

13:09:14 1

**THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY**

2

**30TH SEPTEMBER 2008 AT 2 PM:**

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4

MS. DILLON: Good afternoon, Sir. Mr. O'Callaghan please.

14:03:02 5

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**MR. OWEN O'CALLAGHAN CONTINUES TO BE QUESTIONED BY**

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**MS. DILLON AS FOLLOWS:**

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CHAIRMAN: Good afternoon, Mr. O'Callaghan.

14:03:20 10

A. Afternoon.

11

Q. 1 Good afternoon, Mr. O'Callaghan. On the last occasion on which you were

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here giving evidence to the Tribunal, you had given your evidence in

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relation to a payment of 10,000 pounds to Mr. Batt O'Keefe, and your

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evidence of a payment of 5,000 pounds to Mr. GV Wright and the payment of

14:03:37 15

an invoice for 70,000 pounds to Mr. Frank Dunlop which invoice had issued

16

in July of 1992, isn't that right?

17

A. Yes.

18

Q. 2 Right. Now, in November 1992, there was an election, as I think you

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already know, and as you have told the Tribunal, that you believe that the

14:03:55 20

payment of 70,000 pounds to Mr. Dunlop, that the urgency with that payment

21

was connected in some way to Mr. Dunlop having to make political

22

donations, isn't that right?

23

A. Well, yes, I believe that because the election was called I am pretty sure

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that Mr. Dunlop was trying to make sure that he had funds available so

14:04:16 25

that if he was asked for political contributions, which I am sure he would

26

have expected, that he would have been in a position to pay them.

27

Q. 3 In the context of that, Mr. O'Callaghan, can I ask you in view of the fact

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that you were making the 70,000 pounds payment to Mr. Dunlop in your

29

belief that some of this money might be directed towards political

14:04:34 30

payments, did you ever have any discussion with Mr. Dunlop about any

14:04:38 1 political payments or payments to politicians that he was making in  
2 November 1992?

3 A. No.

4 Q. 4 Right. Mr. Dunlop has told the Tribunal of a series of meetings which he  
14:04:50 5 says took place in the days immediately following the receipt of money  
6 from you, namely the 10th and 11th October 1992, at 8431, and you will see  
7 on the 10th November 1992, which is the date that Mr. Dunlop withdraws the  
8 55,000 pounds in cash, that he has a meeting in Ashtons of Clonskeagh and  
9 the initials "OM" beside it, Mr. Dunlop told the Tribunal that was a  
14:05:20 10 meeting with Ms. Olivia Mitchell. Beneath that he has an entry at at 8  
11 o'clock, "Clondalkin", and Mr. Dunlop told the Tribunal he had a meeting  
12 with Mr. Colm McGrath at which he paid him 2,000 pounds in cash. And on  
13 the following day you will see a reference "PR at home", and that is a  
14 reference to Mr. Pat Rabbitte and Mr. Dunlop has told the Tribunal of a  
14:05:43 15 payment of 3,000 pounds in cash at that meeting. Mr. Rabbitte  
16 acknowledges receipt of a sum of 2,000 pounds, which he says was repaid in  
17 December of 1992.  
18

19 At 11 o'clock there is a meeting with Tom Hand, at "11.30 MJC", is Michael  
14:06:04 20 Joseph Cosgrave, at 1 o'clock a meeting "CB at DCC" which is Mr. Cathal  
21 Boland, at which Mr. Boland says Mr. Dunlop gave him 4,000 pounds in cash  
22 which is denied by Mr. Dunlop. And at 2.30 there is a reference, an entry  
23 for "LTC at Newtownpark Avenue" at which Mr. Dunlop says he paid a sum of  
24 5,000 pounds to Mr. Liam T Cosgrave, which is denied by Mr. Cosgrave.

14:06:34 25

26 Now, leaving aside the detail of that, Mr. O'Callaghan, for a moment, is  
27 it your evidence to the Tribunal that notwithstanding the fact that you  
28 paid the 70,000 pounds in your belief that some of that money was directed  
29 or might be directed towards politicians in the upcoming election, you  
14:06:49 30 never discussed any payments with Mr. Dunlop

14:06:53 1 A. No, absolutely not.

2 Q. 5 Right. Even though standing in that election were councillors who would  
3 in turn have an influence or a vote to cast in the December 1992 vote on  
4 Quarryvale, isn't that right?

14:07:06 5 A. Yes.

6 Q. 6 Right. For example Mr. Liam Cosgrave --

7 A. Yes.

8 Q. 7 -- is on that list, isn't that right?

9 A. Yes.

14:07:13 10 Q. 8 Right. And did it not occur to you to ask Mr. Dunlop that if he was  
11 making payments whether in fact he was making political donations to any  
12 of the councillors who might be voting on Quarryvale in December 1992?

13 A. Well, I didn't know Mr. Dunlop was making payments.

14 Q. 9 Well, you knew that Mr. Dunlop had accompanied you so you could make a  
15 payment to Mr. GV Wright, isn't that right?

14:07:35 16 A. Yes.

17 Q. 10 And you had spoken to Mr. Dunlop about the advisability of paying, making  
18 a payment to Mr. GV Wright, isn't that right?

19 A. Yes.

14:07:43 20 Q. 11 And that is the only conversation you say you had with Mr. Dunlop at that  
21 time about payments, isn't that right?

22 A. That was myself, actually, yes.

23 Q. 12 Notwithstanding the payment of the 70,000 pounds at the same time, isn't  
24 that right?

14:08:05 25 A. Yes.

26 Q. 13 Even though when you make that payment you do so because you consider Mr.  
27 Dunlop's urgent desire for money is motivated by the elections and the  
28 necessity to make payments?

29 A. Yes. I assumed that payment as I have said was long overdue, that was  
14:08:10 30 invoiced in July, Mr. Dunlop was very anxious to get that payment, long

14:08:14 1 before that but he was particularly anxious to get it in November, at the  
2 time it made sense to me that I'm sure in the position he was in, and with  
3 all the politicians that he continuously knew and he knew more politicians  
4 than anybody else. He was meeting them continuously, that he would be,  
14:08:31 5 come election time he would be the person who would be asked for political  
6 contributions by some politicians of course. I assumed that would be it,  
7 yes.

8 Q. 14 At that time can I ask you, Mr. O'Callaghan, in November 1992, was  
9 Mr. Lawlor a candidate in that election?

14:08:50 10 A. General election?

11 Q. 15 Yes.

12 A. I can't remember but I am pretty sure he was.

13 Q. 16 Did Mr. Lawlor approach you for a political donation for the general  
14 election in November 1992?

14:09:02 15 A. Not that I can recall, no.

16 Q. 17 He had approached you in November 1991?

17 A. Yes.

18 Q. 18 And you had paid him --

19 A. Sorry '91? No.

14:09:12 20 Q. 19 Isn't that right?

21 A. That was after the '91 local elections, yes.

22 Q. 20 Yes. But in November I think of 1991, you had made a payment of 10,000  
23 pounds to Mr. Lawlor, isn't that right?

24 A. Yes.

14:09:26 25 Q. 21 And you had done so on foot of a request he had made previously, isn't  
26 that right?

27 A. Yes.

28 Q. 22 And is it your evidence to the Tribunal that Mr. Lawlor did not approach  
29 you in November 1992 for any financial support for the general election in  
14:09:41 30 which he was then standing?

14:09:44 1 A. To the best of my knowledge, yes, he did not approach me, that's correct.

2 Q. 23 If he had approached you, Mr. O'Callaghan, is it likely that you would

3 have made a donation?

4 A. Yes, I would.

14:09:55 5 Q. 24 All right. Did you have any discussion with Mr. Dunlop about whether or

6 not Mr. Dunlop was approached by Mr. Lawlor?

7 A. No.

8 Q. 25 Mr. Dunlop has told the Tribunal that he paid 25,000 pounds in cash to

9 Mr. Lawlor in November 1992 in the context of the general election, that

14:10:13 10 he had done so prior to going to assist Fianna Fail in the mid November

11 1992, you are aware of Mr. Dunlop's evidence?

12 A. Yes.

13 Q. 26 And Mr. Lawlor has told the Tribunal of the receipt of 5,000 pounds at his

14 home from Mr. Dunlop in or around that time, and you are aware of that

14:10:31 15 information, because it's in the brief?

16 A. Oh, yes, I have read that.

17 Q. 27 Do you know anything about any payment passing between Mr. Dunlop and

18 Mr. Lawlor in November 1992?

19 A. Not then or at any stage. Mr. Lawlor and Mr. Dunlop had their own

14:10:46 20 arrangements and I certainly was not privy to them actually.

21 Q. 28 Now, at that time, Mr. O'Callaghan, did you make a donation to Mr. Richard

22 Green?

23 A. Yes, I think we did, yes.

24 Q. 29 And can you just outline to the Tribunal the circumstances in which you

14:11:04 25 made that donation?

26 A. As far as I recall we met him on the street, I was with Frank Dunlop and

27 we met him on the street outside Frank Dunlop's office, and he explained

28 his campaign to us and what he was doing, I think he was on the -- very

29 much on an anti-abortion campaign at the time, a campaign like that, and I

14:11:25 30 suggested to him actually that he didn't ask, I suggested to him that we

- 14:11:28 1 would like to contribute to his campaign and we did, I think we gave him a  
2 sum of 500 pounds afterwards I think.
- 3 Q. 30 There was some dispute about the sum, I think Mr. Dunlop says and  
4 Mr. Richard Green agrees that it's a figure of, Mr. Dunlop thought it was  
14:11:44 5 500 pounds in cash, Mr. Green says it was 250 pounds in cash?
- 6 A. As far as I know it was 500 and I offered it to him actually.
- 7 Q. 31 And did you give it to him there and then or was he to pick it up?
- 8 A. No, I asked him to call to Frank Dunlop's office for it, yes.
- 9 Q. 32 And Mr. Green has told the Tribunal that he received a telephone call  
14:12:03 10 after his meeting with you and Mr. Dunlop and he went to Mr. Dunlop's  
11 office and he got a sum of 250 pounds, you say it was 500 pounds?
- 12 A. I am almost certain it was, yes.
- 13 Q. 33 Was that a figure, a payment by Mr. Dunlop in cash on your behalf, which  
14 was subsequently reimbursed to Mr. Dunlop?
- 14:12:19 15 A. Yes.
- 16 Q. 34 Right. And Mr. Green has told the Tribunal that the meeting took place,  
17 this accident all meeting, on a Saturday, either 7th November '92 or the  
18 14th November 1992. And on the 7th November, Mr. O'Callaghan, just to  
19 assist you, at 8383 please, you will see that there is no entry in Mr.  
14:12:45 20 Dunlop's diary for the 7th of November 1992, and to further assist you,  
21 you will recollect that that is the date on which you wrote the cheque for  
22 Mr. Batt O'Keefe at 8423?
- 23 A. Yes, which means I was in Cork that day.
- 24 Q. 35 That is what I wanted to ask you, Mr. O'Callaghan, would it follow from  
14:13:11 25 that that you weren't in Dublin on the 7th November 1992?
- 26 A. Yes.
- 27 Q. 36 And on the 14th November at 8431, Mr. Dunlop's diary does not record that  
28 you are in Dublin on that occasion?
- 29 A. Yes.
- 14:13:23 30 Q. 37 Do you say then if Mr. Green says that you met on a Saturday, that that is

14:13:29 1 unlikely to be correct?

2 A. Yes, very unlikely, yes.

3 Q. 38 And that the meeting must have happened, the chance meeting must have

4 happened at some other time?

14:13:38 5 A. A weekday, Monday to Friday, yes.

6 Q. 39 When you met with Mr. Green did you have any discussion with Mr. Green

7 about Quarryvale?

8 A. No, never came up because did he all the talking actually, I remember it

9 well. Quarryvale was not mentioned.

14:13:52 10 Q. 40 And what was discussed, Mr. O'Callaghan?

11 A. His campaign. He was, whatever campaign he was supporting at that

12 particular time, I am not certain now what it was actually, but he spent

13 15, 20 minutes talking to us about it.

14 Q. 41 I think what Mr. Green has told the Tribunal is that he was discussing the

14:14:11 15 pro life cause with yourself and with Mr. Dunlop.

16 A. Yes, that's right.

17 Q. 42 And he has told the Tribunal that you described it as a "noble cause" and

18 offered to make a donation?

19 A. Yes.

14:14:23 20 Q. 43 Right. You would have known that Mr. Green was a councillor, is that

21 right?

22 A. Oh, yes.

23 Q. 44 And you had, I think, met already with Mr. Green for the purposes of

24 making a presentation to him, isn't that right?

14:14:34 25 A. Yes, we had. Yes.

26 Q. 45 And I think you had met him on the 14th October '92 at 8243, isn't that

27 right? And you will see on the 14th October 1992, there is an entry for

28 meeting with Mr. Richard Green in the Royal Dublin at 3.30 following a

29 meeting in the Westbury between Mr. Deane, Mr. Kelly, Mr. Liam Lawlor, Mr.

14:14:57 30 Dunlop and yourself, isn't that right?

- 14:14:59 1 A. Yes.
- 2 Q. 46 And Mr. Green says that at that meeting after he had discussed the issue
- 3 with you of jobs that would be created, he indicated he would be
- 4 supportive of Quarryvale?
- 14:15:09 5 A. Yes.
- 6 Q. 47 And do you agree with Mr. Green in that, that from the time that you spoke
- 7 with him he indicated he would be a supporter of Quarryvale?
- 8 A. Yes, indeed. Yes.
- 9 Q. 48 Is it your I have had then, to the Tribunal, that there is no connection
- 14:15:20 10 between any money paid by Mr. Dunlop to Mr. Green and Mr. Green's vote in
- 11 relation to Quarryvale?
- 12 A. No connection.
- 13 Q. 49 Right. Did you also make a donation to Councillor Sheila Terry?
- 14 A. Yes, I think we did, yes.
- 14:15:34 15 Q. 50 And at 8577, four from the bottom, you will see recorded there a sum of
- 16 500 pounds to Councillor Terry, isn't that right?
- 17 A. Yes.
- 18 Q. 51 And that obviously was a payment that is made by O'Callaghan Properties
- 19 Limited, isn't that right?
- 14:15:54 20 A. Yes.
- 21 Q. 52 And it's made directly to Councillor Terry who is a Dublin councillor,
- 22 isn't that the position?
- 23 A. Yes.
- 24 Q. 53 And if I just show you 8579, Mr. O'Callaghan, approximately halfway down
- 14:16:04 25 the page you will see an entry "Councillor Sheila Terry" and a sum of "500
- 26 pounds" which is analysed under sundries, isn't that right?
- 27 A. Yes.
- 28 Q. 54 And beside that you have the attribution "5003" or "5002", isn't that
- 29 right?
- 14:16:22 30 A. Yes.



- 14:16:23 1 Q. 55 And that is the attribution in O'Callaghan Properties for advertising and  
2 subscriptions, isn't that right?
- 3 A. Yes.
- 4 Q. 56 So there was no question of that payment being entered as a payment for  
14:16:32 5 the benefit of Barkhill, isn't that right?
- 6 A. Yes.
- 7 Q. 57 Why was that?
- 8 A. I don't know. I can't explain that really. It should have been Barkhill,  
9 I don't know.
- 14:16:44 10 Q. 58 You had entered Mr. GV Wright's payment of 5,000 pounds as being a payment  
11 that was to be attributed to the Barkhill loan, isn't that right?
- 12 A. Yes.
- 13 Q. 59 On this occasion where Councillor Sheila Terry is concerned it's not  
14 entered against the Barkhill loan, is that right?
- 14:16:59 15 A. Yeah. That's right, I don't know why that is, I don't know.
- 16 Q. 60 Is it your view that that is incorrectly entered and in fact it should  
17 have been entered --
- 18 A. Yes.
- 19 Q. 61 -- initially in any event against the Barkhill loan?
- 14:17:09 20 A. That's correct, yes.
- 21 Q. 62 Now, I think the election took place on the 25th November, isn't that  
22 right?
- 23 A. Yes.
- 24 Q. 63 At 8569, Mr. O'Callaghan, you will see that the election is called on the  
14:17:23 25 5th of November and it takes place on the 25th November, isn't that right?
- 26 A. Yes.
- 27 Q. 64 And I think Mr. Dunlop has told the Tribunal that he was effectively  
28 brought in by Fianna Fail to assist in the public relations exercise of  
29 running the campaign, were you aware of that?
- 14:17:43 30 A. Yes, I was.

14:17:44 1 Q. 65 It would follow from that of course that you would have known how close  
2 Mr. Dunlop was to everybody in Fianna Fail and effectively how well  
3 respected he was within Fianna Fail, isn't that right?  
4 A. By all politicians actually.

14:18:04 5 Q. 66 Yes. Now, you yourself I think made a donation of 5,000 pounds for the  
6 election in November 1992, isn't that right?  
7 A. Yes.

8 Q. 67 And I think you sent a letter at 8532. Now, this is a letter I think  
9 that's furnished to the Tribunal by Fianna Fail, isn't that right, could  
10 we have the full page, please? You will see the attribution at the top is  
11 "FF", isn't that right?  
12 A. Yes.

13 Q. 68 And then if we look at the letter and the letter reads as follows,  
14 addressed to Mr. Albert Reynolds, An Taoiseach 13 Upper Mount Street.  
14:18:40 15  
16 "Dear Taoiseach, thank you for your recent letter.  
17  
18 It has always been my policy over the years to support individual  
19 candidates and in particular this time, both in Dublin and in Cork.  
14:18:51 20  
21 As you know I have very close contact with candidates in both these areas  
22 and hope I have done the right thing in supporting candidates individually  
23 to gain those vital few seats. The total support is in excess of six  
24 figures but it is vital for the country that we have a Fianna Fail  
14:19:05 25 controlled government.  
26  
27 In acknowledgement of your own letter I enclose a cheque for 5,000 pounds.  
28 I know the overall situation is not looking great at the moment, but as I  
29 write to you there is already an upturn and I am convinced it will all  
14:19:21 30 come right on the day.

14:19:22 1 The very best on 25th, it mean as lot to me as well. Regards Owen"  
2  
3 Now, do you agree first of all this letter, which is at page 8532  
4 addressed "personal and confidential" was from you, in a friendly capacity  
14:19:38 5 Mr. Albert Reynolds, the then Taoiseach, isn't that right?  
6 A. Yes.  
7 Q. 69 It was directed for him and him alone, isn't that right?  
8 A. That's correct.  
9 Q. 70 "Personal and confidential." Isn't that right?  
14:19:50 10 A. That's correct, yes.  
11 Q. 71 Right. Now, looking at what you have said in that letter,  
12 Mr. O'Callaghan, would you agree with me first of all that that's not a  
13 piece of correspondence that you ever expected to see again, would you  
14 agree with that?  
14:20:02 15 A. Certainly not, no.  
16 Q. 72 You don't agree with that?  
17 A. No, I agree of course.  
18 Q. 73 Yes. When you sent this letter to Mr. Reynolds with your cheque for 5,000  
19 pounds, you expected that that would be the end of both the 5,000 pounds  
14:20:14 20 and the correspondence, isn't that right?  
21 A. Personal and confidential, I assumed it would stay that way, yes.  
22 Q. 74 Yes. And in the first line of the letter you say "thank you for your  
23 recent letter" and from that may the Tribunal take it that a letter had  
24 emanated from Fianna Fail seeking support?  
14:20:31 25 A. Yes, and I think I have discovered that to you.  
26 Q. 75 Yes.  
27 A. Yes.  
28 Q. 76 I'll have that checked, I don't believe you have, Mr. O'Callaghan, but I  
29 will have that checked now.  
14:20:41 30 A. I would be surprised.

- 14:20:43 1 Q. 77 Now, in the second line of that letter you say "it's always been my policy  
2 over the years to support individual candidates and in particular this  
3 time both in Dublin and in Cork". Now, do you agree with me,  
4 Mr. O'Callaghan, that what you were telling the reader of that letter,  
14:20:56 5 that for the first time you were going to be supporting candidates in  
6 Dublin?  
7 A. Yes, I suppose, yes.
- 8 Q. 78 In other words, that prior to this particular election, or this particular  
9 period you had supported candidates in Cork only?  
14:21:15 10 A. Yes.
- 11 Q. 79 Right. And in the next paragraph you say "As you know I have very close  
12 contacts with candidates in both these areas" by that do you mean  
13 candidates standing in Dublin and in Cork?  
14 A. Yes.
- 14:21:29 15 Q. 80 "And hope I have done the right in supporting candidates individually to  
16 gain these vital few seats" from that, did you mean the reader to  
17 understand you had made donations to a number of candidates, Cork and  
18 Dublin?  
19 A. Yes.
- 14:21:43 20 Q. 81 All right. But the point that you were also making is that for the first  
21 time in your political donation career, you are making donations to  
22 politicians in Dublin?  
23 A. Yes.
- 14:21:57 24 Q. 82 Right. The next paragraph states "The total support is in excess of six  
25 figures but it is vital for the country that we have a Fianna Fail  
26 controlled government". Now, taking the second part of that sentence  
27 first, do you agree what you were referring to there what was what you  
28 wanted was a Fianna Fail led government after the election?  
29 A. Absolutely.
- 14:22:12 30 Q. 83 Right. Insofar as the first part of the sentence is concerned, do you

14:22:15 1 agree with me that to the reader of the letter they would have understood  
2 what you were saying was that your support in this election was six  
3 figures?  
4 A. Oh God no, not for this election, that's in total, that's over 30 years.

14:22:29 5 Q. 84 I see. You had meant to, are you telling the Tribunal that what you had  
6 intended to indicate to Mr. Albert Reynolds in writing this letter was  
7 that the total support you had made politically over the previous 30 years  
8 was in excess of six figures?  
9 A. Yes.

14:22:44 10 Q. 85 And you were not seeking to suggest that the support for the 1992 November  
11 election was in excess of six figures?  
12 A. Oh no, no, no.

13 Q. 86 All right. You say "In acknowledgement of your own letter I enclose a  
14 cheque for 5,000 pounds"?

14:22:57 15 A. Yes.

16 Q. 87 And then you say, 8533 in the last, that the outcome effectively mean as  
17 lot to you as well, isn't that right?  
18 A. That's correct.

19 Q. 88 Now, can I ask you, Mr. O'Callaghan, would you agree with me that on the  
14:23:12 20 ordinary interpretation of that letter to a person who didn't have privy  
21 either to your mind or the donations you had made, that what the letter  
22 was saying on it's face was you had made donations totalling six figures  
23 in the November 1992 election?  
24 A. Could I see that again, please?

14:23:31 25 Q. 89 8532 please. The fourth paragraph.  
26 A. Yes. No I wouldn't read it that way actually. I don't know could it be  
27 read that way. I suppose it's possible, you know, but it certainly wasn't  
28 the intention.

29 Q. 90 Yes. What I am suggesting to you is that on it's ordinary interpretation,  
14:23:49 30 looking at the content of that letter in it's entirety, the only subject

14:23:53 1 matter that you are discussing with the Taoiseach is your support in this  
2 election and the fact that on this occasion you are supporting candidates  
3 in Dublin and Cork, isn't that right?

4 A. Yes.

14:24:03 5 Q. 91 And I'm suggesting to you that anybody reading that letter could have come  
6 to the not unreasonable conclusion, that what you were telling the  
7 Taoiseach was that you had made support or given support in November 1992  
8 election that was in excess of six figures?

9 A. I don't know. I don't agree with that.

14:24:22 10 Q. 92 All right. So say that the letter is clear on it's face?

11 A. It could be clearer, it could be clearer actually yes of course.

12 Q. 93 Yes.

13 A. But I would -- I wouldn't read it the way you are suggesting, but yes I  
14 could have made it more clear, that's for sure.

14:24:37 15 Q. 94 Now, Ms. O'Raw tells me, Mr. O'Callaghan, that you haven't in fact  
16 discovered any letter seeking this donation, and I should tell that you  
17 this particular letter as you are aware, comes to the Tribunal from Fianna  
18 Fail and not I think from your discovery, do you agree with that?

19 A. Well, that letter comes from Fianna Fail, but I am surprised we haven't  
14:24:58 20 discovered that letter to you, I assumed we had actually, the request  
21 letter from the Taoiseach at the time, to me.

22 Q. 95 Yes. And this letter, a copy of this letter from you?

23 A. Maybe, is it in the O'Callaghan Properties discovery.

24 Q. 96 I understand from Ms. O'Raw now, that we don't have a copy of that letter  
14:25:16 25 Mr. O'Callaghan from you, but again I am subject to correction from your  
26 legal team in relation to that. In any event, leaving aside whether you  
27 provide the letter or not for the moment, Mr. O'Callaghan, all I am  
28 suggesting to you is that taken on it's face, on an ordinary  
29 interpretation and simply reading that would suggest that you had paid a  
14:25:36 30 figure of in excess of 100,000 pounds in the November 1992 elections?

14:25:43 1 A. I'm afraid I can't agree with that.

2 Q. 97 Okay. If we look then, Mr. O'Callaghan, at what you were saying, you say

3 you were saying -- what you were telling the Taoiseach is that in the

4 course of your political career you had made donations of in excess of six

14:25:57 5 figures, is that right?

6 A. That's correct, yes, that was the intention, yes.

7 Q. 98 Right. And how far back were you going with that information,

8 Mr. O'Callaghan?

9 A. 1969, I would say.

14:26:06 10 Q. 99 All right. And your information I think to the Tribunal commences in

11 February 1989, is that right?

12 A. Yes.

13 Q. 100 Now, would you agree with me, Mr. O'Callaghan, in relation to the

14 following few items, that I don't think are in dispute:

14:26:22 15 In 1992, in November 1992 you paid 5,000 pounds to Mr. GV Wright?

16 A. Yes.

17 Q. 101 You paid 10,000 pounds to Mr. Batt O'Keefe?

18 A. Yes.

19 Q. 102 You had paid 1,750 pounds in October, in November to Mr. Sean Gilbride?

14:26:40 20 A. Yes.

21 Q. 103 You had sponsored a Fianna Fail golf classic in October 1992, through

22 O'Callaghan Properties in the sum of 1,000 pounds?

23 A. Yes.

24 Q. 104 Is that right? You had paid 1,750 pounds in September '92 to Mr.

14:26:53 25 Gilbride?

26 A. Yes.

27 Q. 105 You had paid 10,700 pounds for Mr. Colm McGrath in August of 1992?

28 A. Yes.

29 Q. 106 Is that right?

14:27:02 30 A. Yes.

14:27:02 1 Q. 107 Now, if you were to combine those political payments, Mr. O'Callaghan,  
2 with the 70,000 pounds that you had paid to Mr. Dunlop you'd have a figure  
3 of in excess of six figures, isn't that right?

4 A. Yes.

14:27:15 5 Q. 108 Right. Is it possible therefore that what you were implying in your  
6 letter was that if you added up the political payments you had made in  
7 late 1992, together with an unspecified 70,000 pounds that you paid to Mr.  
8 Dunlop with the election in mind, that in fact you were telling the then  
9 Taoiseach the correct matter, and you had in fact paid over 100,000 pounds  
10 in the November 1992 election?

11 A. No, that is not correct.

12 Q. 109 All right.

13 A. Because I could not have included 70,000 pounds in that, they were Frank  
14 Dunlop's fees for the stadium. I thought I had given you a list, a  
15 detailed list of that in reply to that letter actually.

16 Q. 110 You have provided a statement to the Tribunal, is that the position?

17 A. Yes.

18 Q. 111 Yes, I am going to put that statement to you now in it's entirety,  
19 Mr. O'Callaghan, but what I put to you before do I that is I am asking you  
14:28:07 20 is it possible in the same way that you have told the bank you had  
21 injected 85,000 into the lobbying situation for Quarryvale and you were  
22 including Mr. Dunlop's 70,000 pounds in that, that you similarly in this  
23 letter included Mr. Dunlop's 70,000 pounds when you were talking about the  
24 total support you had given?

14:28:27 25 A. Yes.

26 Q. 112 Is that possible?

27 A. Absolutely not. Not at all, Frank Dunlop's 70,000 pounds as I said, were  
28 his fees, invoiced in July of '92.

29 Q. 113 Would you agree with me if in fact what you meant, Mr. O'Callaghan, when  
14:28:40 30 you told the bank that you had injected 85,000 into the situation, which



14:28:44 1 included Mr. Dunlop's 70,000 pounds, and if what you meant when you were  
2 telling the Taoiseach you had paid over 100,000 pounds was to include Mr.  
3 Dunlop's 70,000 pounds in both, it means that in November 1992, you were  
4 viewing Mr. Dunlop's 70,000 pounds as a political payment, do you agree  
14:29:04 5 with that?

6 A. No, no, not at all.

7 Q. 114 You don't agree with that?

8 A. Absolutely not.

9 Q. 115 All right. Your statement, Mr. O'Callaghan, is at 27490 please and this  
14:29:16 10 is a statement that was provided to the Tribunal on the 22nd February 2008  
11 in response I think to questions that I had put, I think, to Mr. Dunlop.

12  
13 The first paragraph records "I make this statement in response to a  
14 request made in the course of the evidence of Frank Dunlop to the Tribunal  
14:29:35 15 and in the context of a letter written by me to the then Taoiseach Albert  
16 Reynolds on the 17th November 1992. In that letter I referred to total  
17 support provided which exceeds a six figure sum.

18  
19 I should say firstly that the reference to the provision of such support  
14:29:50 20 refers to support provided over the years (as is evident from the first  
21 paragraph of the letter). It does not mean as has been suggested by  
22 Tribunal counsel, that the support in excess of six figures is in  
23 connection with the 1992 election. In the context of the enormous  
24 discovery which I have made to the Tribunal dealing with every single  
14:30:10 25 payment made by me, Barkhill Limited, Riga Limited and O'Callaghan  
26 Properties Limited for the relevant period, and in the context of what is  
27 clearly stated in this letter, such an interpretation is not sustainable."

28  
29 And would it be fair to say that's your position, Mr. O'Callaghan?

14:30:25 30 A. Yes.

- 14:30:25 1 Q. 116 Although you have now conceded that at best the letter is ambiguous, isn't  
2 that right?
- 3 A. Oh I would, yes.
- 4 Q. 117 Yes. In the next paragraph you say: "I should say secondly, that I  
14:30:36 5 inadvertently omitted from my narrative statements which detail all  
6 political contribution since 1989, the payment made to Fianna Fail in  
7 November 1992 referred to in this letter. Clearly the letter itself was  
8 provided by me to the Tribunal as was a list of all payments made to  
9 politicians between 1989 and 2000 by O'Callaghan Properties Limited (see  
14:30:57 10 book of discovery 5.4 furnished to the Tribunal). However, I omitted in  
11 error to refer to this payment in my narrative statement".  
12
- 13 Now, Ms. O'Raw tells me that in fact this letter is not in your discovery,  
14 Mr. O'Callaghan, but again I am subject to correction on that?
- 14:31:13 15 A. You are right obviously.
- 16 Q. 118 From your legal team, did you however in fairness to yourself, 8577, in  
17 the information provided to the Tribunal in March 2002, you will see that  
18 you did refer to the existence of that payment as being a payment made to  
19 Fianna Fail on 19th November 1992 in the sum of 5,000 pounds, isn't that  
14:31:38 20 correct?
- 21 A. That's correct. We obviously overlooked discovering the letter from the  
22 Taoiseach to me, to you.
- 23 Q. 119 Yes. Obviously if you have that letter available or indeed the letter of  
24 request from Fianna Fail it should now be provided?
- 14:31:50 25 A. Yes, it is available.
- 26 Q. 120 Yes. Right. Now?
- 27 A. I apologise for that.
- 28 Q. 121 At 27490, in the next paragraph you state "By the time this letter was  
29 written I had made or committed to payments to politicians in the sum of  
14:32:07 30 72,200 since 1989. These are outlined in my statements and include the

14:32:12 1 monthly payments to Sean Gilbride of 10,500 pounds which were started in  
2 September 1992 and the 5,000 pounds paid to Fianna Fail under cover of the  
3 letter to the Taoiseach. In addition, I would have made political  
4 contributions, the extent of which I am unsure in the period since I  
14:32:29 5 started business in 1969.

6  
7 When you referred to the your monthly payment to Sean Gilbride of 10,500  
8 pounds you are referring to the monthly payments of 1,750 pounds which at  
9 one stage come to 10,500 pounds but in total were 15,500 pounds, isn't  
14:32:49 10 that right

11 A. Yes.

12 Q. 122 In the next paragraph you state "When I stated in my letter to the  
13 Taoiseach that I had provided support in excess of a six figure sum, I did  
14 not sit down and calculate exactly how much I had paid. My impression at  
14:33:01 15 that time was that payments made by me had been made in or about that  
16 order over the years. For the avoidance of doubt, and as I have  
17 repeatedly stated, there were no other payments made by me other than  
18 those which I have disclosed".

19  
14:33:16 20 That was your statement, I think it's signed by you and dated, is that  
21 right?

22 A. Yes.

23 Q. 123 Now, insofar as you have made disclosure and you refer to a figure in your  
24 statement, I think, of 72,200, you would there with have been referring to  
14:33:34 25 payments you had disclosed to the Tribunal up to and including November  
26 1992, isn't that right?

27 A. Yes, that's correct.

28 Q. 124 And that would have included Mr. -- the sum of 10,700 to Mr. Colm McGrath.

29 A. Yes.

14:33:48 30 Q. 125 As a political payment.

- 14:33:49 1 A. Yes.
- 2 Q. 126 And on no interpretation of the figures you provided could it be classed  
3 as a sum in excess of six figures, is that right?
- 4 A. Yes.
- 14:33:57 5 Q. 127 Right. However if as I suggest to you, Mr. O'Callaghan, you were  
6 including the 70,000 pounds to Mr. Dunlop, the figure would of course be  
7 in excess of six figures?
- 8 A. I certainly did not include and could not have included that.
- 9 Q. 128 Now, subsequent to this letter to Mr. Albert Reynolds and to Fianna Fail,  
14:34:18 10 in 1993 you were approached by Mr. Ray Mac Sharry to make a political  
11 donation of a sum of 100,000 pounds, is that right?
- 12 A. Yes.
- 13 Q. 129 And do you know how it was, Mr. O'Callaghan, that you were put on that  
14 list?
- 14:34:37 15 A. I'm not exactly sure, I was never told. To the best of my knowledge there  
16 was ten people selected I think as far as I know. I don't know how my  
17 name was on that list.
- 18 Q. 130 You will have seen in the documentation in the brief at 8536, a document  
19 dealing with -- created within Fianna Fail and dealing with previous  
14:34:59 20 contributions by you which is 1990, 10,000 pounds; 1992, 5,000 pounds and  
21 then "I have also been informed that Owen made a number of significant  
22 contributions directly to candidates in the November election" isn't that  
23 right?
- 24 A. Yes.
- 14:35:14 25 Q. 131 And do you agree with me that following on receipt of your letter of the  
26 17th November 1992, the recipient of that letter, Fianna Fail, came to the  
27 conclusion, be it right or wrong, that the thrust of your letter was that  
28 you had made significant contributions directly to candidates, isn't that  
29 right?
- 14:35:34 30 A. Yes.

- 14:35:34 1 Q. 132 And that the significance or the amount of those contributions must have  
2 been tied into what you had stated in the letter, isn't that right?
- 3 A. Yes.
- 4 Q. 133 And at 8532 when you talk about supporting candidates in the third  
14:35:53 5 paragraph, you give no amount, isn't that right?
- 6 A. Yes.
- 7 Q. 134 And in the next paragraph you go on to deal with the fact that the total  
8 support is in excess of six figures, isn't that right?
- 9 A. Yes.
- 14:36:03 10 Q. 135 Would you agree with me that Fianna Fail misinterpreted your letter as in  
11 effect meaning you had made contributions of in excess of six figures to  
12 the candidates you had identified on an individual basis?
- 13 A. I don't fully understand that question.
- 14 Q. 136 If I show you what was stated, I think, at 8536, and you see that within  
14:36:35 15 Fianna Fail in relation to the November 1992, the following is recorded "I  
16 have also been informed that Owen made a number of significant  
17 contributions directly to candidates in the November election" do you see  
18 that?
- 19 A. Yes.
- 14:36:50 20 Q. 137 In your letter to Mr. Reynolds you do not identify how much money you have  
21 paid to any candidates, isn't that right?
- 22 A. That's right, yes.
- 23 Q. 138 You do not say that your contributions have been significant or  
24 insignificant, isn't that right?
- 14:37:02 25 A. That's right.
- 26 Q. 139 And what I am suggesting to you is that when that letter was considered  
27 within Fianna Fail the assumption that was made, be it right or be it  
28 wrong, was that what you were telling Fianna Fail was that the support in  
29 excess of six figures was made to Fianna Fail candidates in the November  
14:37:19 30 1992 election, do you agree with me that that was the interpretation put

14:37:24 1 on your letter by Fianna Fail?

2 A. I don't know.

3

4 JUDGE FAHERTY: Ms. Dillon I think in fairness you already mentioned to

14:37:30 5 Mr. O'Callaghan, I understand what you are saying that that document is a

6 contemporaneous document of about 1993.

7

8 MS. DILLON: Yes.

9

14:37:38 10 JUDGE FAHERTY: I just want to make sure Mr. O'Callaghan understands this,

11 in 1993 Fianna Fail seem to be of this impression.

12

13 Q. 140 MS. DILLON: That has to be, so Mr. O'Callaghan, you see what's recorded

14 there is the donation you made in 1990, the donation in 1992, isn't that

14:37:51 15 right?

16 A. Yes.

17 Q. 141 And the donation in 1992 refers to the November election, isn't that

18 right?

19 A. Yes.

14:37:58 20 Q. 142 And so the point that Judge Faherty makes and what I am obviously not

21 making clear to you, Mr. O'Callaghan, is Fianna Fail, when they received

22 your letter, understood that what you were telling Fianna Fail was that

23 you had made donations of in excess of six figure sums to individual

24 candidates, in the election in November 1992, and do you agree with me

14:38:21 25 that the document at 8536 is that interpretation?

26 A. I don't know, I understand exactly what you were saying, I don't know can

27 you take that interpretation, I'm not sure what way they felt about it. I

28 can't say that what you are saying is correct.

29 Q. 143 So you don't accept either that Fianna Fail came to that interpretation or

14:38:43 30 indeed that you may have been accurately informing the Taoiseach of

14:38:47 1 matters if you were including in your letter the fact that you had paid  
2 70,000 pounds to Mr. Dunlop?

3 A. I wasn't including that 70,000 pounds anywhere, that was a totally  
4 separate issue, they were Frank Dunlop's fees.

14:39:00 5 Q. 144 And I think when, in the week prior to the election, Mr. O'Callaghan, you  
6 phoned the bank at 8553 and at item one it's recorded "He has not been in  
7 Dublin since the election was called. Today is his first day back on the  
8 lobbying route" that wouldn't have been correct in point of fact,  
9 Mr. O'Callaghan, is that right?

14:39:25 10 A. I haven't got that, what is that please?

11 Q. 145 If you see paragraph one, line one.

12 A. Yes.

13 Q. 146 That in fact would not have been correct, isn't that right?

14 A. Why is it not correct?

14:39:36 15 Q. 147 Because you went out to Mr. GV Wright after the election was called with  
16 Mr. Dunlop and paid him 5,000 pounds.

17 A. Since the election was called, yeah, that's not correct.

18 Q. 148 So if you provided that information to the bank that at least was  
19 incorrect in one regard, then in the second sentence "the bank confirm to  
14:39:57 20 you that 30,000 pounds drawdown, that he had indicated would be available  
21 from the Barkhill amount was still available towards fees". You then were  
22 to send in an invoice next week and then he, that's you, confirmed that  
23 they had at least matched this amount themselves towards fees. He is  
24 still optimistic regarding the vote, however nothing is certain.

14:40:17 25

26 Now, you appear there to be recorded, Mr. O'Callaghan, as telling the bank  
27 that you had matched at least a sum of 30,000 pounds towards fees, isn't  
28 that right?

29 A. Yes.

14:40:27 30 Q. 149 What figure of 30,000 pounds were you discussing?

14:40:30 1 A. I'm not sure but it could have been the stadium fees, whatever, I can't  
2 recall at this stage.

3 Q. 150 Is it possible that what you were discussing was the 5,000 pounds you paid  
4 to Fianna Fail, the 5,000 pounds you paid to Mr. GV Wright and the 10,000  
14:40:45 5 pounds that you paid to Mr. Batt O'Keefe?

6 A. It could have been, yes.

7 Q. 151 All right. Do you have any idea what, how that figure was composed?

8 A. No I don't, and it's like the actual, that's the trouble with some of  
9 these bank memos, I don't know when they write these memos, but that's a  
14:41:00 10 typical example, he has not been in Dublin since the election was called  
11 that's totally incorrect, all wrong. I don't know how they put that down  
12 there or how they got around to even making this statement. The trouble  
13 with these memos is that they are probably dictated maybe a day or two  
14 days or three days after the phone call and are never 100 per cent  
14:41:18 15 accurate.

16 Q. 152 The note goes on. "He is still optimistic regarding the vote. However  
17 nothing is certain" and may the Tribunal take that that's a reference to  
18 the Quarryvale vote?

19 A. Oh yes, very much so. Yes.

14:41:30 20 Q. 153 I think you wrote to the bank following that telephone call at 8556:  
21  
22 "Dear Michael, following Friday's telephone conversation I enclose invoice  
23 on behalf of Frank Dunlop.  
24  
14:41:43 25 I am anxious to get our own "Election" going again next Friday/Monday,  
26 hopefully all the councillor also have settled down by then.  
27  
28 As I have mentioned do you we have provided as such support as we could  
29 afford over the past few weeks, I will inform you of this when we meet.  
14:41:59 30



14:41:59 1 I would like to collect a cheque for this invoice from you on  
2 Monday/Friday next. I will ring you to arrange a suitable time."  
3  
4 And the invoice that was attached, at 8557 please, was an ongoing cost re  
14:42:12 5 Quarryvale invoice in the sum of 21,063.36 pounds from Mr. Dunlop, isn't  
6 that right?  
7 A. Yes, October '92 yes.  
8 Q. 154 That's October '92. Now if we go back to your letter at 8556, your letter  
9 refers to your telephone conversation, isn't that right, with  
14:42:32 10 Mr. O'Farrell?  
11 A. Yes.  
12 Q. 155 And your telephone conversation with Mr. O'Farrell confirmed that you had  
13 at least matched an amount of 30,000 pounds, isn't that right?  
14 A. Yes.  
14:42:41 15 Q. 156 And in this letter, in the third paragraph you confirm you have had that  
16 conversation, because you say "As I mentioned to you, we have provided as  
17 much support as we could afford over the past few weeks", isn't that  
18 right?  
19 A. Yes.  
14:42:54 20 Q. 157 So insofar as Mr. O'Farrell is recording what you said in the memorandum  
21 he is not wrong when he talk abouts you telling him that you had  
22 contributed at least 30,000 pounds in support, isn't that right?  
23 A. Yes.  
24 Q. 158 Because you confirm it yourself in this letter, isn't that the position?  
14:43:10 25 A. Mm-hmm.  
26 Q. 159 So now you tell him that you will inform him of that when you meet him,  
27 isn't that right?  
28 A. Yes.  
29 Q. 160 So what did you tell him?  
14:43:17 30 A. I don't know.

- 14:43:18 1 Q. 161 But what you would have been discussing with him, insofar as your letter  
2 is concerned or whatever doubts you may have about Mr. O'Farrell's note,  
3 there can be no doubt about your own letter, is that right?
- 4 A. Yes.
- 14:43:29 5 Q. 162 In your letter what you are talking about is support you have given in the  
6 last few weeks, isn't that right?
- 7 A. Yes.
- 8 Q. 163 That had to be support in the context of the election, isn't that right?
- 9 A. Oh, yes.
- 14:43:38 10 Q. 164 So what you are going to discuss with Mr. O'Farrell when you meet him is  
11 it how much money you have spent on politicians, Mr. O'Callaghan, in other  
12 words, what you have paid out, isn't that right?
- 13 A. Yes, that would have been the 5,000 pounds to GV Wright I presume. It  
14 would have been the 10,000 pounds to Batt O'Keefe, it would have been the  
15 5,000 pounds to Fianna Fail.
- 14:43:52 16 Q. 165 But that's what I wanted to ask you, you don't, first of all in this  
17 letter schedule or set out what you paid out, isn't that right?
- 18 A. That's correct.
- 19 Q. 166 Right. What you say is that that's something you want to discuss with him  
20 when you meet him?
- 14:44:06 21 A. Yes.
- 22 Q. 167 And did you make disclosure to him of all the monies that you had paid in  
23 the course of the election when you met him?
- 24 A. I'm not sure but that is possible, I can't say for definite.
- 14:44:18 25 Q. 168 Yes. I think Mr. O'Farrell has given evidence to the Tribunal and indeed  
26 when you meet with him, Mr. O'Callaghan, on the 1st December 1992, what  
27 you tell him is that you have injected 85,000 pounds into the situation?
- 28 A. Well that would, yes, that would mean 70,000 pounds towards stadium fees  
29 of course. Which as I always keep on saying, stadium and Quarryvale are  
14:44:47 30 all the one.

14:44:48 1 Q. 169 Yes. What I want to put to you, Mr. O'Callaghan, that in fact the  
2 telephone conversation and this letter under your own hand at 8556, that  
3 these two pieces of correspondence or this piece of correspondence in the  
4 attendance leads to the meeting of the 1st December 1992, do you agree  
14:45:07 5 with that?  
6 A. Yes.  
7 Q. 170 And what you are telling the bank in this letter is that you will inform  
8 him about how much support you have provided?  
9 A. Yes.  
14:45:16 10 Q. 171 And that's political support.  
11 A. Yes.  
12 Q. 172 And the figure that you give the bank, Mr. O'Callaghan, at 8648, in the  
13 second last -- in the last sentence of the first paragraph it says "His  
14 lobbying continues and he indicated he had injected 85,000 pounds into the  
14:45:37 15 situation from O'Callaghan Properties".  
16 A. Yes.  
17 Q. 173 I am putting to you now, Mr. O'Callaghan, that that when take when your  
18 letter of the 23rd November 1992 is an unambiguous statement by you?  
19 A. Yes.  
14:45:50 20 Q. 174 That the 70,000 pounds paid by you to Mr. Dunlop was paid by you for  
21 political purposes and do you agree with that?  
22 A. No.  
23 Q. 175 All right.  
24 A. No not at all. Of course I would have made that statement because to  
14:46:02 25 Michael O'Farrell I would have said that we had also paid 70,000 pounds  
26 fees to Frank Dunlop for the work he carried out on the stadium, that's a  
27 figure AIB in my opinion and Michael O'Farrell should have been paying to  
28 us and refunding to us, because it was all part of the one operation,  
29 Quarryvale and the stadium, of course I would have included 70,000 pounds  
14:46:20 30 talking to him.

- 14:46:32 1 Q. 176 You see at 8556, Mr. O'Callaghan, in the third paragraph of your  
2 relatively short letter, what you tell Mr. O'Farrell is, as you had  
3 mentioned to him that you have provided as much support as could you  
4 afford over the past few weeks. You have agreed me that that was  
14:46:42 5 political support and that was in the context of the election, isn't that  
6 right?  
7 A. Yes.
- 8 Q. 177 And you are going to tell him about that when you meet him, isn't that  
9 right?  
14:46:49 10 A. Yes.
- 11 Q. 178 What you tell him at 8548 is that -- 8648 is that you had injected 85,000  
12 pounds into the situation, isn't that right?  
13 A. Yes.
- 14 Q. 179 Now, I am putting to you, Mr. O'Callaghan, that the only reasonable  
14:47:09 15 interpretation on this correspondence is that the 85,000 pounds which  
16 includes Mr. Dunlop's 70,000 pounds was paid by you for political purposes  
17 in November 1992, do you agree with that?  
18 A. 70,000 pounds.
- 19 Q. 180 The 70,000 pounds?  
14:47:27 20 A. Were fees for the stadium, not political purposes, no. Absolutely not.
- 21 Q. 181 And if the 70,000 pounds, Mr. O'Callaghan, was paid by you for political  
22 purposes to Mr. Dunlop, then must have been paid by you to Mr. Dunlop so  
23 that Mr. Dunlop could make payments out of it, do you understand that?  
24 A. Yes.
- 14:47:45 25 Q. 182 Right. What I am suggesting to you, Mr. O'Callaghan, is that this  
26 correspondence, part of which is authored by yourself, suggests very  
27 strongly that the 70,000 pounds that you paid to Mr. Dunlop was paid by  
28 you in the context of Mr. Dunlop providing electoral support for you in  
29 November 1992, do you agree with that?  
14:48:09 30 A. I couldn't possibly agree with that because it's completely wrong.

14:48:14 1 Q. 183 Yes. That's your position.

2 A. Absolutely.

3 Q. 184 All right. Now, in this document that's on screen, on the 1st December

4 1992, Mr. O'Callaghan, there is another matter I want to ask you about,

14:48:26 5 and if I open the full paragraph, first of all.

6

7 "Meeting at Bank Centre with Owen O'Callaghan" do you agree that is a face

8 to face meeting between yourself and Mr. O'Farrell?

9 A. Yes.

14:48:39 10 Q. 185 "Date for the Quarryvale vote has been set for the 17th and 18th December"

11 do you agree Mr. O'Farrell was accurate in that?

12 A. Yes.

13 Q. 186 "He is confident a decision will be made one way or the other on that

14 date", is that correct?

14:48:51 15 A. That's correct.

16 Q. 187 Next it says "It is very tight. In response to my query he confirmed that

17 the officials are thinking in terms of a compromise at this stage which

18 will involve the Jim Mansfield Clondalkin Centre and a smaller centre for

19 Quarryvale of approximately 250,000 square feet". Would you have said

14:49:10 20 that?

21 A. That is also correct. Yes.

22 Q. 188 But would you have told him that, Mr. O'Callaghan?

23 A. Yes.

24 Q. 189 So insofar that is portion of the memorandum is concerned you are

14:49:18 25 satisfied it's accurate?

26 A. Oh, yes.

27 Q. 190 I want to come back to that figure of 250,000 square feet in a minute.

28 "The position will obviously be clear in about two weeks. His lobbying

29 continues and he indicated that he had injected 85,000 pounds into the

14:49:32 30 situation from O'Callaghan Properties". Isn't that right?

14:49:34 1 A. Yes.

2 Q. 191 Now, you don't agree with what I have suggested to you, isn't that right?

3 A. What he said is correct but I don't agree with your interpretation of it.

4 Q. 192 Yes. I want to ask you about the 250,000 square feet, do you agree,

14:49:45 5 Mr. O'Callaghan, that by the 1st December 1992 you had had discussions

6 with officials of Dublin County Council?

7 A. No.

8 Q. 193 No. I ask you this because you have confirmed that the officials are

9 thinking in terms of a compromise?

14:50:02 10 A. Yes.

11 Q. 194 What officials were you talking about?

12 A. I was never quite sure, but the officials did not say this to me. My

13 conversation took place with, about this with Sean Gilbride and Marian

14 McGennis.

14:50:15 15 Q. 195 I have to ask you what did they tell you?

16 A. They told me at a meeting one evening around this time, that it would be

17 suggested by the officials they didn't tell me who the official was, but I

18 discovered since that the official was Al Smith, that he suggested that a

19 suitable figure would be 250,000 square feet and not 500,000 square feet

14:50:36 20 and asked me could I accept that figure, that happened early in December,

21 first few days in December. The people that spoke to me are Gilbride and

22 McGennis, not the officials.

23 Q. 196 Right. Would you agree that in early December the issue of reduction on

24 the 500,000 square feet retail cap which had been imposed in June of, in

14:50:55 25 May of 1991 was being discussed?

26 A. Yes.

27 Q. 197 Right. And is it likely also that Mr. Gilmartin would one way or another

28 either through his own contacts or in communication with you have come to

29 know of the fact that there were proposals or discussions about reducing

14:51:14 30 the retail element from 500,000 square feet to 250,000 square feet?

- 14:51:15 1 A. I don't think so.
- 2 Q. 198 You don't think so?
- 3 A. No. I don't think he was aware of that, I don't think he would have known
- 4 about that.
- 14:51:18 5 Q. 199 You don't think he would have known of that at the time?
- 6 A. At the time, yes.
- 7 Q. 200 Mr. Dunlop told the Tribunal of a belief that he had that he said was
- 8 shared by you, that Mr. Gilmartin in some way, had a contact with the
- 9 councillor about whom you were unaware, do you agree with that?
- 14:51:33 10 A. Yes he had, we don't know who it was, but yes he had.
- 11 Q. 201 Is it possible from that line of communication Mr. Gilmartin could have
- 12 discovered that in fact there were discussions in relation to reducing the
- 13 cap?
- 14 A. I don't think so.
- 14:51:46 15 Q. 202 Right. In any event by the 1st November 1992, whatever the source, do you
- 16 agree with me that you were discussing with the bank that there were
- 17 discussions to reduce, you were telling the bank of your belief that the
- 18 officials wanted it reduced to 250,000 square feet?
- 19 A. 1st December not 1st November.
- 14:52:05 20 Q. 203 1st December 1992, do you agree with that?
- 21 A. Yes.
- 22 Q. 204 You yourself had a meeting on 1st December 1992 with Mr. Fitzgerald, isn't
- 23 that right, 5898? You will see recorded in Mr. Dunlop's diary after
- 24 meeting with the bank 12.30 Owen to John Fitzgerald?
- 14:52:32 25 A. Yes.
- 26 Q. 205 At 8651, you will see that he was a meeting between Mr. Fitzgerald
- 27 yourself and Mr. Willie Murray, the Dublin Planning Officer, isn't that
- 28 right?
- 29 A. I haven't got that date sorry, where is it?
- 14:52:45 30 Q. 206 If you look on the 1st December 12.30, do you see that?

- 14:52:50 1 A. Yes, sorry where is Willie Murray?
- 2 Q. 207 This is Willie Murray's diary you are looking at, Mr. O'Callaghan, if you
- 3 look at the very top corner you will see "WM diary"?
- 4 A. I have it, yes.
- 14:53:01 5 Q. 208 Therefore Mr. Murray is recording a meeting between Mr. Fitzgerald,
- 6 yourself and himself, is that right?
- 7 A. Yes.
- 8 Q. 209 And can you tell the Tribunal what it was you discussed when you met with
- 9 Mr. Murray on 1st December 1992?
- 14:53:14 10 A. I can't recollect but I do know that I am pretty certain that reduction in
- 11 size was not discussed at that meeting. John Fitzgerald never mentioned
- 12 that to me at any stage, neither did Willie Murray. I'm not quite sure
- 13 what that would have been. What that meeting was, the size reduction was
- 14 certainly not mentioned.
- 14:53:33 15 Q. 210 Is it possible what you might have been discussing with the, Mr. Murray
- 16 and Mr. Fitzgerald was the manager's report on Quarryvale, which in fact
- 17 issued I think some two days later?
- 18 A. It could well have been, yes.
- 19 Q. 211 That you would have been seeking to ensure that whatever was recommended
- 14:53:50 20 by the manager was something that you as the developer could live with?
- 21 A. Yes.
- 22 Q. 212 Wouldn't that be fair. I think that such a record did issue, isn't that
- 23 right, I think on the 2nd December 1992, with an amendment some days later
- 24 is that right?
- 14:54:06 25 A. I think so.
- 26 Q. 213 I will show you the report?
- 27 A. Yes, okay.
- 28 Q. 214 For the moment can you agree with me that those dates are correct?
- 29 A. I accept that, yes.
- 14:54:15 30 Q. 215 In fact on the 2nd December at 16476, in fact the day following your



- 14:54:23 1 meeting, Mr. O'Callaghan, you will see that Mr. Smith circulates the  
2 members of Dublin County Council with the report, the manager's report in  
3 relation to the objections and representations on maps 16, 17 and 18,  
4 isn't that right?
- 14:54:41 5 A. Yes.
- 6 Q. 216 And gives directions in relation to lodging of motions?
- 7 A. Yes.
- 8 Q. 217 The first page of that report at 16477 you see is entitled "Lucan,  
9 Clondalkin overall planning strategy". Is that right?
- 14:54:54 10 A. Yes.
- 11 Q. 218 We'll look at certain aspects of that, but do you agree with me now on the  
12 day following your meeting that the manager's report in relation to Lucan  
13 Clondalkin issued?
- 14 A. Yes.
- 14:55:04 15 Q. 219 And it's likely therefore that your meeting on the 1st was to do with the  
16 manager's report?
- 17 A. More than likely.
- 18 Q. 220 More than likely. And your concern would have been that whatever was  
19 being circulated to the councillors would be something that could you live  
20 with, is that right?
- 14:55:14 21 A. Yes.
- 22 Q. 221 And that indeed transpired to be the case, is that right, you weren't  
23 unhappy with the manager's report as circulated, isn't that right?
- 24 A. Yes.
- 14:55:23 25 Q. 222 And indeed the councillors acting on your behalf brought a motion seeking  
26 to implement the manager's report, isn't that the case?
- 27 A. Yes.
- 28 Q. 223 Now, insofar as your relationship with Mr. Fitzgerald was certain he was  
29 somebody that you had known previously, isn't that right?
- 14:55:43 30 A. That is correct.

14:55:44 1 Q. 224 And I think in March of 1993, Mr. O'Callaghan, at 9299, this is a meeting  
2 at the bank, which I think according to Mr. Deane's evidence was to heal  
3 the rift that had arisen between the bank and yourself arising out of some  
4 meetings in February of 1993, there would be some dispute about fees?

14:56:10 5 A. Yes, okay.

6 Q. 225 Right. And I just want to ask you about what is recorded there under the  
7 heading "meeting with county manager"?

8 A. Yes.

9 Q. 226 It says "We had indicated we felt this would be helpful to us and perhaps  
10 help the overall scheme. Owen O'Callaghan had reflected on this and was  
11 somewhat apprehensive about it. He said he had been careful in  
12 cultivating his relationship with John Fitzgerald and that he did not want  
13 John Fitzgerald to feel threatened by meeting us or to feel that it might  
14 be people other than Owen O'Callaghan, that he was really dealing with".  
15 Now did you say that?

16 A. Yes.

17 Q. 227 Can you explain first of all what you meant by saying you had cultivated  
18 the relationship with Mr. Fitzgerald?

19 A. I knew John Fitzgerald for a long time, in Cork, and what the banks were  
14:56:53 20 suggesting there was that probably three or four of their officials would  
21 come along with me to meet him some particular day and I didn't want  
22 anything to happen, because first of all I felt that John Fitzgerald  
23 probably wouldn't have wanted to meet them. Secondly a big group of  
24 people coming in to meet him would have felt a little intimidating and  
14:57:17 25 putting pressure on him and wouldn't have done us any favours really.

26 Q. 228 Would it be fair to say from that extract, Mr. O'Callaghan, that you were  
27 anxious that you were the person who would keep contact with  
28 Mr. Fitzgerald and not anybody else?

29 A. Oh yeah, that was important as well, I had no objection to anybody else  
14:57:31 30 coming with me but I didn't want four or five people coming in from the

14:57:35 1 bank to discuss planing with John Fitzgerald.

2 Q. 229 Would you have felt you had a special relationship with Mr. Fitzgerald?

3 A. Well I had at that time, yes.

4 Q. 230 And indeed if one looks at 14793, after the vote in December 1992 you

14:57:48 5 wrote the following letter, isn't that right, Mr. O'Callaghan, to your

6 bank manager at Bank of Ireland?

7

8 "Dear Frank. Thank you for your letter of 22nd December. Quarryvale has

9 come through and we have got all we wanted despite a lot of opposition,

14:58:04 10 but the county manager, John Fitzgerald came on our side.

11

12 Quarryvale is now zoned for a million square feet of industrial uses, 25

13 acres of DIY, as much leisure/Hotel as we can put on the site and 350,000

14 square feet gross of retail.

14:58:22 15

16 As soon as the existing Dublin County Council is divided into three

17 separate counties and this will happen officially in January 1994, we'll

18 be in John Fitzgerald's new county i.e. Dublin South and we can then get

19 as much retail space as we can fill". Now, do you agree first of all that

14:58:38 20 you wrote that letter?

21 A. Oh, yes.

22 Q. 231 Second of all, may the Tribunal take it on the 23rd December 1992, it was

23 your belief that once the councils were split in three and Mr. Fitzgerald

24 was in charge of South Dublin that you would get as much retail as you

14:58:52 25 wanted?

26 A. Yes, I did.

27 Q. 232 That subsequently did not transpire to be the case?

28 A. Not even to this day.

29 Q. 233 And Mr. Fitzgerald has told the Tribunal that he was in favour of the cap

14:59:02 30 and for the duration of his tenure in South Dublin County Council the cap

14:59:05 1 remained in place, is that right?

2 A. That's correct.

3 Q. 234 And what I am asking you about, I think you have agreed me, that this

4 letter accurately reflected your belief as of the day that you wrote the

14:59:16 5 letter, isn't that right?

6 A. Absolutely.

7 Q. 235 And therefore it follows from that that you seem to have believed although

8 events may have proven you wrong, that you would be able to get from

9 Mr. Fitzgerald whatever you wanted, would you agree with that,

14:59:26 10 Mr. O'Callaghan?

11 A. Yes I did. I believed Mr. Fitzgerald was a very progressive County

12 Manager that's what he was in Cork as a finance officer. I believed that

13 he would be similar when he was here in town, in Dublin, that he would be,

14 when he had his own county that he would lift the cap.

14:59:42 15 Q. 236 That didn't happen?

16 A. Not at all.

17 Q. 237 Now, just insofar as the cap is concerned at 8592, at the end of November

18 of 1992, Mr. Benson who was also advising the bank, told the bank in the

19 second paragraph of this memorandum:

15:00:02 20

21 "There appears to be some efforts now promote three district centres, one

22 at Lucan, one at Clondalkin and the other at Quarryvale. The Lucan centre

23 would involve 150,000 square feet beside the Superquinn centre, the

24 Clondalkin centre would comprise the Mansfield site, this will comprise

15:00:20 25 120,000 square feet versus the original 180,000 square feet. The

26 implications for Quarryvale would be that the size of same would be

27 reduced significantly".

28

29 Do you agree with me, Mr. O'Callaghan, that this document which is a

15:00:37 30 conversation with Mr. Benson who was a planning expert, also records that

15:00:37 1 by the end of November there appears to have been discussion about three  
2 centres and a reduction in relation to Quarryvale?

3 A. Yes.

4 Q. 238 Right. And in fact there was a recommendation ultimately in the manager's  
15:00:48 5 report, isn't that right, for three centres?

6 A. Yes.

7 Q. 239 And ultimately, on the 17th December a reduction from 500,000 square feet  
8 to 250,000 square feet, isn't that right?

9 A. That's correct.

15:01:01 10 Q. 240 Now Mr. Fitzgerald told the Tribunal, that is the subsequent manager of  
11 South Dublin County Council, is that he was in favour of the reduction  
12 from 500,000 square feet to 250,000 square feet, do you agree with that?

13 A. I didn't know that he was in favour of it, I was never certain that he was  
14 in favour of it actually, he never said it to me.

15:01:34 15 Q. 241 Now, the actual planning report at 16476, Mr. O'Callaghan, was circulated  
16 to the councillors and may the Tribunal take it that you would have become  
17 aware of this very quickly?

18 A. Sorry that I --

19 Q. 242 The manager's report?

15:01:49 20 A. Yes.

21 Q. 243 Was circulated to the councillors?

22 A. Yes.

23 Q. 244 May the Tribunal take it you would have become aware of this very quickly?

24 A. Yes.

15:01:58 25 Q. 245 And at 16481, in the third paragraph the following is recorded:  
26  
27 "The planning decision to be made by the council is essentially as between  
28 the strategic concept of the 1972 and 1983 Development Plans which has  
29 been discussed above and is recommended and a possible variation which  
15:02:20 30 would envisage the eventual development of three distinct communities,

- 15:02:24 1 instead of one. If it is considered by the council that the process of  
2 achieving the integration of Lucan and Clondalkin into a new urban entity  
3 would be spread over an unacceptably long time frame in social and  
4 community terms, then a modified approach could be suggested for  
15:02:39 5 consideration by the council on the following lines."
- 6 A. Yes.
- 7 Q. 246 Now, Mr. Fitzgerald has told the Tribunal in his evidence to the Tribunal  
8 that effectively he accepted the Quarryvale position was a fait accompli  
9 and some amendment in relation to Quarryvale was going to be passed in  
15:02:59 10 December and that in reality what the manager's report was suggesting was  
11 that there would be development on Quarryvale and the question was how to  
12 achieve it, do you agree with that?
- 13 A. Yes.
- 14 Q. 247 And that what is set out thereafter, which is the following "1. The  
15:03:15 15 council would acknowledge that due to the time scale involved, the  
16 original concept of a unified Lucan Clondalkin new town unit should be  
17 modified". That recommendation opened the door for Quarryvale, isn't that  
18 right?
- 19 A. Yes.
- 15:03:28 20 Q. 248 "2. This modification would take the form of the development of three  
21 districts, the communities within which would focus for social and  
22 commercial activity on the existing villages of Lucan village plus new  
23 centre, Clondalkin Village plus mills redevelopment with new facilities at  
24 Neilstown/Rowlagh Quarryvale."
- 15:03:48 25
- 26 What was suggested here was three district centres, isn't that right,  
27 Mr. O'Callaghan?
- 28 A. Yes. Neilstown/Rowlagh is separate why is Quarryvale in brackets.
- 29 Q. 249 That is there to identify that in fact what he was talking about was  
15:04:00 30 Quarryvale, even though initially it looks like Neilstown/Rowlagh, in fact

15:04:06 1 what was being discussed was Quarryvale, it's a matter about which  
2 Councillor Tom Morrissey complained subsequently.  
3  
4 In 3 he says "The quantum of shopping in the district centres should not  
15:04:19 5 be such as to threaten existing and planned town centres for higher order  
6 goods and services the population would rely on the city centre or  
7 Tallaght and perhaps Blanchardstown taking advantage of the new  
8 transportation networks".  
9  
10 And I think that there was an amendment to that at 16540 and that was to  
11 provide that the restriction on shopping is not intended to be restrictive  
12 of the scale or variety of goods or services that might be made available  
13 under any proposal for development of these centres.  
14 A. Yes.  
15:04:55 15 Q. 250 And at 16482 at paragraph four of the manager's report what they  
16 recommended was a C and E zoning on Quarryvale, isn't that right?  
17 A. Yes.  
18 Q. 251 Now they also recommended that the area should be subject to a specific  
19 objective, that it would be an objective of the council to create  
15:05:17 20 employment opportunities and to facilitate the provision of a district  
21 centre to serve the larger community, isn't that right?  
22 A. Yes.  
23 Q. 252 Were you in agreement or were you happy enough, Mr. O'Callaghan, that the  
24 entire of the 180 acres at Quarryvale would be zoned C and E?  
15:05:35 25 A. I didn't have any choice, happy enough was a good word.  
26 Q. 253 It wasn't the most could you have got, is that right?  
27 A. The ideal would have been the 500,000 square feet.  
28 Q. 254 But at this stage there is no figure put on any reduction, isn't that  
29 right?  
15:05:46 30 A. Yes.

- 15:05:46 1 Q. 255 Right. At this stage you still have your 500,000 square feet, isn't that  
2 the position?
- 3 A. Yes.
- 4 Q. 256 In paragraph five it relates to the land across the road from the Fonthill  
15:05:56 5 Road and IDA, isn't that right, and those lands I think were rezoned  
6 industrial immediately prior to your lands being rezoned on the 17th  
7 December, isn't that right?
- 8 A. That is correct.
- 9 Q. 257 And at paragraph 6 it says "The existing lands zoned for town centre use  
15:06:11 10 at Neilstown should be retained with the same D zoning which would should  
11 be the subject of the specific objective; "it is an objective of the  
12 council to encourage the development of specialised commercial,  
13 recreation, industrial and residential uses in this area". Do you agree  
14 with me that that was inserted to provide for the development of the  
15:06:30 15 stadium?
- 16 A. I'm not sure of that.
- 17 Q. 258 That the written statement would reflect that one of the purposes of the D  
18 zoning at Neilstown would be the development of specialised recreational  
19 or industrial development, isn't that right?
- 15:06:49 20 A. Yes.
- 21 Q. 259 And I think the evidence to the Tribunal has been that that was brought  
22 in, in order to allow for the development of the stadium on the town  
23 centre lands at Neilstown, do you agree with that?
- 24 A. Yes, okay.
- 15:07:03 25 Q. 260 And that effectively it wasn't -- in providing a C and E zoning,  
26 Mr. O'Callaghan, on your lands an alternative use had to be found for the  
27 other lands, isn't that right?
- 28 A. Oh yes.
- 29 Q. 261 While the town centre zoning might have been left on those lands this  
15:07:17 30 amendment which had been made to the written statement would allow for



15:07:20 1 development of something other than a town centre, isn't that right?

2 A. Yes.

3 Q. 262 And in fact in October of 1992, Mr. Kelly had lodged a planning

4 application for the stadium, isn't that right?

15:07:31 5 A. Mm.

6 Q. 263 So this amendment was going allow for the development of the stadium?

7 A. It was, but I don't think that was the intention, I don't think that was

8 the intention. Intention was still hold the D zoning on Neilstown, but it

9 did refer to -- it mentioned it would be more employment orientated, I

15:07:47 10 don't think that included the stadium.

11 Q. 264 I suggest to you you are wrong, Mr. O'Callaghan, from this point of view,

12 16481 please, paragraph 2, 16481 please, paragraph 2, you will see at

13 paragraph two, that the three district centres being recommended, one is

14 Lucan?

15:08:10 15 A. Yes.

16 Q. 265 One is Clondalkin and the other is Quarryvale?

17 A. Yes.

18 Q. 266 There is no recommendation of a district centre for Lucan/Clondalkin, is

19 that right?

15:08:19 20 A. Yes.

21 Q. 267 Now, at 16482 at paragraph 7 it recommends that "As the total extent of

22 lands zoned for development is more than adequate, no substantial zoning

23 is recommended for the at this time in west Lucan", isn't that right?

24 A. Yes.

15:08:41 25 Q. 268 And in the recommendation at 16490, following a review of the planning

26 history the recommendation is as follows:

27

28 "As stated above it is recommended that the long-term plan be adhered to

29 with some modifications. If the council consider that the time scale is

15:08:59 30 unacceptably long, a modified approach is suggested which could address

15:09:04 1 the problems of the area in the shorter term. In this event it is  
2 recommended that the area of Quarryvale shown coloured red on the map  
3 displayed at the meeting, approximately 180 acres in area should be  
4 jointly zoned C and E to protect, provide for and/or improve town centre  
15:09:19 5 facilities and to provide for industrial and related uses and should be  
6 the subject of a specific objective "It is an object of the council to  
7 foster the creation of employment opportunities in this area and to  
8 facilitate the provision of a district centre to serve the larger  
9 community". It is also recommended that the lands at Neilstown zoned for  
15:09:39 10 town centre uses in the 1983 Development Plan should be zoned D with a  
11 specific objective "it is an object of the council to encourage the  
12 development of specialised commercial recreational, industrial or  
13 residential uses in these areas." Isn't that right?  
14 A. To provide for major town centre activities?  
15:09:57 15 Q. 269 Yes. It would remain zoned D for town centre activities but with an  
16 amendment to the written statement which the Tribunal has been told would  
17 permit the development of stadium on those lands?  
18 A. Okay.  
19 Q. 270 Now, do you agree, Mr. O'Callaghan, that when that manager's report was  
15:10:17 20 published that you were happy enough, as I put to you, in relation to  
21 that?  
22 A. Happy enough with Quarryvale, yes.  
23 Q. 271 And had that been passed at this meeting on the 17th of December, you  
24 would have been very happy with that, isn't that right?  
15:10:28 25 A. Happy enough, not very happy.  
26 Q. 272 Right. In fact amendments were brought in on the 17th December, isn't  
27 that the position?  
28 A. Yes.  
29 Q. 273 There was a reduction, and can you tell the Tribunal, Mr. O'Callaghan,  
15:10:41 30 what you remember about the vote, first of all about the meeting on the

- 15:10:46 1 17th December?
- 2 A. Well, before the meeting as I outlined to you, before the meeting probably
- 3 two or three weeks, two weeks before the meeting I was approached by two
- 4 councillors I mentioned, Sean Gilbride and Marian McGennis. I've since
- 15:11:00 5 discovered that that was at the suggestion of Al Smith but at the time I
- 6 wasn't informed of that, that there would be difficulty getting the
- 7 500,000 square feet through because of the Blanchardstown opposition to it
- 8 and that 250,000 square feet would more than likely be accepted. On the
- 9 night before the vote, the night of the vote Councillor Sean Barrett
- 15:11:19 10 approached me on behalf of Fine Gael to say the same thing to me, that
- 11 500,000 square feet would not go through, that 250 -- 250,000 square feet
- 12 possibly would go through, and would I accept it, I didn't have any choice
- 13 but to accept it.
- 14 Q. 274 That meeting with Councillor Barrett that took place on the 16th December
- 15:11:37 15 then, is that correct?
- 16 A. No. The same night as the vote actually.
- 17 Q. 275 Sorry, you had said the night before?
- 18 A. Sorry, the same night as the vote.
- 19 Q. 276 Same night as the vote. When you were approached initially by
- 15:11:47 20 Ms. McGennis and Councillor McGrath, sorry Councillor Gilbride about the
- 21 reduction in the cap, did you discuss that with the bank?
- 22 A. Not at the time, it was mentioned in the letter we sent afterwards, I
- 23 suggested to them, I didn't say to the bank whether we would officially
- 24 accept this or not because I was a bit disappointed with it.
- 15:12:11 25 Q. 277 Right. Did you discuss it with Mr. Gilmartin?
- 26 A. No, I can't say for certain, I don't think so actually.
- 27 Q. 278 Do you know whether Mr. Deane discussed it with Mr. Gilmartin?
- 28 A. I doubt it.
- 29 Q. 279 Do you know whether the bank might have discussed it with Mr. Gilmartin?
- 15:12:25 30 A. Possible.

- 15:12:26 1 Q. 280 Right. Did you have any contact with Mr. Gilmartin in mid December 1992?
- 2 A. I don't think so.
- 3 Q. 281 Did you become aware of a concern within the bank about Mr. Gilmartin
- 4 coming up to the vote in December 1992?
- 15:12:45 5 A. I'm not quite sure. I'm not quite sure of that, I don't know.
- 6 Q. 282 Were you made aware of any concerns by the bank of threats that were being
- 7 made by Mr. Gilmartin around this time?
- 8 A. Oh, yes, yes, I did hear about that yes.
- 9 Q. 283 And can you tell the Tribunal first of all what you were told,
- 15:13:04 10 Mr. O'Callaghan?
- 11 A. I wasn't, it wasn't made very clear to me, I didn't get any great detail
- 12 about that from the bank actually and I am trying to recollect. I think
- 13 the bank felt that, I'm not sure where they got their information, but I
- 14 felt that -- they felt that Tom Gilmartin would have tried to scuttle the
- 15:13:27 15 vote I think on the night. I'm not sure where they got that information,
- 16 they didn't get it from me and I hadn't picked that up anywhere. And in
- 17 fact I wasn't concerned about it but the banks were, they must have been
- 18 talking directly Tom Gilmartin or he must have been talking directly to
- 19 them. But that, that was their concern.
- 15:13:47 20 Q. 284 And --
- 21 A. Sorry just to finish I don't know how they were concerned or where they
- 22 were concerned I wasn't quite sure how he could have done that.
- 23 Q. 285 The bank were concerned according to the bank's evidence because
- 24 Mr. Gilmartin in a telephone conversation with Ms. Mary Basquille
- 15:14:00 25 "threatened to bring the whole lot down" as it was described. In other
- 26 words the entire of the Quarryvale rezoning down, and he threatened to go
- 27 to the newspapers, were you aware of that?
- 28 A. No that wasn't elaborated to me.
- 29 Q. 286 Did you know that anybody went from the bank to Mr. Gilmartin?
- 15:14:19 30 A. Yes I did, I knew just one person, as far as I was concerned, Dave McGrath

- 15:14:24 1 from the bank went to meet Tom Gilmartin.
- 2 Q. 287 And did you know they had gone on the 17th December of 1992, which was the  
3 same day as the Quarryvale vote?
- 4 A. Well I knew, I think I knew that Dave McGrath was gone, had gone to Luton,  
15:14:38 5 when you say they, I never knew that Eddie Kay was with him until much  
6 later.
- 7 Q. 288 Mr. Eddie Kay told the Tribunal that Mr. Dave McGrath, in asking him to go  
8 to England to see Mr. Gilmartin said that the vote in relation to  
9 Quarryvale was about to come up and Mr. Gilmartin had told Ms. Basquille  
10 he would go to the press and wreck the whole project as he thought that  
11 Mr. O'Callaghan was scaling back the Quarryvale project in a deliberate  
12 attempt to dilute Mr. Gilmartin's equity were you made aware?
- 13 A. I heard afterwards, not at that stage, long afterwards.
- 14 Q. 289 Is it the position then on the 17th December 1992 you were not aware of  
15:15:17 15 the threats from Mr. Gilmartin to go to the newspapers and in relation to  
16 the to Quarryvale?
- 17 A. I was aware of the fact that the banks were concerned that AIIB from  
18 concerned about Tom Gilmartin for some particular reason and the reason I  
19 got was that he could try to stop the vote or get to us loose the votes, I  
15:15:35 20 thought the banks were concerned at the time that he might have influence  
21 to some councillors and vote against us, that's as much as I know, as I  
22 knew at the time. I wasn't terribly concerned because I had my own  
23 problems at the time --
- 24 Q. 290 Yes. At this time by the 17th December, material about Mr. Gilmartin had  
15:15:52 25 already been in the newspapers on the 13th December 1992, isn't that  
26 right, Mr. O'Callaghan?
- 27 A. Sorry what was that?
- 28 Q. 291 There was an article by Mr. Ted Harding about Mr. Gilmartin's bankruptcy?
- 29 A. Yes.
- 15:16:04 30 Q. 292 Published in the Sunday Business Post, isn't that right?

- 15:16:07 1 A. Yes.
- 2 Q. 293 And I think some two days before that article was published Mr. Harding  
3 had tried to contact you through Mr. Dunlop's office, isn't that right?
- 4 A. Yes.
- 15:16:15 5 Q. 294 Right. So you were aware, I assume, Mr. O'Callaghan, of that publication  
6 in the newspapers about Mr. Gilmartin?
- 7 A. Yes.
- 8 Q. 295 And then Mr. Gilmartin, if Mr. Kay and Mr. McGrath of Allied Irish Bank  
9 are correct, Mr. Gilmartin by the 17th is complaining that he is going to  
10 go to the newspapers about what's happening, isn't that right?
- 11 A. Yes.
- 12 Q. 296 Right. Can you think of any reason why Mr. Kay and Mr. McGrath would not  
13 have contacted you about that?
- 14 A. I don't actually. They did their own business really, they didn't say it  
15 to me. I presume I was -- just putting in the context, I was very busy at  
16 the time, this is three or four days before the vote and I would have been  
17 going around continuously to all the councillors trying to make sure  
18 support was still there. I wouldn't have much time to go and meet the  
19 lads in the bank.
- 15:17:11 20 Q. 297 On the night of the vote, Mr. O'Callaghan, did Mr. Gilmartin ring the  
21 Fianna Fail offices in Dublin County Council?
- 22 A. So I have read and so I have heard, I believe that's true, yes he did. I  
23 wasn't in the office when he rang, but I believe he rang, yes.
- 24 Q. 298 Were you not aware, at the time from Mr. Deane that Mr. Deane had answered  
15:17:28 25 the telephone and spoken to Mr. Gilmartin and had sought to speak with  
26 Councillor McGrath and Councillor McGrath refused to speak, did you not  
27 know that?
- 28 A. After the vote John Deane told me that, yes.
- 29 Q. 299 After the vote?
- 15:17:41 30 A. Yes.

15:17:42 1 Q. 300 Did you, when you became aware of the fact that the bank had gone over to  
2 Mr. Gilmartin on the day of the vote, did you have a discussion with the  
3 bank about what had transpired between the bank and Mr. Gilmartin in  
4 Luton?

15:17:56 5 A. Yes, but this is a week or two later.

6 Q. 301 Yes.

7 A. And apparently at that stage I thought there was just one person went  
8 over, and that was Dave McGrath.

9 Q. 302 Leaving aside the number of people who might have travelled,  
10 Mr. O'Callaghan, what were you told about the purpose of the visit and the  
11 complaints that were being made?

12 A. Basically that Tom Gilmartin was trying to get certain councillors to vote  
13 against Quarryvale.

14 Q. 303 Yes. Were you ever told for example by the bank that the reason that  
15 precipitated their visit to see Mr. Gilmartin was a threat by  
16 Mr. Gilmartin that he would go to the newspapers?

17 A. I don't think so.

18 Q. 304 Right. Is there any reason why the bank would have kept that information  
19 from you?

15:18:40 20 A. No, not really. The banks were handling this themselves I knew very  
21 little about this actually.

22 Q. 305 Yes. But insofar as this involved a trip to London to your partner, who  
23 was threatening in effect your development, is it your evidence to the  
24 Tribunal that the bank did not tell you when you came to discuss this that  
15:18:58 25 the reason they went to see Mr. Gilmartin in Luton was because of a threat  
26 by Mr. Gilmartin that he would go to the newspapers?

27 A. Yeah, I think they mentioned newspapers, but the big problem was, the big  
28 concern was that he was going to -- he had told them that he could get  
29 certain councillors to vote against us, that was the main concern. They  
15:19:18 30 didn't want him to do that of course. I didn't believe it, I didn't

- 15:19:22 1 accept that because I didn't think he had any influence with the  
2 councillors.
- 3 Q. 306 And at the same time when the meeting was taking place you were unaware of  
4 the fact Mr. Gilmartin was trying to get through to a councillor, namely  
15:19:33 5 Councillor McGrath and that the phones were manned by Mr. Deane, you  
6 weren't aware of that?
- 7 A. I was directly after the vote. Not at the time.
- 8 Q. 307 Not until the vote was over?
- 9 A. Immediately after the vote I was told about it.
- 15:19:46 10 Q. 308 And when the article was published by Mr. Harding at 8757,  
11 Mr. O'Callaghan, I think we have already dealt with this and you have  
12 denied that you were the person who provided -- 8757 please, who provide  
13 the information, is that right?
- 14 A. I don't know that I deny it.
- 15:20:04 15 Q. 309 I think, Mr. O'Callaghan, what you indicated to the Tribunal when we dealt  
16 with this previously, that you didn't provide the following information to  
17 Mr. Harding, namely that Mr. Gilmartin retained no interest in the lands  
18 at Quarryvale?
- 19 A. Yes, I don't think so I said that, but I certainly would have played down  
15:20:21 20 Tom Gilmartin very, very much when I spoke to Ted Harding because this  
21 took place just before the vote and the biggest problem we had with our  
22 vote was Tom Gilmartin's one and a half million square feet and his own  
23 name, his name being linked with Quarryvale.
- 24 Q. 310 Yes. And in the light of the fact that you had that communication with  
15:20:39 25 Mr. Harding, an article about Mr. Gilmartin and his bankruptcy had been  
26 published four days before the vote, does that assist you in recollecting  
27 whether or not the bank, when they came to tell you about their visit to  
28 Luton on the 17th, went as a result of a statement or a threat by  
29 Mr. Gilmartin that he would go to the newspapers about Quarryvale?
- 15:21:01 30 A. No my recollection of that is that he would -- as I said the newspapers



- 15:21:07 1 were mentioned but that wasn't elaborated on, the important things was  
2 that he would be able to get certain councillors to vote against  
3 Quarryvale.
- 4 Q. 311 And this is something about which you were informed after the vote had  
15:21:20 5 taken place, Mr. O'Callaghan, if I understand you?  
6 A. Oh, yes it was afterwards, as I said the banks seemed to make their own  
7 decision to go and meet Tom Gilmartin and as far as I was concerned for  
8 quite a while after that, there was just one person went to see Tom  
9 Gilmartin, that was Dave McGrath, I didn't know Eddie Kay went.
- 15:21:39 10 Q. 312 Can you recollect, Mr. O'Callaghan, whether on the night of the 17th  
11 anybody came to the Council from Allied Irish Bank?  
12 A. Not on the night of the 17th, that's the previous vote, that was '91 when  
13 we had a representative from the bank.
- 14 Q. 313 Was there anybody there from the bank that you can remember?  
15:21:57 15 A. I don't think so.
- 16 Q. 314 On the night of the 17th?  
17 A. No.
- 18 Q. 315 Right. Now you will also have seen, Mr. O'Callaghan, in the  
19 documentation, and indeed you were aware at the time that motions had been  
15:22:08 20 put into Dublin County Council seeking to rezone the lands back to E  
21 industrial, that is the Quarryvale lands, isn't that right?  
22 A. Yes.
- 23 Q. 316 And in fact there were a series of motions that were brought, isn't that  
24 right?  
15:22:20 25 A. Yes.
- 26 Q. 317 And the first motion that was brought before the council was a motion on  
27 your side, if I can put it like that, seeking to approve of the manager's  
28 report, isn't that the position?  
29 A. Yes.
- 15:22:35 30 Q. 318 And that is at 8855, and this is a motion signed by Councillors

- 15:22:47 1 O'Halloran, McGrath, Ridge and Tyndall, isn't that right?
- 2 A. Yes.
- 3 Q. 319 And there was an amendment to that motion at 8856, also signed by the same
- 4 councillors, isn't that right?
- 15:23:02 5 A. Yes.
- 6 Q. 320 May the Tribunal take it that motion was lodged with your consent?
- 7 A. Oh, yes.
- 8 Q. 321 Do you know anything about how the signatures were obtained?
- 9 A. I would say it was Colm, there was no problem with the signatures, all
- 15:23:24 10 four people were more than enthusiastic about that and wanted to sign it,
- 11 I would say it could have been any one of the four people produced it to
- 12 the other three to sign it, more than likely it was McGrath.
- 13 Q. 322 Do you know who drafted the motion? Sorry, Mr. O'Callaghan, you should be
- 14 looking at 8855.
- 15:23:49 15 A. This is Neilstown.
- 16 Q. 323 No this is Quarryvale, Mr. O'Callaghan, because the critical part is part
- 17 B?
- 18 A. Sorry, yes.
- 19 Q. 324 Isn't that right?
- 15:24:02 20 A. Yes.
- 21 Q. 325 Right. And what the councillors on your side are seeking to do is to
- 22 approve the manager's report so that Quarryvale will be zoned C and E,
- 23 isn't that right?
- 24 A. Yes.
- 15:24:14 25 Q. 326 That's the 180 acres?
- 26 A. Correct, I would say those four councillors drafted it together actually.
- 27 Q. 327 I think it's suggested that it was provided to them and the suggestion has
- 28 been that it may have been drafted by Mr. Lawlor, if that were to be the
- 29 case it wouldn't surprise you?
- 15:24:29 30 A. It certainly was not.

- 15:24:30 1 Q. 328 It wasn't?
- 2 A. Not at all, not at all.
- 3 Q. 329 Right. And at 8856, this amendment is to approve the manager's report in  
4 relation to Neilstown and the amendment to the written statement?
- 15:24:43 5 A. That's right, yes. Those four councillors signed that themselves and  
6 nobody had to ask them to do it.
- 7 Q. 330 And those councillors were councillors, all of whom you had a fairly close  
8 relationship, is that right?
- 9 A. Yes four councillors from Quarryvale from Clondalkin area.
- 15:25:02 10 Q. 331 You were a financial supporter of Councillor O'Halloran, is that right?
- 11 A. Yes.
- 12 Q. 332 You were a financial supporter of Councillor McGrath?
- 13 A. Yes.
- 14 Q. 333 You squired Councillor Ridge around Cork for the February Senate  
15 elections?
- 16 A. Sorry what?
- 17 Q. 334 You brought Councillor Ridge around Cork, is that right?
- 18 A. I did, yes.
- 19 Q. 335 In early '92, '93?
- 15:25:19 20 A. The Senate elections.
- 21 Q. 336 Senate elections, isn't that right?
- 22 A. Yes, correct.
- 23 Q. 337 You had subsequently entered into a commercial relationship with  
24 Councillor Tyndall, isn't that right?
- 15:25:28 25 A. His company.
- 26 Q. 338 I beg your pardon, his company, isn't that right?
- 27 A. Yes.
- 28 Q. 339 So you were well known to all of these and they were all well known to  
29 you?
- 15:25:36 30 A. Absolutely, very, very good friends, yes.

- 15:25:38 1 Q. 340 On the 17th December I think when the matter came to a vote,  
2 Mr. O'Callaghan, the first matter that was proposed was a motion rezoning  
3 the lands to E, isn't that right, at 119 please?  
4 A. That's correct, yes.
- 15:25:57 5 Q. 341 1119 please, sorry. And that was unsuccessful, isn't that the position?  
6 A. Yes.  
7 Q. 342 The second vote was a vote at 1120 to rezone Quarryvale C1 with a cap at  
8 100,000 square feet retail and that was unsuccessful, is that right?  
9 A. Yes.
- 15:26:18 10 Q. 343 And the third vote at 1121 was an amendment to councillor, to your motion  
11 effectively, isn't that right, to cap the retail element at 250,000 square  
12 feet, isn't that right?  
13 A. Yes correct.  
14 Q. 344 That was passed and the second amendment was passed, isn't that right, at  
15 1122, approving the manager's recommendation in relation to the Neilstown  
16 lands, isn't that right?  
17 A. Yes, that's correct.  
18 Q. 345 And following the passing of those two amendments, starting at the bottom  
19 of that page at 1122 and into 1123 the substantive motion, as amended was  
15:26:57 20 passed, isn't that right?  
21 A. Yes.  
22 Q. 346 The effect of that was to rezone Quarryvale C and E with a retail cap at  
23 250,000 square feet?  
24 A. Yes.  
15:27:05 25 Q. 347 And to provide for a town centre zoning at Neilstown with a written  
26 objective in relation to same, isn't that right?  
27 A. Correct.  
28 Q. 348 Isn't that right?  
29 A. Neilstown, the objective of Neilstown being employment creator.  
15:27:20 30 Q. 349 Yes. The motions that had been received, Mr. O'Callaghan, to rezone the

- 15:27:26 1 Quarryvale lands back to E, there were six motions that sought to rezone  
2 the Quarryvale lands back to E and the Lucan/Clondalkin lands back to D,  
3 isn't that right?
- 4 A. Yes.
- 15:27:38 5 Q. 350 Now, in the course of that meeting Mr. Dunlop has told the Tribunal the  
6 absence of Councillor Gus O'Connell was commented upon, isn't that right?
- 7 A. Yes.
- 8 Q. 351 What do you know about the absence of Councillor O'Connell who was in fact  
9 the sponsor of one of those motions?
- 15:27:54 10 A. I knew and know Gus O'Connell very well. He wasn't present at that  
11 meeting to my surprise because he was, I wouldn't say he was a serious  
12 objector to Quarryvale but he objected to Quarryvale on the basis of  
13 traffic, that the traffic from Quarryvale would generate would effect the  
14 Palmerstown area which he represented as an independent councillor and we  
15 spent, my company and our traffic consultants Atkins, must have had at  
16 least 15 maybe 16 meeting with Gus O'Connell to explain the whole traffic  
17 situation to him. He didn't accept that, he didn't accept our traffic  
18 proposals, in fact he was wrong because we have created no traffic  
19 problems with Palmerstown at all ever since, but he did not turn up to the  
15:28:46 20 vote, everybody assumed he would, to vote against Quarryvale on the night.
- 21 Q. 352 Now, Mr. Dunlop in his private interview with the Tribunal, before any of  
22 these matters became public, told the Tribunal in his private interview,  
23 that Mr. O'Callaghan that's yourself, and Mr. John Lynch, a director of  
24 Fás were very friendly and that Mr. O'Connell had been sent on a junket  
15:29:10 25 could he would be absent for the crucial vote in December 1992. Now, do  
26 you agree first of all that's what Mr. Dunlop told the Tribunal?
- 27 A. Yes.
- 28 Q. 353 Right. Now, can I ask you about that, Mr. O'Callaghan, in the first  
29 instance is it true that you knew John Lynch?
- 15:29:25 30 A. Yes.

- 15:29:25 1 Q. 354 And would you have known Mr. Lynch reasonably well?
- 2 A. Reasonably well, yes.
- 3 Q. 355 All right. Did you come to know Gus O'Connell as a councillor?
- 4 A. I got to know Gus O'Connell very well.
- 15:29:36 5 Q. 356 Would it be fair to say, Mr. O'Callaghan, that by December of 1992 you
- 6 would have known that Mr. O'Connell was not going to support what you were
- 7 looking for in Quarryvale?
- 8 A. Oh, yes.
- 9 Q. 357 And that there were others like councillor O'Connell as well, isn't that
- 15:29:54 10 right that, who weren't going to support you?
- 11 A. Oh, yes.
- 12 Q. 358 Isn't that right? There were other councillors who wanted to see
- 13 Quarryvale zoned E, isn't that right?
- 14 A. Yes.
- 15:29:57 15 Q. 359 And Lucan/Clondalkin town centre maintained?
- 16 A. In Neilstown.
- 17 Q. 360 In Neilstown?
- 18 A. Correct, yes.
- 19 Q. 361 Isn't that right? Now, did you have any contact with Mr. Lynch in Fás in
- 15:30:08 20 order to get Mr. O'Connell sent on a junket so as to take him out of the
- 21 way?
- 22 A. Not at all.
- 23 Q. 362 Can you think of any reason as to why Mr. Dunlop would fabricate such a
- 24 thing, Mr. O'Callaghan?
- 15:30:20 25 A. I don't know but that was a standing joke, I heard that story too from
- 26 quite a few people.
- 27 Q. 363 Yes but did you hear the story that you were the person orchestrated
- 28 Mr. O'Connell to be out of the country?
- 29 A. Absolutely.
- 15:30:30 30 Q. 364 Right. When Mr. Dunlop initially told the Tribunal, although he

15:30:34 1 subsequently told the Tribunal in evidence he couldn't remember who had  
2 told him, but when he -- is it likely that this is something you would  
3 have discussed with Mr. Dunlop?

4 A. No.

15:30:43 5 Q. 365 You never discussed it with Mr. Dunlop?

6 A. No. He said it to me, I heard Frank Dunlop say or mention to me  
7 afterwards that I must have done something like that, it was a shock to  
8 everybody that Gus O'Connell did not turn up to the vote on the 17th  
9 December.

15:30:59 10 Q. 366 Mr. O'Connell took -- sorry I beg your pardon, Mr. O'Connell told the  
11 Tribunal that some time in the middle of December 1992 and he believed it  
12 to be around the 10th of December 1992, I would be seven-days before the  
13 vote, he was requested by Mr. Lynch, Dr. Lynch, to go as part of a small  
14 specialist group to do a brief study in the United Kingdom to examine  
15 privatisation of training and employment services?

16 A. Yes.

17 Q. 367 Now, that was Mr. O'Connell's evidence, and assume for the moment that  
18 Mr. O'Connell is correct insofar as he dates the request to the 10th  
19 December 1992, Mr. Dunlop's diary on the 16th December 1992 at 8794  
15:31:49 20 records a telephone call from John Lynch of Fás, isn't that right?

21 A. Yes.

22 Q. 368 And in Mr. Dunlop's telephone records at 8655 which I think is the 15th of  
23 December, sorry the 2nd December, the first page please for the date, yes  
24 the 2nd December '91 you will see at 8655 --

15:32:25 25  
26 CHAIRMAN: '92.

27 Q. 369 '92, I beg your pardon, 8655 you will see a phone call "OOC please call  
28 John Lynch of Fás".

29 A. Yes.

15:32:35 30 Q. 370 Now, can you tell the Tribunal why Mr. Lynch was calling Mr. Dunlop's

- 15:32:41 1 office looking for you on the 2nd December 1992, Mr. O'Callaghan?
- 2 A. Yes, I can indeed. This was the time, this is probably why this story has
- 3 come around. This was the time I was trying to get the Fás training
- 4 scheme for Quarryvale off the ground. Initially, the initial start off of
- 15:32:59 5 it, and I was dealing directly with John Lynch because I didn't know
- 6 anybody else in Fás, it was because of him and because of the position in
- 7 Fás and because he is from that part of the country that the whole Fás
- 8 training scheme got off the ground. I started negotiations and talking to
- 9 him and trying to get him interested in that, around November/December of
- 15:33:18 10 '92.
- 11 Q. 371 Did your conversation or your contact with Mr. Lynch in early December
- 12 1992, have anything to do with Mr. Lynch's subsequent decision in around
- 13 the 10th December 1992 to send Councillor O'Connell to England to examine
- 14 the privatisation of training and employment services there?
- 15:33:39 15 A. Absolutely never discussed it, I don't even think John Lynch even know of
- 16 Gus O'Connell.
- 17 Q. 372 He had to know of Gus O'Connell, Mr. O'Callaghan, with the greatest of
- 18 respect to you --
- 19 A. Well his connection with Quarryvale he didn't know anything about that.
- 15:33:52 20 Q. 373 Mr. Lynch's evidence to the Tribunal has been that he was aware that
- 21 Councillor O'Connell was a councillor?
- 22 A. As a councillor, but I'm not too sure did he know where he was based. I'm
- 23 not sure if he ever linked Councillor O'Connell with Quarryvale, I'd be
- 24 surprised if he did.
- 15:34:08 25 Q. 374 Well, Councillor O'Connell has told the Tribunal that he discussed the
- 26 upcoming meeting with Mr. Lynch and agreed that he could go, in other
- 27 words they a discussion about it?
- 28 A. Discussed the vote meeting.
- 29 Q. 375 They had, the upcoming Quarryvale vote?
- 15:34:26 30 A. Well okay, Gus O'Connell more than likely explained that to John Lynch,



15:34:30 1 but my conversation with John Lynch, I don't think John Lynch would have  
2 ever associated Gus O'Connell with Quarryvale.

3 Q. 376 But he would have had to have known that Mr. O'Connell was a councillor?

4 A. Oh he would have known he was a councillor, yes.

15:34:43 5 Q. 377 All right. It's your position anyway that notwithstanding the rumours  
6 that were circulating about the absence of Councillor O'Connell, your  
7 contact in early December 1992 with Mr. Lynch related to the promotion of  
8 a Fás training scheme and had nothing to do with the sending of Councillor  
9 O'Connell on a junket?

15:35:01 10 A. Not at all.

11 Q. 378 Is that the position?

12 A. Absolutely not.

13 Q. 379 All right.

14

15:35:05 15 MS. DILLON: Might be an appropriate time, I understand that  
16 Mr. O'Callaghan is staying until half four, to have a short break for  
17 Mr. O'Callaghan.

18

19 CHAIRMAN: Fine.

15:35:14 20

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

22 **AND RESUMED AGAIN AS FOLLOWS:**

23

24 CHAIRMAN: Now, Ms. Dillon.

15:51:20 25

26 Q. 380 MS. DILLON: In your statement, Mr. O'Callaghan, to the Tribunal, at 3150  
27 in relation to the council vote on the 17th December 1992, you record the  
28 following:

29

15:51:32 30 "After 18 months of continuous discussions and lobbying the matter finally

15:51:36 1 came for a vote at Dublin County Council on 17th December 1992. There was  
2 always total opposition to the size and scale of the development proposed  
3 by Tom Gilmartin. I agreed that a development of 500,000 square feet  
4 approximately would be adequate for the site and was happy to proceed on  
15:51:51 5 this basis."

6  
7 Now if I -- the next sentence "This limitation was something that was  
8 always rejected by Tom Gilmartin". Now, in fact the 500,000 square feet,  
9 Mr. O'Callaghan, although not referred to in numbers was the effect of the  
15:52:07 10 decision in May 1991, isn't that right?

11 A. Yes.

12 Q. 381 So where you suggest in your statement that this, that you agreed to the  
13 development of 500,000 square feet, that in fact had already been decided  
14 by May of 1991, isn't that right?

15:52:23 15 A. Yes.

16 Q. 382 All right. Now, the statement proceeds "Tom Gilmartin was adamant that he  
17 if he was left in charge of zoning there would not be any cap on retail  
18 space. He said that he would ensure that. Bearing in mind that at the  
19 time he was resident in the UK he was asked over and over again how this  
15:52:38 20 could be achieved. Tom Gilmartin refused to disclose this information so  
21 in effect he was acting in a manner detrimental to the interests of the  
22 company."

23  
24 Now, you don't record in any of the memoranda did with the bank,  
15:52:52 25 Mr. Gilmartin reiterating this, isn't that right, that doesn't appear to  
26 be recorded, isn't that right, Mr. O'Callaghan?

27 A. No, that's right.

28 Q. 383 All right. Did you say this arise in the course of your telephone  
29 conversations with Mr. Gilmartin?

15:53:02 30 A. Oh, yes.

- 15:53:03 1 Q. 384 And those conversations would have been continuing up to the time of the  
2 vote, is that right?
- 3 A. Yes.
- 4 Q. 385 Yes. Would you have indicated in your telephone conversations with  
15:53:11 5 Mr. Gilmartin, the proposals to reduce the retail area from 500,000 square  
6 feet to 250,000 square feet?
- 7 A. I don't think so.
- 8 Q. 386 All right. Why would you not have discussed that with your partner?
- 9 A. Well, that all came about, about two weeks before and I didn't feel like  
15:53:28 10 saying it to him actually because he would have taken that very badly.
- 11 Q. 387 All right. You would have been aware of Mr. Gilmartin's objection then to  
12 any reduction in the retail cap, is that correct?
- 13 A. Oh, yes.
- 14 Q. 388 And were you aware of a complaint by Mr. Gilmartin that you would be in  
15:53:42 15 favour of reducing the retail element to dilute his equity or to render  
16 the development less profitable?
- 17 A. That is -- yeah he made that statement I believe, yeah, sure that's  
18 totally ridiculous, because 250,000 square feet nearly almost made the  
19 scheme non-viable actually.
- 15:54:01 20 Q. 389 You continue in your statement "To this day I have no idea how Tom  
21 Gilmartin was going achieve zoning without any cap. However Tom Gilmartin  
22 never lost an opportunity to criticise me for agreeing to a cap. On the  
23 day of the vote, 17th December 1992, it became clear that a scheme of  
24 500,000 square feet would not be accepted and following a lot of  
15:54:22 25 negotiations on the evening of the vote there was a general consensus that  
26 a scheme of 100,000 square feet would have been readily acceptable but and  
27 a scheme of 250,000 square feet of retail space would just about be  
28 acceptable." Is that right?
- 29 A. Yes.
- 15:54:35 30 Q. 390 Now, is it fair to say, Mr. O'Callaghan, in view of what you have told the

- 15:54:39 1 Tribunal today that two weeks in advance of the meeting Ms. McGennis told  
2 you that there was a proposal to reduce to 250,000 square feet?
- 3 A. There was a suggestion, I think that was amongst the Blanchardstown  
4 councillors mainly.
- 15:54:54 5 Q. 391 And that Mr. Barrett who would have been a Dun Laoghaire/Rathdown  
6 councillor from Fine Gael, on the day of the vote told that you 250,000  
7 would be acceptable to his side?
- 8 A. I think that's all Fine Gael people would support.
- 9 Q. 392 250,000 square feet, but it was clear that there were discussions about a  
10 reduction, is that right?
- 11 A. Yes.
- 12 Q. 393 Because by the 1st December you are mentioning 250,000 square feet to the  
13 bank, isn't that right?
- 14 A. Yes.
- 15:55:20 15 Q. 394 "On the evening of the vote on 17th December 1992, Tom Gilmartin rang the  
16 Fianna Fail offices in Dublin County Council looking for Councillor  
17 McGrath. John Deane answered the phone but Councillor McGrath was not in  
18 the room. Tom Gilmartin did not give his name but John Deane recognised  
19 his voice. When Councillor McGrath returned he informed John Deane that  
15:55:36 20 he would not take the call if there were any people in the room as the  
21 mere mention of Tom Gilmartin's name would revise fears of 1.5 million  
22 square feet shopping development at a time when achieving 250,000 square  
23 feet was proving very difficult. Tom Gilmartin rang several times but I  
24 believe on each occasion either Councillor McGrath was not in the room or  
15:55:56 25 else he was engaged in serious discussions in the room on the zoning  
26 issue. The votes taken in December 1992 were as follows." They are it's  
27 votes I have already gone through with you, isn't that right?
- 28 A. Yes.
- 29 Q. 395 Is it the position, Mr. O'Callaghan, that you yourself were never present  
15:56:10 30 when Mr. Gilmartin rang and that what you are recording here in your

- 15:56:15 1 statement, what was told to you subsequently by either Mr. Deane or  
2 Mr. McGrath?
- 3 A. Mr. Deane, yes.
- 4 Q. 396 So that in effect you don't know of your own knowledge anything about  
15:56:24 5 these telephone conversations, because as I understood your earlier  
6 evidence you weren't present?
- 7 A. No I wasn't, this was the Fianna Fail rooms I wasn't in them at the time,  
8 I wasn't there when the phone calls were made.
- 9 Q. 397 But did you become aware of the on the night that Mr. Gilmartin was  
15:56:40 10 seeking to speak to councillors?
- 11 A. Yes, I was.
- 12 Q. 398 And effectively Mr. Deane was on the phone is that fair to say?
- 13 A. He was the only person in the room I believe, possibly when the phone  
14 rang.
- 15:56:50 15 Q. 399 You will be aware of a complaint made by Mr. Gilmartin to the effect that  
16 when he tried to get through to the Fianna Fail rooms in Dublin County  
17 Council on the 17th of December 1992, after Allied Irish Bank personnel  
18 had left him, that in effect there was a manned -- the telephone operation  
19 in existence and he was unable to get through to the councillors you are  
15:57:10 20 aware of that allegation.
- 21 A. I am.
- 22 Q. 400 Do you agree that in substance, Mr. Gilmartin appears to be correct  
23 insofar as each time he rang he spoke to Mr. Deane and not to any  
24 councillor?
- 15:57:20 25 A. Well the only person in the room at the time to the best of my knowledge  
26 and quoting John Deane, was John Deane himself and he answered the  
27 telephone. He looked for Colm McGrath and Councillor McGrath wasn't  
28 available and when he was available he didn't want to speak to him.
- 29 Q. 401 But do you agree that that in fact is what happened?
- 15:57:36 30 A. Oh, yes.

- 15:57:37 1 Q. 402 That Mr. Gilmartin rang, he got Mr. Deane and Councillor McGrath didn't or  
2 wouldn't speak to him?
- 3 A. That is correct, yes.
- 4 Q. 403 Isn't that the position?
- 15:57:45 5 A. Yes.
- 6 Q. 404 Now when you became aware that Mr. Gilmartin was telephoning on the  
7 evening of the 17th December, did you contact Mr. Gilmartin?
- 8 A. No.
- 9 Q. 405 Why not?
- 15:57:57 10 A. Well why should I?
- 11 Q. 406 As his partner to explain to him what was happening with the vote for  
12 example, Mr. O'Callaghan?
- 13 A. I let that wait until the following day I think.
- 14 Q. 407 Right. So would it be fair to say you didn't have any communication with  
15 Mr. Gilmartin on the night of the 17th?
- 15:58:09 16 A. No.
- 17 Q. 408 All right. Now, if I can just step back for a moment to the 7th December  
18 at 17068, sorry I should say 8690 sorry, Mr. O'Callaghan, this is the  
19 fifth invoice, 8690, the fifth invoice for ongoing costs re Quarryvale,  
15:58:32 20 isn't that right?
- 21 A. Yes.
- 22 Q. 409 Up to this point in time Mr. Dunlop has invoiced you for 53,398 and this  
23 invoice then bring it is up to 63,158, isn't that right?
- 24 A. Yes.
- 15:58:46 25 Q. 410 So between June and December 1992, on the basis of ongoing costs re  
26 Quarryvale, Mr. Dunlop has so invoiced you, under the heading "Frank  
27 Dunlop & Associates", isn't that right?
- 28 A. Yes.
- 29 Q. 411 And I think that was paid on the 14th December 1992, 8692 please. So the  
15:59:09 30 amount expended by Mr. Dunlop for the costs associated with the zoning of

- 15:59:14 1 Quarryvale, prior to the vote itself actually taking place, amounted to  
2 63,000 pounds approximately, do you agree with that?
- 3 A. Yes, yes.
- 4 Q. 412 Right. And those invoices don't appear to have any breakdown attached to  
15:59:26 5 them, isn't that right?
- 6 A. That's right, yes.
- 7 Q. 413 Did Mr. Dunlop issue you with a subsequent invoice after the vote in  
8 December?
- 9 A. Yes, he did.
- 15:59:34 10 Q. 414 In the sum, I think of 64,000 pounds, isn't that right?
- 11 A. Yes.
- 12 Q. 415 At 8966. Now, this is an invoice raised by Mr. Dunlop on the 21st  
13 December 1992 in the amount of 64,897.78 pounds, isn't that right?
- 14 A. Yes.
- 15:59:57 15 Q. 416 And do you agree that like the other invoices that have been raised, this  
16 this relates to the rezoning of Quarryvale?
- 17 A. Yes.
- 18 Q. 417 Right. And Mr. Dunlop provided at 8967 a breakdown of that invoice, isn't  
19 that right?
- 16:00:11 20 A. Yes.
- 21 Q. 418 Now starting at the bottom under the heading "miscellaneous costs", Mr.  
22 Dunlop was asked to give a breakdown of the figure of 7,300 miscellaneous  
23 cost and couldn't do so, isn't that correct?
- 24 A. That is correct, sorry I didn't know that.
- 16:00:27 25 Q. 419 That was Mr. Dunlop's evidence?
- 26 A. Yes.
- 27 Q. 420 And that Mr. Dunlop told the Tribunal that the figure of 15,636.77 relates  
28 as far as he knows to Christmas gifts and hampers for councillors?
- 29 A. That's correct, yes.
- 16:00:41 30 Q. 421 Right. And that was a sum that was ultimately borne by Riga, is that

16:00:46 1 right?

2 A. That's right that was a Christmas hamper for every councillor, yes.

3 Q. 422 And I think that the balance of those figures relates to photocopying and

4 then to do with news material, isn't that right?

16:00:59 5 A. Yes.

6 Q. 423 Then there is a heading for security?

7 A. Yes.

8 Q. 424 And security element comes to 17,330 pounds, isn't that right?

9 A. Well that's included, that's all the security, yes that's correct, yes.

16:01:13 10 Q. 425 Right. And then there is a heading for contributions, in other words

11 monies paid out by Mr. Dunlop on your behalf?

12 A. To various associations, yes.

13 Q. 426 There doesn't appear to be there a figure in relation to Councillor Green,

14 isn't that right?

16:01:28 15 A. No, that's correct.

16 Q. 427 Right. That amount comes to 11,860 pounds, isn't that right?

17 A. Yes.

18 Q. 428 The total amount of the breakdown that's given by Mr. Dunlop is 64,897.78,

19 isn't that right?

16:01:44 20 A. Yes.

21 Q. 429 But other than this breakdown, Mr. Dunlop, Mr. O'Callaghan, did Mr. Dunlop

22 give you any invoices or back up documentation in relation to that matter?

23 A. Sorry what's -- I don't understand that sorry.

24 Q. 430 For example Mr. Dunlop claims a figure of 15,636 pounds for hampers?

16:02:02 25 A. Yes, okay.

26 Q. 431 Right. Now did he give you a breakdown? In other words, the invoices for

27 whoever prepared the hampers and delivered them?

28 A. Yes these were available, yes. Yes. They were available to me, this

29 invoice was agreed across the table.

16:02:15 30 Q. 432 Across the table?



- 16:02:16 1 A. Yes.
- 2 Q. 433 In other words, what I am asking for, did you ever see any back up from  
3 Mr. Dunlop in relation to this invoice?
- 4 A. Yes I did, for most of them actually.
- 16:02:25 5 Q. 434 And Mr. Dunlop when he gave you that invoice presumably, Mr. O'Callaghan,  
6 he did so by agreement with you?
- 7 A. Yes, we had time to agree that. The reason why -- the reason why some of  
8 the other invoices were just ongoing costs we didn't have the time to, in  
9 those days didn't have the time to go through, sit down and spend half an  
16:02:43 10 hour going through the invoices in detail, they were done very quickly.  
11 But this one we had time to do because the vote was over.
- 12 Q. 435 And therefore between June and December of 1992, under the heading  
13 "ongoing costs re Quarryvale", you have two sums of -- one of 63,000  
14 pounds and one of 64,000 pounds, claimed by Mr. Dunlop?
- 16:03:04 15 A. Yes.
- 16 Q. 436 In relation to ongoing costs, isn't that right?
- 17 A. Yes.
- 18 Q. 437 And that's a figure of almost 130,000 pounds that Mr. Dunlop says he has  
19 spent on your behalf to help achieve the rezoning of Quarryvale, do you  
16:03:18 20 agree with that?
- 21 A. Yes.
- 22 Q. 438 For at least half that figure you never received any back up, do you agree  
23 with that?
- 24 A. Never received, but did agree the figures.
- 16:03:27 25 Q. 439 Face-to-face with Mr. Dunlop?
- 26 A. Yes.
- 27 Q. 440 Now, that I think, when you met with the bank early in 1993,  
28 Mr. O'Callaghan, you asked the bank to consider paying that fee note,  
29 isn't that right, by Mr. Dunlop?
- 16:03:40 30 A. Yes.

- 16:03:40 1 Q. 441 And the bank refused to do so, 9127?  
2 A. That is correct, yes.  
3 Q. 442 Under the heading "outstanding fees", if it could be increased? And this  
4 is dated 20th January '93, what is recorded is.  
16:03:57 5  
6 "Owen O'Callaghan advised that payment of 64,000 pounds was still due to  
7 Frank Dunlop in relation to zoning costs and requested payment of this  
8 invoice from Barkhill's loan facility. He was clearly disappointed when  
9 told that this would not be possible in view of the fact that the facility  
16:04:12 10 was drawn to the maximum amount permitted and he highlighted that Riga  
11 would be covering all fees in relation to the Green take over and the  
12 stadium proposal, which had indirect benefit for Barkhill and also paid  
13 security costs in relation to Bruton House". Isn't that right?  
14 A. Yes.  
16:04:36 15 Q. 443 Right. So the bank refused to pay that money, isn't that right,  
16 Mr. O'Callaghan?  
17 A. Yes.  
18 Q. 444 Right. Now, also I think it is fair to say that following on the  
19 successful rezoning, Mr. Dunlop issued an invoice at almost the same time,  
16:04:40 20 at 8900 for 25,000 pounds, isn't that right?  
21 A. The last Shefran payment, yes.  
22 Q. 445 Isn't that the position?  
23 A. Yes.  
24 Q. 446 Right. This is an invoice that is a round figure invoice, isn't that  
16:04:55 25 right?  
26 A. Yes.  
27 Q. 447 In the sum of 25,000 pounds?  
28 A. Yes.  
29 Q. 448 And Mr. Dunlop has told the Tribunal he believed it was in connection with  
16:05:02 30 Quarryvale, would you agree with that?

- 16:05:05 1 A. Yes, that is correct, yes. That was the balance of his fees.
- 2 Q. 449 Now, that is not, that is a sum that was paid by Riga, isn't that right?
- 3 A. Yes.
- 4 Q. 450 Right. And I think the payment to Riga, by Riga is on the 17th February
- 16:05:18 5 '93, 8942 please. Isn't that right?
- 6 A. Yes.
- 7 Q. 451 And I think at 8973, Riga paid the 64,000 pounds to Mr. Dunlop, isn't that
- 8 right?
- 9 A. Yes.
- 16:05:39 10 Q. 452 So by the middle of February of 1993, in relation to two invoices that
- 11 were raised at the end of December, a figure of almost 90,000 pounds was
- 12 paid to Mr. Dunlop in one format or another, do you agree with that?
- 13 A. Yes.
- 14 Q. 453 Right. And at that time when you made this payment of 64,897.78 on the
- 16:06:02 15 21st January 1993, you did so to Frank Dunlop & Associates, isn't that
- 16 right?
- 17 A. Yes.
- 18 Q. 454 And when you made the payment to Shefran on the 17th February 1993 at
- 19 8942, did you so to Shefran, isn't that right?
- 16:06:20 20 A. Yes.
- 21 Q. 455 Why was it, Mr. O'Callaghan, that at this stage you were still operating a
- 22 dual system of paying Mr. Dunlop?
- 23 A. Because that's what Mr. Dunlop wanted, that was his system.
- 24 Q. 456 Right. And the sum of 25,000 pounds that was paid to Mr. Dunlop on foot
- 16:06:34 25 of his invoice of the 18th December 1992, do you say that that was Mr.
- 26 Dunlop's professional fee?
- 27 A. That was the balance of the fees. That made up, I think that brought him
- 28 to 175,000 pounds was his fees, Shefran fees.
- 29 Q. 457 In relation to the Shefran fees?
- 16:06:52 30 A. Yes.

- 16:06:53 1 Q. 458 Right. Did you ever make any subsequent payment, Mr. O'Callaghan, could I  
2 have 8900, to Shefran?  
3 A. That is the December payment, isn't that correct?  
4 Q. 459 Is that the last payment that you made to Shefran?  
16:07:09 5 A. I think so, yes.  
6 Q. 460 Is it fair then to say that after the successful vote on the 17th December  
7 1992, yourself and Mr. Dunlop after this invoice was paid, that is the  
8 invoice of 8900, ceased to operate the Shefran system between the two of  
9 you?  
16:07:27 10 A. The Quarryvale vote was finished, yes that's right.  
11 Q. 461 So the utilisation of Shefran for whatever purpose it was being used,  
12 ceased once you had rezoned the lands in December 1992?  
13 A. It was professional fees and the land was rezoned, it was completed at  
14 that stage.  
16:07:44 15 Q. 462 So the Tribunal may take it then, Mr. O'Callaghan, that as between  
16 yourself and Mr. Dunlop the arrangement in relation to using Shefran came  
17 into existence in connection with the rezoning of Quarryvale and the  
18 necessity for it ceased once Quarryvale had been rezoned in December 1992,  
19 is that correct?  
16:08:02 20 A. I wouldn't put it as simple as that.  
21 Q. 463 Right.  
22 A. They were his fees, as separated from Frank Dunlop & Associates which were  
23 his expenses, and the Quarryvale was completed, so there was no need for  
24 those fees any more and there was no need for his expenses any more in  
16:08:17 25 relation to Quarryvale, from then on we had to finish off and finalise the  
26 stadium.  
27 Q. 464 But do you agree, Mr. O'Callaghan, that once Quarryvale was rezoned in  
28 December 1992, neither yourself or Mr. Dunlop ever operated the Shefran  
29 invoicing system again?  
16:08:36 30 A. Yes, that's correct.

- 16:08:37 1 Q. 465 Right. And do you also agree that the reason for the operation of the  
2 Shefran system was some arrangement that was entered into between yourself  
3 and Mr. Dunlop in connection with the rezoning of Quarryvale?
- 4 A. The Shefran was quite simply Frank Dunlop's fees, it was no particular  
16:08:55 5 arrangement, it was his fees being paid to him for the work he carried out  
6 in Quarryvale as distinct from Frank Dunlop & Associates invoices which  
7 were his outlay and expenses, simple as that.
- 8 Q. 466 Yes. Therefore you are agreeing with me, Mr. O'Callaghan, that the  
9 operation of the Shefran arrangement that existed between yourself and Mr.  
16:09:14 10 Dunlop related to the rezoning of Quarryvale?
- 11 A. Just like Frank Dunlop & Associates, yes, same thing.
- 12 Q. 467 Yes. And once Quarryvale was rezoned there was no longer a necessity or  
13 an arrangement as between yourself and Mr. Dunlop for Shefran to continue  
14 to be used between the two of you?
- 16:09:35 15 A. It could have continued on if Frank Dunlop wanted to, he could have called  
16 it anything he liked from then on it didn't make any difference to us, as  
17 far as we were concerned Frank Dunlop & Associates and Shefran were the  
18 same thing, if you wanted to have a third company or a third name it  
19 didn't make any difference to me as long as it went to the same source.
- 16:09:47 20 Q. 468 But the reality of the matter is after December of 1992 Shefran was never  
21 utilised again as between yourself and Mr. Dunlop?
- 22 A. That's correct.
- 23 Q. 469 Is that right? And although you did pay round figure sums to Mr. Dunlop  
24 in 1993, isn't that correct, did you so to Mr. Dunlop directly?
- 16:10:04 25 A. Were these to Frank Dunlop & Associates or were they --
- 26 Q. 470 I believe it was a cheque made out to Frank Dunlop that was cashed in  
27 September 1993, Mr. O'Callaghan, was that right?
- 28 A. Was this the stadium?
- 29 Q. 471 A stadium invoice, but again it was an invoice that was free of VAT, isn't  
16:10:20 30 that right?

- 16:10:20 1 A. I think so yeah.
- 2 Q. 472 It was a round figure some 25,000 pounds, isn't that right?
- 3 A. I am trying to remember, Frank Dunlop & Associates was it, yes?
- 4 Q. 473 I think the cheque is to Frank Dunlop but the invoice is Frank Dunlop &
- 16:10:31 5 Associates?
- 6 A. Okay.
- 7 Q. 474 But there was no utilisation of Shefran in 1993, isn't that right?
- 8 A. No but the agreement with Shefran was fees for Shefran was 175,000 pounds,
- 9 he was paid 80,000 pounds in '91, 70,000 in '92 and 25,000 that was due
- 16:10:47 10 from that.
- 11 Q. 475 If we look briefly then if we can, Mr. O'Callaghan, at the global picture
- 12 of financial arrangements between yourself and Mr. Dunlop, 23297.
- 13
- 14 Now, I think, Mr. O'Callaghan, and again I am subject to anything your
- 16:11:06 15 counsel may wish to say, that in the proceedings in the Supreme Court
- 16 between yourself and the Tribunal you agreed in effect that the total
- 17 amount of the payments that had been made by you and your companies to Mr.
- 18 Dunlop and his companies was a figure of 1.8 million pounds, do you agree
- 19 with that?
- 16:11:26 20 A. Well, if that's what it was, I don't recollect.
- 21 Q. 476 All right.
- 22 A. I take your word for it, if that's what it was.
- 23 Q. 477 If we go through the figures first of all, this page, Mr. O'Callaghan, I
- 24 should explain to you is a summary of the global position between yourself
- 16:11:40 25 and Mr. Dunlop and then I am going to endeavour to take you through the
- 26 year by year figures if I can, Mr. O'Callaghan.
- 27
- 28 So if you look at the beginning and if we go to the top of this document,
- 29 in 1991, and the first part of this document deals with payments or
- 16:12:02 30 receipts by Frank Dunlop & Associates, so we are not dealing with Shefran

- 16:12:06 1 at the moment, do you understand that?
- 2 A. Yes.
- 3 Q. 478 So in 1991 the total amount paid to Frank Dunlop & Associates was
- 4 16,712.71 pounds?
- 16:12:16 5 A. Yes.
- 6 Q. 479 Right. In 1992 that figure was 157,386.66?
- 7 A. That's including the stadium fees.
- 8 Q. 480 That's including the stadium fees, yes.
- 9 A. Yes.
- 16:12:28 10 Q. 481 In 1993 that figure was 110,238.38?
- 11 A. Yes.
- 12 Q. 482 In 1994 it was 10,825, in 1995 it was 14,148.76, in 1996 it was 36,207.50
- 13 pounds, in 1997 it was 203,348.83?
- 14 A. That included Hourigan's Quay, I presume, did it?
- 16:12:56 15 Q. 483 100,000 pounds plus VAT which is the figure of 124,000 pounds that's
- 16 there?
- 17 A. Yes.
- 18 Q. 484 In 1998 it was a figure of 612,143.57 pounds?
- 19 A. That includes the success fee and the legal fees.
- 16:13:11 20 Q. 485 It includes the 100,000 pounds paid in June 1998, the 300,000 pounds paid
- 21 in October 1998 and such of Mr. Dunlop's legal fees arising from his
- 22 involvement with the Tribunal?
- 23 A. Yes.
- 24 Q. 486 As arose?
- 16:13:25 25 A. Yes.
- 26 Q. 487 In 1999 the figure was 143,959.19 pounds. That is comprised mainly of
- 27 legal fees paid by you, arising out of Mr. Dunlop's involvement with the
- 28 Tribunal.
- 29 A. Yes.
- 16:13:39 30 Q. 488 In 2000, the figure is 310,436.21 pounds, do you agree with that?

- 16:13:46 1 A. Yes.
- 2 Q. 489 And in 2001 the figure is 18,0150 pounds, do you agree with that?
- 3 A. Yes.
- 4 Q. 490 The total amount of those payments comes to 1,633,556.81 pounds, do you
- 16:14:05 5 agree with that?
- 6 A. Yes.
- 7 Q. 491 In the main they arise from expenses that have been incurred or have been
- 8 paid in 1992 and 1993 firstly, isn't that right?
- 9 A. Yes.
- 16:14:15 10 Q. 492 And then expenses that arise in 1997, 1998, 1999 and 2000, do you agree
- 11 with that?
- 12 A. Yes.
- 13 Q. 493 And do you agree that the greater portion of the monies paid to Mr. Dunlop
- 14 are paid after the Tribunal is established?
- 16:14:33 15 A. Yes.
- 16 Q. 494 Right?
- 17 A. Yes.
- 18 Q. 495 And in 1998, which is a year after the Tribunal was established, you paid
- 19 612,143.57 pounds to Mr. Dunlop, isn't that right?
- 16:14:49 20 A. Yes.
- 21 Q. 496 Right. And then you make two further substantial payments in 1999 and
- 22 2000, isn't that right?
- 23 A. Yes.
- 24 Q. 497 And the figure decreases in 2001?
- 16:14:57 25 A. Yes.
- 26 Q. 498 Isn't that right. And if we move down the page then, Mr. O'Callaghan, and
- 27 we look at the receipts by Shefran, and do you agree with me that in 1991,
- 28 80,000 pounds was paid to Shefran?
- 29 A. Yes.
- 16:15:09 30 Q. 499 They are the payments that are made in early to mid 1991 that we have



- 16:15:14 1 looked at, isn't that right?
- 2 A. Yes.
- 3 Q. 500 In 1992 there are 70,000 pounds was paid to Shefran from the Barkhill  
4 number 2 loan, 40 and 30,000, isn't that right?
- 16:15:24 5 A. Yes.
- 6 Q. 501 And in 1993 there is a sum of 25,000 pounds paid in February '93 on foot  
7 of an invoice in December '92 that we have just looked at, isn't that  
8 right?
- 9 A. Yes correct.
- 16:15:36 10 Q. 502 The total amount of those payments comes to 175,000 pounds, isn't that  
11 right?
- 12 A. Yes.
- 13 Q. 503 Is that the position?
- 14 A. Yes.
- 16:15:43 15 Q. 504 And if you add the figure of 1.6 -- 1,633,556.81 to 175,000 pounds you  
16 arrive at a figure at the bottom of the page of 1,808,556.81. Now, do you  
17 agree, Mr. O'Callaghan, that they are the payments that you made to Mr.  
18 Dunlop, either to Frank Dunlop & Associates, or to Shefran?
- 19 A. Yes.
- 16:16:10 20 Q. 505 Right. And do you agree that since the establishment of the Tribunal in  
21 November 1997, that the majority of those funds have been paid to Mr.  
22 Dunlop after the Tribunal was established?
- 23 A. Yes.
- 24 Q. 506 Right. Now, if we look, Mr. O'Callaghan, at the, and in fact it might  
16:16:30 25 short circuit matters sir, if what I ask my friend to review these  
26 documents with Mr. O'Callaghan before tomorrow and see does  
27 Mr. O'Callaghan agree the contents of them, I can't anticipate that there  
28 is going to be any great dispute on them, but they are pages 23298 through  
29 to pages 23308 and they relate, on an individual yearly basis,  
16:16:56 30 Mr. O'Callaghan, to the back up for the payments we have just looked at,

16:17:00 1 do you understand?

2 A. Yes.

3 Q. 507 The breakdown of the payments, if I am in error in anyway in what I put to  
4 you I am sure it will be drawn to your attention and mine in the morning,  
16:17:10 5 I will leave that until tomorrow morning, is that all right?

6 A. Yes.

7 Q. 508 And I want to move on then to deal with 1993. And the first matter I want  
8 to ask you about, Mr. O'Callaghan, was the circumstances in which  
9 Councillor Ridge met with you in Cork in the course of the Senate  
16:17:38 10 elections in January 1993, do you remember that event?

11 A. Yes, I do.

12 Q. 509 Right. Can you tell the Tribunal first of all did Councillor Ridge  
13 approach you?

14 A. Yes, she did.

16:17:47 15 Q. 510 What did she look for?

16 A. She asked me to introduce her to various politicians in the Cork, Kerry  
17 and Limerick region, to support her Senate campaign.

18 Q. 511 And did she travel to Cork for that purpose?

19 A. Yes, she did.

16:18:06 20 Q. 512 Was she brought to Cork by Mr. Dunlop?

21 A. Yes, she was.

22 Q. 513 Did Mr. Dunlop bring her to you?

23 A. No, I met them in Cork Airport, yes.

24 Q. 514 Did you drive Councillor Ridge to meet the other councillors?

16:18:16 25 A. Yes, I did.

26 Q. 515 To seek their support?

27 A. Yes.

28 Q. 516 Would it follow from that, Mr. O'Callaghan, that you would have known  
29 these councillors in Cork and surrounding areas in order to introduce  
16:18:26 30 Councillor Ridge to them?

- 16:18:27 1 A. Yes, I would have known a limited amount of councillors in Cork, I had  
2 contact in Limerick who introduced me to councillors in Limerick and the  
3 same thing in Kerry.
- 4 Q. 517 Right. Did you take Councillor Ridge around the southwest and introduce  
16:18:43 5 her to those councillors and canvas support for her in the election?  
6 A. Oh, yes I did.
- 7 Q. 518 Was she ultimately successful can you remember?  
8 A. I don't think she made it the first time, this happened twice, but the  
9 second time she was successful, as far as I know.
- 16:18:57 10 Q. 519 Do you know whether or not Councillor Finbar Hanrahan was a candidate in  
11 that election?  
12 A. I think that was prior it it actually, that's -- we are talking about the  
13 '92/'93.
- 14 Q. 520 You are talking about the '93 election which arose as a result I think of  
16:19:17 15 the November 1992 general election?  
16 A. Yes.
- 17 Q. 521 Isn't that right?  
18 A. Yes. I'm not sure about Hanrahan in that election.
- 19 Q. 522 Yes, I think the position is that in fact Councillor Hanrahan did stand  
16:19:28 20 for the 1993 Seanad elections.  
21 A. Yes.
- 22 Q. 523 And I think was eliminated fairly early on?  
23 A. Yes, I wasn't aware of that.
- 24 Q. 524 I just want to ask you about that, you have told the Tribunal that in your  
16:19:42 25 walk around the block with Councillor Hanrahan, remember your evidence in  
26 that regard?  
27 A. Yes.
- 28 Q. 525 That Councillor Hanrahan asked you, if he was ever standing in any  
29 election again could he approach you?  
16:19:56 30 A. Yes, indeed.

- 16:19:56 1 Q. 526 And that you told the Tribunal that you, Mr. Hanrahan, you told him that  
2 he could indeed approach you, is that right?
- 3 A. Yes, I did.
- 4 Q. 527 Now, Councillor Hanrahan it would appear did stand for Seanad elections as  
16:20:04 5 did Councillor Ridge in January of 1993 and did Councillor Hanrahan  
6 approach you for financial support at that time?
- 7 A. No.
- 8 Q. 528 Do you think that's strange, Mr. O'Callaghan, in view of the fact that you  
9 had told him on the 17th December that he could indeed approach new  
16:20:19 10 respect of financial support, isn't that right?
- 11 A. Quite strange.
- 12 Q. 529 Yes. And I think it is the position that Councillor Hanrahan did stand in  
13 that Seanad election on the culture and educational panel, but was  
14 eliminated I think, he was the first personally eliminated in fact in that  
16:20:36 15 election?
- 16 A. I didn't know that, I presume he stood for election at that time.
- 17 Q. 530 But in any event the election would have been over by the time you had  
18 your conversation on the 17th December, isn't that right?
- 19 A. Yes.
- 16:20:47 20 Q. 531 And notwithstanding you telling Councillor Hanrahan that you would indeed  
21 support him financially he never subsequently approached you?
- 22 A. No.
- 23 Q. 532 Would it be your position that you would indeed have supported Councillor  
24 Hanrahan in accordance with what you told him?
- 16:21:01 25 A. If I told him I would, I promised him I would, I would have carried that  
26 out if he approached me.
- 27 Q. 533 Now, I think that in January of 1993 some dispute arose between yourself  
28 and the bank in relation to the payment of fees, isn't that right,  
29 Mr. Deane has told the Tribunal that the bank having achieved the rezoning  
16:21:26 30 of Quarryvale were anxious to try and progress the matter, but they were

- 16:21:30 1 reluctant to pay fees, do you agree with that?
- 2 A. I can't specifically remember that, but they were always reluctant to pay
- 3 fees, so that's no surprise.
- 4 Q. 534 Well at this meeting at 9125 on the 20th January 1993, which is one of a
- 16:21:44 5 series of meetings that took place between yourself and Mr. Deane and the
- 6 bank, there are a number of matters that were dealt with, the first matter
- 7 related to the removal of itinerants which was a problem in Quarryvale,
- 8 isn't that right?
- 9 A. A huge problem, yes.
- 16:22:00 10 Q. 535 And in fact you had taken injunction proceedings and you had paid cash in
- 11 order to have them removed, isn't that right?
- 12 A. Paid cash to Cork -- to Dublin County Council, four and a half thousand
- 13 pounds to have them removed, not to have them removed, to replace, two or
- 14 three of the caravans that could not be removed.
- 16:22:21 15 Q. 536 I think at the bottom of this page, at 9125 in relation to the retail plan
- 16 you are recorded as stressing that as for all previous developments your
- 17 team would be working closely with the county manager and planners to
- 18 ensure that any contentious issues are raised and agreed in advance, I
- 19 assume you have no difficulty, Mr. O'Callaghan, with that record that,
- 16:22:44 20 that would have been your position, is that right?
- 21 A. No. Absolutely.
- 22 Q. 537 On the following page at 9126, under the heading "Tom Gilmartin"
- 23 Mr. McGrath highlighted a commitment to be given to Tom Gilmartin last
- 24 December that a joint meeting of the Barkhill shareholders would take
- 16:23:00 25 place during January and enquired whether O'Callaghan/Deane had formulated
- 26 any strategy to bring him on side, do you see that?
- 27 A. Yes.
- 28 Q. 538 Would it follow from that, Mr. O'Callaghan, that there would have been a
- 29 view shared by yourself and the bank that Mr. Gilmartin at this stage was
- 16:23:14 30 off side?

16:23:15 1 A. Yes.

2 Q. 539 Right. And do you agree that it's likely by this stage, you must have

3 known about the bank trip to London, because Mr. McGrath is referring to a

4 commitment given to Tom Gilmartin last December?

16:23:28 5 A. Okay, what date is this please?

6 Q. 540 January 20th?

7 A. Yes he would have, he would have told me at that stage, yes.

8 Q. 541 Yes. So you knew about the trip?

9 A. At that stage, yes.

16:23:36 10 Q. 542 At that stage. Now, in the second part of that it's recorded "It was

11 agreed that this was an important issue but John Deane highlighted

12 previous difficulties in getting Tom to attend meetings. It was suggested

13 that Tom would be lined up for a meeting on the 9th February 1993 by which

14 time an outline Development Plan would be prepared for discussion between

16:23:54 15 all shareholders"?

16 A. Yes.

17 Q. 543 I think a meeting did take place on the 9th February 1993, but

18 Mr. Gilmartin didn't attend is that the position?

19 A. That's correct.

16:24:04 20 Q. 544 Although arrangements had been made for Mr. Gilmartin to attend, isn't

21 that right?

22 A. That's correct.

23 Q. 545 Under the heading Barkhill's requirements for the coming year, it records

24 "Basically O'Callaghan and Deane feel that the Barkhill debt will have to

16:24:22 25 be carried for a further year which will involve a further roll up of

26 interest. When pressed it emerged that they would also be expecting AIB

27 to fund fee outlay in relation to the planning application. Owen

28 O'Callaghan advised that Ambrose Kelly had been requested to give an

29 estimate of his fees on a cost basis for condition back, and fee payable

16:24:37 30 at a later stage of the development" and that's in relation to architects

16:24:40 1 fees, isn't that right?

2 A. Yes.

3 Q. 546 On the following page 9127, you were told by Mr. McGrath that while they

4 would be recommending a further roll up of interest charge there is would

16:24:49 5 be no funding available to AIB for further fee outlay. In this regard it

6 was highlighted that the last increase in facility sanctioned from 9

7 million to 14.5 million had incorporated 0.9 million to acquire the county

8 council land which remains outstanding, despite the fact that this portion

9 of the facility and more besides had been utilised for increased fee/land

16:25:11 10 payments beyond the level anticipated.

11

12 Owen O'Callaghan appeared somewhat taken aback by this and advised that

13 Riga did not have the ability to pick up these fees either. He then asked

14 whether AIB were prepared to live with the consequence and requested

16:25:26 15 clarification of our thinking/objectives in relation to Barkhill. Dave

16 McGrath outlined that in AIB's view the priority is to obtain planning

17 permission as soon as possible at the lowest cost. He indicated the view

18 that the development was too large for Riga to handle alone and serious

19 consideration should be given to disposing of the part of the site at the

16:25:46 20 earliest possible date".

21

22 Would you agree with me that it is clear that at this stage there was a

23 difference of view between yourself and Mr. Deane on one hand and the bank

24 on the other hand about moving forward?

16:25:54 25 A. A slight difference.

26 Q. 547 Mr. Deane has described subsequent meetings of the 8th, 3rd and 10th March

27 1993 as the making of the peace meetings in view of the dispute that had

28 arisen between yourself and the bank, do you agree that in early

29 January/February 1992, there was a dispute between the bank and yourself

16:26:12 30 in relation to how to go forward?

- 16:26:14 1 A. Not a great dispute, that's exaggerated there quite a bit actually.
- 2 Q. 548 Do you again disagree with the record of the bank as kept,
- 3 Mr. O'Callaghan?
- 4 A. I do, yes.
- 16:26:24 5 Q. 549 All right. But do you agree that insofar as it records an item of
- 6 discussion as between you --
- 7 A. Discussion, yes.
- 8 Q. 550 -- what is being discussed between you is the fee level, isn't that right?
- 9 A. Yes, sorry that was always a problem. I wouldn't -- that was always the
- 16:26:39 10 difficulty, whenever it came to money, it was a difficulty with the bank.
- 11 Q. 551 May I make it this point to you, one of the points of complaint by the
- 12 bank against yourself and Mr. Deane was that money had been advanced to
- 13 acquire the County Council land, 0.9 million, isn't that right?
- 14 A. Yes.
- 16:26:57 15 Q. 552 That still remained outstanding as of this date?
- 16 A. Yes.
- 17 Q. 553 And it follows from that, that that money while it had been utilised had
- 18 been utilised for something other than acquiring the County Council lands,
- 19 isn't that right?
- 16:27:10 20 A. No.
- 21 Q. 554 Yes. I think so. It means, I think that the money had been utilised in
- 22 paying the fees that had been incurred the previous year, isn't that
- 23 right?
- 24 A. No, I don't think so.
- 16:27:23 25 Q. 555 In other words, the point that's being made by Mr. McGrath here as
- 26 recorded is that they had advanced money on one bases and it has now
- 27 transpired, they couldn't have been unaware of it, that the money -- the
- 28 purpose for which the money had been advanced was still outstanding, if
- 29 you follow?
- 16:27:40 30 A. The bank certainly didn't advance money for a particular land acquisition



- 16:27:44 1 and we spent it on something else, that never happened.
- 2 Q. 556 All right. Do you agree with me that the bone of contention appears to
- 3 have been the level of fees that had been incurred?
- 4 A. Not incurred. No, the level -- the cost of land, the acquisition cost was
- 16:27:58 5 a huge problem and at this particular stage, the biggest problem was all
- 6 was what it was going to cost to achieve planning permission. Basically
- 7 the design team fees involved to get a planning permission would have been
- 8 very, very large, this was the problem with banks very were concerned
- 9 about, they had forgotten all about this actually.
- 16:28:17 10 Q. 557 And under the heading --
- 11 A. Just to finish that off, I'm very sorry can I finish it off. When the
- 12 land was zoned the bank seemed to forget about the follow on, the zoning
- 13 of the land was useless without a planning permission on it, that was
- 14 going cost a lot of money.
- 16:28:33 15 Q. 558 You told the bank subsequently that even though the zoning had not been
- 16 finished, you would be able to process a planning application?
- 17 A. Yes, that was more the pressure to try and get -- to get the thing
- 18 finalised you had to get a planning permission, zoning wasn't great on
- 19 it's own, because the biggest problem Quarryvale had everybody had
- 16:28:49 20 forgotten about, was the entrance exit onto the motorways that surrounded
- 21 it. I read somewhere that was a bonus that was never a bonus, that was a
- 22 huge planning liability to get onto the M50 or N4. This was one thing
- 23 that Tom Gilmartin talked about getting a great bonus, it was never -- it
- 24 was a huge problem, cost 25 million pounds to get out on to that road.
- 16:29:08 25 Q. 559 If we look at what's recorded on this memoranda, Mr. O'Callaghan, if we go
- 26 down further in the document, under the heading "outstanding fees" we have
- 27 looked at this already, you sought payment of 64,000 pounds to Mr. Dunlop
- 28 and the bank refused to pay it, isn't that right?
- 29 A. That's right.
- 16:29:22 30 Q. 560 So do you agree that one of the issues for discussion, if not dispute,

16:29:26 1 between yourself and the bank in early 1993 was the requirement for  
2 funding between Barkhill and the bank going forward?

3 A. Going forward, yes.

4 Q. 561 Right. On the following page at 9128 under the heading "Riga", 9128  
16:29:44 5 please, you are recorded as follows.  
6  
7 "Owen O'Callaghan raised the subject of the increased overdraft facility  
8 previously sought and requested an update on this matter. Michael  
9 O'Farrell replied that we have been waiting for funds flow details from  
16:29:57 10 John Deane since early December, highlighting income from each development  
11 less associated costs, together with details of any outstanding creditors.  
12 Owen expressed dissatisfaction at the way this matter had been regularly  
13 deferred since it was first raised in early 1992. He confirmed that  
14 Riga's ability to improve it's cashflow position through assets disposal  
16:30:17 15 was not a realistic option, apart perhaps from taking an investment  
16 partner in Douglas Shopping Centre.  
17  
18 The aspect of most concern appear to be the 2.5 million equity injection  
19 in Delview and funds invested in Barkhill, neither of which appear capable  
16:30:36 20 of generating any income in the short-term. Owen requested John Deane to  
21 provide AIB with the required information at the earliest possible date to  
22 enable us progress discussions on this matter, and suggested that it may  
23 be a appropriate to meet on the morning of the 9th February to progress  
24 the matter prior to the Barkhill meeting." Is that right?

16:30:53 25 A. Yes.

26 Q. 562 Now, do you agree there that the issue was also the issue of funding in  
27 relation to Barkhill, isn't that right?

28 A. Yes.

29 Q. 563 And the requirement, the effect that the Barkhill loan was having on  
16:31:04 30 Barkhill and the necessity --

- 16:31:06 1 A. On Riga.
- 2 Q. 564 And the necessity on the part of Mr. Deane to provide information to the  
3 bank?
- 4 A. Yes.
- 16:31:11 5 Q. 565 Right. Do you agree that Mr. Deane did provide information to the bank?
- 6 A. Yes, he did.
- 7 Q. 566 Right. If we look at the subsequent meetings on the 26th January at 9142,  
8 Mr. Gilmartin was asked to attend the board meeting of the 9th February,  
9 is that right?
- 16:31:33 10 A. Yes.
- 11 Q. 567 He indicated that he would be likely to attend?
- 12 A. Yes.
- 13 Q. 568 What was going to be decided or discussed at the meeting was how Barkhill  
14 should move forward in relation to Quarryvale, isn't that right?
- 16:31:43 15 A. Yes.
- 16 Q. 569 And he indicated that you were in the process of finalising an outline  
17 development proposal to form the basis of discussion?
- 18 A. Yes.
- 19 Q. 570 Right. So everybody was to get together and have a discussion about the  
16:31:55 20 meeting -- about Quarryvale, isn't that right, Mr. O'Callaghan?
- 21 A. Yes.
- 22 Q. 571 And I think that on the 8th February 1993, at 9195; this is the day in  
23 advance of the meeting; Mr. Aidan Lucey wrote to Leo Flemming in relation  
24 to the letter of the 15th December 1992 that we have seen previously,  
16:32:18 25 isn't that right?
- 26 A. Yes.
- 27 Q. 572 And in that letter he told Mr. Fleming that he did not have any supporting  
28 documentation for items 1 to 10, is that right?
- 29 A. Yes.
- 16:32:29 30 Q. 573 Just to refresh you, Mr. O'Callaghan, on items 1 to 10 in the letter of

16:32:33 1 December 1992, at 8792.

2

3 CHAIRMAN: Perhaps it might be better to leave that, it's gone half four.

4

16:32:43 5 MS DILLON: I'm sorry.

6

7 CHAIRMAN: We can return to that tomorrow.

8

9 MS. DILLON: Yes, sir.

16:32:47 10

11 CHAIRMAN: It's half ten tomorrow.

12

13 MS. DILLON: Yes, sir.

14

16:32:58 15 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY**

16 **WEDNESDAY 1ST OCTOBER 2008 AT 10.30 AM.**

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