we go to 10:30 there is no entry showing a missed call as it were?  
4 A. Yes.  
12:46:12 5 Q. 463 You agree with me you can take it from that you made contact with  
6 Mr. Dunlop at 10:30 on the telephone on the 20th?  
7 A. I don't know.  
8 Q. 464 If we go to the Friday that have week, 29th at 816 there is an 11:35  
9 record of a phone call from you to Mr. Dunlop's office, do you see that,  
12:46:33 10 11:45?  
11 A. Yes.  
12 Q. 465 Now, is it your evidence to the Tribunal that at some stage during that  
13 period, in early January or mid January 1993, having met Mr. Dunlop and  
14 Mr. Ambrose Kelly's office and having discussed the possibility of Mr.  
12:46:54 15 Dunlop's involvement with your project you had a further meeting with Mr.  
16 Dunlop in the Royal Dublin Hotel?  
17 A. I didn't discuss anything at the first meeting, it was a brief meeting.  
18 Q. 466 Yes.  
19 A. The next meeting I had with him was down in the Royal Dublin Hotel where  
12:47:12 20 he produced all the documents and told me these were the councillors we  
21 should meet.  
22 Q. 467 Okay. Now, at that second meeting with Mr. Dunlop was Mr. Collins in  
23 attendance at that second meeting?  
24 A. I can't remember.  
12:47:24 25 Q. 468 Was Mr. Williams or Mr. Kenny in attendance at that second meeting?  
26 A. I can't remember that, but I --  
27 Q. 469 Was there anybody in attendance with Mr. --  
28 A. I think they had's have to tell you, it should be obvious because that was  
29 the day I got the pictures, now I may have got the pictures and taken them  
12:47:40 30 back to Tom and Niall or they may have been with me.

- 12:47:43 1 Q. 470 But you met Mr. Dunlop by prior appointment at the Royal Dublin Hotel?
- 2 A. Correct.
- 3 Q. 471 But presumably before Mr. Dunlop produced any pictures, he discussed with
- 4 you the consideration that he would receive for assisting you with your
- 12:47:58 5 project?
- 6 A. I don't believe so.
- 7 Q. 472 Was there any -- was there any discussion about what Mr. Dunlop would gain
- 8 from assisting you with this project?
- 9 A. No to my knowledge. I knew he would require a fee, but to my knowledge
- 12:48:15 10 there was no discussion with me on that.
- 11 Q. 473 With the greatest of respect, Mr. Butler, if I stop there for a second you
- 12 are an experienced businessman, isn't that right?
- 13 A. Yes.
- 14 Q. 474 You are a very successful businessman going over a long period of time,
- 12:48:30 15 you are meeting for the first time or second time and about to engage
- 16 somebody to assist you with the project, isn't that right?
- 17 A. Yes.
- 18 Q. 475 You say that there was no discussion about the terms under which that man
- 19 would provide his services to you?
- 12:48:41 20 A. Not that I am aware of.
- 21 Q. 476 You were at the meeting, isn't that right?
- 22 A. I was at the meeting, yeah but it's 15 years ago.
- 23 Q. 477 I accept that. But it was your second and probably your first detailed
- 24 meeting with Mr. Dunlop and are you saying that there was no discussion
- 12:48:55 25 between the two of you as to how Mr. Dunlop would be paid or as to how
- 26 much he would be paid?
- 27 A. No, there wasn't any discussion.
- 28 Q. 478 And you were prepared to retain him on a basis where you did not know how
- 29 much this man's, he was likely to charge for his assistance?
- 12:49:11 30 A. No. That's not correct.

- 12:49:12 1 Q. 479 It must be the position?  
2 A. Well I, or we, it would not have happened without the discussion with  
3 Niall Kenny and Tom Williams, they were the people that were running this  
4 situation.
- 12:49:30 5 Q. 480 Mr. Dunlop -- Mr. Butler, you are the person who has made the contact with  
6 Mr. Dunlop, isn't that right?  
7 A. Yes.
- 8 Q. 481 And you have been introduced to him by Mr. Collins, did Mr. Collins give  
9 you any indication of what Mr. Dunlop was likely to charge you?
- 12:49:43 10 A. No.
- 11 Q. 482 You don't know if Mr. Collins was with you at this second meeting and you  
12 certainly don't know if Mr. Williams or Mr. Kenny was with you, all you  
13 recall from the second meeting was being provided with a list of  
14 photographs and names of councillors by Mr. Dunlop?
- 12:49:59 15 A. Correct.
- 16 Q. 483 There is no discussion about any further assistance Mr. Dunlop might give  
17 you in relation to the project?  
18 A. No --
- 19 Q. 484 And there is no discussion about a charge by Mr. Dunlop either what his  
12:50:12 20 firm or he would charge by way of assistance for the project?  
21 A. I have -- I have no recollection of that at all, no.
- 22 Q. 485 Leaving aside the fact that you have no recollection, Mr. Butler, would  
23 you agree with me, that it's highly unlikely that you would have retained  
24 Mr. Dunlop or Mr. Dunlop would allow himself to have been retained in  
12:50:33 25 circumstances where there wouldn't have been a discussion about his charge  
26 and how much he was likely, this process was likely to cost you?  
27 A. I would not have gone into that discussion, I believe I wouldn't have  
28 mentioned it at all until my two partners were involved.
- 29 Q. 486 There is an invoice, Mr. Butler, at 1489, it's addressed to you care of  
12:50:57 30 Blackfern Limited, a copy invoice, 1 Belmont Avenue, Donnybrook, invoice

12:51:04 1 number 793 dated 29th January 1993 from Mr. Dunlop and it's in respect of  
2 the provision of public relations consultancy services for two and a half  
3 thousand pounds together with VAT making a total of 3,025 pounds, do you  
4 see that?

12:51:22 5 A. Yes.

6 Q. 487 Mr. Dunlop, if you look at the entry in his books and records if we get  
7 page 818 please, there is written up there a lodgement for 3,025 pounds to  
8 Blackfern Limited, it's about halfway down, could we just highlight it  
9 please on the bottom of what's now on the screen?

12:51:43 10 A. Yes.

11 Q. 488 For 2,500 pounds together with VAT, these are part of Mr. Dunlop's VAT  
12 returns, do you see that?

13 A. 2,751 is that it.

14 Q. 489 No it's 3,025 and to the right of it, do you see it now being highlighted?

12:52:00 15 A. 525.

16 Q. 490 Yes, 525 on the right-hand side?

17 A. Yes sorry I'm with you.

18 Q. 491 If you come across you see 2,500?

19 A. Yes, I see, yes.

12:52:11 20 Q. 492 And if we look at the accounts or the bank statement of Frank J Dunlop of  
21 Dunlop & Associates Limited at 820 we see that on the 29th January 1993  
22 there is a lodgement to Mr. Dunlop's account of 2,500 pounds, just about  
23 two thirds of the way down it, if it could be highlighted please?

24 A. Yes I see it, it's ticked yeah, 2,500, is that right?

12:52:42 25 Q. 493 Yes. Now, if I revert to the invoice at 1489.

26 A. Okay.

27 Q. 494 This is the invoice of the 29th January 1993, you will see marked "paid"  
28 on that invoice?

29 A. Yes.

12:52:57 30 Q. 495 The fact that it was in fact paid on the 29th, do you see that?

- 12:53:02 1 A. Yes.
- 2 Q. 496 Now, can you give any assistance to the Tribunal, Mr. Butler, in relation
- 3 to that invoice, or the possibility of it being paid as a result of a
- 4 receipt by Mr. Dunlop of fees from either you or your partners?
- 12:53:19 5 A. Sorry could you repeat that, can I?
- 6 Q. 497 Can you help the Tribunal, Mr. Butler, in relation to that invoice, did
- 7 you receive the invoice from Mr. Dunlop for example?
- 8 A. No, I didn't, Blackfern did, Tom Williams did probably, you know.
- 9 Q. 498 Why do you think Mr. Williams received it?
- 12:53:37 10 A. Because he hand he would all the accounts.
- 11 Q. 499 If you had received it you would have presumably handed it over to
- 12 Mr. Williams?
- 13 A. No, no. Mr. Williams would have opened all the -- this would have gone to
- 14 the Courtyard Restaurant.
- 12:53:49 15 Q. 500 Well, it could have been handed to somebody, isn't that right?
- 16 A. Well it wasn't handed to me.
- 17 Q. 501 You say Mr. Dunlop never handed you that invoice?
- 18 A. No, he did not.
- 19 Q. 502 Did he ever hand you any invoice?
- 12:54:02 20 A. No.
- 21 Q. 503 Did you ever hand him any cheque or any payment?
- 22 A. No.
- 23 Q. 504 You recall that you felt at one stage that Mr. Dunlop's only payments were
- 24 payments made by way of pick-me-ups at his request to Fianna Fail?
- 12:54:13 25 A. That?
- 26 Q. 505 Remember your very first letter to the Tribunal in March 2001?
- 27 A. Yes.
- 28 Q. 506 When you said that Mr. Dunlop, that the only payments you had made were
- 29 pick-me-up payments made at Mr. Dunlop's request?
- 12:54:25 30 A. Yes.

- 12:54:26 1 Q. 507 Was it your recollection at one time that Mr. Dunlop, that your agreement  
2 with Mr. Dunlop was such that you would actually make pick-me-up payments  
3 on his behalf to Saatchi and Saatchi and on behalf of Fianna Fail?  
4 A. No.
- 12:54:41 5 Q. 508 Why did you tell the Tribunal in March 2001 that, that was in fact the  
6 payment you had made to Mr. Dunlop?  
7 A. What year was that 2001?  
8 Q. 509 2001?  
9 A. I was working on the Olympics in Sydney and I thought there was something  
12:54:54 10 to do with that, but I did not -- that's a complete mistake.  
11 Q. 510 But how could you make such a mistake, Mr. Butler?  
12 A. I wasn't here and I had no access to any documentation, and I thought at  
13 the time that's what happened.  
14 Q. 511 But how -- what led you to believe that that's what happened?  
12:55:18 15 A. I can't recall what led me to believe.  
16 Q. 512 If we have page 13 please, this is your assistance to the Tribunal in  
17 March 2001 you said, having said no payments were made to elected  
18 representatives or public officials.  
19  
12:55:33 20 "However Frank Dunlop did request that we pay an amount due to him by  
21 invoices raised from Saatchi and Saatchi. We believe that this was a bill  
22 owed by the Fianna Fail party."  
23 A. Yes I, you know, I don't -- it had nothing to do with Frank Dunlop.  
24 Q. 513 That's what you say now, Mr. Butler, but that's not what you said in March  
12:55:57 25 2001?  
26 A. I was in Sydney working on the Olympics and to be honest with you it's  
27 very intense work when you are doing that kind of work, I work on the  
28 ground organising all the stuff. And that was my recollection at the  
29 time. When I came back and saw the documentation --  
12:56:14 30 Q. 514 But what led you to are that recollection, Mr. Butler?

- 12:56:17 1 A. I can't say.
- 2 Q. 515 Is it your evidence to the Tribunal that you never discussed payment with
- 3 Mr. Dunlop?
- 4 A. I don't believe I did, I think it was Niall and Tom.
- 12:56:30 5 Q. 516 Is it your evidence to the Tribunal that until Mr. Williams and/or
- 6 Mr. Kenny advised you that a payment had been made by Coopers & Lybrand
- 7 that you were unaware of any payments to Mr. Dunlop?
- 8 A. Oh no, that's -- that's not correct. I would have been aware that he was
- 9 going to get paid, but I did not know when and how.
- 12:56:52 10 Q. 517 Well how did you come to be aware that he was going get paid?
- 11 A. From Niall and Tom.
- 12 Q. 518 And how much was he to be paid?
- 13 A. I don't know.
- 14 Q. 519 Who was to make the payment?
- 12:57:05 15 A. Tom I presume.
- 16 Q. 520 When was the payment to be made?
- 17 A. I don't know.
- 18 Q. 521 Are you seriously telling the Tribunal, Mr. Butler, that you had no
- 19 knowledge of how much Mr. Dunlop was to be paid or when he was to be paid
- 12:57:25 20 in relation to his works?
- 21 A. I am, yes.
- 22 Q. 522 And you say that even though that that invoice at 1489, dated 29th January
- 23 '93 addressed to you --
- 24 A. Yes.
- 12:57:36 25 Q. 523 -- that even though that invoice was addressed to you, you knew nothing
- 26 about that invoice or the payment made on foot of it?
- 27 A. Not until recently, till I saw it in the accounts. But I knew nothing
- 28 about it at the time.
- 29 Q. 524 And you were the first contact with Mr. Dunlop and in fact --
- 12:57:56 30 A. Not after the initial introductions. I was away then.

- 12:58:00 1 Q. 525 No, the initial introduction was in Mr. Ambrose Kelly's office?  
2 A. Not after the first contact, exactly.
- 3 Q. 526 Then you went to your partners, then you came back to Mr. Dunlop and you  
4 met him in the Royal Dublin Hotel?
- 12:58:12 5 A. Yes.
- 6 Q. 527 And presumably there were other contacts with Mr. Dunlop, but certainly  
7 those first two --
- 8 A. Niall may have been there, I can't remember.
- 9 Q. 528 You were certainly present?
- 12:58:21 10 A. I was there, yes, definitely. And I think you'd have to rely on Niall or  
11 Tom to tell you whether they were there when we received -- it sticks out  
12 because we received those pictures, a picture of each councillor and all  
13 the councillor's names.
- 14 Q. 529 It's a meeting that sticks out in your mind?
- 12:58:39 15 A. Yes, but I cannot remember. The fact that we received the documents, the  
16 councillors name sticks out in my mind.
- 17 Q. 530 You have a very clear recollection, Mr. Butler, of that first meeting in  
18 Ambrose Kelly's office and of the second meeting in the Royal Dublin Hotel  
19 and in relation to the second meeting you have a very clear recollection  
12:58:59 20 of meeting with Mr. Dunlop and Mr. Dunlop providing that documentation to  
21 you?
- 22 A. Yes.
- 23 Q. 531 And was there any discussion with Mr. Dunlop about any further assistance  
24 he could provide to you? In other words having given you the  
12:59:12 25 documentation, had he any other role to play in relation to the matter?
- 26 A. That he would introduce us to the councillors.
- 27 Q. 532 So not alone was he advising you and giving you a list of the councillors  
28 but he was now going to undertake the possible introduction of each of you  
29 to the councillors?
- 12:59:30 30 A. Of each of the councillors, yes.

- 12:59:32 1 Q. 533 To each of the councillors?
- 2 A. Yes, not me but the three of us.
- 3 Q. 534 The three of you?
- 4 A. Yes.
- 12:59:37 5 Q. 535 Was it decided you would split up the councillors be between you or were  
6 you, were the three of you to meet with the councillors together?
- 7 A. No we -- the three of us got together and I can't remember the split up,  
8 but basically Niall was to take one area, I think it was north side and  
9 Tom was to take the south side, because he knew of a few councillors in  
13:00:06 10 the area he lived in, and I was to take kind of the west side, out that  
11 way.
- 12 Q. 536 Did you ever meet a councillor with Mr. Dunlop?
- 13 A. Yes, yes.
- 14 Q. 537 Was that Mr. Rabbitte?
- 13:00:25 15 A. No, no. Mr. Rabbitte I think what happened, an appointment was arranged  
16 with Mr. Rabbitte for me.
- 17 Q. 538 Through Mr. Dunlop?
- 18 A. I don't know but I believe so.
- 19 Q. 539 And when you met other councillors had Mr. Dunlop arranged the meetings  
13:00:41 20 for you in advance or was he in attendance when the meetings took place?
- 21 A. Mr. Dunlop -- he introduced us to, told us to be down at the -- I think  
22 the three of us were there, at different times he told, when I was in  
23 town, he told us to go down to the, you know, you'd meet them, go into a  
24 council meeting and he arranged that we meet a few different councillors,  
13:01:09 25 you know, various -- at various different times, and also there was a pub  
26 around the corner, I know he brought us around to and introduced us to a  
27 couple of councillors, that was on one occasion.
- 28 Q. 540 It's just one o'clock sir, I have some more questions.
- 29
- 13:01:26 30 CHAIRMAN: Mr. Butler is back tomorrow at 2 o'clock, we'll finish with

13:01:29 1 Mr. Butler tomorrow at 2 o'clock.

2 A. Thank you very much.

3  
4 CHAIRMAN: All right. Mr. O'Callaghan will be here at 2 o'clock today.

13:01:43 5

6 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH**

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13:01:45 1

**THE TRIBUNAL RESUMED AT 2 PM AS FOLLOWS:**

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3

MS. DILLON: Afternoon, Sir. Mr. O'Callaghan please.

4

14:09:55 5

**OWEN O'CALLAGHAN RETURNS TO THE WITNESS BOX AND**

6

**CONTINUES TO BE QUESTIONED BY MS. DILLON AS FOLLOWS:**

7

8

CHAIRMAN: Good afternoon, Mr. O'Callaghan

9

Q. 541 I want to take you back, Mr. O'Callaghan, to the events of 1992, I think

14:09:55 10

prior to the commencing on the issue in relation to the stadium in your

11

evidence you had been dealing with the events of early to mid 1992, isn't

12

that right?

13

A. Yes.

14

Q. 542 And I propose to resume your evidence in or around the events of May of

14:09:56 15

1992 and moving on hopefully over the next day to deal with the decision

16

of Dublin County Council in December 1992, which dealt with the Quarryvale

17

rezoning?

18

A. Yes.

19

Q. 543 Now I think that in early to mid 1992 you had originally anticipated that

14:09:57 20

the Quarryvale rezoning would come up in mid 1992, isn't that right?

21

A. Yes.

22

Q. 544 That didn't transpire to be the case, isn't that right?

23

A. Yes.

24

Q. 545 And in fact you, at a later stage, I think in '92, you advised the bank

14:09:57 25

that you thought it would come up in October 1992, isn't that right?

26

A. I think so, yes.

27

Q. 546 Ultimately, however, it came up in December of 1992, isn't that right?

28

A. Yes.

29

Q. 547 And intervening between that was, there was an election in November 1992,

14:09:59 30

which was a general election, is that right?

14:09:59 1 A. Yes.

2 Q. 548 But in or around May and June of 1992 there is an increase in contact in  
3 Mr. Dunlop's diaries, involving councillors of Dublin County Council and  
4 would that reflect, Mr. O'Callaghan, a belief held by yourself and Mr.  
14:09:59 5 Dunlop in May of 1992 that it was likely the rezoning of Quarryvale would  
6 come up in mid or mid to late 1992?

7 A. Yes.

8 Q. 549 Right. And if I can show you 24714? And this is a document that has been  
9 prepared in the offices of the Tribunal, Mr. O'Callaghan, and what has  
14:10:00 10 happened here is that the entries in Mr. Dunlop's diaries, which are in  
11 the second half of the page, for the month of May 1992, have been reduced  
12 to one page, rather than going through each date individually. And in the  
13 earlier part of the document, if we have it on screen, deals with the  
14 telephone contacts, and I just want to run briefly through Mr. Dunlop's  
14:10:01 15 telephone contacts with you and Mr. Dunlop's diary contacts and I just  
16 want to draw to your attention the following councillors in particular,  
17 who in May of 1992 had contact with Mr. Dunlop.  
18

19 And in the first instance, by telephone Mr. John Dockrell, Ms. Margaret  
14:10:02 20 Farrell, Mr. Colm McGrath on six occasion, Mr. GV Wright, Mr. Liam Lawlor  
21 on 21 occasions, yourself, Mr. O'Callaghan on 11 occasions, Mr. Frank  
22 Fahey, but he was a national politician, Albert Reynolds. Mr. Michael  
23 Keating who was a councillor, Bertie Ahern's office was on also,  
24 Councillor Joan Burton, Councillor Colm McGrath on six occasions, Jim  
14:10:03 25 Barry on five occasions, Councillor Bill or William Farrell. Councillor  
26 Don Tipping, Councillor Tom Hand on eight occasions, Councillor Charles  
27 O'Connor, Councillor Cathal Boland. Councillor John O'Callaghan on two  
28 occasions, Councillor Liam Cosgrave, Councillor Pat Rabbitte and  
29 Councillor Liam Cosgrave, Councillor Therese Ridge, were all in contact,  
14:10:04 30 isn't that right?

- 14:10:04 1 A. Yes.
- 2 Q. 550 With Mr. Dunlop's office. And then in May of 1992 Mr. Dunlop had meetings  
3 with the following persons, he had eight meetings with yourself but  
4 insofar as the councillors were concerned he had two meetings with  
14:10:04 5 Councillor Don Lydon, five with Councillor Tom Hand, Councillor John  
6 O'Halloran, three with Mr. Liam Lawlor, Michael Keating and Charles  
7 O'Connor one meeting, and councillor Pat Rabbitte and Councillor Cathal  
8 Boland and Councillor Sean Gilbride all had meetings with Mr. Dunlop all  
9 of which may or may not have involved you and Quarryvale, is that right?
- 14:10:05 10 A. Yes.
- 11 Q. 551 Right. Now that would be a significant amount of contact,  
12 Mr. O'Callaghan, for May of 1992. I just want to ask you about one matter  
13 that Mr. Dunlop was dealing within early 1992, Mr. Dunlop became involved,  
14 he has told the Tribunal, with transferring monies from an account held by  
14:10:05 15 him in Xerxes, through a company called Xerxes in the Isle of Man, did you  
16 ever know that Mr. Dunlop had an offshore account?
- 17 A. No.
- 18 Q. 552 No. And in March initially of 1992 Mr. Dunlop transferred money to  
19 Mr. Jim Bolger and in May of 1992 transferred a second sum to the account  
14:10:06 20 of Mr. Jim Bolger, this time funded from borrowings in Ireland, do you  
21 know anything about a transaction involving Mr. Dunlop and Mr. Bolger?
- 22 A. The horse trainer?
- 23 Q. 553 Yes.
- 24 A. No, no I don't.
- 14:10:07 25 Q. 554 Did Mr. Dunlop ever mention to you, in any of the meetings or contacts  
26 that you had with Mr. Dunlop in early 1992, that he was buying a horse?
- 27 A. No.
- 28 Q. 555 Did it ever come up in casual conversation as a new event in Mr. Dunlop's  
29 life that he had spent by May of 1992, 60,000 pounds on acquiring a horse  
14:10:08 30 or an interest in a horse for Mr. Bolger?

- 14:10:12 1 A. No, which was surprising, because when I read about it afterwards I was  
2 surprised he hadn't even at least mentioned it to me, but it was never  
3 even discussed.
- 4 Q. 556 Would you agree with me, Mr. O'Callaghan, that looking at Mr. Dunlop's  
14:10:25 5 diary records that you are probably the person with whom he had most  
6 contact in early 1992?
- 7 A. Yes.
- 8 Q. 557 And I think you told the Tribunal, and indeed prior to your evidence Mr.  
9 Dunlop told the Tribunal that his diaries and his telephone records don't  
14:10:39 10 in reality record the level of contact between yourself and himself, and  
11 would you agree with that?
- 12 A. That would be correct, yes.
- 13 Q. 558 Isn't it unusually then in view of the closeness of the relationship that  
14 existed, that when Mr. Dunlop in 1992 was embarking upon a new hobby even  
14:10:56 15 as it were, in buying this horse, that he never mentioned it or discussed  
16 it in anyway with you, isn't that strange?
- 17 A. Very unusual, yes.
- 18 Q. 559 And is it your evidence to the Tribunal, Mr. O'Callaghan, that it wasn't  
19 until events unfolded at the Tribunal that you became aware of the fact  
14:11:10 20 that Mr. Dunlop had been involved in this endeavour in 1992?
- 21 A. Yes.
- 22 Q. 560 Right. Now if we turn to June of 1992 and if we can have page 24715? And  
23 again this is a summary again of the contacts, Mr. O'Callaghan, for June  
24 of 1992 that are extracted from Mr. Dunlop's diaries and Mr. Dunlop's  
14:11:38 25 telephone attendances and again I want to draw to your attention names  
26 that might be relevant in the context of Quarryvale. And under the first  
27 part of the list which deals with the telephone contacts there are 13  
28 telephone contacts from Mr. Liam Lawlor, six from Councillor Colm McGrath,  
29 nine from Councillor Tom Hand, Charles O'Connor, Stanley Laing, Liam  
14:12:00 30 Cosgrave, Councillors Don Lydon, Michael Keating, Liam Creaven, Miriam

14:12:05 1 Muldoon, I think that should be Marion Muldoon, Councillor Tony Fox,  
2 Marian McGennis, Councillor Betty Coffey, Councillor Sean Gilbride,  
3 Councillor Michael Kennedy and Councillor John O'Halloran. Now is it  
4 likely again that most of those telephone contacts passing between these  
14:12:22 5 councillors and Mr. Dunlop's office in June 1992 might have been connected  
6 to Quarryvale?  
7 A. Might have been.  
8 Q. 561 Yes. And again if we just look at the meetings then that Mr. Dunlop had  
9 arranged, Mr. O'Callaghan, with councillors in June of 1992 and again  
14:12:43 10 looking at yourself you are recorded as having three meetings only with  
11 Mr. Dunlop's office in June of '92 but there are meetings then with  
12 Councillors Stanley Laing, Liam Cosgrave, Tony Fox, Olivia Mitchell, Tom  
13 Hand, Mary Muldoon, Therese Ridge, Margaret O'Farrell, Sean Gilbride, Colm  
14 McGrath, Mary Elliott, Nora Owen and Pat Rabbitte and Democratic Left, and  
14:13:08 15 there are some entries there in relation to the stadium. And again  
16 Mr. O'Callaghan, would you agree with me that it's likely that some, and  
17 possibly all of those meetings were set up by Mr. Dunlop for the purpose  
18 of you meeting with councillors to make your case or promote the  
19 Quarryvale development?  
14:13:25 20 A. Yes.  
21 Q. 562 And that it's likely that the telephone contact that's recorded in the  
22 earlier part of the document that relates to people with whom meetings  
23 were subsequently made is likely that those telephone contacts relates to  
24 Quarryvale insofar as they are involved in setting up meeting with you?  
14:13:43 25 A. Yes.  
26 Q. 563 Right. Again would it be fair to say and would you agree that Mr. Ambrose  
27 Kelly on occasion would have attended these meetings?  
28 A. Yes.  
29 Q. 564 And that on some occasions meetings took place in Mr. Dunlop's office or  
14:13:55 30 Mr. Ambrose Kelly's office?

- 14:13:57 1 A. Yes.
- 2 Q. 565 And at this stage you had a team in effect in place in relation to
- 3 Quarryvale, would you agree with that?
- 4 A. Yes.
- 14:14:09 5 Q. 566 And that your team consists in the first instance of yourself, then there
- 6 is Mr. Dunlop, there is Mr. Ambrose Kelly who is your architect/Planner
- 7 and you have also retained Auveen Byrne, is that correct?
- 8 A. Yes.
- 9 Q. 567 Would you agree with me that also on your team was Mr. Liam Lawlor?
- 14:14:19 10 A. Sometimes.
- 11 Q. 568 Yes. I'm not suggesting by that, that he was present at every meeting, do
- 12 you understand, Mr. O'Callaghan? What I am suggest something that he was
- 13 in effect an advisor to the Quarryvale endeavour?
- 14 A. Oh, yes.
- 14:14:30 15 Q. 569 Right. And similarly Councillors Colm McGrath and Sean Gilbride?
- 16 A. Yes.
- 17 Q. 570 Right. Now, I think that at 7408 and we have already dealt with this, I
- 18 am only giving you the document, Mr. O'Callaghan, for context. On the
- 19 10th June 1992 Mr. Dunlop issues the first of the invoices that are
- 14:14:59 20 characterised or described as ongoing cost and expenses in relation to
- 21 Quarryvale, isn't that right?
- 22 A. Yes.
- 23 Q. 571 That's an invoice in the sum of 13,530.04, isn't that right?
- 24 A. Yes.
- 14:15:10 25 Q. 572 That's an invoice that contains within it according to Mr. Dunlop's
- 26 evidence the 10,700 pounds that you had directed or requested Mr. Dunlop
- 27 to pay to Councillor McGrath?
- 28 A. To pay to Fry's.
- 29 Q. 573 To pay to Fry's on behalf of Councillor McGrath?
- 14:15:23 30 A. Yes.

- 14:15:23 1 Q. 574 Do you agree there is nothing on the face of this document that would  
2 indicate to anybody reading it that contained within that figure of  
3 13,530.04 was a payment of 10,700 pounds made by Mr. Dunlop on your behalf  
4 to Fry's for Councillor McGrath?
- 14:15:40 5 A. Yes.
- 6 Q. 575 Right. Now that I think you have agreed me previously was paid by Riga in  
7 the first instance and then reimbursed by Barkhill to Riga, isn't that the  
8 position?
- 9 A. Yes.
- 14:15:50 10 Q. 576 And was reimbursed I think in October of 1992 and at 7413 you can see the  
11 deduction from the Barkhill number two account on the 2nd October 1992,  
12 isn't that right? If you look at the, if the centre could be increased  
13 where it says 2nd October 1992? And if you see the Ambrose Kelly, beneath  
14 Auveen Byrne, the third entry is Frank Dunlop & Associates?
- 14:16:23 15 A. Sorry, yes.
- 16 Q. 577 A debit of 13,530.04, isn't that right?
- 17 A. Yes.
- 18 Q. 578 Now do you also agree, Mr. O'Callaghan, I should probably have asked you  
19 this at the beginning, in May of 1992 you formally retained Deloitte &  
20 Touche to do the audit?
- 21 A. Yes.
- 22 Q. 579 And at 7204 this is the letter of the 6th May 1992 from Deloitte & Touche  
23 to the directors of Barkhill in which they say "Following our appointment  
24 as auditors to Barkhill we write to set out our understanding of the terms  
14:17:00 25 of our engagement which commences with the audit of the company's  
26 financial statements for the period ended 30 April 1992" isn't that right?
- 27 A. Yes.
- 28 Q. 580 You agree they were so appointed, isn't that right?
- 29 A. Yes.
- 14:17:10 30 Q. 581 The initial audit period was a slightly longer than normal audit period

- 14:17:16 1 they had to deal with, isn't that right?
- 2 A. Yes.
- 3 Q. 582 They were going to deal with the accounts up to the year end April '92
- 4 from the date of incorporation, isn't that right?
- 14:17:25 5 A. Yes.
- 6 Q. 583 You I think, Mr. O'Callaghan, had previously said that when it came to
- 7 financial matters, that they were matters that were dealt with primarily
- 8 by Mr. Deane, your partner, isn't that right?
- 9 A. Yes, very much.
- 14:17:38 10 Q. 584 They were dealt with by Deloitte & Touche and Leo Flemming dealt with
- 11 those inquiries, isn't that right, in Deloitte & Touche?
- 12 A. Yes.
- 13 Q. 585 And Ms. Clare Cowhig dealt with Mr. Fleming in relation to any queries
- 14 from the Riga side, isn't that right?
- 14:17:52 15 A. Yes.
- 16 Q. 586 And would you agree, Mr. O'Callaghan, with the evidence that has been
- 17 given in relation to those matters, by your partner Mr. Deane?
- 18 A. Oh, yes.
- 19 Q. 587 Right. Now on occasion as we go forward, Mr. O'Callaghan, I will bring
- 14:18:08 20 one or two matters to your attention, such as the two by 10,000's that we
- 21 have already dealt with, but unless there are matters such as that sort I
- 22 don't propose do with you as a witness the financial queries that were
- 23 dealt with by Mr. Quinn with Mr. Deane, unless there is some matter that
- 24 you particularly wish to have dealt with?
- 14:18:29 25 A. No, that's okay with me.
- 26 Q. 588 Now to go back then to 7408 which is the first invoice to ongoing costs re
- 27 Quarryvale, and just in relation to that invoice, Mr. O'Callaghan, when
- 28 you got this invoice, which is the first of these invoices dealing with
- 29 ongoing costs re Quarryvale, did you ever receive any breakdown?
- 14:18:53 30 A. No.

- 14:18:53 1 Q. 589 Right. And there are a series of these invoices culminating in December  
2 of 1992, isn't that right?
- 3 A. Yes.
- 4 Q. 590 And throughout that period when Mr. Dunlop was putting in invoices that  
14:19:04 5 are described as to ongoing costs re Quarryvale, did you ever seek from  
6 Mr. Dunlop a breakdown in relation to those invoices?
- 7 A. Not for those particular ones, but the initial invoices had a detailed  
8 breakdown and some of the latter invoices had a detailed breakdown as  
9 well. All invoices were agreed across the table between Frank Dunlop and  
14:19:26 10 myself, on some occasions he issued invoices like that, having agreed it  
11 with me across the table. He should have detailed them more, but I think  
12 time was probably the reason, but they were all agreed in advance, some of  
13 them were not detailed as you have seen.
- 14 Q. 591 Yes. Would you agree with me that the majority of the invoices generated  
14:19:45 15 by Mr. Dunlop under the auspices of Frank Dunlop & Associates from June  
16 1992 to December 1992 are described as "To ongoing costs re Quarryvale"?
- 17 A. That's right, from June on, that's correct.
- 18 Q. 592 To December?
- 19 A. Yes.
- 14:19:59 20 Q. 593 Isn't that right?
- 21 A. Yes.
- 22 Q. 594 So this is the mechanism employed by Mr. Dunlop in the lead-in to the  
23 confirming vote in December 1992?
- 24 A. Yes.
- 14:20:07 25 Q. 595 And if I understand you correctly, you don't object to Mr. Dunlop  
26 furnishing the invoices in this manner?
- 27 A. No because we agreed them in advance, sorry I would have preferred he  
28 would have itemised them of course, but I think it was probably a time  
29 issue with him, at the time he probably didn't give enough time. But we  
14:20:25 30 would have agreed all the figures, I would have preferred to see them

- 14:20:28 1 itemised when the invoices come out but they didn't come that way.
- 2 Q. 596 Certainly invoices up to this point in time had a been itemised insofar as
- 3 they emanated from Frank Dunlop & Associates?
- 4 A. That's correct.
- 14:20:40 5 Q. 597 The ones that have emanated from Shefran had not had any breakdown in it?
- 6 A. That's right.
- 7 Q. 598 Although you have told the Tribunal in some of those invoices they did
- 8 contain an element of expenses, isn't that right?
- 9 A. Yes.
- 14:20:51 10 Q. 599 But they were not detailed or broken down on the Shefran invoices, isn't
- 11 that the position?
- 12 A. That's correct, yes.
- 13 Q. 600 Now when you received this invoice and indeed the next invoice dealing
- 14 with ongoing costs re Quarryvale, did you direct Mr. Lucey to write to
- 14:21:05 15 Mr. Dunlop and say look going forward you need to provide a breakdown of
- 16 these invoices?
- 17 A. No, I did not, no.
- 18 Q. 601 Now you would have known of course, because Deloitte & Touche had been
- 19 appointed, in May of 1992, that if you were going to pay these invoices
- 14:21:20 20 and reclaim them from Barkhill, both your auditor, that is Ms. Cowhig and
- 21 the Deloitte & Touche auditor were going to want to know what the invoices
- 22 were for, isn't that right?
- 23 A. Yes.
- 24 Q. 602 And all that was going, you were going to be able to produce to them at
- 14:21:37 25 any stage, if any of these invoices were queried were what Mr. Dunlop had
- 26 given you, isn't that right?
- 27 A. Yes.
- 28 Q. 603 And if a query had arisen you would have had to go back to Mr. Dunlop,
- 29 isn't that right?
- 14:21:47 30 A. Yes.

14:21:48 1 Q. 604 And Mr. Dunlop has told the Tribunal that he has no record of the  
2 composition of what goes into the make-up of these ongoing costs re  
3 Quarryvale other than the information that the Tribunal has been able to  
4 provide him with?

14:22:00 5 A. Yes.

6 Q. 605 Isn't that right?

7 A. Yes.

8 Q. 606 So it would follow from that then, Mr. O'Callaghan, that from the time you  
9 sat across the table with Mr. Dunlop and agreed the content of this  
10 invoice, only you and he knew what the make-up of the invoice was, isn't  
11 that right?

12 A. Well I think at least one member of his staff would have known it as well.

13 Q. 607 Yes?

14 A. The member of the staff that produced the invoices to him actually.

14:22:26 15 Q. 608 And when you were having your discussion with Mr. Dunlop was that person  
16 present?

17 A. Sometimes he was, yes.

18 Q. 609 So are you saying that that person would have a record of what the  
19 composition or the breakdown of these invoices?

14:22:37 20 A. Oh yes, he would have had, yes.

21 Q. 610 When Mr. Dunlop gave his explanation to you, Mr. O'Callaghan, of the  
22 composition of these invoices did you keep a note or record of any  
23 explanation?

24 A. No, no.

14:22:48 25 Q. 611 Now I think also around this time, 7427 please. On the 10th June 1992,  
26 Mr. Eddie Kay wrote to Mr. Tom Gilmartin at 7428 in which he referred to a  
27 telephone conversation between Mr. Kay and Mr. Gilmartin on the previous  
28 Friday, which was the 5th of June 1992, and he enclosed to Mr. Gilmartin  
29 an invoice for 30,000 pounds payable to Shefran, which as agreed we have  
14:23:25 30 paid. You will have seen this documentation?

- 14:23:27 1 A. Yes.
- 2 Q. 612 Now Mr. Gilmartin has told the Tribunal that he did not know who or what  
3 Shefran was, and Mr. Kay has told the Tribunal that when he spoke to  
4 Mr. Gilmartin about the Shefran invoice, Mr. Gilmartin did not seem to  
14:23:43 5 know who or what Shefran was. Do you agree that by June of 1992 that  
6 Mr. Gilmartin had not been told by you who or what Shefran was?  
7 A. That's possible, yes.
- 8 Q. 613 Right. And it would follow from that then that notwithstanding the  
9 payments that had been made in 1991 to Shefran, when it came to 1992 and  
14:24:07 10 the two Shefran payments, you yourself had not disclosed to Mr. Gilmartin  
11 what Shefran was, isn't that right?  
12 A. That's correct. I would have always assumed that Mr. Gilmartin knew that  
13 Shefran and Dunlop were the one and same company.
- 14 Q. 614 How would Mr. Gilmartin have known that Mr. Dunlop and Shefran were one  
14:24:24 15 and the same company if somebody didn't tell him?  
16 A. Same address on the invoices.
- 17 Q. 615 If -- it has been Mr. Gilmartin's evidence and the evidence of Mr. Kay,  
18 that the first invoice that Mr. Gilmartin received is the invoice he  
19 receives when Mr. Kay sends it to him through this letter in June of 1992?  
14:24:44 20 A. I'm not sure of that.
- 21 Q. 616 If that evidence by Mr. Kay and Mr. Gilmartin is correct, it follows that  
22 7429 please, that this invoice, which is sent by Mr. Kay to Mr. Gilmartin  
23 on the 10th June 1992, is the first Shefran invoice that Mr. Gilmartin  
24 would physically have seen, do you agree with that?
- 14:25:07 25 A. I don't know, I don't agree with that. I am pretty sure that Tom  
26 Gilmartin knew from the middle of 1991 that Shefran existed and Shefran  
27 and Dunlop were the same company.
- 28 Q. 617 If are saying that Mr. Gilmartin would have understood from the addresses  
29 being the same, that is Mr. Dunlop's address and Shefran address being the  
14:25:26 30 same, it follows from that that Mr. Gilmartin would have had to have seen

14:25:29 1 the Shefran invoices, isn't that right?

2 A. Yes.

3 Q. 618 Right. If Mr. Gilmartin does not see any Shefran invoice until June of

4 1992 it follows, Mr. O'Callaghan, that he wouldn't have been able to make

14:25:41 5 the comparison that you say he should have made, is that right?

6 A. I'm not too sure of that, I think he always knew it actually.

7 Q. 619 Which is it now, Mr. O'Callaghan?

8 A. I'm pretty sure, I wouldn't have spelled out to Tom Gilmartin what Shefran

9 was because I always assumed as far as I was concerned Shefran and Dunlop

14:25:59 10 were the same thing, I am pretty sure Tom Gilmartin was aware of that as

11 well.

12 Q. 620 Are you saying you told Mr. Gilmartin in 1991?

13 A. No I didn't tell him. I don't think I told him.

14 Q. 621 Are you saying it was an assumption on your part that Mr. Gilmartin must

14:26:10 15 have known?

16 A. Yes.

17 Q. 622 But it's not something that you told him about?

18 A. Yes.

19 Q. 623 And would you agree it's unlikely to have been something Mr. Deane would

14:26:17 20 have told him about?

21 A. Yes.

22 Q. 624 Right. It follows from that that somebody else must have told

23 Mr. Gilmartin that Shefran and Mr. Dunlop were one and the same, isn't

24 that right?

14:26:26 25 A. Yes.

26 Q. 625 And according to what this documentation and according to what Mr. Kay has

27 told the Tribunal, Mr. Kay says that Mr. Gilmartin did not seem to be

28 aware of Shefran or who Shefran was until he spoke to him, I think on the

29 5th June 1992. And would you agree that if Mr. Kay is correct in that it

14:26:51 30 would follow that it wasn't until that stage that Mr. Gilmartin knew who

- 14:26:58 1 Shefran was?
- 2 A. No I wouldn't agree, I think Eddie Kay was wrong there. If he hadn't told  
3 him, I'd say if he hadn't said it to him I'd say Jim Dunne had said it to  
4 him but I am pretty sure Tom Gilmartin was aware of that from the middle  
14:27:09 5 of 1991.
- 6 Q. 626 Mr. Kay told the Tribunal, I think, on day 844 at question 458 to question  
7 488 that he is certain that that point in time when he spoke to  
8 Mr. Gilmartin, Mr. Gilmartin did not know who Shefran was, but you don't  
9 agree with Mr. Kay?
- 14:27:29 10 A. I would not agree at all, not at all.
- 11 Q. 627 But it is from your own personal position, Mr. O'Callaghan, you never told  
12 him or had a discussion with him vis-a-vis Shefran and Mr. Dunlop?
- 13 A. To the best of my knowledge I never told him about Shefran.
- 14 Q. 628 But you assumed that somebody else had done so?
- 14:27:43 15 A. I am pretty sure, I am assuming that Tom Gilmartin knew it.
- 16 Q. 629 All right, but if you didn't tell him?
- 17 A. Somebody told him.
- 18 Q. 630 Somebody else had to tell him. If we just analyse that for a second,  
19 Mr. O'Callaghan, another person who would have known exactly the  
14:27:56 20 relationship between Frank Dunlop and Shefran was Mr. Dunlop, isn't that  
21 right?
- 22 A. Yes.
- 23 Q. 631 And Mr. Dunlop's evidence to the Tribunal in relation to his meetings with  
24 Mr. Gilmartin is that at the most he appears to have had three meetings  
14:28:13 25 with Mr. Gilmartin, would you agree with that?
- 26 A. Yes.
- 27 Q. 632 And if your evidence and that of Mr. Dunlop is correct in relation to the  
28 meeting at which you were all together with Mr. Gilmartin, Mr. Gilmartin  
29 demonstrated a strong antipathy or dislike of Mr. Dunlop, do you agree  
14:28:28 30 with that?

- 14:28:28 1 A. Yes.
- 2 Q. 633 Would you agree with me then that it's unlikely that circumstances arose  
3 in which Mr. Dunlop was the person who told Mr. Gilmartin the nature of  
4 the relationship between Shefran and Mr. Dunlop?
- 14:28:38 5 A. Yes.
- 6 Q. 634 Is that right?
- 7 A. Yes.
- 8 Q. 635 So it would follow from that then would have to be some other person, is  
9 that right?
- 14:28:43 10 A. Yes.
- 11 Q. 636 Mr. O'Callaghan, who would have known of the relationship between Mr.  
12 Dunlop and Shefran, who could have told Mr. Gilmartin, isn't that right?
- 13 A. Yes.
- 14 Q. 637 Right. Now who could that have been?
- 14:28:54 15 A. The banks.
- 16 Q. 638 The banks?
- 17 A. AIB.
- 18 Q. 639 Yes. And in that regard you then say that where Mr. Eddie Kay tells the  
19 Tribunal of his belief it wasn't until he spoke to Mr. Gilmartin on the  
14:29:05 20 5th June '92 and explained to him who Shefran was, that up to that point  
21 in time Mr. Kay believes Mr. Gilmartin didn't know who Shefran was, you  
22 dispute or disagree with his evidence?
- 23 A. Yes, I do.
- 24 Q. 640 Well if it was, if Mr. Kay is correct in his evidence, Mr. O'Callaghan,  
14:29:22 25 that it was the first time he, Mr. Kay, had discussed Shefran with  
26 Mr. Gilmartin, which is evidenced by the documentation, who else in AIB if  
27 it wasn't Mr. Kay could have told Mr. Gilmartin of the relationship  
28 between Shefran and Mr. Dunlop?
- 29 A. Possibly Jim Donagh.
- 14:29:43 30 Q. 641 Right. Do you know whether Mr. Donagh in fact ever had such conversation?

- 14:29:54 1 A. I can't say that. All I can say to you is I am pretty certain Tom  
2 Gilmartin was well aware of this from mid '91 onwards.
- 3 Q. 642 Did you ever have a discussion with Mr. Donagh in which Mr. Donagh  
4 confirmed to you that he in fact had had a conversation with Mr. Gilmartin  
14:30:06 5 in which he disclosed or discussed with Mr. Gilmartin the relationship  
6 between Frank Dunlop and Shefran?
- 7 A. I can't confirm that to you, but I do know Jim Donagh was the man who  
8 spoke mostly to Tom Gilmartin during '91 and '92.
- 9 Q. 643 I had understood the uncontested evidence of Mr. Eddie Kay to be that  
14:30:22 10 Mr. Kay was the person who had most contact with Mr. Gilmartin and indeed  
11 after Mr. Kay moved to different functions within the bank in August of  
12 1992, at a meeting at which you were present, it was agreed that Mr. Kay  
13 would remain the contact point with Mr. Gilmartin, isn't that right?
- 14 A. That's correct.
- 14:30:39 15 Q. 644 Right. And it would follow from that then that you wouldn't be asking, in  
16 the presence of Mr. Donagh I think that is correct Mr. Kay would remain as  
17 the contact point of Mr. Gilmartin unless he was the person with whom  
18 Mr. Gilmartin had most contact, isn't that right?
- 19 A. No I wouldn't agree with that. It's just that Mr. Kay got on much better  
14:30:57 20 with Tom Gilmartin than anybody else. Jim Donagh didn't get on too well  
21 with Tom Gilmartin, but Jim Donagh had most contact with Tom Gilmartin.
- 22 Q. 645 In 1991?
- 23 A. And '92, yes.
- 24 Q. 646 I think he left his position in AIB in June of 1992, is that right?  
14:31:11 25 Mr. Donagh.
- 26 A. Something like that, yes.
- 27 Q. 647 Now, I think in, by I think the 11th June 1992 at 7434 I think an article  
28 was published indicating that the proposed rezoning of Quarryvale might be  
29 unsuccessful, isn't that right?
- 14:31:33 30 A. Yes.

- 14:31:34 1 Q. 648 And the view that was expressed in Business and Finance in this article  
2 was that the councillors of County Dublin seemed likely to rescind the  
3 zoning for the development when they vote on the issue in September, isn't  
4 that right?
- 14:31:49 5 A. What date is that?
- 6 Q. 649 This article is dated 11th June '92?
- 7 A. Yes, yes.
- 8 Q. 650 That seems to be suggesting at that stage that the Quarryvale vote will  
9 come up in September, isn't that right?
- 14:31:58 10 A. Yes.
- 11 Q. 651 Also there is concern expressed, in the second column about Allied Irish  
12 Banks concerned about the lack of progress in the Quarryvale development,  
13 isn't that right?
- 14 A. Yes.
- 14:32:09 15 Q. 652 And that was because of its exposure that it had lent 16 million to the  
16 various Gilmartin related companies which had acquired the land, isn't  
17 that right?
- 18 A. Yes, yes.
- 19 Q. 653 Would it be fair to say it would have been an ongoing feature of your  
14:32:21 20 relationship with Allied Irish Bank from the time that Riga was appointed  
21 project manager of this project that they continued to be concerned, A,  
22 about their level of exposure, and B, about the likelihood of retaining  
23 the rezoning on Quarryvale?
- 24 A. Yes.
- 14:32:37 25 Q. 654 And that was based on a simple principle I think, they had had advice from  
26 a number of specialists, Harrington Bannon and Gunnes about the advantage  
27 to the lands in being rezoned, isn't that right?
- 28 A. Yes.
- 29 Q. 655 In other words there was a multiple in the difference of the value of the  
14:32:55 30 lands, it held the retail rezoning?

14:32:59 1 A. Yes.

2 Q. 656 With the retail rezoning the bank could have some confidence that they  
3 would get all their money back, isn't that right?

4 A. Yes.

14:33:06 5 Q. 657 If the zoning wasn't held the bank were looking at selling off the  
6 Quarryvale site piecemeal, in order to recoup the initial loan they made  
7 to Mr. Gilmartin, isn't that right?

8 A. Yes.

9 Q. 658 The advice had been and I don't think there is any dispute on this, that  
14:33:19 10 the best chance of recovering all of the monies was to hold the rezoning  
11 and either sell it on for development with that rezoning or develop it  
12 with another partner, isn't that right?

13 A. Yes.

14 Q. 659 In the event that the rezoning didn't happen you were looking at a  
14:33:33 15 piecemeal disposal which would have had a much lesser return?

16 A. Yes.

17 Q. 660 So it would be fair to say that throughout 1992 and coming up to December  
18 1992 the bank remained very concerned about the level of their exposure,  
19 isn't that right?

14:33:46 20 A. Yes.

21 Q. 661 And the level of the Riga exposure on its own accounts it having invested  
22 in Barkhill also, isn't that right?

23 A. Yes indeed.

24 Q. 662 And would you agree with me, it's fair say that the bank itself became  
14:33:58 25 concerned at the level of fees that were being expended throughout 1992  
26 and in particular in September/October/November of 1992?

27 A. Yes, the banks were concerned but the banks also, from the time they got  
28 us involved were trying to spend a load and divide the fees between  
29 themselves and ourselves, that was the main concern, to get us to carry as  
14:34:21 30 much of the fees as they could possibly impose on us.

14:34:23 1 Q. 663 But do you agree when Mr. O'Farrell took over from Mr. Kay that he  
2 reviewed the file and he examined the various loans that had been made and  
3 he had a concern about the level of expenditure of fees which he brought  
4 to your attention and which you discussed with him?

14:34:38 5 A. Absolutely.

6 Q. 664 Right. Now I think in June of 1992 at 7443 Mr. Lawlor sent to yourself,  
7 Mr. Dunlop and Mr. Kelly a document relating to in the first instance Sinn  
8 Fein and a reference to the town centre, and then clinic information from  
9 Joan Burton. And on this document you will see Mr. McCann's name written  
10 at the top of the document, isn't that right?

11 A. Yes.

12 Q. 665 Now Mr. McCann has given evidence to the Tribunal, and we have already  
13 dealt with the first two meetings that took place, but Mr. McCann in his  
14 evidence to the Tribunal also told the Tribunal of a meeting in the summer  
15 of 1992 that he had in Mr. Ambrose Kelly's office to which he was invited  
16 by Mr. Dunlop and he says you were present at that meeting, and you were  
17 discussing community benefit with Mr. McCann and Mr. Jennings, do you  
18 remember that meeting?

19 A. I do, yes.

14:35:38 20 Q. 666 Right. And Mr. McCann has told the Tribunal that you looked at plans and  
21 that they indicated that they would like a site for a community centre and  
22 you looked at the plans of Quarryvale to see where that could be  
23 positioned or if it could be positioned, and Mr. Jennings then told the  
24 Tribunal in his evidence that in terms of building the site you would see  
25 what could be thrown over the wall. Do you remember that, first of all  
26 having a meeting with Mr. McCann and Mr. Jennings?

27 A. I do, yes.

28 Q. 667 Will you tell the Tribunal what you recollect about the meeting with  
29 Mr. McCann and Mr. Jennings?

14:36:13 30 A. I certainly didn't use the expression "thrown over the wall," that's for

14:36:16 1 sure. At that meeting we discussed -- this was the first time that  
2 Quarryvale community association itself became interested in what was  
3 happening in, on the site in the Quarryvale site, and the representatives  
4 of the Quarryvale community were John McCann and Jennings. We had two  
14:36:42 5 meetings with them, one of the meetings was where Tom Gilmartin said he  
6 met the IRA fellas with balaclavas et cetera over their heads, I think  
7 that was the second meeting. At that meeting, that was such a ridiculous  
8 meeting that I actually suggested that we would meet, ridiculous meeting  
9 caused by Gilmartin, I suggested that to McCann and Jennings that I would  
14:37:03 10 meet them afterwards and explain the whole plans and layout to them, and  
11 this was the follow up to this meeting, the meeting in the architect's  
12 office.

13 Q. 668 Yes. The first meeting that you have had or that you had according to  
14 your evidence, Mr. O'Callaghan, with Mr. McCann and Mr. Jennings resulted  
14:37:20 15 in a letter being sent I think in April of 1991 thanking I think it was  
16 Mr. McCann for meeting with you, isn't that right?

17 A. Yes.

18 Q. 669 Right. Are you telling the Tribunal that the second meeting that you had  
19 with Mr. Jennings and Mr. McCann happened shortly after that initial  
14:37:31 20 meeting in April 1991?

21 A. I can't remember now what the two meetings were, I am trying to think.  
22 There were probably three meetings altogether. But one of the meetings,  
23 one of the meetings instead of McCann and Jennings being there, there was  
24 some lady turned up, this was the first time we met the representatives of  
14:37:54 25 Quarryvale actually. That was a meeting that six ladies left us, Tom  
26 Gilmartin and myself stranded really. The second meeting took place with,  
27 when McCann and Jennings met Tom Gilmartin and myself, this is the time  
28 that, this meeting the reference to this meeting was to the two people  
29 with the balaclavas and I think it was Councillor Burke was supposed to be  
14:38:15 30 present as well.

- 14:38:16 1 Q. 670 Is this the meeting about which Mr. Jennings and Mr. McCann gave evidence  
2 that Mr. Gilmartin started to talk about money he had paid or political  
3 corruption and you kicked him under the table?  
4 A. Yes.
- 14:38:27 5 Q. 671 That was the evidence I think of Mr. McCann?  
6 A. That is correct.
- 7 Q. 672 Is that the second meeting you are talking about?  
8 A. That's the second meeting I think.
- 9 Q. 673 If that meeting took place in the presence of Mr. Gilmartin that's not the  
14:38:37 10 meeting at which you are having the plans on the table and talking to  
11 Mr. McCann and Mr. Jennings, is that right?  
12 A. No, the follow on to that meet where I am supposed to have kicked Tom  
13 Gilmartin under the table I arranged after that meeting that I would meet  
14 both Jennings and McCann in our architect's office to explain to them what  
14:38:53 15 the whole plans were for the place.
- 16 Q. 674 Right.  
17 A. So that's this meeting we are talking about.
- 18 Q. 675 So we have three meetings. The first meeting takes place with Mr. McCann,  
19 Mr. Jennings, Mr. Gilmartin, yourself and a number of ladies?  
14:39:05 20 A. No, they were two meetings. They were two separate meetings, sorry.
- 21 Q. 676 They were two separate meeting. So we start again. The first meetings  
22 you have are with the ladies?  
23 A. Ladies.
- 24 Q. 677 Who become dissatisfied with what Mr. Gilmartin is telling them and this  
14:39:16 25 is the meeting in Finch's pub?  
26 A. That's correct.
- 27 Q. 678 That doesn't involve Mr. McCann or Mr. Jennings?  
28 A. No.
- 29 Q. 679 There is a second meeting that takes place where you meet Mr. McCann and  
14:39:25 30 Mr. Jennings if I understand your evidence?

- 14:39:28 1 A. In some hotel.
- 2 Q. 680 That results in a letter being sent, is that right, by you to Mr. McCann
- 3 thanking him for meeting with you in April I think '91?
- 4 A. I think so, yeah, I think so.
- 14:39:38 5 Q. 681 All right. That is the first meeting with Mr. McCann and Mr. Jennings, is
- 6 that right?
- 7 A. Yes.
- 8 Q. 682 That's a meeting you have without Mr. Gilmartin, is that correct?
- 9 A. No, no.
- 14:39:48 10 Q. 683 Is that the meeting at which you are present with Mr. Gilmartin and the
- 11 kick under the table takes place?
- 12 A. That's correct, that is right.
- 13 Q. 684 Right. So you have -- so what have the ladies in Clondalkin got to do at
- 14 all, Mr. O'Callaghan, with Mr. Jennings and Mr. McCann?
- 14:40:03 15 A. Because they represented Quarryvale as well, that's the reason. They were
- 16 the first members of Quarryvale Co-op Association as it is called, that we
- 17 met. They were the first representatives of the actual Quarryvale itself,
- 18 townland they call it, that we met.
- 19 Q. 685 Are you talking about the Quarryvale Residents Association?
- 14:40:22 20 A. Yes, part of it. They were called Quarryvale Co-op Residents Association.
- 21 Q. 686 All right. Your first meeting with Mr. McCann and Mr. Jennings is the
- 22 meeting which is described by Mr. McCann and Mr. Jennings as involving a
- 23 conversation with Mr. Gilmartin as a result of which you gave him a kick
- 24 under the table?
- 14:40:39 25 A. That's the first meeting with McCann and Jennings.
- 26 Q. 687 You have juxtapositioned those in your mind with the earlier meeting
- 27 involving the ladies because they all belong to the one organisation?
- 28 A. Correct.
- 29 Q. 688 Right. So when you told the Tribunal that in fact when Mr. Gilmartin gave
- 14:40:55 30 evidence about the balaclava meeting if I can call it that, you provided

- 14:41:00 1 the Tribunal with a statement to which you referred to the meeting with  
2 the ladies in Clondalkin at which Mr. Gilmartin as a result of what  
3 Mr. Gilmartin had said they left, isn't that right?
- 4 A. Yes, yes.
- 14:41:10 5 Q. 689 In fact what happened was that if I understand you correctly now in  
6 relation to these meetings, Mr. Gilmartin never made any suggestion that  
7 the balaclava incident involved any ladies, isn't that right?
- 8 A. No, a separate meeting.
- 9 Q. 690 It was you in your evidence to the Tribunal, and your statement suggested  
14:41:30 10 that the meeting with the ladies had some involvement with what  
11 Mr. Gilmartin was saying, isn't that right?
- 12 A. Yes.
- 13 Q. 691 Right. In fact what has happened is that they represented an organisation  
14 and subsequently you met with two men who also represented that  
14:41:45 15 organisation?
- 16 A. Yes.
- 17 Q. 692 And at that meeting which is Mr. Jennings, Mr. McCann, possibly Mr.  
18 Dunlop --
- 19 A. No, he was not.
- 14:41:54 20 Q. 693 Mr. Gilmartin, well Mr. Jennings and Mr. McCann have a recollection of Mr.  
21 Dunlop being there which is why I am saying possibly?
- 22 A. Yes.
- 23 Q. 694 And Mr. Gilmartin and yourself are at that meeting, isn't that right?
- 24 A. Correct.
- 14:42:05 25 Q. 695 And it's at that meeting that the kick under the table takes place, is  
26 that right?
- 27 A. That's right, yes.
- 28 Q. 696 Following on that meeting you then have another meeting yourself in  
29 Mr. Kelly's office with Mr. Jennings and Mr. McCann?
- 14:42:17 30 A. That's correct.

- 14:42:17 1 Q. 697 Now Mr. Jennings in his evidence told the Tribunal, Mr. McCann in his  
2 evidence, that a meeting in Mr. Ambrose Kelly's office occurred in the  
3 summer of 1992. Do you think it's likely that he's correct about that?  
4 A. I'm not sure of that date, it could be that time, could be.
- 14:42:37 5 Q. 698 If the meeting occurs in summer of 1992, Mr. O'Callaghan, it means that  
6 your meeting with Mr. McCann and with Mr. Jennings in order to clarify the  
7 difficulties that arose as a result of what Mr. Gilmartin had said happens  
8 over a year after the meeting with Mr. Gilmartin, isn't that right?  
9 A. Mm-hmm.
- 14:42:56 10 Q. 699 That's unlikely?  
11 A. That's unlikely, yes.
- 12 Q. 700 So is it likely then that if Mr. McCann and Mr. Jennings are correct that  
13 you have another meeting with them in summer of 1992?  
14 A. I don't think so.
- 14:43:08 15 Q. 701 You don't think so?  
16 A. I don't think so. No, I think it was probably early '92 we are talking  
17 about, I think it was early '92 I would have met Jennings anyway.
- 18 Q. 702 You do so for what purpose, Mr. O'Callaghan?  
19 A. To explain them exactly what all plan for Quarryvale are, what our plans  
14:43:24 20 for the Quarryvale scheme, the Quarryvale project is.
- 21 Q. 703 Did the meeting take place in Mr. Kelly's office?  
22 A. Kelly's office, yes.
- 23 Q. 704 Did you show them maps?  
24 A. Yes, we did.
- 14:43:35 25 Q. 705 Did you have a discussion with them about a community centre or a civic  
26 centre?  
27 A. Yes, I did.
- 28 Q. 706 Did Mr. McCann indicate to you that they would like a community centre?  
29 A. Yes, he did.
- 14:43:44 30 Q. 707 Did you indicate to them that you would see what would be possible or did

- 14:43:48 1 you agree with him a site on the plans?
- 2 A. I agreed with him that we would make a available a site for the community  
3 centre and that the local authority would build, that we would ask the  
4 local authority if they felt that they were capable or quite, if they felt  
14:44:03 5 they could do it, provide the community centre for them.
- 6 Q. 708 Did that happen?
- 7 A. In a roundabout way yes it did actually. There was a brand new community  
8 centre build in Quarryvale itself, not on that site, that community centre  
9 was build in the townland of Quarryvale itself, we funded approximately 50  
14:44:21 10 per cent of it.
- 11 Q. 709 Was it built on the lands that were owned by Barkhill?
- 12 A. Oh no.
- 13 Q. 710 No. Was it built on your lands?
- 14 A. No, no.
- 14:44:29 15 Q. 711 It was built --
- 16 A. Local authority lands.
- 17 Q. 712 On local authority lands, did you subsequently make two payments to Dublin  
18 County Council in relation to the development of that community centre?
- 19 A. Yes, we did.
- 14:44:40 20 Q. 713 And I think they were two separate payments of 250,000 pounds each, is  
21 that correct?
- 22 A. That's correct, yes.
- 23 Q. 714 And the total sum, I think it was later in '97 I think in '98 that those  
24 sums were paid to pay for the building of that community centre?
- 14:44:54 25 A. That is correct, yes.
- 26 Q. 715 Do you say that that arose, Mr. O'Callaghan, as a result of the agreement  
27 that you had made with Mr. McCann and Mr. Jennings about funding a  
28 community centre when you met with them?
- 29 A. Well partially but not totally, just to explain it very briefly.
- 14:45:10 30 Q. 716 All right?

14:45:10 1 A. What McCann and Jennings wanted was a new community centre for the  
2 Quarryvale community, instead of the existing building they had which was  
3 a town house, the first floor level of a town house in Quarryvale itself.  
4 That was their existing community centre. And at that meeting I told them  
14:45:29 5 we would make the site available for them, but the local authority would  
6 have to build the community centre. That developed on after a while to  
7 the Quarryvale association putting a bit of pressure on us to try and  
8 build a community centre as well.  
9

14:45:41 10 When that developed South Dublin County Council took that out of our hands  
11 completely and said we had no right to promise them a community centre  
12 that they themselves would look after that end of the project, and they in  
13 turn had plans to build a new community centre for Quarryvale and instead  
14 of us providing a site for them and allowing the council to build on our  
14:46:03 15 site that in turn the council would build a new community centre on the  
16 existing site they had and we would be asked to contribute towards the  
17 cost of it, and that was the end result. I think it cost about 1.2  
18 million to build and we provided half a million pounds.

19 Q. 717 I think the Tribunal has heard evidence from I think the local authority  
14:46:21 20 in relation to those payments, Mr. O'Callaghan. But can I ask you would  
21 it be fair to say that by 1992 you had a reasonably good relationship with  
22 Mr. McCann and Mr. Jennings in the Quarryvale Resident's Association?

23 A. Oh, yes very much so.

24 Q. 718 They had been instrumental in gathering 10,000 signatures supporting your  
14:46:42 25 plans for Quarryvale which had been submitted to Dublin County Council in  
26 the course of the first public display, is that right?

27 A. Yes, that's correct.

28 Q. 719 I think by December of 1991 the closing date, the 2nd or 3rd of December  
29 '91, Mr. McCann had sent in those 10,000 signatures supporting Quarryvale  
14:46:57 30 to the Dublin County Council, isn't that right?

- 14:47:00 1 A. '91.
- 2 Q. 720 Yes?
- 3 A. Well, I'm not sure of the date but they were definitely sent in to Dublin
- 4 County Council.
- 14:47:09 5 Q. 721 Yes, the closing date for the receipt of public submissions for the public
- 6 display, the first public display, was I think the 3rd or 2nd December
- 7 1991. I think 10,000 signatures were submitted by the Quarryvale
- 8 Resident's Association by Mr. McCann supporting Quarryvale, isn't that
- 9 right?
- 14:47:27 10 A. Yes, that's correct.
- 11 Q. 722 And there was also a rally, isn't that right?
- 12 A. Yes.
- 13 Q. 723 That was paid for effectively by Mr. Dunlop but which was organised by
- 14 Mr. McCann, isn't that right, and the Quarryvale Resident's Association in
- 14:47:38 15 support of the Quarryvale centre?
- 16 A. That is correct.
- 17 Q. 724 And would it be fair to say then that your relationship with Mr. McCann
- 18 and Mr. Jennings evolved from the time that you met them, in which you
- 19 knew that they were staunch supporters of Quarryvale, is that fair?
- 14:47:55 20 A. Well initially they were not staunch supporters of Quarryvale, it was as a
- 21 result of meetings with us and them finding out and the community finding
- 22 out what we intended to do or proposed to do, that they became staunch
- 23 supporters.
- 24 Q. 725 Yes. But those meetings and the development of their support must have
- 14:48:13 25 been complete or have happened by the 1st December 1991 if Mr. McCann and
- 26 his organisation have collected 10,000 signatures?
- 27 A. Oh, yes.
- 28 Q. 726 Isn't that right?
- 29 A. That's correct.
- 14:48:22 30 Q. 727 In support of Quarryvale?

- 14:48:23 1 A. That's correct, but this was the result there were at least 12 or 15  
2 different community meetings took place on a monthly basis after that  
3 meeting that you are referring to, with the Quarryvale Community  
4 Association.
- 14:48:36 5 Q. 728 Yes, would you have known that Mr. McCann was then a member of the Sinn  
6 Fein organisation?
- 7 A. I was never sure of that. It was said, it was mentioned about him  
8 actually, as far as I was concerned he was the secretary or treasurer  
9 whatever of the Quarryvale Community Association. But with regard to his  
10 politics I wasn't sure, but it was said, in fairness I heard it said that  
11 he was a member of Sinn Fein.
- 12 Q. 729 Did you ever know for a fact that he was a member of Sinn Fein?
- 13 A. No.
- 14 Q. 730 When you got this document from Mr. Lawlor, which is entitled "Sinn Fein  
15 reference to the town centre," did you look at the document?
- 16 A. Yes, I did.
- 17 Q. 731 And that must be so, because that's Mr. McCann's name that you have  
18 written on the top of the page?
- 19 A. That is correct, yes.
- 14:49:17 20 Q. 732 If we look then at the document, at 7444, the next page. It's entitled  
21 "Clondalkin News" and it's published by Sinn Fein, isn't that right, you  
22 will see in the top corner over the --
- 23 A. Yes.
- 24 Q. 733 There is a Sinn Fein, then victory to North Clondalkin. There is an  
14:49:36 25 article on Garda harassment and an article from Crossmaglen to Clondalkin  
26 by John McCann at 7445. You see this article that Mr. Lawlor has sent to  
27 you, which is an article by councillor, I beg your pardon, by Mr. McCann  
28 entitled "from Crossmaglen to Clondalkin," isn't that right?
- 29 A. Yes.
- 14:49:57 30 Q. 734 Various headings are given there, but the opening paragraph states "I have

14:50:01 1 been asked several times by several people over the years why I am in Sinn  
2 Fein and why Sinn Fein supports violence" and then he goes on to answer  
3 that question, is that right?

4 A. Yes.

14:50:11 5 Q. 735 Would it be fair to say, Mr. O'Callaghan, that by June 15th 1992 after you  
6 read this document when Mr. Lawlor sent it to you that you would have  
7 known that Mr. McCann was a member of Sinn Fein because he had declared  
8 it to be so in the article, isn't that right?

9 A. I don't know if I seen that article actually, but I was aware always that,  
10 and in particular the late Liam Lawlor kept on saying that John McCann was  
11 in Sinn Fein. I think that was probably, wasn't helping McCann, it was  
12 probably said to maybe to damage him.

13 Q. 736 But in fact according to that, for what it's worth, Mr. O'Callaghan,  
14 Mr. McCann himself says that he was in --

14:50:52 15 A. That's right I see that, I didn't read it actually.

16 Q. 737 On the following page of the same document which I think comes to the  
17 Tribunal from your discovery at at 7446 under the heading "community  
18 roundup" and after junk collections you will see an article that has been  
19 highlighted or ringed around entitled "Town centre" isn't that right?

14:51:15 20 A. Yes.

21 Q. 738 This is a document that has your handwriting on the first page and the  
22 matter that is relevant to you is highlighted on the fourth page. Can I  
23 suggest to you, Mr. O'Callaghan, that it's likely you read it?

24 A. Can I just read it, please?

14:51:27 25 Q. 739 Yes.

26 A. Yes, looks like it, yes.

27 Q. 740 You will have seen there in the centre of the portion that's highlighted  
28 the following is stated "Sinn Fein has called on Green Properties to  
29 restart without delay. Green Property have held the site for 20 years"  
14:51:48 30 isn't that right?

- 14:51:48 1 A. Yes.
- 2 Q. 741 Would it be fair to say even if you only glanced at the document you would  
3 have been aware of the involvement of Sinn Fein?
- 4 A. To be quite honest, Chairman, it wouldn't have been of the slightest  
14:51:58 5 interest to me whether McCann was in Sinn Fein or not. I have absolutely  
6 no interest in that.
- 7 Q. 742 That wasn't what I asked, I asked whether in the light of your earlier  
8 evidence to the Tribunal today you would have known when you read this  
9 document that Mr. McCann at that stage was a member of Sinn Fein?
- 14:52:13 10 A. Possibly, yes.
- 11 Q. 743 Yes. Now I think that the campaign, your campaign with Mr. Dunlop had  
12 started again, isn't that right, in 1992 and at 7452 --
- 13 A. I don't think my campaign had ever gone away.
- 14 Q. 744 Yes, but there is more direct contact with councillors in so far as Mr.  
14:52:36 15 Dunlop is now involved in sending out information documents to  
16 councillors, isn't that right?
- 17 A. Yes, that's correct.
- 18 Q. 745 We have already seen the increase in the level of meetings that are  
19 recorded in Mr. Dunlop's diary, isn't that right?
- 14:52:47 20 A. Yes.
- 21 Q. 746 And in this letter for example he is writing to Mr. Dockrell, he is  
22 telling him about the Quarryvale and dealing with the issue of Quarryvale  
23 and looking forward to having a meeting involving you and Mr. Dunlop and  
24 Mr. Dockrell at 7454?
- 14:53:03 25 A. Yes.
- 26 Q. 747 I suggest to you that that's a round-robin type letter that's sent out  
27 probably by Mr. Dunlop to every councillor?
- 28 A. I'm not sure, I think that might have been specifically to him actually.
- 29 Q. 748 I suggest it's likely Mr. Dunlop must have made contact with all  
14:53:19 30 councillors because by the 17th June '92 at 7457 Mr. Dunlop prepares a

14:53:27 1 review document which he describes as a contact report with the  
2 councillors and it's dated 17th June '92, isn't that right?

3 A. Yes.

4 Q. 749 And in this document what Mr. Dunlop is doing is he is identifying by name  
14:53:42 5 the councillor, the political affiliation and who they have been contacted  
6 by, is that right?

7 A. Yes.

8 Q. 750 And I think you looked at this document for another purpose on the last  
9 occasion on which you were here, but going down through the document, you  
14:53:54 10 can see that there are a number of councillors whom you have met with Mr.  
11 Dunlop, isn't that right?

12 A. Yes.

13 Q. 751 For example Cathal Boland, Sean Gilbride and Jack Larkin, is that right?

14 A. Yes.

14:54:05 15 Q. 752 Further on down, Anne Devitt and GV Wright, isn't that right.

16 A. Yes.

17 Q. 753 Liam Creaven, Marian McGennis, Joan Burton, Sean Lyons, Tom Morrissey,  
18 Sheila Terry and Ned Ryan?

19 A. Yes.

14:54:19 20 Q. 754 Then on the following page 7458 you have met according to this document  
21 with Gus O'Connell, Peter Brady, John O'Halloran, Colm McGrath, Therese  
22 Ridge, Colm Tyndall, Margaret Farrell, Breda Cass, Charles O'Connor,  
23 Stanley Laing and Mary Muldoon, is that right?

24 A. Yes.

14:54:40 25 Q. 755 And on the following page you have met with Mr. Tom Hand, Tony Fox, Denis  
26 O'Callaghan, Olivia Mitchell and Liam Cosgrave, isn't that right?

27 A. Mm-hmm.

28 Q. 756 Now just a few matters I want to ask you about there, Mr. O'Callaghan, on  
29 this page. You will note that Mary Elliott was to be contacted by  
14:55:02 30 somebody with the initials TR, do you see that?

- 14:55:06 1 A. Yes.
- 2 Q. 757 Who was that person?
- 3 A. Therese Ridge.
- 4 Q. 758 Right. You see that Richard Breen was to be contacted by JOH?
- 14:55:20 5 A. Sorry I haven't got that, John O'Halloran, but I haven't seen it actually.
- 6 Q. 759 It's third down from the top?
- 7 A. Yes, John O'Halloran yes.
- 8 Q. 760 And beneath that Trevor Matthews was to be contacted by TF, is that Tony
- 9 Fox?
- 14:55:27 10 A. Yes, I would think so, yes.
- 11 Q. 761 Right. If you go down further to where you will find Mr. Eamon Gilmore's
- 12 name, you will see that he was to be contacted by FD/MN, do you know who
- 13 MN was?
- 14 A. No.
- 14:55:44 15 Q. 762 And Richard Conroy was to be contacted by AK, is that Ambrose Kelly?
- 16 A. No I'd be surprised at that, I doubt that very much.
- 17 Q. 763 So do know who SM was?
- 18 A. No, I'm afraid not.
- 19 Q. 764 It would appear from that that not alone were you meeting with councillors
- 14:56:01 20 and Mr. Dunlop was meeting with councillors with you also and also on his
- 21 own behalf, but other councillors had been asked to approach people, isn't
- 22 that right?
- 23 A. Oh, yes.
- 24 Q. 765 Right. So in the course of your campaign you were not relying on just
- 14:56:14 25 dealing with the councillors directly yourself but Tony Fox for example
- 26 had been asked to meet with councillors. Sean Gilbride had been asked to
- 27 meet with councillors because he meets with councillor Donal Marren, isn't
- 28 that right?
- 29 A. Oh, yes.
- 14:56:27 30 Q. 766 And presumably when Councillor Fox or Councillor Ridge or Councillor

- 14:56:31 1 Gilbride had met with any of these councillors they would have reported  
2 back to either yourself or to Mr. Dunlop?
- 3 A. Yes.
- 4 Q. 767 Isn't that right?
- 14:56:40 5 A. Yes.
- 6 Q. 768 Because the whole purpose of this exercise is to work on the numbers,  
7 isn't that right?
- 8 A. Yes.
- 9 Q. 769 So there isn't much point asking one of these councillors to go and seek  
14:56:48 10 support if they are not going to come back and give you the results, is  
11 that right?
- 12 A. Yes.
- 13 Q. 770 Prior to you going off, Mr. O'Callaghan, to meet with these councillors  
14 would you be armed with the information that Mr. Lawlor had given to you,  
14:56:59 15 that you described to the Tribunal on the last occasion on which you were  
16 here?
- 17 A. Yes.
- 18 Q. 771 Right. So you would have known whatever personal details that Mr. Lawlor  
19 had been able to glean that he could give to you?
- 14:57:11 20 A. He would have given that information to Frank Dunlop and Frank would have  
21 given it to me.
- 22 Q. 772 Yes, but between the three of you, when you went to your meeting with the  
23 councillors you would have been armed not just with the information that  
24 was publicly available, but also whatever other information that  
14:57:24 25 Mr. Lawlor was able to give you?
- 26 A. Yes.
- 27 Q. 773 Now also at this time, 7514, I think you received an invoice from  
28 Mr. Ambrose Kelly in relation to the stadium, isn't that right?
- 29 A. Yes.
- 14:57:41 30 Q. 774 And that I think was paid out of the Barkhill number two account on the

14:57:46 1 2nd October 1991, isn't that right?

2 A. Okay, yes.

3 Q. 775 You can see that at 7519, Mr. O'Callaghan?

4 A. Well if you say so.

14:57:58 5 Q. 776 This is an extract from the number two account, you will see on the 2nd

6 October '92, the second debit is the payment to Mr. Ambrose Kelly?

7 A. Yes.

8 Q. 777 That's in connection with the stadium, isn't that right?

9 A. Yes.

14:58:08 10 Q. 778 And I think an accounting query arose on foot of that, I think the reply

11 that was given I think at 7523, and the query that had arisen as to who

12 was responsible for the payment, whether it was Riga or Barkhill?

13 A. Mm-hmm.

14 Q. 779 And the answer that was given under paragraph one was "This expense

14:58:30 15 relating to the stadium was incurred in order to protect the Westpark

16 Development. Our client feels this is a Barkhill expense and no

17 adjustment is required to the Barkhill accounts"?

18 A. Yes.

19 Q. 780 That was the argument you made to the bank, is that right?

14:58:44 20 A. Yes.

21 Q. 781 The expenses in connection with the stadium were in reality for Westpark,

22 for Barkhill?

23 A. That was always our approach.

24 Q. 782 What was the thinking behind that, Mr. O'Callaghan?

14:58:53 25 A. Well simply because the Balgaddy site, as far as the council were

26 concerned could not really have been left there as an isolated Greenfield

27 site so a project was required for it, and that's where this stadium

28 project came up initially. That was a project that initially was just

29 probably, initially it was just a filler for the Balgaddy site, but very

14:59:17 30 very quickly became a very, very serious project. And we linked both

14:59:22 1 sites together if we could come up with a suitable development for the  
2 Balgaddy site it would have made Quarryvale zoning easier, as simple as  
3 that.

4 Q. 783 Insofar as you received that invoice from Mr. Ambrose Kelly that was paid  
14:59:34 5 out of the Barkhill number two account because you made that argument to  
6 the bank, is that right?

7 A. Yes. In most cases the banks fully understood that and accepted that but  
8 tried as much as possible to have little to do financially with the  
9 Balgaddy site, tried to put as much of the Balgaddy expense on Riga. On  
14:59:55 10 some occasions they paid some of the invoices which overall I felt was  
11 most unfair but that's the way it broke down.

12 Q. 784 And at the same time at 7525 Mr. Kelly sent in an invoice in relation to  
13 the Westpark Development and that was also paid out of the Barkhill number  
14 two account, but this time it's for Westpark, isn't that right?

15:00:08 15 A. Yes, yes.

16 Q. 785 Now I think that at the end of June of 1992 you had a meeting with  
17 Mr. Dunlop and with a Mr. Gerry Leahy, isn't that right?

18 A. End of June, yes.

19 Q. 786 I think in fact the meeting took place on the 25th June, in Mr. Leahy's  
15:00:28 20 Lucan office, isn't that right?

21 A. Yes.

22 Q. 787 Would you tell the Tribunal the circumstances in which that meeting came  
23 to take place?

24 A. Basically, prior to this I had been dealing with Gerry Leahy, trying to  
15:00:47 25 get him, or ask to get his help to relocate, to find a suitable property,  
26 a bungalow in particular, for one of the itinerant families at the  
27 entrance to Quarryvale, off the Lucan Road where the actual existing  
28 entrance is at the moment, I had quite a few dealings with him on that  
29 basis. We didn't succeed eventually, but I met him in his office in Lucan  
15:01:19 30 with Frank Dunlop and the reason for meeting him there was to - one of the

- 15:01:24 1 reasons was to discuss the possibility of finding a suitable location for  
2 one of the itinerant families the second was in the course of the meeting  
3 to ask him if he could help us with some support for, if he could talk to  
4 Peter Brady what was a Fine Gael councillor, who was very friendly with  
15:01:40 5 Gerry Leahy and we asked Gerry if he could speak to Peter and ask him to  
6 come onsite.
- 7 Q. 788 Who arranged the meeting?
- 8 A. That could have been arranged by me because of my connection with Gerry  
9 Leahy, either me or Frank Dunlop I am not sure which of the two of us.
- 15:01:58 10 Q. 789 Mr. Dunlop told the Tribunal that he was advised by Councillor Therese  
11 Ridge that in order to obtain the support of Councillor Peter Brady  
12 yourself and Mr. Dunlop should meet with Mr. Leahy to see what Mr. Leahy  
13 could do to exercise influence over Councillor Brady?
- 14 A. Would be correct, yes.
- 15:02:13 15 Q. 790 Is that correct?
- 16 A. Yes.
- 17 Q. 791 All right. So the person who advises to you go and see councillor, to see  
18 Mr. Leahy in order to seek the support of Councillor Brady was Councillor  
19 Therese Ridge?
- 15:02:25 20 A. That was her advice, but as to who set up the meeting, it was either Frank  
21 Dunlop or myself.
- 22 Q. 792 Right. So Councillor Therese Ridge advises to you go to Mr. Leahy, you go  
23 to Mr. Leahy and whatever other business you have with Mr. Leahy you have  
24 a conversation with Mr. Leahy about containing Councillor Peter Brady's  
15:02:43 25 support, is that fair?
- 26 A. Yes, yes.
- 27 Q. 793 Now Mr. Dunlop told the Tribunal that you would have regarded and he would  
28 have regarded Councillor Brady's support as crucial, would you agree with  
29 that?
- 15:02:54 30 A. Oh, yes, very important.

- 15:02:55 1 Q. 794 Is that because he was a local councillor?
- 2 A. Oh, yes.
- 3 Q. 795 And at this stage would it be fair to say that Councillor Brady wasn't
- 4 supportive?
- 15:03:02 5 A. Councillor Brady, yes that is correct, because Councillor Brady would be
- 6 more influenced by the Lucan people than the Clondalkin people. He would,
- 7 sorry, he would have preferred to see the development built, the shopping
- 8 centre built in Balgaddy rather than Quarryvale because it would have a
- 9 lesser effect on Lucan.
- 15:03:20 10 Q. 796 And would you have known of the fact that Mr. Leahy had worked for
- 11 Councillor Brady insofar as getting Councillor Brady elected was concerned
- 12 or had a relationship with Councillor Brady?
- 13 A. Oh, yes, yes.
- 14 Q. 797 And you would have been told that, or Mr. Dunlop was told that by
- 15:03:36 15 Councillor Ridge who was a member of the same political party as Peter
- 16 Brady, isn't that right?
- 17 A. Yes, that's correct.
- 18 Q. 798 So when you went to meet with Mr. Leahy, would it be fair to say that what
- 19 you were really seeking to secure from your arrangement with Mr. Leahy was
- 15:03:49 20 that he would obtain the support of Councillor Brady for Quarryvale?
- 21 A. That was one of the items, probably the most important item at the time
- 22 which everybody overlooked was relocating the actual traveller family,
- 23 because we could not get an entrance to the Liffey Valley scheme while
- 24 this family was in situ, in position. But nobody is taking any notice of
- 15:04:12 25 that, that was a real practical matter. I had been trying to get Gerry
- 26 Leahy to locate a particular bungalow not too far from the Hermitage golf
- 27 club for this particular traveller family, a very large family, and that
- 28 was the main reason for going to this meeting. These were my main
- 29 meetings with Gerry Leahy but they were been totally overlooked in the
- 15:04:43 30 context of Peter Brady.

- 15:04:43 1 Q. 799 Mr. Leahy has given evidence to the Tribunal in relation to this meeting,  
2 Mr. Dunlop has given evidence in relation to the meeting and there is no  
3 suggestion that what started the meeting, or what caused the meeting to  
4 happen was a concern about itinerants in a house at the Quarryvale?
- 15:04:54 5 A. Everybody has forgotten about this I'm afraid, that was the real reason.
- 6 Q. 800 Can I ask you --
- 7 A. That was a very important reason to us at the time.
- 8 Q. 801 Yes, be that as it may, Councillor Ridge who was not at the meeting  
9 advised Mr. Dunlop and you to go to Mr. Leahy in order to secure Mr. Peter  
15:05:11 10 Brady's support, isn't that right?
- 11 A. That's correct, yes.
- 12 Q. 802 She wasn't at the meeting, isn't that right?
- 13 A. No.
- 14 Q. 803 Councillor Ridge herself doesn't remember giving that advice, when she  
15:05:20 15 gave evidence to the Tribunal in relation to this matter, but Mr. Dunlop  
16 told the Tribunal that that was how the meeting originated and do you  
17 agree with that?
- 18 A. That was her advice, yes.
- 19 Q. 804 That was her advice. Now whatever other matters you might have discussed  
15:05:34 20 with Mr. Leahy, did you make an arrangement of any sort with Mr. Leahy in  
21 relation to seek securing the support of Councillor Brady?
- 22 A. We discussed that with him actually and asked if he would speak to  
23 Councillor Brady.
- 24 Q. 805 Did he agree to do so?
- 15:05:48 25 A. Yes, he did.
- 26 Q. 806 Was there any arrangement made whereby you would consider Mr. Leahy or his  
27 company for the sales aspect as an auctioneer in relation to Quarryvale?
- 28 A. Of course that came up in conversation, I said when the time came we would  
29 talk, look at his company, possibly look at him getting involved in the  
15:06:07 30 residential side of the development, but not the commercial side of the

- 15:06:10 1 Liffey Valley development.
- 2 Q. 807 I think it's fair to say, Mr. O'Callaghan, I don't want to get involved in
- 3 it, that a dispute broke out between Mr. Leahy's employer, namely Fintan
- 4 Gunne and yourself in relation to precisely what was agreed at this
- 15:06:25 5 meeting in June of 1992?
- 6 A. That's correct, yes.
- 7 Q. 808 Effectively if I can summarise what was suggested in the correspondence
- 8 passing between the solicitors and indeed in the proceedings that were
- 9 issued, was that an agreement had been made by you on the one part and by
- 15:06:41 10 Mr. Leahy on the other part that if Mr. Leahy secured the support of
- 11 Councillor Peter Brady for Quarryvale would you give him the sole letting
- 12 of the Quarryvale lands, do you agree that that's the litigation that
- 13 ensued?
- 14 A. That was the litigation, yes.
- 15:06:56 15 Q. 809 Now it never came to any conclusion, is that right?
- 16 A. That's correct.
- 17 Q. 810 Now you disagree with Mr. Leahy insofar as what you say was agreed at the
- 18 meeting, is that right?
- 19 A. Oh, yes.
- 15:07:07 20 Q. 811 But do you agree first of all this that Mr. Leahy was to try and obtain
- 21 Mr. Peter Brady's support for Quarryvale?
- 22 A. Yes.
- 23 Q. 812 Do you agree that if that could have been achieved you would have
- 24 considered Mr. Leahy for the residential letting in relation to the
- 15:07:24 25 Quarryvale development?
- 26 A. Together with other people.
- 27 Q. 813 Together with other people?
- 28 A. Yes.
- 29 Q. 814 Did you write a letter at 14256 a copy of which is not available to the
- 15:07:32 30 Tribunal, but which is referred to in this document created by Mr. Leahy

15:07:37 1 on the day following the meeting at the 26th June '92, Mr. Leahy records  
2 in this chronology, that on the 26th June 1992 the day after his meeting  
3 with you that he received a letter of thanks from you expressing  
4 appreciation for his help and stating "If we are successful I will keep my  
15:07:59 5 end of the deal"?

6 A. Yes.

7 Q. 815 Now did you send such a letter to Mr. Leahy?

8 A. I can't remember, but it's quite possible, yes.

9 Q. 816 If you had sent such a letter, Mr. O'Callaghan, may the Tribunal take it  
15:08:09 10 that keeping your end of the deal refers to considering Mr. Leahy for  
11 appointment for the residential element of Quarryvale, if he could secure  
12 Peter Brady's for support for you?

13 A. No it wasn't as simple as that that we would also speak to Peter Brady for  
14 the residential end of Quarryvale, but we would also be speaking to other  
15:08:30 15 agents as well but that he would be on the list.

16 Q. 817 Sorry you said Peter Brady did you mean Mr. Leahy?

17 A. Sorry I meant Mr. Leahy, sorry. That we would speak to Gerry Leahy, of  
18 course he was a local auctioneer, about his involvement, of course we  
19 would. As I said to him what everybody forgets he had done work for me in  
15:08:48 20 Liffey Valley prior to this, in Quarryvale prior to this.

21 Q. 818 What I am asking --

22 A. In this particular case what I said was of course if he was successful and  
23 in fact even if he wasn't successful I would still have been speaking to  
24 Gerry Leahy together with other agents to handle the residential side of  
15:09:06 25 Liffey Valley.

26 Q. 819 But when you were talking to Mr. Leahy about being successful you meant if  
27 Mr. Leahy was successful in securing Peter Brady's support for you?

28 A. Yes.

29 Q. 820 In return for that you would give consideration to appointing Mr. Leahy  
15:09:21 30 amongst others to deal with some of the lettings or sales in relation to

- 15:09:24 1 Quarryvale?
- 2 A. Yes.
- 3 Q. 821 Ultimately I think Councillor Brady did support Quarryvale, isn't that
- 4 right?
- 15:09:31 5 A. Yes, he did.
- 6 Q. 822 And you had a meeting or two with Councillor Brady together with Mr.
- 7 Dunlop to make submissions to him and promote your cause, isn't that
- 8 right?
- 9 A. Quite a few meetings with him actually.
- 15:09:42 10 Q. 823 And I think Councillor Brady, when he gave evidence to the Tribunal said
- 11 that he had a discussion about lands for Palmerstown Rangers when you met
- 12 with him in September 1993, do you remember that?
- 13 A. I do indeed.
- 14 Q. 824 And did you have such a discussion with Councillor Brady?
- 15:09:59 15 A. Yes, I did.
- 16 Q. 825 But by December 1992 is it fair to say that Councillor Brady had moved
- 17 from the don't know situation or no situation to supporting Quarryvale and
- 18 so voted in September '92?
- 19 A. On the day he voted yes, but he was always very borderline.
- 15:10:17 20 Q. 826 Mr. Dunlop told the Tribunal just in relation to that vote in December '92
- 21 that he recollected Councillor Ridge saying to Mr. Brady "for Peter for"
- 22 when it came to vote, do you remember that happening?
- 23 A. No, I don't remember that.
- 24 Q. 827 Mr. Brady denied in fact any such event happened?
- 15:10:33 25 A. I don't think there was any need for that on the day.
- 26 Q. 828 Did Mr. Leahy secure Mr. Brady's support, Mr. O'Callaghan?
- 27 A. I don't know, he denies it himself, Peter Brady denies it. I don't know
- 28 really, I think what happened at the end of the day was that Peter Brady
- 29 decided that what we proposed for Quarryvale was the right thing to do.
- 15:10:56 30 Q. 829 And in July of '92 at 24716 and again this is the records of the telephone

15:11:04 1 attendances and the meetings that took place, and there is now a reduction  
2 in the amount of meetings, Mr. O'Callaghan, and the following councillors  
3 contacted Mr. Dunlop's office, Councillors Tom Hand, Colm McGrath, Sean  
4 Ryan, Therese Ridge and Gerry Leahy, even though he wasn't a councillor,  
15:11:27 5 and also I think Mr. Liam Lawlor had contacted Mr. Dunlop's office on  
6 eight occasions and Mr. Dunlop had arranged meetings with Tom Hand, Cyril  
7 Gallagher and Liam Lawlor. Did you meet the late Cyril Gallagher can you  
8 remember, Mr. O'Callaghan?

9 A. Yes, I did.

15:11:44 10 Q. 830 Did you meet the late Councillor Jack Larkin?

11 A. Yes, I did.

12 Q. 831 Were they both supporters of Quarryvale?

13 A. Yes.

14 Q. 832 Were they both members of the Fianna Fail party?

15:11:52 15 A. Yes.

16 Q. 833 Right. Now at this stage Mr. Deane has given evidence and I don't  
17 anticipate you will disagree with Mr. Dean's evidence that Mr. Gilmartin  
18 was in precarious financial circumstances by June and July of 1993 and I  
19 think ultimately was declared a bankrupt some short time later, is that  
20 right?

21 A. Yes.

22 Q. 834 And I think that Mr. Gilmartin wrote at 7690 to Mr. Eddie Kay confirming  
23 he had paid out 15,000 pounds in consultancy fees and expenses of 750  
24 pounds and asking Mr. Kay to send him as much of that amount as he could,  
15:12:29 25 effectively a begging letter, isn't that right?

26 A. Yes.

27 Q. 835 And I think Mr. Kay agreed to pay a sum I think of 3,000 pounds, which was  
28 debited to the Barkhill account, is that right?

29 A. Yes.

15:12:39 30 Q. 836 And you will note there sterling 3,000 pounds paid 15th of the 7th 1992,

- 15:12:45 1 that was authorised by you at 7692, isn't that right?
- 2 A. Yes.
- 3 Q. 837 What discussion did you have with Mr. Kay about that payment,
- 4 Mr. O'Callaghan?
- 15:12:59 5 A. I don't remember having any actually, just Eddie Kay said he wanted to
- 6 make that payment, I don't think I had any further discussion with him.
- 7 Q. 838 You will have seen the amount that Mr. Gilmartin was looking for was
- 8 15,000 pounds?
- 9 A. Yes.
- 15:13:12 10 Q. 839 And what he is paid is a sum of 3,000 pounds, isn't that right?
- 11 A. Yes.
- 12 Q. 840 Did you have any discussion with Mr. Kay about the amount?
- 13 A. Well that was Eddie Kay's decision, I wouldn't have any -- I didn't have
- 14 any discussion with him about it, I think he just told him he was paying
- 15:13:26 15 that amount.
- 16 Q. 841 Were you aware of the precarious nature of Mr. Gilmartin's financial
- 17 personal situation in June and July of 1992?
- 18 A. I didn't realise how bad it was, I didn't know that to be -- he didn't
- 19 tell me.
- 15:13:38 20 Q. 842 Right, were you still in contact with Mr. Gilmartin at this stage?
- 21 A. I think so, yes.
- 22 Q. 843 And I think also around this time, various subscriptions were made by Mr.
- 23 Dunlop on your behalf, isn't that right, to various local charities and
- 24 organisations, isn't that the position?
- 15:13:55 25 A. Yes.
- 26 Q. 844 I think at 7707 there was a request for funding in relation to a resource
- 27 room on the 17th July 1992, and it, a sum of 1,000 pounds was paid I think
- 28 on the 1st of the 9th 1992 as can be seen from the bottom of the document,
- 29 I think that was paid by Mr. Dunlop, isn't that right?
- 15:14:19 30 A. Yes.

- 15:14:19 1 Q. 845 And I think also at 7755, on the 24th July 1992 a sum of two and a half  
2 thousand pounds was paid to Quarryvale community house by Mr. Dunlop on  
3 your behalf, following a discussion with a Fr. Larry White, is that right?
- 4 A. Yes.
- 15:14:42 5 Q. 846 So Mr. Dunlop had available to him some monies that he would pay out and  
6 recoup from you, isn't that right?
- 7 A. Yes.
- 8 Q. 847 And did Mr. Dunlop clear all of these payments with you before he made  
9 them?
- 15:14:53 10 A. Yes.
- 11 Q. 848 He would advise you of the advantage to making the payment or the  
12 particular donation, isn't that right?
- 13 A. Well I don't know if there were advantages, Fr. Larry White's letter  
14 wouldn't have given any advantage to anybody, just a generous thing to do.
- 15:15:07 15 Q. 849 Right. Also insofar as Councillor John O'Halloran is concerned,  
16 Councillor O'Halloran approached I think Mr. Dunlop on a number of  
17 occasions for funding for various sporting organisations, the Quarryvale  
18 boxing club and others and these were all funded by you, isn't that right?
- 19 A. Yes.
- 15:15:24 20 Q. 850 I think we'll look at the payments that were made to Councillor O'Halloran  
21 for this and other matters later on, Mr. O'Callaghan. Would it be fair to  
22 say that if Mr. Kay had drawn to your attention the extent of  
23 Mr. Gilmartin's difficulties, financially, at that time, that you would  
24 probably have authorised a greater payment?
- 15:15:44 25 A. Yes, of course, but I wasn't asked that question, and Tom Gilmartin never  
26 told me what his situation really was. He was too proud for that I'm  
27 afraid. I am not too sure if Eddie Kay was that much aware of it either.
- 28 Q. 851 Well certainly some short time later you were aware of it I think because  
29 Mr. Gilmartin was declared a bankrupt?
- 15:16:05 30 A. Well that's a different story, yeah.

- 15:16:07 1 Q. 852 But at this point in time --
- 2 A. That was quite a bombshell, sorry, yes.
- 3 Q. 853 Yes. You were unaware that he had been declared a bankrupt?
- 4 A. I don't think so, at that time, no.
- 15:16:16 5 Q. 854 This is in the July of 1992?
- 6 A. He was, Tom Gilmartin would have been telling me the opposite, Tom was
- 7 talking in -- the first time I ever heard the word billion used was used
- 8 by Tom Gilmartin.
- 9 Q. 855 Was Mr. Gilmartin involved in this, at this stage as I think was Mr. Deane
- 15:16:33 10 in another refinancing package with a Mr. Tristram?
- 11 A. Yes indeed.
- 12 Q. 856 And I think Mr. Deane did a considerable amount of work in relation to
- 13 that, isn't that right?
- 14 A. That one almost succeeded. That was the only package that Tom Gilmartin
- 15:16:46 15 put forward that had any possibility of succeeding and we tried very very
- 16 hard, as you have seen from the correspondence to get that to come off and
- 17 it nearly did, if that was successful, we would have walked away from
- 18 Quarryvale, we would have been allowed to walk away from Quarryvale by the
- 19 banks and Tom Gilmartin would have taken it over.
- 15:17:04 20 Q. 857 And also in July of 1992 at 7723 Mr. Dunlop put in an account invoice for
- 21 70,000 pounds in relation to the stadium, isn't that right?
- 22 A. Yes.
- 23 Q. 858 And that is an invoice that was provided to you, isn't that right?
- 24 A. Correct.
- 15:17:25 25 Q. 859 Right. And would have been provided to you after discussion with
- 26 Mr. Dunlop, isn't that right?
- 27 A. Yes, agreed across the table again, yes.
- 28 Q. 860 At 7757, on the 24th July Mr. Dunlop provided the second of the ongoing
- 29 costs re Quarryvale invoice in the sum of 6,314.76, isn't that right?
- 15:17:48 30 A. Yes.

- 15:17:49 1 Q. 861 Now that invoice was provided to the bank, isn't that right,  
2 Mr. O'Callaghan because the bank paid it on the 2nd October '92?  
3 A. Yes.
- 4 Q. 862 You can see that at 7758, on the schedule of payments made on the 2nd  
15:18:06 5 October, second from the bottom you will see a sum of 6314?  
6 A. Yes, I have it.
- 7 Q. 863 It would follow from that then that the bank was provided with that  
8 invoice, isn't that right?  
9 A. Yes.
- 15:18:17 10 Q. 864 And was the bank provided with the 70,000 pounds invoice when you received  
11 it from Mr. Dunlop?  
12 A. No, not immediately, I kept that back as long as I possibly could. In  
13 fact I didn't produce that until Frank Dunlop demanded it in November, I  
14 kept that for July, August, September, for five months I think.
- 15:18:42 15 Q. 865 You had, we have seen earlier received an invoice from Mr. Ambrose Kelly  
16 in relation to the stadium in the sum of 19,000 pounds odd, isn't that  
17 right?  
18 A. Yes.
- 19 Q. 866 And that was provided to the bank in relation to the stadium?  
15:18:50 20 A. Yes.
- 21 Q. 867 And the bank paid it in fact, isn't that right, in October?  
22 A. Yes, yes.
- 23 Q. 868 Then you received Mr. Dunlop's invoice for the 70,000 pounds in July of  
24 1992, isn't that right?  
15:19:00 25 A. Yes.
- 26 Q. 869 Why didn't you provide Mr. Dunlop's invoice to the bank and ask them to  
27 pay it?  
28 A. It was so difficult, well first of all Frank Dunlop was somebody I could  
29 have put on hold for a while more so than Ambrose Kelly, but secondly the  
15:19:15 30 most important reason was that it was like drawing teeth trying to get

15:19:19 1 money from AIB, particularly when the time Michael O'Farrell took over as  
2 senior manager. Michael O'Farrell knew how important the stadium was to  
3 everybody but did not want to pay, to have anything to do with it or pay  
4 any fees towards it. If I produced that invoice to him early on I  
15:19:39 5 probably wouldn't have got other payments made from him. He would have  
6 probably stopped paying anything at all to do with the stadium if I  
7 produced that invoice, I kept it from him as long as I possibly could,  
8 until I had no choice but to produce and give it to him, that was the type  
9 of way Michael O'Farrell ran the situation. You mentioned Tom Gilmartin  
15:19:58 10 looking for, issuing a begging letter, I more or less had to do the same  
11 thing with Michael or Farrell to get money from him to pay some of the  
12 Quarryvale fees and some of the stadium fees despite the fact that we had  
13 been dragged into this thing by AIB. But what AIB did was, they removed  
14 Eddie Kay and put in Michael O'Farrell in his place, a totally different  
15:20:18 15 man, and every penny that was paid, you asked me the question I will  
16 answer it.

17  
18 Every penny paid by him, I got from him, I had to fight for it, if I  
19 produced an invoice for 70,000 pounds I wouldn't have got another penny  
15:20:28 20 out of him, specially for the stadium.

21 Q. 870 Do I understand you to say, Mr. O'Callaghan, that did you produce the  
22 invoice to Allied Irish Bank?

23 A. In July?

24 Q. 871 At any stage?

15:20:39 25 A. November.

26 Q. 872 In November?

27 A. Yes.

28 Q. 873 To Allied Irish Bank?

29 A. Yes.

15:20:43 30 Q. 874 And you asked them to pay it?

- 15:20:44 1 A. Yes.
- 2 Q. 875 Did they pay it?
- 3 A. I'm not sure whether they did or Riga paid it, I can't remember.
- 4 Q. 876 Did you produce the invoice for 70,000 pounds to Allied Irish Bank in the
- 15:20:56 5 context of asking Barkhill to make the payment.
- 6 A. Oh, yes.
- 7 Q. 877 All right. Do you agree with me that there is no suggestion that the bank
- 8 had a problem with paying Frank Dunlop his fees because you can see in the
- 9 document that's on screen that in fact in October of 1992 they paid two
- 15:21:13 10 invoices to Frank Dunlop & Associates, isn't that right?
- 11 A. Always after a massive struggle.
- 12 Q. 878 But in any event they were paid, isn't that right?
- 13 A. As I said after a struggle. An embarrassing struggle.
- 14 Q. 879 And Mr. Ambrose Kelly's invoice had been submitted to the bank for payment
- 15:21:28 15 when you received it the month previously, in the sum of 19,000 pounds,
- 16 isn't that right?
- 17 A. After a bit of a struggle again.
- 18 Q. 880 But you had given the bank the invoice, isn't that right?
- 19 A. Yes.
- 15:21:37 20 Q. 881 And asked them to pay it?
- 21 A. Yes.
- 22 Q. 882 And you similarly gave them the invoices in relation to 7757, isn't that
- 23 right?
- 24 A. Which one is that, sorry?
- 15:21:46 25 Q. 883 The one, ongoing costs re Quarryvale?
- 26 A. Yes.
- 27 Q. 884 Which is the second of those invoices, isn't that right?
- 28 A. Mm-hmm.
- 29 Q. 885 And the bank albeit with a struggle, paid it, isn't that right?
- 15:21:56 30 A. Yes.

- 15:21:56 1 Q. 886 Now I think Mr. Gilmartin at 773 sorry 7773, was provided with a list of  
2 payments which he was asked to authorise, isn't that right?
- 3 A. Yes.
- 4 Q. 887 And Mr. Kay has told the Tribunal that he was moving to a different  
15:22:16 5 function within the bank and he prepared this document as a wrap-up so  
6 that there would be authorisations from both yourself and from  
7 Mr. Gilmartin in relation to certain payments, and while it's dated the  
8 27th of the 7th '92 it appears to have been faxed back to the bank in  
9 October '92?
- 15:22:35 10 A. Yeah.
- 11 Q. 888 Did you know at that time that Mr. Kay was sending that documentation to  
12 Mr. Gilmartin?
- 13 A. No, I did not, no, not at all.
- 14 Q. 889 And would you have met with local authority officials around this time,  
15:22:49 15 Mr. John Fitzgerald and Mr. Derek Brady, in relation to the stadium?
- 16 A. Yes.
- 17 Q. 890 And who was John Fitzgerald?
- 18 A. This date we are talking about, what date exactly?
- 19 Q. 891 August 92?
- 15:23:10 20 A. John Fitzgerald was at the time deputy County Manager with responsibility  
21 I think for South County Dublin.
- 22 Q. 892 Had you known Mr. Fitzgerald previously?
- 23 A. Oh, yes.
- 24 Q. 893 And how had you known him?
- 15:23:18 25 A. Because he was Finance Officer in Cork Corporation.
- 26 Q. 894 Would you have dealt with him in his capacity as Finance Officer with Cork  
27 Corporation?
- 28 A. Very much, yes.
- 29 Q. 895 Would you have known him fairly well?
- 15:23:28 30 A. Yes.

- 15:23:28 1 Q. 896 Over the time. And you met, I think with Mr. Fitzgerald at 7856 on the  
2 12th August and the following day with Derek Brady, on the following day?
- 3 A. Yes.
- 4 Q. 897 On the 13th?
- 15:23:45 5 A. Well Mr. Fitzgerald, John Fitzgerald would have been with regard to  
6 Quarryvale and Derek Brady would have been with regard to the stadium.
- 7 Q. 898 I think Mr. Fitzgerald said that he did have some discussion with the  
8 stadium with you and he wasn't totally opposed to it but he felt it would  
9 never work?
- 15:24:03 10 A. I can't remember that, I don't remember him saying that.
- 11 Q. 899 In any event would it be fair to say that you yourself set up those  
12 meetings with Mr. Fitzgerald and Mr. Brady?
- 13 A. Oh, yes.
- 14 Q. 900 You were used I think to dealing with the officials in Cork, isn't that  
15 right?
- 15:24:17 16 A. Always and only.
- 17 Q. 901 And you didn't have much dealings if I understand your evidence with  
18 councillors mis that right, in Cork?
- 19 A. Absolutely.
- 15:24:26 20 Q. 902 Right so when you came to deal with Dublin you were more used to dealing  
21 with the officials, is that right?
- 22 A. Yes.
- 23 Q. 903 And you continued to deal yourself with the officials in so far as  
24 progressing matters were concerned and set up your own meetings?
- 15:24:38 25 A. Yes.
- 26 Q. 904 But on the political front you needed Mr. Dunlop to assist you with the  
27 councillors?
- 28 A. But I didn't know any councillors in Dublin, except one.
- 29 Q. 905 And I think in August of '92, Mr. O'Callaghan, you paid a sum of 10,000  
15:24:50 30 pounds to Mr. Ambrose Kelly, 7926 please, you will see some eight or nine

- 15:24:59 1 from the bottom there is an entry Ambrose Kelly?
- 2 A. What date is that please?
- 3 Q. 906 This is dated 27th August 1992?
- 4 A. Yes.
- 15:25:09 5 Q. 907 And if you go across you will see you have written, I think that could be  
6 increased "house accommodation and use of car OOC"?
- 7 A. Yes.
- 8 Q. 908 And the attribution is 5098?
- 9 A. Yes.
- 15:25:22 10 Q. 909 Do you see that? Which is the Barkhill attribution, is that right?
- 11 A. Yes.
- 12 Q. 910 Does it follow from that that initially this was considered to be a  
13 Barkhill expense?
- 14 A. Yes.
- 15:25:32 15 Q. 911 What were you paying Mr. Kelly for?
- 16 A. Staying in his house actually, using his house, dining in his house and  
17 use of his car. When I came to Dublin for this whole Quarryvale thing I  
18 didn't have a telephone, a car or an apartment to stay in actually, so I,  
19 my choice was just hotels strictly, so I spent a lot of my time in Ambrose  
15:25:56 20 Kelly's house.
- 21 Q. 912 And that sum of 10,000 pounds was that effectively a cash sum that you  
22 gave to Mr. Ambrose Kelly?
- 23 A. I gave him a cheque.
- 24 Q. 913 You gave him a cheque for 10,000 pounds?
- 15:26:06 25 A. Yes.
- 26 Q. 914 I think Mr. Kelly has told the Tribunal that he cashed that and didn't  
27 lodge the proceeds of it to any bank account, you don't dispute --
- 28 A. I don't know what he did with it.
- 29 Q. 915 Did you make a cheque out to Ambrose Kelly?
- 15:26:18 30 A. Yes, I did.

- 15:26:19 1 Q. 916 That was initially considered to be a Barkhill expense, is that right?
- 2 A. Yes.
- 3 Q. 917 I think ultimately it was treated as a stadium expense, isn't that right?
- 4 A. Yes.
- 15:26:29 5 Q. 918 How did you that come --
- 6 A. I think so, because that was one I presume, like a lot of the stadium
- 7 expenses, that was probably one of the expenses that the bank would not,
- 8 just like the fees, would not agree to pay.
- 9 Q. 919 Well did you have an invoice from Mr. Ambrose Kelly?
- 15:26:45 10 A. No.
- 11 Q. 920 So you weren't able to produce an invoice to the bank, is that right?
- 12 A. That's correct.
- 13 Q. 921 So if you had been going to the bank you would be going to the bank to ask
- 14 them to in effect approve a 10,000 pounds cash payment to Mr. Ambrose
- 15:26:57 15 Kelly without the benefit of an invoice?
- 16 A. That's correct, yes.
- 17 Q. 922 And is it likely then that the absent of an invoice, Mr. O'Callaghan,
- 18 meant that you kept the expense within Riga where it wouldn't be subject
- 19 to the scrutiny of independent --
- 15:27:11 20 A. I presume the banks wouldn't have paid it so we put it through Riga.
- 21 Q. 923 Are you saying you applied to the bank for the money and they refused to
- 22 pay it?
- 23 A. I can't remember, I don't think I did.
- 24 Q. 924 Isn't it likely you made the decision to keep the 10,000 pounds within
- 15:27:25 25 Riga because in effect it was a cash payment and if you kept it within
- 26 Riga it would not be subject to any scrutiny by Deloitte & Touche or
- 27 Barkhill bank?
- 28 A. That's possible.
- 29 Q. 925 Mr. O'Callaghan has agreed continue his evidence until 4.30, Chairman,
- 15:27:39 30 would it be possible to give Mr. O'Callaghan a break at this stage?

15:27:51 1

2 CHAIRMAN: Yes, of course.

3

4 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AGAIN AS**

15:27:58 5

**FOLLOWS:**

6

7 Q. 926 Good afternoon Mr. O'Callaghan, in August of 1992 I think your company,

8 Riga Limited, applied for additional bridging facilities to fund a

9 development of North Main Street, Cork, and in the course of the mark-up,

15:40:05 10

considering your application at 7888, 7886, sorry, under the heading

11 "Barkhill," the bank stated the following:

12

13 "In July 1991 Riga at our instigation acquired a 40 per cent equity stake

14 in Barkhill effectively for 2.5 million Irish pounds, cash 1.5 million,

15:40:32 15

guarantee 1 million. In addition they waived an inter company debt 1.35

16 million due by Barkhill. This company owns a 176 acre site at Palmerstown

17 which has been the subject of considerable publicity and on which there is

18 currently gross AIB exposure of 14.5 million. The zoning of the

19 Palmerstown site was altered from industrial/Residential to retail by vote

15:40:55 20

of Dublin County Council in mid 1991 but in the subsequent local election

21 five of the councillors who had supported the rezoning lost their seats".

22

23 Now to that point do you agree with what the bank were saying in that

24 memo, Mr. O'Callaghan?

15:41:08 25

A. Yes.

26 Q. 927 To continue, "as a result opposition to the retention of the retail zoning

27 mounted and was assisted by the vocal objections of Green Properties PLC

28 who stated that their long planned rival development at Blanchardstown

29 will not proceed unless the Barkhill site is dezoned". Do you agree with

15:41:27 30

that?

- 15:41:28 1 A. Yes.
- 2 Q. 928 "The matter will be decided as part of consideration of the draft Dublin  
3 Development Plan which will be voted on next October. Due to the  
4 exceptional abilities and commitment of Owen O'Callaghan who has worked  
15:41:38 5 tirelessly to secure the support of politicians, local interest groups and  
6 council officials, it is possible that retail zoning will be retained  
7 following the October vote". And leaving aside the question of the date  
8 of the matter, i.e. the October vote, do you agree with that,  
9 Mr. O'Callaghan?
- 15:41:53 10 A. Yes.
- 11 Q. 929 Therefore, would it be fair to say what you had told the bank is that you  
12 had been working tirelessly on both the council officials local interest  
13 groups and politicians to secure support?
- 14 A. I wouldn't say I told them that, they were aware of that.
- 15:42:07 15 Q. 930 They would have been aware of it surely, Mr. O'Callaghan, from their  
16 conversations with you and with Mr. Deane in view of the fact that  
17 Mr. Gilmartin was not at this stage involved in the process, is that  
18 right?
- 19 A. That's right, but they had a lot of information themselves, they had other  
15:42:19 20 people keeping an eye on the whole thing as well.
- 21 Q. 931 They had professional valuers such as Harrington Bannon, is that the  
22 position?
- 23 A. I think so.
- 24 Q. 932 Insofar as they are getting information from your on the ground contacts  
15:42:31 25 with local interest groups and politicians and local officials they could  
26 only, Mr. O'Callaghan, have been getting that information from you or from  
27 Mr. Deane, is that right?
- 28 A. And from other people.
- 29 Q. 933 Well who else?
- 15:42:41 30 A. They a lot of contacts themselves, other people that were keeping an eye

- 15:42:45 1 on their behalf on the whole operation that we were not aware of.
- 2 Q. 934 Who could have told them for example that you met with Mr. Fitzgerald or
- 3 Mr. Brady of Dublin County council?
- 4 A. I don't know, but they knew a lot more than I was telling them, I can't
- 15:42:58 5 answer that question.
- 6 Q. 935 Yes. If they had information you knew, Mr. O'Callaghan, that you had met
- 7 with Mr. Brady and with Mr. Fitzgerald, some short time prior to this
- 8 memorandum, isn't that right?
- 9 A. That's right.
- 15:43:09 10 Q. 936 And we have seen that, isn't that right, and told the Tribunal you set
- 11 that meeting up, those meetings up yourself?
- 12 A. That's right.
- 13 Q. 937 There is no suggestion that Mr. Dunlop was in this instance reporting
- 14 directly to Allied Irish Bank, is that right?
- 15:43:22 15 A. Never was actually no.
- 16 Q. 938 There is no suggestion that other people on your team, such as Councillor
- 17 McGrath or Councillor Gilbride or the late Mr. Liam Lawlor were reporting
- 18 directly to the bank?
- 19 A. That is correct, yes.
- 15:43:32 20 Q. 939 And it would appear that the point of contact between the Barkhill
- 21 endeavours and Allied Irish Bank was yourself and Mr. Deane, isn't that
- 22 right?
- 23 A. That's correct.
- 24 Q. 940 Because Mr. Gilmartin was dealing with his difficulties in England at this
- 15:43:47 25 time and was rarely if at all present, is that right?
- 26 A. That's correct.
- 27 Q. 941 And do you agree then whatever independent sources of information Allied
- 28 Irish Bank might have had, they would also have received information from
- 29 you and from Mr. Deane as to how the endeavours were progressing in
- 15:44:02 30 relation to the rezoning of Quarryvale?

- 15:44:04 1 A. Yes, they would have received information of course number one from John  
2 Deane and myself. But what I am saying to you is that they had their own  
3 independent sources as well.
- 4 Q. 942 Who do you say those sources were?
- 15:44:15 5 A. I don't know who they are.
- 6 Q. 943 Right?
- 7 A. Who they were rather.
- 8 Q. 944 At 7886 the note continues, "Should this be the position our professional  
9 advice is that the value of the site will be greatly enhanced and the  
10 prospects of full recovery of the Barkhill debt improved. If the rezoning  
11 is reversed it will be a setback and we'll have to re-assess the  
12 position"?
- 13 A. Yes.
- 14 Q. 945 I think you have already agreed with me that that was the bank's concern  
15 going forward, isn't that right?
- 15:44:37 16 A. Yes.
- 17 Q. 946 Now I think that at this time Mr. Eddie Kay moved, isn't that right,  
18 within the bank?
- 19 A. Sorry what time?
- 15:44:50 20 Q. 947 This is August and September?
- 21 A. Yes.
- 22 Q. 948 Of 1992, isn't that right?
- 23 A. Yes.
- 24 Q. 949 And in fact I think on the 28th August '92 at 7938, Mr. Kay wrote to  
15:45:05 25 Mr. Deane and thanked him for the kind letter in connection with his move  
26 to bank centre branch, is that right?
- 27 A. Yes.
- 28 Q. 950 And it is the case that Mr. Kay moved to other functions within the bank,  
29 isn't that right?
- 15:45:17 30 A. Yes.

- 15:45:18 1 Q. 951 And Mr. Gilmartin has told the Tribunal that you told him that Eddie Kay  
2 was too soft with him and that you told them that after Eddie Kay was  
3 moved within the bank, did you ever say to Mr. Gilmartin that Mr. Kay was  
4 too soft on Mr. Gilmartin in the first instance, did you ever say that?
- 15:45:38 5 A. Never.
- 6 Q. 952 Did you ever suggest to Mr. Gilmartin that Mr. Kay was moved by virtue of  
7 his dealings with Mr. Gilmartin?
- 8 A. Never.
- 9 Q. 953 And that then is an invention on the part of Mr. Gilmartin?
- 15:45:50 10 A. Absolutely.
- 11 Q. 954 Right. Now Mr. Kay has told the Tribunal that he was in fact promoted  
12 within the bank, isn't that right?
- 13 A. That's the irony of it, yes.
- 14 Q. 955 And that he took some exception I think when he was here to the fact that  
15 this matter had been aired in public at all, isn't that right?
- 16 A. I wouldn't blame him, of course, yes.
- 17 Q. 956 However, nonetheless it is a matter that has been recorded by  
18 Mr. Gilmartin and is a matter that Mr. Gilmartin told the Tribunal in  
19 evidence, isn't that right?
- 15:46:15 20 A. Yes.
- 21 Q. 957 And, therefore, it is an appropriate matter to ask you to comment on,  
22 Mr. O'Callaghan, isn't that right?
- 23 A. It is, I am glad did you actually, of course, yes.
- 24 Q. 958 Now I think it's also fair to say that even after Mr. Kay moved to bank  
15:46:32 25 centre, he was asked to remain the contact point for Mr. Gilmartin?
- 26 A. Yes.
- 27 Q. 959 Now I think in June of 1992 Mr, in or around June of 1992 Mr. O'Farrell  
28 took over the running of the Barkhill account, isn't that right?
- 29 A. Yes.
- 15:46:46 30 Q. 960 In June of 1992 Mr. Donagh moved on also, isn't that right?

- 15:46:50 1 A. He left the bank, yes.
- 2 Q. 961 He left the bank. But Mr. Kay was to remain as the contact person because
- 3 he was perceived as having a reasonably good relationship with
- 4 Mr. Gilmartin, would you agree with that?
- 15:47:01 5 A. Yes, absolutely.
- 6 Q. 962 Now at your first meeting, I think or the first recorded meeting with the
- 7 bank at 7939, on the 28th August there is a lunch meeting and effectively
- 8 this is the handover of the account, Mr. O'Callaghan, from Mr. Kay to
- 9 Mr. O'Farrell, do you agree with that?
- 15:47:21 10 A. Yes.
- 11 Q. 963 And within that, a number of points arise, present at the meeting are
- 12 Mr. Kay, Mr. O'Farrell, Mr. Deane and yourself, isn't that right?
- 13 A. Yes.
- 14 Q. 964 And then the first point is that you brought them up to date in relation
- 15 to the position regarding the retention of the zoning for Barkhill?
- 15:47:34 16 A. Yes.
- 17 Q. 965 That would suggest that you had made a report of some sort to the bank at
- 18 this meeting?
- 19 A. Verbal I would say, yes.
- 15:47:45 20 Q. 966 A verbal report?
- 21 A. Yes.
- 22 Q. 967 But you would have been dealing with support from the councillors, your
- 23 contacts with the community organisations and your meetings with officials
- 24 if you had any, isn't that right?
- 15:47:55 25 A. Yes.
- 26 Q. 968 So this information is being provided on a first hand basis by you,
- 27 Mr. O'Callaghan, in relation to what you were doing in connection with
- 28 Barkhill to the bank, isn't that right?
- 29 A. Yes.
- 15:48:08 30 Q. 969 Now it goes on to record "he and a team of people are actively lobbying

15:48:12 1 the councillors. They are optimistic at this stage that they will achieve  
2 a majority," did you tell the bank that?

3 A. I would have, yes.

4 Q. 970 That would follow from that then at this stage, the end of August, you  
15:48:23 5 were hopeful in relation to the rezoning?

6 A. Yes.

7 Q. 971 Right. Next point, "they have progressed proposals in relation to the old  
8 Clondalkin site, these involve development of a sports complex. They  
9 showed us an outline of proposed drawings and indicated that they will  
10 going for planning within two to three weeks. They also have a detailed  
11 feasibility study prepared by Deloitte & Touche." I think the planning  
12 application was made on the 19th October 1992, is that right?

13 A. Yes.

14 Q. 972 Accompanied by a 10,000 pounds planning fee cheque, is that right?

15:48:53 15 A. Yes.

16 Q. 973 The next matter are the company returns and Mr. O'Farrell was to contact  
17 Deloitte & Touche, isn't that right?

18 A. Yes.

19 Q. 974 Next point, "Eddie is to contact Tom Gilmartin with a view staying in  
15:49:04 20 touch with him, notwithstanding the fact that Eddie has moved to another  
21 function." He agreed to that, isn't that right?

22 A. Yes.

23 Q. 975 In fact contact remained on the telephone between Mr. Kay and  
24 Mr. Gilmartin, isn't that the position?

15:49:16 25 A. Yes.

26 Q. 976 Now the next item deals with fees. "Owen O'Callaghan indicated that they  
27 have incurred additional fees in relation to the Barkhill situation. He  
28 provided outline details of these. It was agreed that I would consider  
29 the overall position in relation to fees with a view to reading myself in  
15:49:32 30 on the situation. At that stage I would revert."

15:49:36 1  
2 Now, do you recall what fees you referred to when you provided the outline  
3 details?  
4 A. No, I can't.  
15:49:44 5 Q. 977 Right.  
6 A. Not off the top of my head, no.  
7 Q. 978 Would it follow that from if Mr. O'Farrell creates a document subsequent  
8 to this meeting in which he records fees that have to be paid or are  
9 outstanding that they are likely to be the fees to which you referred at  
15:49:57 10 this meeting and of which Mr. O'Farrell kept a note?  
11 A. Yes.  
12 Q. 979 All right. Now I think the document goes on to deal with proposals in  
13 relation to Riga and North Main Street, isn't that right?  
14 A. Yes.  
15:50:11 15 Q. 980 And that meeting takes place on the 28th August '92 and in September at  
16 24718 there is an increase in the contact recorded by Mr. Dunlop's office  
17 between County Councillors and himself, isn't that right?  
18 A. Yes.  
19 Q. 981 You will see that in September 1992 he has telephone contact with the  
15:50:34 20 following councillors, Don Lydon, Sean Gilbride on eight occasions, John  
21 O'Halloran on seven, Liam Lawlor though he is not a councillor on 20, Colm  
22 McGrath on 11 occasions, Tom Hand on six occasions, Marian McGennis on  
23 three occasions, Sean Ardagh, Gerry Leahy, John Hannon, Eithne Fitzgerald  
24 and John O'Halloran on one occasion. Councillor O'Connell on four  
15:51:00 25 occasions, Councillors Margaret Farrell, Councillor Hannon, Seamus Brock,  
26 Charlie O'Connor, GV Wright, Michael Keating, Therese Ridge and Ned Ryan,  
27 isn't that right?  
28 A. Yes.  
29 Q. 982 You will see there again the greatest amount of contact as far as the  
15:51:14 30 councillors are concerned are from Councillor Colm McGrath and John

- 15:51:18 1 O'Halloran and Sean Gilbride, isn't that right?
- 2 A. Yes.
- 3 Q. 983 They were all part of the strong supporters for Quarryvale, isn't that
- 4 right?
- 15:51:26 5 A. Yes.
- 6 Q. 984 Also there is 20 contacts from Mr. Lawlor, isn't that right?
- 7 A. Yes.
- 8 Q. 985 Do you agree that there is an increase in the level of contact as
- 9 evidenced by this document?
- 15:51:37 10 A. Absolutely. The whole lobbying situation was starting off now again.
- 11 Q. 986 And in September he had meetings with the following people, he had six
- 12 meetings with you and then meetings with the following councillors, Ned
- 13 Ryan, John Hannon, Michael Kennedy, Jack Larkin, Sean Ardagh, Ann Ormonde,
- 14 Sean Gilbride, Liam Lawlor, Tom Hand, Don Lydon, John O'Halloran, Tony
- 15:52:01 15 Fox, Sean Ryan, Gus O'Connell, Peter Brady, Seamus Brock, Margaret
- 16 Farrell, Marian McGennis, Donal Marren and Mr. Green, is that right?
- 17 A. Yes.
- 18 Q. 987 That would be Mr. Richard Green. I think you met with Richard Green?
- 19 A. Yes.
- 15:52:16 20 Q. 988 Later on, I will come to deal with that. I think it came back in before
- 21 the bank to discuss the question of fees at 7952 at a meeting at which was
- 22 attended only by Mr. Deane. And the first portion of that document,
- 23 Mr. O'Callaghan, deals with funding of Riga and I don't propose to take
- 24 you through that because I want to ask you about the last two paragraphs,
- 15:52:37 25 under the heading "Barkhill fees"?
- 26 A. Yes.
- 27 Q. 989 It records "I queried some of the fees which they had indicated had been
- 28 incurred in relation to Barkhill. In particular I queried the valuation
- 29 fees of 22 thousand pounds in total for the Barkhill site. This related
- 15:52:54 30 to a valuation done for Green Properties. John Deane's view is that these

15:52:59 1 funds relate very much to solving the whole problem regarding zoning for  
2 Barkhill and accordingly should be funded by AIB.  
3  
4 I queried the expense regarding the original Clondalkin site in relation  
15:53:11 5 to the sports centre. These total 58 thousand pounds. He indicated that  
6 the option on this site is in a company called Merrygrove Limited which is  
7 a subsidiary of Barkhill. He indicated that there had been a dispute  
8 with AIB regarding entitlement to a payment of 300,000 pounds from Dublin  
9 County Council which may become due. Their view has been that it is due  
10 to them while the legal agreements apparently indicated that it is due to  
11 Barkhill/AIB. He indicated that they recognise that this is due to  
12 Barkhill and that as a consequence any work done in relation to the  
13 proposed sports centre was very much part and parcel of the overall  
14 Barkhill situation also.  
15:53:51 15  
16 I indicated" -- this is Mr. O'Farrell, "I needed a bit of time to examine  
17 the overall fee situation I indicated I would revert to him, I said I was  
18 concerned that the original facility sought was nearly completely taken up  
19 even though there was still some time to run in terms of interest roll up  
15:54:09 20 and there were additional funds to spend on land acquisition. He  
21 indicated that he felt the original interest roll up figure projected was  
22 incorrect". The next two matters I don't wish to deal with you.  
23  
24 Do you agree with me, Mr. O'Callaghan, that Mr. O'Farrell was about to do  
15:54:25 25 a review of the original loans that had been granted and how they had been  
26 spent?  
27 A. Yes.  
28 Q. 990 And that he was going to prepare documentation in relation to the fees  
29 that were outstanding?  
15:54:34 30 A. Yes.

- 15:54:35 1 Q. 991 And that as of this date, insofar as he had been provided with information  
2 at 7952, he had been given a figure of 58 thousand pounds in relation to  
3 expenses in connection with the Clondalkin site, isn't that right?
- 4 A. Yes.
- 15:54:49 5 Q. 992 And that figure of 58 thousand pounds, if we look at 8047, that figure I  
6 think of 58 thousand pounds is made up of payments of 19,000 pounds to  
7 Ambrose Kelly, a payment of 10,000 pounds for planning permission and  
8 29,000 pounds for Deloitte & Touche, isn't that right?
- 9 A. Yes.
- 15:55:19 10 Q. 993 Under the heading "sports centre" on that document on the bottom third?
- 11 A. Yes.
- 12 Q. 994 So as of this stage the expenses in connection with the stadium that have  
13 been identified to Mr. O'Farrell, do not include Mr. Dunlop's 70,000  
14 pounds, isn't that right?
- 15:55:35 15 A. Yes.
- 16 Q. 995 And if Mr. Deane had available to him the invoice or you knew about the  
17 invoice in relation to the stadium, why hadn't you told Mr. O'Farrell  
18 about the existence of it at this stage?
- 19 A. Well as I said, because of the -- this whole format Michael O'Farrell was  
15:55:57 20 adopting here was, you said it yourself there you mentioned how he was  
21 going to review the whole situation, this was the unfair part of the whole  
22 deal. This was Mr. O'Farrell put into in to actually get his, get Riga or  
23 O'Callaghan Property to put as much money as possible back into the whole  
24 Quarryvale stadium proposition, despite the fact when we entered this  
15:56:18 25 whole Quarryvale thing initially we were told this would never never  
26 happen, that was when Eddie Kay informs charge.  
27
- 28 The banks had now substituted Michael O'Farrell who was a much different  
29 person completely and not just Michael O'Farrell also David McGrath. If  
15:56:33 30 John Deane, John Deane was well aware of the 70,000 pounds at this stage

15:56:36 1 but if he produced at this stage God only knows what Michael O'Farrell  
2 would have said to us. He wasn't in the mood for paying any money towards  
3 the stadium at any stage. As I said it and I repeat again it was like  
4 drawing teeth to get any money for those two projects, it was most unfair.

15:56:55 5 Q. 996 I obviously didn't make myself clear, Mr. O'Callaghan, you have disclosed  
6 to Mr. O'Farrell fees in relation to the sports centre that have not yet  
7 been paid, isn't that right?

8 A. That's correct.

9 Q. 997 What is happening here at these meetings with Mr. O'Farrell is you have  
15:57:08 10 provided to Mr. O'Farrell, possibly verbally in the first instance, a  
11 schedule of fees that are outstanding, in other words, fees that had yet  
12 to be paid, isn't that right?

13 A. Yes.

14 Q. 998 Included in the schedule of fees that have yet to be paid are items in  
15:57:24 15 relation to the Neilstown Sports Centre, isn't that right?

16 A. That's right.

17 Q. 999 You do not provide, and Mr. Deane does not provide verbally or otherwise,  
18 to the bank, the fact that you also have an invoice for 70,000 pounds from  
19 Mr. Dunlop in relation to the sports centre, is that right?

15:57:40 20 A. That's right.

21 Q. 1000 If you are prepared to include a fee note from Mr. Kelly in the sum of  
22 20,000 pounds almost and a fee note from Deloitte & Touche in the sum of  
23 30,000 pounds almost, what was the difficulty with adding in Mr. Frank  
24 Dunlop's fee note in the sum of 70,000 pounds?

15:57:59 25 A. Very, very, very simple. There was some chance of getting 58 thousand  
26 pounds paid, there was no chance of getting 130 thousand pounds paid.

27 Q. 1001 Well then if we look at what Mr. O'Farrell did --  
28  
29 JUDGE FAHERTY: Sorry Ms. Dillon, just could I ask you this,  
15:58:15 30 Mr. O'Callaghan. I am not sure what date line, time frame is on this

15:58:21 1 document, but as I understand it the previous one was September, the memo  
2 with Mr. Deane meeting Mr. O'Farrell, am I correct in that Ms. Dillon?  
3  
4 MS. DILLON: August I thought.

15:58:39 5  
6 JUDGE FAHERTY: August. I beg your pardon. We know you had a luncheon  
7 meeting with Mr. O'Farrell, Mr. Kay and Mr. Deane, I think it was an  
8 introduction, 28th August. As I understand it that was the time  
9 Mr. O'Farrell becomes involved, took over the account from Mr. Kay?

15:58:55 10 A. Yeah.  
11  
12 JUDGE FAHERTY: I just want to ask you, was that the first, did you know  
13 Mr. O'Farrell previously?  
14 A. Oh, yes. Mr. O'Farrell had been a manager, investment manager in Cork  
15 prior to this.  
16  
17 JUDGE FAHERTY: Yes, fair enough. But Mr. Kay was the person that you were  
18 dealing with and was paying out of the Barkhill number two account?  
19 A. Yes.

15:59:12 20  
21 JUDGE FAHERTY: As and when invoices would be submitted?  
22 A. Yes.  
23  
24 JUDGE FAHERTY: From the time that that loan was taken out. And just want  
15:59:20 25 to ask you what Ms. Dillon is putting to you, Mr. O'Callaghan, is in  
26 August and September, when these, this document is being compiled,  
27 Mr. O'Farrell is new to the account, not new to you obviously, new to the  
28 account?  
29 A. Yes.  
15:59:37 30

15:59:37 1 JUDGE FAHERTY: And what was the difference in giving, not giving him the  
2 70,000 invoice?

3 A. Because --

15:59:46 5 JUDGE FAHERTY: Really what I want to ask you, I don't want to interrupt  
6 you and I will allow you every opportunity, how would you have known  
7 Mr. O'Farrell's form given that he seems to have only come on board  
8 vis-a-vis the account end of August 1992?

9 A. Because I had known him number one. Mr. O'Farrell worked for the bank,  
16:00:02 10 for AIB in Cork in fact Mr. O'Farrell was the gentleman that closed down  
11 the investment section of AIB in Cork and was always known, very well  
12 known as a very tough banker. We had no choice in the matter, but we were  
13 not very happy with Mr. O'Farrell being put in charge of the  
14 Quarryvale/Stadium project. We knew it was going to be tough from there  
16:00:25 15 on in, as I keep on saying we don't think it was very, very fair. It was  
16 Eddie Kay who was responsible for bringing us into Quarryvale, as soon as  
17 he brought us into Quarryvale having made certain promises to us there  
18 would be no financial difficulties with ourselves after that he was  
19 relocated, as he says himself it was promotion I am not sure what it was,  
16:00:45 20 I think it was promotion actually.

21  
22 We were left with Mr. O'Farrell, a very very tough manager and Mr. McGrath  
23 who was every bit as tough.

16:00:54 25 We knew from the time, before Michael O'Farrell came on scene we knew from  
26 Eddie Kay that Michael O'Farrell would not be interested in supporting the  
27 stadium project because it would have taken too much money from the  
28 account, from an account that was, Barkhill account which was by anybody's  
29 standard was in a desperate condition, it was in a shocking condition  
16:01:10 30 actually. So his attitude was to try and get as much money as possible

16:01:14 1 from Riga, from one of our own companies, rather than from Barkhill, which  
2 was a company that was going nowhere really.

3  
4 If we had asked him for the 70,000 pounds at that stage I'd hate to think  
16:01:26 5 what would have happened. I don't see us getting the 58 thousand pounds  
6 if we had asked for the 70,000 pound as well. It was a case of get -- to  
7 try and put forward as much as we possibly could and get as much as we  
8 possibly could from him over a period of time. It was a very, very  
9 difficult task, he was a very, very difficult man.

16:01:47 10  
11 JUDGE FAHERTY: Thank you.

12 Q. 1002 After you had met with Mr. O'Farrell and after Mr. Deane had met with  
13 Mr. O'Farrell on the 3rd September and I was wrong, Judge, in suggesting  
14 Mr. Deane's meeting alone with Mr. Farrell was in August, in fact it was  
16:02:03 15 the 3rd September, you were right, in relation to that. Mr. O'Farrell  
16 after those contacts created a document, Mr. O'Callaghan, for discussion  
17 with you and with Mr. Deane and before he did that he went through the  
18 information and came up with a document at 7978 in which he identified  
19 matters that had to be dealt with. And under the heading of "Barkhill,"  
16:02:32 20 in the second part of that document these were Mr. O'Farrell's initial  
21 thoughts in relation to the matter.

22  
23 The first matter dealt with regularising the Companies Office position in  
24 relation to Barkhill in dealings with Mr. Seamus Maguire, item two was to  
16:02:48 25 deal with Mr. Maguire in relation to the derelict sites, item three was to  
26 review the Deloitte & Touche queries in relation to the audited accounts.  
27 Item four was to review the original facility sanctioned and the breakdown  
28 of same, review actual expenditure against this original facility, in  
29 particular check fees paid and proposed fees which should be paid. Also  
16:03:12 30 John Deane's comment about the projected interest being approximately one

16:03:15 1 year short of requirements. Do you agree with me that what Mr. O'Farrell  
2 was about to do insofar as the fees were concerned, he was going to look  
3 at the original sanction, see how the money had been paid, look at the  
4 actual expenditure and also look at the fees, proposed fees, which should  
16:03:32 5 be paid, isn't that right?  
6 A. Yes.  
7 Q. 1003 In order for him to consider the proposed fees which should be paid he  
8 would have to be told about them, isn't that right?  
9 A. Yes.  
16:03:40 10 Q. 1004 All right. So in order for Mr. O'Farrell to reject an item that you  
11 wanted paid he had to be told about it?  
12 A. Yes.  
13 Q. 1005 Isn't that right?  
14 A. The next item -- sorry the danger with that was if he was told about that  
16:03:54 15 he probably would have rejected the whole lot.  
16 Q. 1006 We'll look at what Mr. O'Farrell in fact did and consider, Mr O'Callaghan,  
17 in a moment, but on this document which are Mr. O'Farrell's initial  
18 thoughts in relation to the matter, the next item is check position in  
19 relation to the 800 thousand due to the County Council and the 400,000 due  
16:04:10 20 to Bruton, 200,000 of which is to come from AIB and 200,000 from  
21 O'Callaghan and Deane. Next check shareholder position, review position  
22 regarding Barry Pitchers role on behalf of AIB venture capital, we have to  
23 provide some form of indemnity to him in respect of his role.  
24  
16:04:29 25 Next page, payments have been made from the Barkhill account which do not  
26 appear to have been properly authorised i.e. Owen O'Callaghan has signed  
27 but there has not been an authorised counter signature, Barry Pitcher may  
28 need to authorise these in retrospect. It would be preferable if Tom  
29 Gilmartin could authorise these and could authorise the current request  
16:04:50 30 for the fees from Owen O'Callaghan. This is something which we could pick

16:04:54 1 with Eddie who may be able to influence Tom Gilmartin in this regard.  
2 Next review mandates on account, review security held and life cover.  
3  
4 Now, in so far as contacting Mr Gilmartin is concerned, Mr. Kay had  
16:05:03 5 already sent one letter in July of 1992 with a series of payments which  
6 Mr. Kay considered had not been authorised to that point by Mr. Gilmartin,  
7 isn't that right  
8 A. Yes.  
9 Q. 1007 But what Mr. O'Farrell in his review had picked up on is that the bank had  
16:05:18 10 been paying out on foot of a single authorisation, namely you, isn't that  
11 right?  
12 A. Yes.  
13 Q. 1008 He is querying that and what he wants to put in place is a second  
14 authorisation and he would prefer Mr. Gilmartin but if not him  
16:05:29 15 Mr. Pitcher, isn't that right?  
16 A. Yes.  
17 Q. 1009 The other matter he wants to review is the authorisations or the loan  
18 approval that had been given against the actual expenditure, isn't that  
19 right?  
16:05:38 20 A. Yes.  
21 Q. 1010 And did he that, isn't that the position?  
22 A. Mm-hmm.  
23 Q. 1011 He had another meeting with you and with Mr. Deane, isn't that right,  
24 actually a meeting with you on the 16th September 1992 at 8040, isn't that  
16:05:58 25 right?  
26 A. Yes.  
27 Q. 1012 Now with that, Mr. O'Callaghan, he brought a number of documents that he  
28 had created to the meeting, we'll just look at the documents that he dealt  
29 with first at 8045, this is an overview position if it could be increased,  
16:06:19 30 and he deals with the loan summary. The first item he deals with, the

16:06:23 1 balance at the number one loan account in the sum of 8,997,000, isn't that  
2 right?

3 A. Yes.

4 Q. 1013 That in fact was the first Barkhill loan given to Mr. Gilmartin?

16:06:37 5 A. Yes.

6 Q. 1014 The second item he looks at are the drawings under the number two loan,  
7 isn't that right.

8 A. Yes.

9 Q. 1015 Which was advanced in connection with the Bruton land and other lands,  
16:06:46 10 isn't that right, and he identified the drawings on the number two loan  
11 account as being 1.399 million pounds for the Bruton lands, 88,000 for the  
12 council lands and 745 thousand pounds for fees, isn't that right?

13 A. Yes.

14 Q. 1016 And then he comes down to payments outstanding and he identifies 50 per  
16:07:06 15 cent of additional payment for the Bruton land of 200,000 pounds, a sum of  
16 812 thousand pounds being the balance of the County Council lands, isn't  
17 that right?

18 A. Yes.

19 Q. 1017 Under the next heading he says, "excludes" and then I am ignoring the  
16:07:21 20 question of interest, Mr. O'Callaghan, completely in looking at this. The  
21 next item is "fees outstanding, see attached list," so he has prepared a  
22 list of outstanding fees, isn't that right?

23 A. Yes.

24 Q. 1018 This must be information you have provided to him, isn't that right?

16:07:35 25 A. Yes.

26 Q. 1019 So looking at the fees that have already been paid totalling 745,000, out  
27 of the number two account, if we turn to the next page we see the first  
28 half of the page is the utilisation of the Riga subordinated one million  
29 loan, and the second item are fees paid from the Barkhill number two  
16:07:56 30 account in the sum of 744,732 pounds?

- 16:08:01 1 A. I haven't got that, where is that?
- 2 Q. 1020 The bottom half of this page of 8046, do you see that?
- 3 A. Yes.
- 4 Q. 1021 So what Mr. O'Farrell has done is he has acquired the information as to
- 16:08:16 5 how the one million subordinated loan was utilised then he has looked at
- 6 all of the fees paid out of the Barkhill number two account including fees
- 7 that have been paid to William Fry's Solicitors, Ambrose Kelly, Frank
- 8 Dunlop, Shefran and he has totted them all up, isn't that right?
- 9 A. Yes.
- 16:08:32 10 Q. 1022 And the third document that he prepares at 8047 is a document that at the
- 11 top of the page is entitled "Barkhill fees outstanding 16th September
- 12 1992." And what this document records is the information that has been
- 13 provided to Mr. O'Farrell in relation to the fees that you have stated are
- 14 outstanding as of this date, isn't that right?
- 16:08:59 15 A. Yes.
- 16 Q. 1023 Because he can't have got any of this information from Mr. Gilmartin,
- 17 isn't that the position?
- 18 A. Oh no, either John Deane or myself.
- 19 Q. 1024 Yes. So looking at the fees then that are regarded as outstanding and the
- 16:09:09 20 comments that he has in relation to them, the first item under the heading
- 21 payee is "Deloitte & Touche interim fee" and the comment there is "will
- 22 probably be another three to five thousand to complete the audit," that's
- 23 the fee for the audit, isn't that right?
- 24 A. Yes.
- 16:09:24 25 Q. 1025 "Ove Arup's fee of 54164, old fees, Owen O'Callaghan has already refused
- 26 to pay," isn't that right?
- 27 A. Yes.
- 28 Q. 1026 That applies to Ove Arup in Ireland and Ove Arup in England, is that
- 29 right?
- 16:09:37 30 A. Yes.

- 16:09:37 1 Q. 1027 Do you agree that the information in relation to the refusal to pay Ove  
2 Arup fees must have come from you?
- 3 A. Oh, yes.
- 4 Q. 1028 Beneath that the words "not to be paid", isn't that right?
- 16:09:49 5 A. Yes.
- 6 Q. 1029 What you are doing there is you are telling the bank that insofar as those  
7 fees which are almost 100,000 pounds are concerned, that those fees are  
8 not to be paid?
- 9 A. No, I am not saying that, that's Michael O'Farrell saying that.
- 16:10:00 10 Q. 1030 Yes, but isn't he saying that because it's what you told him?
- 11 A. Not at all, he wouldn't let me pay them. That's the reality.
- 12 Q. 1031 I thought it says there "Owen O'Callaghan has already refused to pay"?
- 13 A. Oh yeah, I refused to pay and dragged them out as long as I could but I  
14 knew I would eventually have to pay them but as far as Michael O'Farrell  
16:10:20 15 was concerned they were not to be paid.
- 16 Q. 1032 And then the next item is "T Gilmartin fees expenses, sterling 12,750  
17 assign communication to T. Gilmartin." The next item is F Dunlop, and  
18 there's two items 6,314 and 13,530 and the note there is "have to pay,  
19 Riga may have already paid," is that information that he would have got  
16:10:42 20 from you?
- 21 A. Possibly, yes.
- 22 Q. 1033 Who else would he have got it from?
- 23 A. Just me, nobody. Sorry, John Deane.
- 24 Q. 1034 either yourself or Mr. Deane. Then it says "OOC has invoices," again  
16:10:53 25 that's information that would have come from you, isn't that right.
- 26 A. Oh, yes.
- 27 Q. 1035 And the next item -- that figure comes to just over 19,000 pounds, isn't  
28 that right?
- 29 A. Yes.
- 16:11:01 30 Q. 1036 Then the next item is Hamilton Osbourne King and then beneath that

- 16:11:06 1 Harrington Bannon invoice on file and then Gunnes. The first item of  
2 2,000 pounds is valuation fee re --
- 3 A. Sorry, I lost you now.
- 4 Q. 1037 Do you see "Hamilton Osbourne King, 2,000 pounds valuation fee re Green,  
16:11:22 5 beneath that Harrington Bannon invoice 12,100 we have already refused to  
6 pay, Gunnes 11797 Riga liability, they regard it as part of bigger  
7 Barkhill situation, no need to pay now anyway, we'll stick to our position  
8 on these." Is that right? So there is the bank refusing to pay out in  
9 relation to Bannon's and -- Harrington Bannon and Gunnes, is that right?
- 16:11:47 10 A. That's correct.
- 11 Q. 1038 On the next item Ove Arup 10,624 the note is "we're on zoning submission."  
12 Beneath that 5,229 for Ove Arup the note reads "we're on zoning submission  
13 will have to pay eventually, push out for now. Owen O'Callaghan has  
14 invoices?"
- 16:12:10 15 A. Yes.
- 16 Q. 1039 Do you agree there is an acknowledge by you or the bank or both of you  
17 that these fees will have been paid eventually but they can be pushed out  
18 for now, they don't have to be paid now?
- 19 A. Yes.
- 16:12:19 20 Q. 1040 And the next item is, "A Byrne, " that Auveen Byrne, "4,000 pounds  
21 O'Callaghan has invoice, pay now, relates to oral hearing." Do you agree  
22 that it's likely that you are the one who has told the bank it has to be  
23 paid now?
- 24 A. Yeah.
- 16:12:30 25 Q. 1041 Right. Now item is "F Dunlop 10,253 paid already by Riga who want a  
26 refund," isn't that right?
- 27 A. Yes.
- 28 Q. 1042 And so that list coming to 184,086 pounds, that portion the list, which  
29 relates to Barkhill, isn't that right?
- 16:12:48 30 A. That's correct.

- 16:12:48 1 Q. 1043 Then we come tonne deal with the sports centre which is Neilstown, isn't  
2 that right?
- 3 A. Yes.
- 4 Q. 1044 First item there is "A Kelly 19,064 design meetings et cetera, OOC has  
16:12:59 5 invoice, need to pay urgently." Isn't that right?
- 6 A. Yes.
- 7 Q. 1045 So you were regarding the payment to Mr. Kelly as an urgent payment, isn't  
8 that right?
- 9 A. That's simply because Ambrose Kelly had a list of people working on his  
16:13:11 10 project, physically working this project, so that was an urgent payment,  
11 yes.
- 12 Q. 1046 The next item is "planning permission 10,000, planning application will go  
13 in in two weeks, not required now but will be required then." Again is  
14 that something you would have told them?
- 16:13:25 15 A. Yes.
- 16 Q. 1047 Then "Deloitte & Touche 29,000, feasibility study, push out, Owen  
17 O'Callaghan has invoice?"
- 18 A. Yes.
- 19 Q. 1048 Suggesting that you are not going to pay the Deloitte & Touche invoice,  
16:13:35 20 but it's going to have to be pushed on until later, is that right?
- 21 A. Yes.
- 22 Q. 1049 "Then estimate of fees still to come, sports centre 30,000 more due to A  
23 Kelly?"
- 24 A. Yes.
- 16:13:45 25 Q. 1050 So in addition to the 19064 there is going to be an additional 30 which  
26 will bring the liability up to nearly 50,000 pounds for Mr. Kelly, is that  
27 right?
- 28 A. Yes.
- 29 Q. 1051 20,000 pounds short of Mr. Dunlop's 70,000 pounds, isn't that right?
- 16:13:58 30 A. Yes.

- 16:13:58 1 Q. 1052 All right. Beneath that "sports sentence 10,000 pounds for Quarryvale to  
2 bring up to zoning, 50,000 pounds further to bring to planning?"
- 3 A. Yes.
- 4 Q. 1053 So somebody has told Mr. O'Farrell when he is creating this document that  
16:14:11 5 in addition to the outstanding fees, in other words, the list of fees  
6 which you have already invoices or you have already told him about, there  
7 is an additional figure that is £90,000 between the sports centre and  
8 Quarryvale that will have to be paid, isn't that right?
- 9 A. Yes.
- 16:14:27 10 Q. 1054 Isn't that the position?
- 11 A. Yes.
- 12 Q. 1055 You don't give any breakdown of the sum of 50,000 pounds to bring to  
13 planning, isn't that right?
- 14 A. No, that's obviously architect's fees.
- 16:14:35 15 Q. 1056 Sorry, you don't understand me, Mr. O'Callaghan, you don't appear to have  
16 given any breakdown of the figure for 50,000 to bring to planning because  
17 if it was architect's fees that's not recorded, isn't that right?
- 18 A. That's correct.
- 19 Q. 1057 Right. And that total of the estimate of fees still to come, in other  
16:14:50 20 words, where you are projecting forward what you are going to have to pay  
21 and which includes the Neilstown and stadium project is a figure of  
22 £90,000 isn't that right?
- 23 A. That's correct.
- 24 Q. 1058 So what you or Mr. Deane were telling Mr. O'Farrell that was in addition  
16:15:05 25 to the list of 184,056 for which there were invoices for Barkhill and in  
26 addition to the 58,064 for which there were invoices in relation to the  
27 sports centre there was an additional £90,000 estimate costs which were  
28 still to come?
- 29 A. That's correct.
- 16:15:24 30 Q. 1059 Right. Then the overall total of the figures that are recorded by

- 16:15:27 1 Mr. O'Farrell as provided by you comes to 332,000 pounds, isn't that  
2 right?
- 3 A. Yes.
- 4 Q. 1060 And can I ask you, Mr. O'Callaghan, why it was that in view of the  
16:15:37 5 estimated figures you gave to Mr. O'Farrell together with the actual  
6 figures for which you had invoices, why did you select Mr. Dunlop's  
7 invoice as the only invoice that you wouldn't give to Mr. O'Farrell for  
8 payment?
- 9 A. Two reasons, I will repeat them again. One was that I felt I could push  
16:15:54 10 Frank Dunlop's invoice out quite a bit, and secondly, if I had added  
11 another 70,000 pounds there onto the cost of the stadium I hate to say  
12 what Michael O'Farrell would have said to me.
- 13 Q. 1061 You had already, insofar as the Deloitte & Touche invoice for 29,000  
14 pounds for the feasibility study was concerned, you had an invoice, you  
16:16:17 15 told Mr. O'Farrell you had an invoice, and it was recommended that that  
16 invoice be pushed out, isn't that right?
- 17 A. Yes.
- 18 Q. 1062 Why couldn't you have given him or told him about the 70,000 pounds Dunlop  
19 invoice on the same basis and recommended that it be pushed out and not  
20 paid at this point in time?
- 16:16:35 21 A. I don't see the problem with this. I had an invoice, I knew there was  
22 going to be a claim, an extra claim for 70,000 pounds. Already the cost  
23 of the stadium had gone through the roof as far as O'Farrell was  
24 concerned. He did not want any further monies to be paid on the stadium,  
16:16:48 25 only those that we would drag for him. I didn't want to kill it  
26 completely by putting an extra 70,000 on top of it, especially as it was  
27 an invoice I felt I could drag out for quite a while, or push out for  
28 quite a while. Not an invoice that Deloitte & Touche would be shouting  
29 for, or Ambrose Kelly would be shouting for, at least I could have some  
16:17:07 30 control over Dunlop, I don't see what the problem is.

- 16:17:09 1 Q. 1063 I wonder is it possible, Mr O'Callaghan, that what happened here is that  
2 there was never an invoice dated the 20th of July 1992 provided by Mr.  
3 Dunlop in July of 1992? Is it possible that in fact what happened is that  
4 this invoice was an invoice that was created after the event, after you  
16:17:26 5 paid the 70,000 pounds to Mr. Dunlop?  
6 A. Oh I see. Absolutely not, that invoice was given to me in July of '92.  
7 Q. 1064 And if you had that invoice in July of 1992, Mr. O'Callaghan, can you  
8 explain to the Tribunal why, whether you were dealing with Mr. Kay or you  
9 were dealing with Mr. O'Farrell, you never referred to the existence of  
16:17:47 10 that invoice or that sum?  
11 A. Because as I said it was such a large amount of money that it would have  
12 seemed way too expensive or too much to put against the stadium charge, as  
13 far as the bank were concerned, in particular as far as Michael O'Farrell  
14 was concerned. I kept the invoice quiet, I had to.  
16:18:06 15 Q. 1065 At 7723 please, can I suggest to you, Mr. O'Callaghan, the following, if  
16 your evidence to the Tribunal is correct and that these invoices issued by  
17 agreement only with Mr. Dunlop it was always open to you to go back to Mr.  
18 Dunlop and say I will never get a 70,000 pounds invoice through the bank,  
19 but as I am getting a 20,000 pounds invoice through the bank for Ambrose  
16:18:30 20 Kelly if you give me a non-account amount for the stadium for 20,000  
21 pounds or 25,000 pounds I will probably get that through the bank. Did  
22 you ever suggest that to Mr. Dunlop?  
23 A. At this particular stage we had in excess of 20 consultants involved in  
24 the stadium coming to Dublin on a regular basis from all over Europe and  
16:18:49 25 the States, being looked after by Frank Dunlop on Friday, Saturday and  
26 Sunday, being entertained, using his office, using his telephones, taking  
27 up his complete time and complete staff, I couldn't dare make that  
28 suggestion to him.  
29 Q. 1066 I had understood you but five minutes ago to tell the Tribunal that you  
16:19:04 30 weren't concerned about Mr. Dunlop's invoice in the same way as

- 16:19:07 1 Mr. Ambrose Kelly's because you yourself could push out Mr. Dunlop's?
- 2 A. That's right, because I know Frank Dunlop well enough to be able to did  
3 that with him.
- 4 Q. 1067 Therefore, I suggest to you that if what you were telling the Tribunal is  
16:19:19 5 correct in order to get Mr. Dunlop his money in a timely fashion if you  
6 had gone back to Mr. Dunlop and you had said I will be able to process a  
7 claim for 25,000 pounds for you and you can give me a second invoice which  
8 I will hold, that could you have done that, isn't that right?
- 9 A. Of course I could have, but I wouldn't do that to him. I was optimistic  
16:19:37 10 that I might be able to get this through when the time was right.
- 11 Q. 1068 You paid the invoice in November 1992, isn't that right?
- 12 A. Yes.
- 13 Q. 1069 Through Riga. But you didn't disclose the existence of the invoice to the  
14 bank, isn't that right, insofar as Barkhill was concerned?
- 16:19:53 15 A. I'm not sure of that, sorry when you say that?
- 16 Q. 1070 When did you disclose the existence of this invoice for 70,000 pounds to  
17 Barkhill's bankers?
- 18 A. I can't remember.
- 19 Q. 1071 Did you give a copy of this invoice to the bank?
- 16:20:05 20 A. I don't think so, I don't think, I'm not sure of that.
- 21 Q. 1072 Why wouldn't you have given them a copy of this invoice when you gave them  
22 a copy of Mr. Ambrose Kelly's invoice and Deloitte & Touche's invoice?
- 23 A. For the same reasons I have given, probably total embarrassment really,  
24 afraid that the banks would tell me to go and hump off completely.
- 16:20:23 25 Q. 1073 In fact, it is the case is it not, Mr. O'Callaghan, that the bank while  
26 not enthusiastic in anyway about the stadium did agree to make the  
27 payments to Mr. Ambrose Kelly, isn't that right?
- 28 A. Yes, again because he was the architect, you see, that's the difference.
- 29 Q. 1074 And did agree to make payments to Mr. Dunlop, isn't that right?
- 16:20:43 30 A. Yes.

- 16:20:44 1 Q. 1075 And the planning application in relation to the stadium, isn't that right?
- 2 A. Yes.
- 3 Q. 1076 They agreed to fund those, isn't that right?
- 4 A. Yes.
- 16:20:54 5 Q. 1077 Right.
- 6 A. They were classified as the practical call end, you see.
- 7 Q. 1078 Yes, but if you didn't have any discussion with Mr. Michael O'Farrell or
- 8 the bank about Mr. Dunlop's fee note then you couldn't have had any
- 9 negotiation with him about it, isn't that right?
- 16:21:05 10 A. That's right.
- 11 Q. 1079 So you made a decision not not to press Mr. Dunlop's case, sorry I beg
- 12 your pardon, you made a decision not make any case for Mr. Dunlop because
- 13 you didn't disclose the existence of this fee note to the bank?
- 14 A. In case I would upset the other payments that were much more wanted at the
- 16:21:20 15 time, much more urgent at the time.
- 16 Q. 1080 And in keeping that invoice within Riga as ultimately transpired to be the
- 17 case, isn't that right Mr. O'Callaghan, that payment of 70,000 pounds
- 18 effectively cash to Mr. Dunlop which was made by you in November 1992
- 19 never came subject to scrutiny either by Barkhill's auditors, Deloitte &
- 16:21:44 20 Touche or by Barkhill's bankers, isn't that right?
- 21 A. Yes, I think that was put into the work in progress in the stadium.
- 22 Q. 1081 In the stadium, exactly. I think we dealt with that, but the effect of
- 23 doing it in that manner, Mr. O'Callaghan, meant that insofar as the
- 24 payment of this invoice was concerned it was never subject to any scrutiny
- 16:22:02 25 by AIB and it was never subject to any scrutiny by Deloitte & Touche,
- 26 isn't that right?
- 27 A. That's right yes.
- 28 Q. 1082 So that what did you in November 1992 was effectively you provided a cash
- 29 payment of 70,000 pounds to Mr. Dunlop, isn't that right?
- 16:22:14 30 A. Yes.

- 16:22:14 1 Q. 1083 And you did so on foot of an invoice that you say you had in your  
2 possession since July of 1992 but which is not marked with any other date  
3 until it's paid on the 9th November '92, is that right?  
4 A. That's correct.
- 16:22:27 5 Q. 1084 Where did you keep the invoice can I ask you, Mr. O'Callaghan, when you  
6 got it from Mr. Dunlop.  
7 A. I probably kept it myself, probably kept it in my own desk in my office in  
8 Cork.  
9 Q. 1085 Would you have kept it with the Shefran invoices that you had kept?  
16:22:41 10 A. No, I don't think so, possibly, could have been in the same file, yeah.  
11 Q. 1086 Therefore, what you were getting on these few occasions from Mr. Dunlop  
12 are invoices, the Shefran invoices in the first incident and this  
13 particular stadium invoice in the second instance which you don't stamp as  
14 received on a particular date and which you keep in your office?  
16:23:01 15 A. Yes my yourself, yes.  
16 Q. 1087 And which are subsequently paid out of the Riga account and no claim in  
17 respect of them is made either against your bankers or against Barkhill,  
18 isn't that right.  
19 A. Yes because the banker would say not pay it, I was embarrassed to ask the  
16:23:15 20 bankers because I might upset other payments.  
21 Q. 1088 Now at that time in September of 1992 at 7989 you received this invoice  
22 from Mr. Dunlop, isn't that right, in the sum of 11,490 pounds?  
23 A. Yes.  
24 Q. 1089 For ongoing costs re Quarryvale?  
16:23:37 25 A. Yes.  
26 Q. 1090 Which you handed onto the bank, isn't that right, and who paid it I think  
27 on the 2nd November 1992?  
28 A. Okay.  
29 Q. 1091 Isn't that right?  
16:23:46 30 A. Yes.

- 16:23:46 1 Q. 1092 And therefore, you had no difficulty in providing the bank with an invoice  
2 in relation to costs in connection with Quarryvale, isn't that right?  
3 A. Small amount of money, yes, and Quarryvale of course.
- 4 Q. 1093 That total 33,335 pounds that had been paid to Mr. Dunlop in this fashion  
16:24:03 5 since June of 1992, do you agree with that?  
6 A. Yes.
- 7 Q. 1094 Right. And those ongoing costs are recorded as an expense against  
8 Barkhill, isn't that right?  
9 A. Yes.
- 16:24:13 10 Q. 1095 And I think subsequently there is another invoice for ongoing costs re  
11 Quarryvale later on in the year, isn't that right, which is also paid?  
12 A. Yes, I'm not sure what amount that is.
- 13 Q. 1096 Well there is one for 21,063 pounds at 8152?  
14 A. Yes.
- 16:24:34 15 Q. 1097 So between June and October Mr. Dunlop has invoiced 54,398 pounds, isn't  
16 that right?  
17 A. That's correct.
- 18 Q. 1098 That's some 15,000 pounds short of the 70,000 pounds that caused you such  
19 concern, isn't that right?  
16:24:47 20 A. Yes, but this is broke down over a period of time.
- 21 Q. 1099 That's exactly the point I have been endeavouring to make to you, and  
22 obviously not very clearly, Mr. O'Callaghan. That if you had broken down  
23 the 70,000 pounds invoice you had a much greater chance of successfully  
24 processing that through the bank or persuading the bank to pay it, would  
16:25:05 25 you agree with that?  
26 A. Not really, no, because it was associated with the stadium, that would  
27 have been the difficulty.
- 28 Q. 1100 Now, when you came to meet, at 8040, with Mr. O'Farrell, on the 16th  
29 September, you came to discuss the question of fees and other matters with  
16:25:27 30 Mr. O'Farrell, isn't that right?

- 16:25:29 1 A. Yes.
- 2 Q. 1101 Right. Now at this meeting under the heading "background" may the  
3 Tribunal take it that you would have provided the background in relation  
4 to the rezoning of Quarryvale?
- 16:25:45 5 A. Oh, yes.
- 6 Q. 1102 And in fact I think it's recorded at the top "I took the opportunity to  
7 get Owen to take me through the background to the zoning situation in  
8 Quarryvale"?
- 9 A. Yes.
- 16:25:50 10 Q. 1103 This is the background that was provided:  
11 "May '91 first vote, Fianna Fail had majority. Vote was 33/12. This  
12 effectively transferred the town centre zoning which applied to the  
13 Neilstown site over to Quarryvale. Following this the zoning had to be  
14 put into the Draft Development Plan. Accordingly at this stage the land  
16:26:06 15 at Quarryvale is zoned 70 acres for retail with the remainder of 116 acres  
16 industrial. Accordingly a formal rescinding motion will be needed to  
17 change the zoning, this has to come from an affected councillor, i.e. a  
18 councillor in Blanchardstown. There are seven councillors in  
19 Blanchardstown; three of them are for Quarryvale, one will not put forward  
16:26:27 20 the motion, the remaining three could put forward such a motion. Two from  
21 Labour and one from PDs".  
22  
23 Can we stop there for a moment, Mr. O'Callaghan, and look at the  
24 information you provided. First of all do you agree that what you told  
16:26:40 25 Mr. O'Farrell was the Fianna Fail majority in May '91 had carried the  
26 rezoning?  
27 A. Yes.
- 28 Q. 1104 Right. And the second item you are telling him is that there has to be a  
29 confirming motion in effect in relation to the rezoning that was obtained  
16:26:52 30 in May '91?

- 16:26:53 1 A. Yes.
- 2 Q. 1105 And that that should come from a local councillor?
- 3 A. Yes.
- 4 Q. 1106 And you identify one person, a local councillor who will not put forward  
16:27:01 5 the motion, who was that?
- 6 A. Sorry, who will not?
- 7 Q. 1107 Put forward the motion. You say "Three of those are for Quarryvale, one  
8 will not put forward the motion"?
- 9 A. One of the three, yes.
- 16:27:16 10
- 11 JUDGE FAHERTY: Just, could you scroll up a little bit so Mr. O'Callaghan  
12 can see it?
- 13 A. Thank you, Judge.
- 14 Q. 1108 MS. DILLON: Scroll the other way please. Yes, sorry Mr. O'Callaghan I  
16:27:28 15 didn't realise it wasn't on your screen. It says:
- 16 "There are seven councillors in Blanchardstown, three of them are for  
17 Quarryvale, one will not put forward the motion".
- 18 A. That's the rescinding motion?
- 19 Q. 1109 The confirming motion. In other words the motion that you were seeking to  
16:27:42 20 succeed with in December 1992?
- 21 A. Yes.
- 22 Q. 1110 What you appear to be telling the bank there is there are seven  
23 councillors in Blanchardstown, three of them are for Quarryvale, one will  
24 not put forward the motion, I was asking you who is that person?
- 16:27:57 25 A. That one -- I am after confusing myself now, that one is the one that will  
26 put in the rescinding motion, is that what I am saying?
- 27 Q. 1111 No. That one, if the note is correct, is in favour of Quarryvale but will  
28 not put forward the motion?
- 29 A. Sorry yeah, Ned Ryan. Councillor Ned Ryan.
- 16:28:13 30 Q. 1112 Are you sure it's not Councillor McGennis?

- 16:28:15 1 A. No, certain.
- 2 Q. 1113 "The councillor will not put forward the motion, the remaining three could  
3 put forward such a motion. Two from Labour and one from the PDs".  
4 Who were they?
- 16:28:26 5 A. Two from Labour? I can't think of their names, but the Labour councillors  
6 would. I can't remember who the PD councillor was at the time.
- 7 Q. 1114 Was that Councillor Tyndall?
- 8 A. Oh no, oh no.
- 9 Q. 1115 Councillor Tyndall was in fact the signatory to the December 1992 motion.  
16:28:41 10 He was the local councillor in the area and he was a supporter of yours,  
11 Mr. O'Callaghan?
- 12 A. We are talking about Blanchardstown.
- 13 Q. 1116 You are talking about the councillors who are going to put forward the  
14 motion. In other words, if you look at what you told the bank Mr.  
16:28:57 15 O'Callaghan. I will take it slowly for you:  
16 "Accordingly a formal rescinding motion will be needed to change the  
17 zoning" this is the zoning on Quarryvale. "This has to come from an  
18 affected councillor i.e. a councillor in Blanchardstown. There are seven  
19 councillors in Blanchardstown. Three of these are for Quarryvale, one  
16:29:18 20 will not put forward the motion, the remaining three could put forward  
21 such a motion. Two from Labour, one from the PDs"?
- 22 A. Tyndall is not in Blanchardstown.
- 23 Q. 1117 He is in Quarryvale.
- 24 A. Yes.
- 16:29:29 25 Q. 1118 Tyndall was one of the PD councillors who signed your motion in December  
26 1992?
- 27 A. Correct, he is not Blanchardstown, he is in the opposite constituency.
- 28 Q. 1119 Yes but if you are talking about the seven Quarryvale councillors?
- 29 A. I am not talking about Quarryvale, I am talking about Blanchardstown  
16:29:44 30 there.

16:29:44 1 Q. 1120 No, I suggest to you that in fact you are talking about Quarryvale  
2 councillors?

3 A. But there are seven councillors in Blanchardstown.  
4

16:29:51 5 CHAIRMAN: It says there are seven councillors in Blanchardstown, three  
6 of them are for Quarryvale, a fourth won't put forward the motion, and the  
7 remaining three could put forward a motion.  
8

9 MS. DILLON: I don't believe anything very much turns on this in any  
16:30:08 10 event, I can move on.  
11

12 JUDGE FAHERTY: Ms. Dillon, perhaps it might be helpful -- this was  
13 obviously something Mr. O'Farrell has taken down as a result of his  
14 conversation with Mr. O'Callaghan? Irrespective of how it's put there,  
16:30:22 15 Mr. O'Farrell has recorded that you told him there were seven councillors  
16 in Blanchardstown.

17 A. Yes.  
18

19 JUDGE FAHERTY: Do you recall the seven names that you might have given  
16:30:31 20 Mr. O'Farrell in September, Mr. O'Callaghan?

21 A. In Blanchardstown I could not, but in Quarryvale I could, yes. Not in  
22 Blanchardstown, I couldn't, not now. If I saw the list I could.  
23

24 CHAIRMAN: We can think about it overnight. It's half four, so  
16:30:48 25 Mr. O'Callaghan will be back tomorrow, I think at half ten. And thank you  
26 for that.

27 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,**

28 **WEDNESDAY 24TH SEPTEMBER 2008 AT 10.30 AM.**  
29  
30