

09:45:02 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY**

2 **2ND OCTOBER 2008 AT 10.30 AM:**

3
4 MS. DILLON: Good morning, Sir. Mr. O'Callaghan please.

10:40:33 5
6 **MR. OWEN O'CALLAGHAN CONTINUED TO BE QUESTIONED BY**

7 **MS. DILLON AS FOLLOWS:**

8
9 CHAIRMAN: Morning, Mr. O'Callaghan. I apologise for the lack of heat,
10 which is beyond our control, but hopefully something may be done later
11 about it. All right, Ms. Dillon.

12 A. Thanks you.

13
14 Q. 1 MS. DILLON: Good morning, Mr. O'Callaghan. I think yesterday, yesterday
15 afternoon I had started to ask you about the meeting on the 19th October
16 1993, which was the consideration by the council of the Quarryvale lands
17 following the second public display, is that right?

18 A. Yes.

19 Q. 2 We had dealt with the application that you told the Tribunal yesterday had
20 been drafted by yourself, in order to improve effectively the net retail
21 element of the retail floor space of Quarryvale, isn't that right?

22 A. Yes, to a limited amount, yes.

23 Q. 3 And the decision of the council had gone on the second public display and
24 then the matter came back in before council, isn't that right?

10:41:52 25 A. Yes.

26 Q. 4 And in the normal course of event, the councillors would have been
27 circulated with the upcoming agenda and the matters for consideration,
28 isn't that right?

29 A. Yes.

10:42:01 30 Q. 5 And in addition, these meetings in late 1993 were known as the confirming

10:42:06 1 meetings, isn't that right?

2 A. Yes.

3 Q. 6 And the purpose of those meeting was to confirm the decision or not, as

4 the case may be, that had been put on display during the second display

10:42:16 5 period, isn't that right?

6 A. Yes.

7 Q. 7 At this particular period in time Mr. Pat Rabbitte was the Chairman of

8 Dublin County Council, isn't that so?

9 A. Yes.

10:42:24 10 Q. 8 Now, I think the matter came before the council on the 19th October 1993,

11 1187, and you will see at 1189 that for consideration were the Lucan and

12 Clondalkin areas, isn't that right?

13 A. Yes.

14 Q. 9 And map 16 came to be considered at 1193, isn't that right, and map 16 and

10:42:56 15 17 were the relevant maps in so far as Quarryvale and Neilstown were

16 concerned, isn't that right?

17 A. Yes, yes.

18 Q. 10 Now, on the day prior to that, that is the 18th October 1993, at 10277,

19 Mr. Dunlop's diary records an entry at 3.30 "OOC and FD to PR", do you see

10:43:19 20 that entry?

21 A. Yes.

22 Q. 11 And Mr. Dunlop has told the Tribunal that that was a meeting that was

23 arranged for you to meet with Mr. Pat Rabbitte and do you agree with that?

24 A. Yes, I do, yes.

10:43:34 25 Q. 12 And do you agree also that around this time you would be taking steps to

26 ensure that your supporters within the council would attend at the

27 meetings to make sure that nothing went wrong?

28 A. Yes.

29 Q. 13 Now, first of all will you tell the Tribunal with a your meeting with Mr.

10:43:48 30 Rabbitte was about?

10:43:50 1 A. Well, I remember that meeting pretty well because he was Chairman of the
2 County Council, for the last six months of 1993. Prior to that, in
3 December '92 when the vote took place, Pat Rabbitte and the Democratic
4 Left Party voted against Quarryvale, so now that he was Chairman of the
10:44:14 5 council and because he was more or less, his constituency was adjoining
6 North Clondalkin, we decided that, or I asked Frank Dunlop to make an
7 appointment with him so that I could meet him and explain to him what the
8 whole Quarryvale idea was, behind that of course was that we'd be hoping
9 that they would not object to the confirmation vote, which took place
10:44:39 10 shortly after that.

11
12 We wanted to outline to him exactly what we were doing, because prior to
13 that they had actually objected to, the Democratic Left and himself had
14 objected to the Quarryvale vote. So we met him in the council chamber,
10:44:53 15 sorry in the Chairman's office, and he looked at our plans and was very
16 complimentary and told us that probably the best thing would ever happen
17 to Quarryvale would be that our development -- to North Clondalkin would
18 be that our development went ahead, it was very important in that
19 particular time, because all the employment and because the facilities
10:45:15 20 that were required there etcetera, and he was more than -- extremely
21 supportive. So I was very confident when I left the meeting because I
22 felt his party would not vote against us in the confirmation vote a few
23 days after that.

24
10:45:30 25 What actually happened was that they put in a motion at that stage,
26 Democratic Left put in a motion at that stage to have Quarryvale rezoned
27 back to what they said in the motion was back to the Development Plan of
28 1991, but I think that was a mistake they intended to bring it back to
29 1983, which in effect would have meant they were putting in a motion to
10:45:52 30 dezone Quarryvale. When they saw the mistake they withdrew that motion

- 10:45:56 1 and it didn't go ahead on the day. So they didn't interfere with the
2 ratification motion.
- 3 Q. 14 Mr. Rabbitte when he came to the Tribunal recollected a meeting with you
4 at which he discussed only the stadium?
- 10:46:10 5 A. Sorry, only what?
- 6 Q. 15 Mr. Rabbitte, when he gave evidence to the Tribunal, his recollection was
7 that he discussed the stadium with you?
- 8 A. Oh no, sorry that was discussed as well, but the main topic of discussion
9 with him was the actual Quarryvale, what we intended to do in Quarryvale
10:46:27 10 itself, the whole Development Plan.
- 11 Q. 16 And did you have a discussion about the Democratic Left motion?
- 12 A. We didn't know that was coming at the time, didn't know anything about
13 that.
- 14 Q. 17 I think you wrote, Mr. O'Callaghan, to Mr. O'Farrell on the 21st October
10:46:39 15 1993 following the decision of the council on the 19th October 1993, isn't
16 that right?
- 17 A. Yes.
- 18 Q. 18 So the sequence was you meet with Mr. Rabbitte on the 18th October 1993,
19 Mr. Rabbitte is the Chairman of the council and he is also a senior member
10:46:57 20 of Democratic Left, isn't that right?
- 21 A. Yes.
- 22 Q. 19 On the 19th October --
- 23 A. He was very supportive of the Quarryvale plan at the time.
- 24 Q. 20 On the 19th October 1993, there is a decision made by Dublin County
10:47:08 25 Council to ratify the previous, or earlier decision of the council that
26 had been taken in June of 1993 and the previous December 1992.
- 27 A. That's right.
- 28 Q. 21 Isn't that right?
- 29 A. Yes.
- 10:47:20 30 Q. 22 And on the 21st October 1993, you wrote to Mr. Farrell, 10313 please, and

10:47:30 1 you set out the following:
2
3 "Dear Michael, this letter is probably irrelevant but I think I better set
4 the record straight.
10:47:37 5
6 Tom G has said to yourselves and indeed Councillor McGrath that we
7 probably should have gone for the motion put down by the Democratic Left
8 for last Tuesday's zoning meeting.
9
10:47:48 10 That motion read that the council should revert to the 1991 decision and
11 display, i.e. 500,000 square feet.
12
13 The real situation with this is as follows.
14 1. The Democratic Left withdrew their motion on Friday last when they
10:48:02 15 discovered their mistake. Their intention actually was to dezone
16 Quarryvale."
17
18 Now, if you were correct in what you said there at paragraph one, it would
19 follow that the Democratic Left motion had been lodged at least by the
10:48:13 20 18th October 1993 if it was withdrawn the previous Friday, isn't that
21 right?
22 A. Yes.
23 Q. 23 So that you were incorrect when you told the Tribunal that that motion
24 came before the council on the 19th, isn't that right?
10:48:26 25 A. I wasn't aware of that motion actually.
26 Q. 24 We'll see about that in a moment, Mr. O'Callaghan, but do you agree with
27 me now that could you not have been correct when you told the Tribunal
28 that the Democratic Left motion was a motion that came before the council
29 only on the 19th?
10:48:42 30 A. I wasn't -- well if I said it I didn't mean that, what I meant that was --

10:48:47 1 I wasn't aware of their motion actually, I am not sure when it was put
2 down.

3 Q. 25 At paragraph 2 you said "Pat Rabbitte Chairman of the Dublin County
4 Council and member of the Democratic Left himself withdrew the motion on
10:48:59 5 Monday last" that's the day of your meeting with Mr. Rabbitte "When he
6 discovered how wrong it was from their point of view".

7 A. Yes, he never mentioned that motion to us.

8 Q. 26 Yes, first of all how do you know that he withdrew the motion on Monday,
9 Mr. O'Callaghan?

10:49:13 10 A. I must have been told by, obviously somebody.

11 Q. 27 Yes, isn't it likely you were told by Mr. Rabbitte at the meeting on the
12 18th October with Mr. Rabbitte, following whatever discussion you had, if
13 you are correct in this letter, Mr. Rabbitte withdrew the motion?

14 A. He withdrew the motion, but he never discussed the motion with us. In
10:49:29 15 fact, I am not sure if Mr. Rabbitte was even conscious or aware of the
16 motion, if he was he never told us.

17 Q. 28 Isn't it likely, Mr. O'Callaghan, when you have your meeting with Mr.
18 Rabbitte on the 18th October 1993, that the purpose of that meeting with
19 Mr. Rabbitte is to discuss the Democratic Left motion?

10:49:46 20 A. Not the motion, no.

21 Q. 29 Do you say then it is a coincidence that Mr. Rabbitte on the same day that
22 he meets yourself and Mr. Dunlop, withdraws the Democratic Left motion?

23 A. Absolutely. Absolutely.

24 Q. 30 And that you were in a position to record to your bank, on the 21st
10:49:59 25 October, two days later, that it was on the Monday 18th October 1993, that
26 Mr. Rabbitte withdrew the motion?

27 A. Yes.

28 Q. 31 And you say notwithstanding this letter, you did not discuss the
29 Democratic Left motion with Mr. Rabbitte when you met with him on the 18th
10:50:17 30 October 1993?

- 10:50:17 1 A. I was not aware of the motion was there, we never discussed it.
- 2 Q. 32 But you were certainly aware of the motion by the 21st October 1993?
- 3 A. Oh, yes.
- 4 Q. 33 And you were aware of the fact that it had been withdrawn by Mr. Rabbitte
- 10:50:26 5 on the previous Monday, isn't that right?
- 6 A. That's right.
- 7 Q. 34 How did you come by that information?
- 8 A. I must have been told by some other councillor obviously.
- 9 Q. 35 Well, you had to be told it by somebody connected with Democratic Left
- 10:50:38 10 because that person had to know that Mr. Rabbitte at a time outside of the
- 11 council meeting had withdrawn the motion, isn't that right?
- 12 A. It wasn't somebody from Democratic Left because I wouldn't know anybody
- 13 else in Democratic Left.
- 14 Q. 36 Well, if you didn't know anybody else from Democratic Left, isn't it
- 10:50:53 15 likely the source of your information was Mr. Rabbitte?
- 16 A. No, because he never even mentioned the motion to us, I wasn't aware that
- 17 he had a motion, or that he was putting a motion down, as I said to you I
- 18 am not sure if he was actually aware of it that himself. We never
- 19 discussed that. We met Pat Rabbitte to explain to him what we proposed to
- 10:51:09 20 do in Quarryvale, we were not aware they were going to put a motion down,
- 21 obviously because he was from that area, very close to North Clondalkin
- 22 and because he was, in particular because he was Chairman of Dublin County
- 23 Council, we wanted to explain what we were doing to, in fact hopefully
- 24 impress on him, if they had any intention of voting against the motion
- 10:51:30 25 that we didn't want them do it because of what we proposed for Quarryvale.
- 26 But I was not aware that he had a motion that Democratic Left were putting
- 27 down a motion at that particular time or that he had put down a motion.
- 28 Q. 37 If you weren't aware of it by the 18th October 1993, Mr. O'Callaghan, you
- 29 were aware of it by the 21st October 1993.
- 10:51:50 30 A. Oh yes.

10:51:50 1 Q. 38 And you were aware of something that would not have been commonly known,
2 namely that Mr. Rabbitte, the Chairman of Dublin County council had
3 withdrawn the Democratic Left motion on the previous Monday, isn't that
4 right?

10:52:03 5 A. Yes.

6 Q. 39 Did Mr. Rabbitte raise with you, at your meeting, the fact that Democratic
7 Left had this motion?

8 A. No, no, that's the points I am making, that was never mentioned.

9 Q. 40 At item 3 you tell Mr. O'Farrell and the bank "Before any motion is taken
10 the manager must explain to the actual council meeting -- at the actual
11 council meeting the implications of such a motion. If the motion had not
12 been withdrawn prior to the meeting it would certainly have been withdrawn
13 after the manager's explanation."
14

10:52:33 15 And that again I think is confirmation of your knowledge by the 23rd
16 October that the motion had been withdrawn, you say by Mr. Rabbitte, prior
17 to the meeting, isn't that right?

18 A. Yes.

19 Q. 41 Paragraph 4 "The Chairman himself would have withdrawn the motion at the
10:52:45 20 meeting if it was still standing" that's a reference to Mr. Rabbitte?

21 A. Yes.

22 Q. 42 How did you know that Mr. Rabbitte would have withdrawn that motion if it
23 was still before the council if you didn't discuss the motion with Mr.
24 Rabbitte?

10:52:57 25 A. Well, that's probably an assumption, I am pretty sure that he would have
26 withdrawn that motion because he would have seen then that it was
27 incorrect, what that motion meant was that it was giving 500,000 square
28 feet to Liffey Valley.

29 Q. 43 You don't agree that that is something that is more likely,
10:53:12 30 Mr. O'Callaghan, to have been written by a person who in fact had

- 10:53:15 1 discussed that very issue with Mr. Rabbitte?
- 2 A. No.
- 3 Q. 44 Right. At paragraph 5 you say "When the Fine Gael and Progressive
4 Democrat councillors picked up on this motion on Friday last, the majority
10:53:26 5 of them who had previously supported us, informed us that they would not
6 have supported the 500,000 square feet".
- 7 A. Yes.
- 8 Q. 45 Would it follow from that, Mr. O'Callaghan, that some member of the
9 Progressive Democrats and probably Councillor Tyndall or the Fine Gael
10:53:40 10 party, on the previous Friday, that is the Friday before you met with Mr.
11 Rabbitte, had drawn the Democratic Left notion your attention, isn't that
12 right?
- 13 A. That's more than likely what happened, yes.
- 14 Q. 46 Therefore when you went to meet with Mr. Rabbitte, you were aware of the
10:53:55 15 existence of the Democratic Left motion?
- 16 A. No I was not, I was not aware of it actually, I was not aware of the
17 Democratic Left motion, I am not too sure even if Pat Rabbitte was aware
18 of it.
- 19 Q. 47 Do you agree with me, Mr. O'Callaghan, that paragraph five is capable only
10:54:11 20 of the interpretation that on the previous Friday, which is the Friday
21 before you met Mr. Rabbitte, the Fine Gael and Progressive Democrat
22 councillors had picked up on the existence the fact of this motion, do you
23 agree?
- 24 A. They would have picked up on that, yes. That's the way it reads, that's
10:54:24 25 more than likely what happened, they were aware of this of course.
- 26 Q. 48 The second part of that then, of your statement at paragraph five is that
27 "they informed you that they would not have supported the 500,000 square
28 feet", isn't that right?
- 29 A. Yes.
- 10:54:36 30 Q. 49 So does it from that that you were told by your supporters in the council

10:54:40 1 of the existence of the Democratic Left motion the previous Friday and it
2 is that, Mr. O'Callaghan, that led to your meeting with Mr. Rabbitte?
3 A. No not at all, I went to see Mr. Rabbitte because he was Chairman of
4 Dublin County Council.

10:54:51 5 Q. 50 Right. At paragraph 6 you state "The manager would not have supported the
6 500,000 square feet" by the manager there were you referring to
7 Mr. Fitzgerald?
8 A. I would say, and probably Mr. Al Smith, but the management really of
9 Dublin County Council, the planning manager who I think was Al Smith.

10:55:08 10 Q. 51 I think the planning manager might have been Mr. William Murray?
11 A. Well Willie Murray, whoever it was, yeah.

12 Q. 52 I think usually when you refer to the manager in the other correspondence
13 you have been referring to Mr. Fitzgerald, isn't that right?
14 A. In some correspondence, but in planning matters it would have been either
15 Al Smith or Willie Murray whoever the planning manager was.

10:55:24 16 Q. 53 Paragraph 7 to the banker "The real danger was that when this motion
17 appeared I was accused of "squaring" the Democratic Left and could have
18 lost all our support".
19 A. That is true.

10:55:38 20 Q. 54 What did you mean by "Squaring", Mr. O'Callaghan?
21 A. I would have gone to the Pat Rabbitte and I would have gone to the
22 Democratic Left party and they would have been supportive to bring us back
23 to 500,000 square feet. If I managed to do that I would have lost the
24 support of definitely Fine Gael and Progressive Democrats.

10:55:57 25 Q. 55 By "Squaring" did you mean that the interpretation that was being put or
26 could have been put on the Democratic Left motion was that you had in some
27 way managed to persuade the Democratic Left to support what you originally
28 wanted for Quarryvale?
29 A. That I would have actually succeeded in getting Pat Rabbitte to support
10:56:14 30 the 500 square feet because of his close proximity to Quarryvale that he

- 10:56:19 1 would have supported, he thought it was a very good thing for that area
2 which is what he said to me when I met him.
- 3 Q. 56 By describing the matter as "Squaring" the Democratic Left, within
4 quotation marks by that were you inferring to the bank that the suggestion
10:56:34 5 was that you had in some improper way obtained the support of Democratic
6 Left?
7 A. Not improper, that I would have got Democratic Left to support me, which
8 wouldn't have gone down too well with the other parties.
- 9 Q. 57 Yes, can I suggest to you, Mr. O'Callaghan, that when you take the
10:56:49 10 sentence in plain English, the inference from the words "I was accused of
11 "Squaring" the Democratic Left" is an inference you had in some way
12 improperly secured the support of The Democratic Left and you were
13 concerned to ensure that allegation was not made, do you agree with that?
14 A. Yes.
- 10:57:10 15 Q. 58 Now, in the next paragraph you say "In a nutshell Tom G just does not know
16 what he is talking about".
17 A. That's correct.
- 18 Q. 59 Can I take that back to the very opening sentence at, on the previous page
19 please 10313, where the reference is to "Tom G had said to yourself and
10:57:28 20 indeed to Councillor McGrath that we should have gone with the motion put
21 down by Democratic Left".
22 A. Yes.
- 23 Q. 60 Then you say on the following page "Tom G just does not know what he is
24 talking about".
10:57:40 25 A. That's correct.
- 26 Q. 61 May the Tribunal take it you were telling your banker there, Mr. Gilmartin
27 offered an opinion in relation to the Democratic Left motion which was
28 withdrawn and you were explaining to the bank here exactly why it was the
29 Democratic Left motion was withdrawn, isn't that right?
10:57:54 30 A. Yes.

- 10:57:54 1 Q. 62 And you were explaining to the bank that Mr. Gilmartin has no appreciation
2 or understanding of how the event had unfolded, isn't that right?
- 3 A. That's right. Yes.
- 4 Q. 63 Right. Now, the next paragraph "All of this is now history, but I thought
10:58:06 5 I should set the records straight. As you know I spoke to Tom G on
6 Wednesday night and I also explained this to him, he now understands and
7 agrees, but it is just as well he is in Luton". Was that your opinion,
8 Mr. O'Callaghan, when you wrote that letter?
- 9 A. Yes, indeed.
- 10:58:20 10 Q. 64 Right. On the 19th October, 1993 when the matter came to be considered by
11 the council, the effect of the consideration was to copper fasten or
12 confirm what had been decided in June, isn't that right?
- 13 A. Yes.
- 14 Q. 65 1993, and the earlier decision in December 1993, isn't that the position?
- 10:58:42 15 A. Yes.
- 16 Q. 66 Now, Mr. Rabbitte left the meeting, who was chairing the meeting at 1193,
17 to attend to other business, prior to the discussion on map 16, which
18 considered changes at 1194, 7A, 7B and 7C. Which was the change of zoning
19 in relation to Quarryvale, isn't that right?
- 10:59:07 20 A. Yes.
- 21 Q. 67 And change 41 which was the amendment to the written statement, isn't that
22 right?
- 23 A. That's correct.
- 24 Q. 68 And at 1195, Councillor O'Connell's amendment was not moved, isn't that
10:59:22 25 right?
- 26 A. Yes.
- 27 Q. 69 And at 1196 the motion in the names of Councillors Tipping, Breathnach,
28 O'Callaghan, Gilmore and Billane was not moved, isn't that right?
- 29 A. That's the one we have been talking about.
- 10:59:39 30 Q. 70 Yes. That was the one which recorded "This council resolves that the

10:59:43 1 lands referred to as map number 16, number 7A in the public display of
2 proposed amendments in the County Dublin Draft Development Plan 1991,
3 revert to it's former proposed zoning as shown in the draft maps displayed
4 in September-December 1991" isn't that right?

10:59:59 5 A. That's right, what they intended to do as you know was make that 1983.
6 Q. 71 Yes. Insofar as they had that motion down in relation to change 7A, they
7 similar motions down in relation to 7B and 7C?
8 A. Yes.
9 Q. 72 None of those were moved, isn't that right?

11:00:14 10 A. That's right.
11 Q. 73 So that in effect there was no change actually proposed from the floor at
12 the meeting, isn't that right?
13 A. Because they had seen their mistake.
14 Q. 74 Yes. We had seen, previously, Mr. O'Callaghan, how councillors are
11:00:27 15 circulated in advance with the proposed, with the manager's report and the
16 proposed motions, isn't that right?
17 A. Yes.
18 Q. 75 And would you agree with me that councillors, including councillors who
19 were your supporters would have been circulated with the manager's report
11:00:42 20 and the proposed motions prior to the meeting of the 19th October?
21 A. Possibly, yes.
22 Q. 76 Well, is there any reason why what is the standard practice of Dublin
23 County Council would have been abandoned on this particular occasion?
24 A. I don't know, maybe -- sorry.

11:00:59 25 Q. 77 I am just going to - Ms. O'Raw will find the circulation document.
26 A. I can't say --
27 Q. 78 In relation to that.
28 A. I can't say for definite about that timing.
29 Q. 79 In fact 10244 please. You will see on the 12th October 1993, that each
11:01:15 30 member of the council was circulated with notice of certain meetings on

11:01:20 1 the 14th, 15th, 19th, 21st, 22nd and 20th October, isn't that right?

2 A. Yes.

3 Q. 80 And the agenda that was circulated, 10245 contains reference to map number

4 16 Lucan/Palmerstown, isn't that right?

11:01:39 5 A. Yes.

6 Q. 81 And you will see at 10246 change 7A, 7B and 7C which were the changes

7 relating to the Quarryvale lands, isn't that right?

8 A. Yes.

9 Q. 82 Then on the following page, at 10247 item 19 (6) you see there recorded

11:01:58 10 the three Democratic Left motions seeking to change, change 7A, 7B and 7C,

11 isn't that right?

12 A. Yes.

13 Q. 83 It follows from that, Mr. O'Callaghan, that on the 12th October 1993 at

14 10244, the members of Dublin County Council were circulated with the

11:02:15 15 agenda containing a summary of the motions, including the motions in

16 relation to your lands at Quarryvale, isn't that right?

17 A. Yes.

18 Q. 84 All of the councillors would have been on notice of the Democratic Left

19 motions, isn't that right?

11:02:26 20 A. Yes.

21 Q. 85 Do you say, notwithstanding that, that you were unaware of the existence

22 of the Democratic Left motions and that it was not brought to your

23 attention by any of the councillors who were your supporters?

24 A. That is a fact actually, yes.

11:02:39 25 Q. 86 I see.

26 A. Obviously they must have ignored it but I wasn't told about it.

27 Q. 87 Right. And do you continue to say, Mr. O'Callaghan, that your meeting

28 with Mr. Rabbitte on the 18th October had nothing to do with either the

29 motion or the amendments that were being proposed by Democratic Left?

11:02:56 30 A. Yes, I do. And I remember my meeting with Pat Rabbitte well, because I

11:02:59 1 will remember a meeting with a Chairman of a County Council, or with a
2 senior minister, they are meetings I would certainly remember. I remember
3 that meeting well. And I remember what actually happened at that meeting,
4 again I just say to you very briefly, what happened was that we went there
11:03:14 5 to ask him to explain to him what we were doing with Quarryvale, not
6 knowing about this motion. He complemented us on what we were doing and
7 said he would for completely.
8
9 I presumed that at the time maybe Pat Rabbitte wasn't aware that that
11:03:31 10 motion was around, probably wasn't, because he was very positive when we
11 met him, extremely positive. I was surprised to see the motion there on
12 the 19th.
13 Q. 88 So that notwithstanding Mr. Gilbride being retained by you, isn't that
14 right, Mr. Gilbride, Councillor Gilbride had been retained by you?
11:03:48 15 A. Yes.
16 Q. 89 Councillor McGrath was a supporter of yours, isn't that right?
17 A. Yes.
18 Q. 90 Councillor O'Halloran was a supporter of yours. Councillor Ridge was a
19 supporter of yours, Councillor Tyndall was a supporter of yours, isn't
11:03:59 20 that right?
21 A. Correct.
22 Q. 91 Do you say that none of these people, when they received the motion
23 contacted to you inform you of this motion?
24 A. That's correct, that seems strange but they probably ignored it.
11:04:08 25 Q. 92 Yes. You will have noticed of course that by the 21st October 1993, when
26 you wrote to the bank, you were clarifying to the bank a complaint that
27 was made by Mr. Gilmartin, isn't that right?
28 A. Yes.
29 Q. 93 Right. And at 10313 in the second paragraph the complaint that you are
11:04:28 30 dealing with is "Tom G has said to yourselves and indeed to Councillor

11:04:32 1 McGrath that we probably should have gone for the motion put down by the
2 Democratic Left for last Tuesday's zoning meeting" is that right?

3 A. Yes, that's correct.

4 Q. 94 Do you agree it follows from that even if you were unaware or ignorant of
11:04:44 5 the existence of the Democratic Left motion, that Mr. Gilmartin who was
6 not in Ireland at this time, was aware of the existence of the Democratic
7 --

8 A. Yeah amazing, absolutely.

9 Q. 95 Does it seem strange to you now looking back, Mr. O'Callaghan, at that
11:04:58 10 sequence of events that Mr. Gilmartin who was in London seemed to have a
11 better up to date information in relation to the Democratic Left motion
12 than yourself who had met with the Chairman of Dublin County Council and a
13 member of Democratic Left on the 18th October?

14 A. As I have said to you before I am sure you have heard it before, Tom
11:05:14 15 Gilmartin had some contact in Dublin County Council, we are not quite sure
16 who it was, maybe it was somebody in Democratic Left I am not quite sure.

17 Q. 96 You will see in the letter that's on screen written by yourself,
18 Mr. O'Callaghan, that it is clear that you became aware that Mr. Gilmartin
19 had discussed the motion with Councillor McGrath?

11:05:30 20 A. Oh, yes.

21 Q. 97 And is it a surprise to you that Councillor McGrath would have discussed
22 that motion with Mr. Gilmartin and not discussed it with you?

23 A. No that's not a surprise to me, as I said to you I think Tom Gilmartin
24 kept in continuous contact with Councillor McGrath.

11:05:46 25 Q. 98 You misunderstand me, Mr. O'Callaghan, what I am asking you is in view of
26 your relationship with Councillor McGrath, is it a surprise to you that
27 Mr. Gilmartin and Mr. -- that Mr. McGrath would have discussed it with
28 Mr. Gilmartin and would not have drawn it your to your attention?

29 A. No that's not a surprise to me because it is quite possible, you see I
11:06:04 30 think the point you are completely missing is that the Democratic Left

11:06:08 1 motion wouldn't have been, nobody would have taken any notice of it, it
2 wasn't going anywhere, it had five or six people to support it only. It
3 wasn't going anywhere he, they wouldn't have any support. The majority of
4 councillors in particular councillors like McGrath etc. would have ignored
11:06:23 5 that motion, it wasn't going anywhere.

6 Q. 99 That's not the issue, Mr. O'Callaghan, the issue is whether you are
7 correct in the evidence you are giving to the Tribunal that at your
8 meeting with Councillor Rabbitte on the 18th October, you discussed the
9 Democratic Left motion?

11:06:39 10 A. I did not discuss the Democratic Left motion.

11 Q. 100 Yes. In view of the fact that I think approximately one month later you
12 paid Councillor McGrath a sum of money, isn't that right, in 1993, isn't
13 that right, in November of 1993?

14 A. Yes.

11:06:58 15 Q. 101 You made a payment to Councillor McGrath?

16 A. Yes. I did at the time, yeah.

17 Q. 102 And you did so in a stated acknowledgement of the assistance he had given
18 in the first instance to Mr. Gilmartin and later to yourself, isn't that
19 right?

11:07:12 20 A. I think this is the time he was trouble with the Revenue Commissioners you
21 are referring to, is it?

22 Q. 103 Yes, that's right?

23 A. That's right, yes.

24 Q. 104 And if you were aware, as you must have been aware when you wrote this
11:07:22 25 letter, that Mr. Gilmartin was discussing these matters with Councillor
26 McGrath, was that something that you raised with Mr. McGrath?

27 A. Which thing, I'm not sure what you mean by that?

28 Q. 105 Whatever discussion Councillor McGrath had had with Mr. Gilmartin that's
29 referred to in this letter?

11:07:39 30 A. I wouldn't have discussed that, I wouldn't have particularly mentioned

- 11:07:43 1 that, no, no.
- 2 Q. 106 How did you become aware of the fact that Mr. Gilmartin and Mr. McGrath
3 had had a discussion about the Democratic Left motion?
- 4 A. I'm not sure of that, all I know is that Councillor McGrath was, Tom
11:07:57 5 Gilmartin was in continuous contact with Councillor McGrath, I can't be
6 more specific than that.
- 7 Q. 107 Now, I think, Mr. O'Callaghan, that after the decision in, on the 19th of,
8 on the 19th October there was a later decision on the 16th November at
9 10401, in relation to the written statement, isn't that right? And at
11:08:24 10 10402, the change to the written statement which had been initiated by
11 you, as a result of the motion you drafted in June of 1993 was confirmed
12 by the council, isn't that right?
- 13 A. Yes.
- 14 Q. 108 And the change is set out there at paragraph -- page 10402, and what was
11:08:47 15 adopted is at 10403, and it records that paragraph 5.4.9 would read as
16 follows "It is an objective of the council to foster the creation of
17 employment opportunities in the Quarryvale area and to facilitate the
18 provision a district town centre to service the larger community. It is
19 proposed to designate a district town centre site at Quarryvale. This
11:09:11 20 district town centre shall be of the order of but not exceeded 250,000
21 square feet of retail shopping". Then it goes on to deal with the
22 original town centre at Neilstown, isn't that right?
- 23 A. That's right.
- 24 Q. 109 That was as a result of the motion that you had drafted, isn't that the
11:09:25 25 position?
- 26 A. That's correct.
- 27 Q. 110 And I think that you would agree, Mr. O'Callaghan, that in December of
28 1993, the Development Plan was adopted on the 10th December '93, 10503
29 please, and the final plan was published, the map is at 10514?
- 11:09:51 30 A. Yes.

- 11:09:51 1 Q. 111 And the Quarryvale lands were zoned C and E, isn't that right?
- 2 A. That's correct.
- 3 Q. 112 And that became, as of that date the Development Plan for 1993, isn't that
- 4 so?
- 11:10:02 5 A. That's correct.
- 6 Q. 113 Now, I think that in November 1993, Mr. O'Callaghan, you made a payment of
- 7 5,000 pounds to Councillor John O'Halloran, isn't that right?
- 8 A. Yes.
- 9 Q. 114 Right. And you made a payment I think of 20,000 pounds to Councillor
- 11:10:20 10 McGrath, isn't that the position?
- 11 A. Yes.
- 12 Q. 115 Now, dealing first of all with the 20,000 pounds, Mr. O'Callaghan, will
- 13 you just outline very briefly the circumstances in which you made that
- 14 payment to Mr. McGrath?
- 11:10:39 15 A. Councillor McGrath contacted me to say he was in financial difficulties
- 16 again. This time with the Revenue Commissioners and asked me could I help
- 17 him. At the time I didn't do anything about it, I'm not too sure when he
- 18 asked me the first time, probably maybe two or three occasions later when
- 19 he asked me again he said he was in serious trouble and that the revenue
- 11:11:00 20 were on to him actually on his house, on his company, he was in trouble,
- 21 and I agreed -- I asked him what was, what the amount was, he told me it
- 22 was close to 20,000 pounds, I thought about it for a while and I
- 23 eventually decided that I would help him out. But that again was given to
- 24 him on the basis of a loan, which of course was never repaid.
- 11:11:20 25 Q. 116 And that loan was never recorded by you in writing, as being a loan, isn't
- 26 that right?
- 27 A. No.
- 28 Q. 117 Is it fair to say, Mr. O'Callaghan, that you handed him the cheque?
- 29 A. Oh, yes.
- 11:11:30 30 Q. 118 Without any documentation, other than you handed him the cheque, isn't

- 11:11:33 1 that right?
- 2 A. Just strictly word of mouth, yes.
- 3 Q. 119 And within the books and records of Riga, at 10362, in fact if we have
- 4 10353, you see halfway down that page there is a payment to Colm McGrath
- 11:11:59 5 of 20,000 pounds?
- 6 A. Yes.
- 7 Q. 120 And immediately beneath that there is a payment of 5,000 pounds to John
- 8 O'Halloran, isn't that right?
- 9 A. Yes.
- 11:12:09 10 Q. 121 Moving across the page both are analysed under sundries, isn't that right?
- 11 A. Yes.
- 12 Q. 122 And both are payments that are attributed to Barkhill, isn't that right?
- 13 A. Yes.
- 14 Q. 123 Isn't that the position?
- 11:12:24 15 A. Yes.
- 16 Q. 124 And both of these were written up I think in that year end, that is the
- 17 year end '93, were written up to the Barkhill loan, 10356, you will see
- 18 working up from the bottom, approximately a third of the way, the payment
- 19 to Mr. O'Halloran and Mr. McGrath?
- 11:12:47 20 A. Yes.
- 21 Q. 125 Both of them are written up to 735, isn't that right?
- 22 A. Yes.
- 23 Q. 126 Both of them have the words "Barkhill", if they could both be highlighted
- 24 please?
- 11:13:00 25 A. Yes.
- 26 Q. 127 Now, do you agree with me that in this audit working paper both the
- 27 payment of 20,000 pounds to Mr. McGrath and the 5,000 pounds to
- 28 Mr. O'Halloran are attributed to Barkhill?
- 29 A. Yes.
- 11:13:19 30 Q. 128 Therefore they are deemed to be an expense paid by Riga for Barkhill,

- 11:13:19 1 isn't that right?
- 2 A. Yes.
- 3 Q. 129 And they both are attributed to 735 which is the code for Barkhill, isn't
- 4 that right?
- 11:13:22 5 A. Yes.
- 6 Q. 130 And in the audit for the year end April '94, 10357, do you agree with me
- 7 that the payment to Mr. McGrath and Mr. O'Halloran are both written up to
- 8 the Barkhill loan?
- 9 A. Yes.
- 11:13:40 10 Q. 131 And it might be easier to read now.
- 11 A. Yes.
- 12 Q. 132 And it forms part of the Barkhill loan, isn't that right?
- 13 A. That's correct.
- 14 Q. 133 So that certainly initially these were considered to be expenses that were
- 11:13:52 15 incurred by Riga on behalf of Barkhill?
- 16 A. Yes.
- 17 Q. 134 Now, insofar as Mr. McGrath is concerned, there is nothing within the
- 18 prime books of entry in Riga to indicate that the payment to Mr. McGrath
- 19 is a loan, isn't that right?
- 11:14:06 20 A. That's correct. Yes.
- 21 Q. 135 Right. Looking at it, it appears to be a straightforward expense that's
- 22 paid by Riga on behalf of Barkhill, isn't that right?
- 23 A. That's correct.
- 24 Q. 136 There is nothing within the documentation either to suggest that it's a
- 11:14:18 25 political donation?
- 26 A. Yes.
- 27 Q. 137 Because it's not analysed under advertising and subscriptions, isn't that
- 28 right?
- 29 A. That's right.
- 11:14:26 30 Q. 138 And neither is the payment to Mr. O'Halloran?

- 11:14:29 1 A. Well, that one should have been, yes.
- 2 Q. 139 But be that as it may?
- 3 A. That is correct, yes.
- 4 Q. 140 The reality is that that didn't happen, isn't that right?
- 11:14:37 5 A. That's correct.
- 6 Q. 141 Right. And that both of these payments are therefore recorded initially
7 and in the audit for the year end April '94, as being an expense that has
8 been paid by Riga on behalf of Barkhill, isn't that right?
- 9 A. Yes.
- 11:14:51 10 Q. 142 There is no reference to loan, there is no reference to political
11 donation?
- 12 A. Correct.
- 13 Q. 143 Now, insofar as Mr. O'Halloran is concerned, I think it is the case that
14 earlier that year, and it may have been in July of '93, Mr. O'Halloran
11:15:04 15 lost the whip of the Labour Party, isn't that right?
- 16 A. That's right.
- 17 Q. 144 Now, did you meet with Mr. O'Halloran, or discuss this payment with
18 Mr. O'Halloran?
- 19 A. Oh, yes, he approached me, yes.
- 11:15:17 20 Q. 145 And did Mr. O'Halloran approach you independently of Mr. McGrath?
- 21 A. Oh, yes.
- 22 Q. 146 When you considered Mr. McGrath's request, by the time that you considered
23 Mr. McGrath's request had you discussed the matter with Mr. O'Halloran?
- 24 A. No.
- 11:15:32 25 Q. 147 Yes.
- 26 A. No, no.
- 27 Q. 148 Both of the cheques, Mr. O'Callaghan, are recorded as being cheques
28 written on the 9th November 1993, isn't that right?
- 29 A. Yes.
- 11:15:46 30 Q. 149 10353.

- 11:15:47 1 A. Same date.
- 2 Q. 150 Same date. That's right, isn't it and if you look there at the date
- 3 that's recorded in the cheque payments book, you note that both of the
- 4 cheques are recorded, have been written on the 9th, isn't that the
- 11:15:59 5 position?
- 6 A. That's correct.
- 7 Q. 151 Insofar as we have the cheque that was made payable to Mr. O'Halloran,
- 8 10351 please, that is a cheque written on the 9th November 1993, isn't
- 9 that right?
- 11:16:11 10 A. Yes.
- 11 Q. 152 And the Tribunal does not have available to it the cheque that was made payable
- 12 to Mr. McGrath, isn't that right?
- 13 A. Yes.
- 14 Q. 153 The cheque is not available.
- 11:16:20 15 A. Yes.
- 16 Q. 154 But it is nonetheless recorded as having been written on the 9th?
- 17 A. Yes.
- 18 Q. 155 Yes. Now, can you just explain to the Tribunal how it was,
- 19 Mr. O'Callaghan, that you made both of these payments to your councillors
- 11:16:31 20 on the 9th November?
- 21 A. Pure coincidence.
- 22 Q. 156 I see. It isn't a question, or is it a question, Mr. O'Callaghan, that
- 23 you were effectively paying off the councillors who had supported you, now
- 24 that the matter was successfully concluded in Dublin County Council?
- 11:16:49 25 A. Not at all, two separate things altogether actually.
- 26 Q. 157 And it is therefore, you say, coincidence that you made the loan to
- 27 Mr. McGrath, that is not recorded as a loan in the books of Riga, on the
- 28 same day that you made the payment to Mr. O'Halloran?
- 29 A. Yes.
- 11:17:04 30 Q. 158 Right. And that there can be no question of those payments being

11:17:07 1 effectively the final payments or that you were making to two councillors
2 who had been supporting you for the previous two or three years?
3 A. Two separate issues altogether, one with nobody -- O'Halloran didn't know
4 about McGrath and McGrath did not know about O'Halloran. McGrath asked me
11:17:26 5 about that much longer, a significant amount of time before that when he
6 saw himself getting into difficulties, they were totally separate issues,
7 just pure coincidence it happened on the one day.

8 Q. 159 I will move back now, Mr. O'Callaghan, to take up the chronological
9 sequence, having completed the planning.

11:17:49 10
11 And if we can turn to look at the events that led up to the meeting I
12 think of the directors that took place in June I think it was of 1993,
13 sorry I beg your pardon, there was a meeting of the directors, I think, in
14 -- yes, in June of 1993, and I want to take you back to deal with the
11:18:10 15 documentation and events that led up to that particular meeting, and I
16 think one of the first matters I want to you agree with me at 9604, do you
17 agree that Riga made a loan application to the bank, which was ultimately
18 sanctioned by the bank and that that was a loan application that was made
19 and was extant on the 25th May, this is a mark up for Riga,
11:18:46 20 Mr. O'Callaghan?

21 A. Yes.

22 Q. 160 And I think it was sanctioned ultimately by the bank, 9620, you will see
23 there a record that, the loan to Riga of the -- was sanctioned on the 25th
24 May by AIB Group Credit Committee, isn't that right?

11:19:07 25 A. Yes.

26 Q. 161 Right. And that was the loan to Riga, and within that there is only one
27 matter I want to draw to your attention at 9608. In dealing with the
28 involvement of Riga in Barkhill, Mr. O'Callaghan, in the second paragraph,
29 the last part of the second paragraph reads:

11:19:28 30

11:19:28 1 "Since the commencement of Riga's involvement Owen O'Callaghan has spent
2 enormous time and energy in dealing with Barkhill. Riga has also provided
3 funds of circa 400,000 pounds to assist in obtaining zoning. No fees have
4 been payable to Riga in respect of it's project management fee".

11:19:46 5
6 Do you agree with me that that figure of 400,000 pounds is recorded by the
7 bank on foot of the letter that was sent by Mr. Deane to the bank of
8 February of 1993, that we looked at yesterday?

9 A. That is correct.

11:19:57 10 Q. 162 And therefore the bank relied upon the content of Mr. Deane's letter,
11 isn't that right?

12 A. Oh, yes.

13 Q. 163 Because they there record it.

14 A. Mm-hmm.

11:20:05 15 Q. 164 Now I think also in May of 1993 you made a small donation, 9645, to Fine
16 Gael, in the sum of 200 pounds, you will see in this document you provided
17 the last item there, on the 28th May 1993 was a donation of 200 pounds to
18 Fine Gael, isn't that right?

19 A. Yes.

11:20:25 20 Q. 165 And I just want to show you 9646, Mr. O'Callaghan, and this is the cheque
21 payments book, and about 7 or 8 up from the bottom you will see recorded
22 there, the payment of 200 pounds to Fine Gael, and if you go across the
23 page, you will see that it's analysed under sundries, isn't that right?

24 A. Yes.

11:20:47 25 Q. 166 And the attribution that is given to it is I think 5040?

26 A. Yes.

27 Q. 167 And that's, I think, a reference to advertising and subscriptions.

28 A. Yes.

29 Q. 168 Isn't that right?

11:20:57 30 A. Yes.

11:20:57 1 Q. 169 So there is no question of that donation to Fine Gael being recorded as
2 being a Barkhill expense, isn't that right?
3 A. Yes.
4 Q. 170 It's being written up within Riga to advertising and subscriptions, isn't
11:21:08 5 that right?
6 A. Yes.
7 Q. 171 Now I think, Mr. O'Callaghan, at 9678, on the 4th June 1993, Allied Irish
8 Bank made a letter of offer to Barkhill, isn't that right?
9 A. Yes.
11:21:31 10 Q. 172 I think the position was that Barkhill had sought further facilities from
11 the bank, isn't that right?
12 A. Yes.
13 Q. 173 And that the bank had made a mark up in relation to Barkhill at 9622, on
14 the 25th May 1993?
11:21:51 15 A. Yes.
16 Q. 174 Which was sanctioned I think on the 25th May 1993, following page please,
17 9623, and effectively what the bank were doing was they were making a
18 decision to follow their money insofar as Barkhill was concerned, isn't
19 that right?
11:22:08 20 A. Yes.
21 Q. 175 Right. And they, following on from that had made a letter of offer on the
22 4th June 1993 at 9678 for an additional 1.245 million, isn't that right?
23 A. Yes.
24 Q. 176 That sum was to be spent in accordance with the schedule that was attached
11:22:27 25 to that letter at 29106, isn't that right?
26 A. Can I see it? Yes, yes.
27 Q. 177 In fairness yourself, Mr. O'Callaghan, 9678, under the heading "purpose of
28 the loan" you will see "To enable the company progress it's plans to
29 obtain appropriate planning permission on the Quarryvale site. The
11:22:48 30 additional facility provided is for the purposes outlined on the attached

11:22:52 1 schedule".

2 A. Yes.

3 Q. 178 Isn't that right? And the attached schedule, 29106 records, 375,000

4 pounds of fees, isn't that right?

11:23:03 5 A. Yes.

6 Q. 179 Doesn't include anything in relation to Mr. Dunlop, isn't that right?

7 A. Yes.

8 Q. 180 And it deals with Ove Arup, Deloitte & Touche, repairs for security, the

9 injunction against the itinerants and enclosing of the site and planning

11:23:16 10 application.

11 A. Yes.

12 Q. 181 Right. And under the land purchase it was for the provision for the

13 purchase of O'Donaghue Cottage and provision for completion of the

14 purchase of the County Council lands, they were the purpose for which the

11:23:30 15 funds were advanced, isn't that right?

16 A. Yes.

17 Q. 182 Right. Now, that loan offer was eventually taken up by Barkhill, isn't

18 that right, in June of 1993?

19 A. I think so, yes.

11:23:43 20 Q. 183 Right. And I think that became the Barkhill number 3 loan, isn't that

21 right?

22 A. Yes.

23 Q. 184 Right. And funds were drawn down from time to time from that loan,

24 throughout 1993, isn't that the position?

11:23:56 25 A. Yes.

26 Q. 185 Right. And they were drawn down on the authorised signatures of two

27 directors, isn't that the position?

28 A. Yes.

29 Q. 186 And would you agree with me that there was a firming up at this stage of

11:24:06 30 the procedures within the bank, under which drawdown of the loan would be

11:24:09 1 permitted?

2 A. Yes.

3 Q. 187 Right. And that in fact the bank put in place, at this stage, the system

4 whereby there would have to be documents signed by two directors, isn't

11:24:20 5 that right?

6 A. That's correct.

7 Q. 188 And in addition back up invoices would have to be produced?

8 A. Yes.

9 Q. 189 Right. Now, I think I will be able to show you some of those,

11:24:28 10 Mr. O'Callaghan, shortly, but would you agree with me that following the

11 letter of offer being accepted, Barkhill had available to it the monies

12 that the bank had agreed to advance to it?

13 A. Yes.

14 Q. 190 And that those monies were available throughout the balance of 1993 to

11:24:44 15 meet any expenses that were considered to be necessary in relation to

16 Barkhill, isn't that right?

17 A. Yes.

18 Q. 191 Right. At that time can I ask you, just to go back very slightly, why

19 didn't you apply to Allied Irish Bank for clearance to pay Mr. McGrath and

11:25:00 20 Mr. O'Halloran?

21 A. Probably wouldn't have agreed.

22 Q. 192 You have agreed with me in relation to the two payments to Mr. McGrath and

23 Mr. O'Halloran that within the books of Riga they were initially written

24 up as a Barkhill expense, and were so audited for the year end April '94,

11:25:20 25 isn't that right?

26 A. Mm-hmm.

27 Q. 193 It follows from that that at the time the payment was made it was

28 considered by the payer, that is yourself, that they were a Barkhill

29 expense, isn't that right?

11:25:29 30 A. Yes.

- 11:25:29 1 Q. 194 Why didn't you go to the bank and ask them for the money from the Barkhill
2 number 3 account to pay Mr. McGrath and Mr. O'Halloran?
3 A. Well, if I went to the bank and said that Mr. McGrath was in trouble with
4 the Revenue Commissioners and he wanted money to pay them I don't think
11:25:43 5 they would have given it to me, they wouldn't give it to me.
6 Q. 195 But did you ask them, Mr. O'Callaghan?
7 A. No, I didn't.
8 Q. 196 Why wouldn't you have gone to them in the same way you went for
9 Mr. Ambrose Kelly's fees?
11:25:57 10 A. It would have been a wasted effort insofar as the bank would have said
11 that's Mr. McGrath's problem.
12 Q. 197 You did later on in the year go to the bank seeking Mr. Dunlop's fees when
13 you put him on a retainer in September 1993, isn't that right?
14 A. Yes.
11:26:10 15 Q. 198 And the bank paid those fees to Mr. Dunlop although Mr. Dunlop was not a
16 person who was listed on the original sanction, isn't that right?
17 A. Yes.
18 Q. 199 And therefore the bank, if they were prepared to pay Mr. Dunlop's fee,
19 although he had not been a person within their contemplation when they
11:26:24 20 made the advance, surely would have given equal consideration to Mr. Colm
21 McGrath's claim or Mr. O'Halloran's claim?
22 A. I don't think there is any comparison really.
23 Q. 200 What is the difference, Mr. O'Callaghan?
24 A. Well Councillor McGrath was in trouble, financially in trouble with the
11:26:39 25 Revenue Commissioners and he wanted a loan to help him out, I don't think
26 the banks would have given me that if I asked for it.
27 Q. 201 It is clear that the banks were prepared to sanction payment that is they
28 had not originally had in their contemplation, isn't that right?
29 A. That's right.
11:26:53 30 Q. 202 You had not identified Mr. Dunlop on this schedule as being a person who

11:26:56 1 would require payment in 1993?

2 A. This was his retainer.

3 Q. 203 Yes.

4 A. I hadn't agreed a retainer with him at the time that is why.

11:27:03 5 Q. 204 Yes. But when you did agree a retainer you went to Barkhill for the
6 money, isn't that right?

7 A. Yes.

8 Q. 205 And the bank notwithstanding the fact that Mr. Dunlop was not within their
9 contemplation when they made the loan offer and granted you facilities
11:27:15 10 paid Mr. Dunlop, isn't that right?

11 A. Yes.

12 Q. 206 And Mr. Dunlop's fees were agreed initially I think in September of 1993,
13 isn't that right?

14 A. Yes.

11:27:22 15 Q. 207 And by December of 1993, he had been paid a figure of you just slightly
16 over 9,000 pounds in respect of three months retainer, isn't that right?

17 A. Yes.

18 Q. 208 Right. Now Mr. Dunlop was an expense, isn't that right?

19 A. Yes.

11:27:35 20 Q. 209 And he was an expense of Barkhill, isn't that right?

21 A. Yes.

22 Q. 210 Mr. McGrath and Mr. O'Halloran equally were an expense of Barkhill if what
23 is recorded in the books of Riga is correct, isn't that right?

24 A. Yes.

11:27:46 25 Q. 211 Why then didn't you go to the bank in respect of Mr. McGrath and
26 Mr. O'Halloran?

27 A. Totally separate issues. Mr. Dunlop was on retainer because I was using
28 his office here in Dublin and continued to use his office in Dublin and
29 his office was more or less the Barkhill office in Dublin, that's why he
11:28:03 30 was on retainer. Councillor McGrath was in difficulties himself, that was

11:28:09 1 a personal matter really, so he was in trouble with the Revenue
2 Commissioners and he wanted support from me, a loan from me to help him
3 out, totally separate matter, it was me he was dealing with.

4 Q. 212 You could you have gone to the bank and guaranteed a loan for him?

11:28:24 5 A. The banks wouldn't agree to that.

6 Q. 213 Is the real reason, Mr. O'Callaghan, that you didn't go to the bank and
7 seek payment of money from the Barkhill account for Mr. McGrath and
8 Mr. O'Halloran because you knew the bank would not agree to round figure
9 sum payments to politicians, is that the reason why you didn't go to the
10 bank?

11:28:41 10
11 A. That as well but this is a different issue, this is a loan that this man
12 wanted from me because he was in trouble. I wasn't going to the bank to
13 ask for that, that doesn't make sense.

14 Q. 214 You are talking about two payments now here, Mr. O'Callaghan, I may not
11:28:54 15 have made myself to clear to you, both the payment of 9th November to
16 Councillor McGrath and the payment of 9th November to Councillor McGrath,
17 when you say that it may also have been an issue with the bank that they
18 wouldn't have countenanced round figure sum payments to politicians, are
19 you agreeing that one of the reasons why you did not approach the bank for
11:29:14 20 payment out, for these figures out of the Barkhill facilities is because
21 you knew the bank wouldn't sanction them?

22 A. No the banks wouldn't sanction for a different reason, I wouldn't ask the
23 bank for a loan for that purpose to help somebody who was in trouble with
24 the Revenue Commissioners I wasn't going to ask them for that, that was up
11:29:30 25 to me to do that.

26 Q. 215 Insofar as the payments to Councillor O'Halloran and Councillor McGrath
27 are concerned, of 25,000 pounds, you accept that they are a Barkhill
28 expense because they are so recorded, in the books of Riga?

29 A. They actually ended up my director's loans in fact I was responsible for
11:29:49 30 them eventually, they ended up in the books of Riga because nobody at the

11:29:52 1 time knew where to put them or what to do with them, they were a Dublin
2 expense and put into Barkhill, I eventually, they were put down to the
3 director's loan account afterwards to the best of my recollection.

4 Q. 216 Yes that was for the year end April 1995 but in the audited accounts for
11:30:06 5 Riga for the year end April 1994 they were recorded as Barkhill expense as
6 I have shown you.

7 A. That's because nobody corrected them and I wasn't asked about them.

8 Q. 217 Well I am going to come to deal with that transfer to the director's loan,
9 Mr. O'Callaghan, but for the moment you have, I think you have agreed that
11:30:20 10 at the time the payments were made they were a payment that was recorded
11 as an expense of Barkhill, isn't that right?

12 A. In the accounts, yes, that's correct.

13 Q. 218 And if that was a correct attribution at the time, it follows from that
14 that you believed them to be a Barkhill expense?

11:30:36 15 A. It wasn't a correct allocation at the time, it was just put there because
16 the person that was putting them there wasn't sure where to put them,
17 that's why they ended up in that location.

18 Q. 219 So the position they be is at that -- did you inform the person who
19 allocated them to Barkhill in the first instance that this was a Barkhill
11:30:53 20 expense?

21 A. Possibly -- possible, I can't be sure of that, for the time being I
22 probably said put them into Barkhill.

23 Q. 220 When your accountant came to audit Riga for the year end April 1994 and
24 analysed the sundries column, and there is an attribution there within the
11:31:11 25 sundries column that we have seen to this being a Barkhill expense, was
26 that a second mistake that was made?

27 A. Probably wasn't asked.

28 Q. 221 Yes. Now, can I suggest to you, Mr. O'Callaghan, that what happened was
29 the following: That when you made the payments to Councillor McGrath and
11:31:26 30 Councillor O'Halloran you regarded them as an expense of Barkhill, would

- 11:31:32 1 you agree with that?
- 2 A. Well, yes. What else would they be an expense of, I couldn't put them
3 down to Riga or anything else, it was the Dublin job really, which was
4 Barkhill.
- 11:31:50 5 Q. 222 So you regarded them as an expense of Barkhill, the reason you didn't go
6 to the bank to seek payment of those monies from the Barkhill loan is that
7 you believed the bank would not pay them, because they were payments to
8 politicians, would you agree with that?
- 9 A. Yes.
- 11:31:58 10 Q. 223 Now, if I go back to deal with the letter of offer at 9678, do you agree,
11 Mr. O'Callaghan, that it would have been necessary to have a board meeting
12 of Barkhill in order to accept, to minute and an acceptance of this letter
13 of offer?
- 14 A. Probably should have been, yes.
- 11:32:20 15 Q. 224 And indeed there was a subsequent meeting at which that was accepted. I
16 think that was a meeting in June of 1993, but in June of 1993 two letters
17 went out, isn't that right, one a letter to Barkhill with a loan offer and
18 one to Riga with a loan offer, isn't that right?
- 19 A. I think so, yes.
- 11:32:42 20 Q. 225 And on the 9th June at 9684 please, you are recorded as being present or
21 having a meeting with Mr. Dunlop, isn't that right, on the 9th June, do
22 you see "OOO here in the afternoon"?
- 23 A. Yes, I have it, yes.
- 24 Q. 226 On the 10th June at 9691, there is an invoice in the sum of 25,000 pounds
11:33:16 25 issued by Mr. Dunlop through Frank Dunlop & Associates for professional
26 services in connection with the all purpose national stadium, isn't that
27 right?
- 28 A. That's correct.
- 29 Q. 227 And that is described as being professional services including ongoing
11:33:30 30 media relations and liaison with Houston Sports and Leisure and also

- 11:33:35 1 Chilton & O'Connor investment brokers USA, is that right?
- 2 A. Yes.
- 3 Q. 228 That sum of 25,000 pounds was paid on foot of a cheque on the 14th
- 4 September 1993, isn't that right, 9693?
- 11:33:56 5 A. Yeah. Okay I haven't seen that. Yes.
- 6 Q. 229 That is a cheque made out to Frank Dunlop, isn't that right?
- 7 A. Yes.
- 8 Q. 230 It's signed by yourself and Mr. Lucey.
- 9 A. Yes.
- 11:34:06 10 Q. 231 And that is written up in Riga in the cheque payments book at 9692, it's
- 11 the fourth entry down as 25,000 pounds, and it's analysed under sundries?
- 12 A. Yes.
- 13 Q. 232 And it's attributed to 5098, the Barkhill code in Riga, isn't that right?
- 14 A. Yes.
- 11:34:31 15 Q. 233 So when this entry is made this payment of 25,000 pounds is regarded as
- 16 being an expense on behalf of Barkhill, isn't that right?
- 17 A. Yes.
- 18 Q. 234 And do you agree that it was an expense on behalf of Barkhill?
- 19 A. Could I just see the invoice again please.
- 11:34:49 20 Q. 235 Yes. At 9691, could that be increased please?
- 21 A. That should have been stadium, of course.
- 22 Q. 236 Is this another error, Mr. O'Callaghan, in the books of prime entry?
- 23 A. It could be, that should have been against the stadium rather than -- in
- 24 fact I think it ended up against the stadium actually.
- 11:35:18 25 Q. 237 Well initially, Mr. O'Callaghan, in the audit for the year end April '94
- 26 at 9701, under the analysis of sundries, four down, you see Frank Dunlop
- 27 25,000 pounds, Barkhill?
- 28 A. Yes.
- 29 Q. 238 Code is 735 and the amount is 25,000 pounds?
- 11:35:39 30 A. What is 735 represent again?

- 11:35:41 1 Q. 239 Barkhill, right? So your auditor, when she analyses your sundries column,
2 which includes any sundry payments such as the payment to Colm McGrath or
3 the payment to John O'Halloran, and all of those are analysed, attributes
4 this payment to Barkhill, isn't that right?
- 11:36:00 5 A. Yes.
- 6 Q. 240 All right. And in the audit, which is completed at 9702, if you see under
7 the heading Barkhill loan, within Riga, I think some five up from the
8 bottom, you see recorded there for the year end April '94, the 25,000
9 pounds paid to Mr. Dunlop on foot of the invoice of the 10th June 1993 is
11:36:34 10 recorded as a Barkhill expense, isn't that right?
- 11 A. Yes.
- 12 Q. 241 And beneath that you have the payment to Colm McGrath and beneath that you
13 have the payment to John O'Halloran, isn't that right?
- 14 A. Yes.
- 11:36:44 15 Q. 242 So do you agree with me that that item, when it is dealt with for the year
16 end April 1994, is regarded as a Barkhill expense and is dealt with as a
17 Barkhill expense?
- 18 A. That's the stadium 25,000, yes.
- 19 Q. 243 Now, like the payment to Mr. McGrath and Mr. O'Halloran, it is in the
11:37:02 20 following year, moved out into your director's loan, isn't that right?
- 21 A. That's correct, yes.
- 22 Q. 244 But in the initial stages when this is done, Mr. O'Callaghan, it suffers
23 from the same infirmities as the payment to Mr. McGrath and the payment to
24 Mr. O'Halloran, isn't that right?
- 11:37:23 25 A. That is correct, yes.
- 26 Q. 245 Now, again can I ask you, is it the position that you did not approach the
27 bank for authorisation to pay that invoice to Mr. Dunlop from the Barkhill
28 loan?
- 29 A. I didn't ask the banks, I don't think I did, no.
- 11:37:34 30 Q. 246 Yes, so what happens in the year end '94, Mr. O'Callaghan, insofar as

11:37:38 1 these three matters are concerned, they are written up within Riga as an
2 expense of Barkhill, isn't that right?

3 A. Mm-hmm.

4 Q. 247 They are therefore, that means I think in accounting terms that it is,
11:37:49 5 there regarded as being monies spent by Riga on behalf of Barkhill, isn't
6 that right?

7 A. Yes.

8 Q. 248 Right. No application is made to Barkhill's bankers for payment out of
9 those sums, isn't that right?

11:38:02 10 A. Yes.

11 Q. 249 That is the 25,000 pounds to Mr. Dunlop?

12 A. Which is actually stadium of course.

13 Q. 250 Yes. The 20,000 pounds to Mr. McGrath and the 5,000 pounds to
14 Mr. O'Halloran, isn't that right?

11:38:15 15 A. Yes.

16 Q. 251 Application is however made to the bank for the payment of other funds to
17 Mr. Dunlop within that period, isn't that right?

18 A. Yes.

19 Q. 252 And if we look at the audit, I think of -- I think it's the following
11:38:40 20 page, yes, at 9703, you see recorded as part of the Barkhill loan a sum of
21 25,756.70 to Mr. Dunlop?

22 A. Yes.

23 Q. 253 So if it would be possible, if you were able to see the two together,
24 Mr. O'Callaghan, you would see that there is a sum of 25,000 pounds in the
11:39:03 25 Barkhill loan attributed to Mr. Dunlop and a second sum of 25,756.70?

26 A. The following year.

27 Q. 254 No, same year, is it possible to put page 9702 and 9703 across the screen,
28 one on top of the other?

29

11:39:53 30 CHAIRMAN: Now, I think they are both up.

11:39:55 1 Q. 255 MS. DILLON: In fact the bottom is the start of it, but this is all the
2 one document, Mr. O'Callaghan, and what you are looking at is the audit
3 for the year end April 1994, as completed by Ms. Cowhig on foot of the
4 documentation provided by your company, Riga, following her discussions
11:40:10 5 with Mr. Deane and with the paper that was supplied to her by Mr. Lucey,
6 do you understand that?
7 A. Yes.
8 Q. 256 And starting with the bottom document first, what is being recorded there
9 is the Barkhill loan for the year end April 1994 and the items, opening
11:40:27 10 balance is the carry forward of the Barkhill loan from the previous year,
11 do you understand that?
12 A. Yes.
13 Q. 257 Right. And when one goes down through the various documentation, what --
14 the items that are set out there, the first item relates to Westpark,
11:40:44 15 Westside Construction and I will be showing you the invoice for that later
16 on, then beneath that there is a sum of cash for 4,500 pounds which was
17 either to do with the encampment or removal --
18 A. Itinerants.
19 Q. 258 -- itinerants, ESB for 865 pounds, another for 34.62, there is DCC
11:41:05 20 Quarryvale is the planning expense for 10,000 pounds, beneath that
21 insurance paid to Mr. Tyndall's company, Marine & General of 2,550, there
22 is the payment of 25,000 pounds to Mr. Dunlop which is the stadium
23 invoice, there is the payment to Councillor Colm McGrath of 20,000 pound,
24 the payment to Councillor O'Halloran of 5,000 pounds, there is an on
11:41:29 25 account payment to DeLoitte & Touche of 10,000 pounds, there is an expense
26 paid to you I think in September of 1993 of 10,000 pounds, you move to the
27 top of the page --
28 A. That's in '94, isn't it.
29 Q. 259 Yes, '93 I think, Mr. O'Callaghan, item of 10,000 pounds was an expense
11:41:47 30 payment that was made to you in respect of Quarryvale expenses in

- 11:41:50 1 September 1993, I'm subject to correction on that now. Ms. O'Raw will
2 find me the September 1993 expense payment, Mr. O'Callaghan, I will come
3 back to it, but for the moment you may assume that it's a payment that is
4 made to you by Riga in 1993. At the top of the next page which is the
11:42:14 5 continuation, there is the payment of 25,756.70 to Mr. Dunlop, do you see
6 that?
7 A. Yes.
8 Q. 260 And included in that are the three retainers which are October, November
9 -- September, October, November 1993?
11:42:29 10 A. Yes.
11 Q. 261 Right. And two miscellaneous invoices for expenses. Then beneath that
12 you have the Ambrose Kelly payments, there is a payment to AIB Corps then
13 there is McHale plant, which was to do with the discovery I think of some,
14 at the start of the development of Quarryvale, then there is the reversal
11:43:01 15 of the 95,000 pounds to Mr. Kelly, then there is the Shefran payment which
16 you can leave for the moment. What I want to you concentrate on for the
17 moment, Mr. O'Callaghan, is that there are two Frank Dunlop payments
18 recorded in the Barkhill loan for the year end April '94, do you agree
19 with that?
11:43:12 20 A. Yes.
21 Q. 262 One is a sum of 25,000 pounds and the other is a sum of 25,756.70, is that
22 right?
23 A. Yes.
24 Q. 263 Right. Now, the first payment of 25,000 pounds was a payment that was
11:43:28 25 made in September of 1993, do you agree with that?
26 A. Which is the second payment on the stadium.
27 Q. 264 Which is the second payment on the stadium, which is recorded in Riga as a
28 Barkhill expense and so audited, isn't that right?
29 A. Yes.
11:43:40 30 Q. 265 No application was made to Allied Irish Bank for payment out of that sum

11:43:43 1 isn't that right?

2 A. Because they were not paying stadium fees, yes.

3 Q. 266 But they were paying Frank Dunlop fees, isn't that right?

4 A. Yes.

11:43:50 5 Q. 267 Because they paid the 25,750 --

6 A. They were not stadium fees.

7 Q. 268 That is my question to you why is it, Mr. O'Callaghan, when you wrote up

8 the 25,000 to Mr. Dunlop as a Quarryvale expense and you audited Riga

9 through your auditors as the 25,000 as a Quarryvale expense, did you not

11:44:09 10 apply to the bank for payment out of the Barkhill No. 3 loan of that

11 25,000 pounds to Mr. Dunlop?

12 A. Because I knew it was a stadium invoice.

13 Q. 269 And is there any connection between the 25,000 pounds paid to Mr. Dunlop,

14 the 20,000 pounds paid to Mr. McGrath and the 5,000 pounds paid to

11:44:27 15 Mr. O'Halloran?

16 A. None what so ever.

17 Q. 270 They have one feature in common I suggest to you, Mr. O'Callaghan, that

18 they are all recorded by you as being expenses incurred by Riga on behalf

19 of Barkhill, and in all three cases you do not apply to the bank for

11:44:46 20 payment out of those monies, isn't that right, out of the Barkhill loan?

21 A. Well the 25,000 stadium one, even though in Barkhill was a stadium invoice

22 and the banks would not pay that, I was well aware of that, even though it

23 was in Barkhill there, it should not have been in Barkhill, it should have

24 been in the stadium, the invoice was clearly marked national all purpose

11:45:06 25 stadium, the banks would not have paid it, no choice. 20,000 pounds was a

26 loan more or less to McGrath, which I did myself, and the 5,000 pounds to

27 O'Halloran was a contribution to help him get himself set up as an

28 independent politician.

29 Q. 271 Do you say, Mr. O'Callaghan, that it is a mistake or an error that these

11:45:28 30 three payments which were made by Riga on behalf of Barkhill, are in the

- 11:45:32 1 first instance which were made by Riga are wrongly recorded?
- 2 A. Yes.
- 3 Q. 272 Right. Do you say now that they should have been recorded in a different
- 4 way, in the books of Riga, in the year in which those payments were made?
- 11:45:44 5 A. Yes they should, yes.
- 6 Q. 273 Right. In addition to that, there is a payment of a sum of 10,000 pounds
- 7 which is recorded there as expenses Owen O'Callaghan, isn't that right?
- 8 A. That's down to April '94, isn't it?
- 9 Q. 274 It's down to the year end April 1994?
- 11:45:59 10 A. Oh, yes, year end, sorry, okay.
- 11 Q. 275 Right. In other words, it is an expense payment that's made to you by
- 12 Riga, it's treated as being a Barkhill expense, it's recorded as bag
- 13 Barkhill expense?
- 14 A. Yes.
- 11:46:11 15 Q. 276 Right. And it is money that is given to you by Riga?
- 16 A. Yes.
- 17 Q. 277 In respect of expenses you have incurred, isn't that right?
- 18 A. Yes.
- 19 Q. 278 You agree with that?
- 11:46:18 20 A. I agreed.
- 21 Q. 279 Do you agree also that that sum of 10,000 pounds is similarly recorded in
- 22 the books and records of Riga as being a Barkhill expense?
- 23 A. Yes.
- 24 Q. 280 And it is not a sum to which you applied to Allied Irish Bank for payment
- 11:46:31 25 out of the Barkhill number 3 loan?
- 26 A. Yes.
- 27 Q. 281 Right. And that therefore these four payments share a number of similar
- 28 features, Mr. O'Callaghan, and let me put them to you and disagree with
- 29 them if you will. They are all rounds figure sums.
- 11:46:45 30 A. Yes.

- 11:46:45 1 Q. 282 Right. There is no element of VAT recorded in relation to any of them?
- 2 A. Yes.
- 3 Q. 283 Insofar as --
- 4 A. Sorry there is no VAT on the stadium.
- 11:46:57 5 Q. 284 Correct.
- 6 A. 25, yeah okay.
- 7 Q. 285 There is no VAT in relation to the payment to Mr. McGrath Mr. O'Halloran
- 8 or the 10,000 to yourself?
- 9 A. That's right.
- 11:47:07 10 Q. 286 So in the first instance they are all recorded, they are all round figure
- 11 sums, do you agree with that?
- 12 A. Correct yes.
- 13 Q. 287 They are all payments made by you or received in one case by you directly?
- 14 A. Received by me directly.
- 11:47:21 15 Q. 288 You received the 10,000 pounds?
- 16 A. Yes, correct.
- 17 Q. 289 Isn't that right?
- 18 A. That's correct.
- 19 Q. 290 The other three are payments made by you and not anybody else, isn't that
- 11:47:32 20 right?
- 21 A. That's correct.
- 22 Q. 291 Insofar as they are recorded within the prime books of entry Riga they are
- 23 recorded as expenses paid by Riga on behalf of Barkhill?
- 24 A. Yes.
- 11:47:38 25 Q. 292 Right. They can only be so recorded I suggest to you, Mr. O'Callaghan, on
- 26 foot of information supplied by you, you being the only person who made
- 27 the payments, isn't that right?
- 28 A. Yes, yes.
- 29 Q. 293 Right. If you so recorded them and what you say now is correct, you say
- 11:47:55 30 you were in error when you did that, is that right?

- 11:47:57 1 A. Wrongly allocated, yes.
- 2 Q. 294 Right. They were also insofar as two of them are concerned, payments to
3 politicians, isn't right?
- 4 A. Yes.
- 11:48:05 5 Q. 295 Insofar as the 10,000 pounds expenses are concerned, do you know what it
6 was you spent that money on, Mr. O'Callaghan?
- 7 A. I don't know, that would have been my expenses that's normally what I did,
8 get a cheque like that every so often, spent my own money and the bank
9 would reimburse me with that on particular occasions.
- 11:48:23 10 Q. 296 The bank didn't reimburse you.
- 11 A. Sorry the company would reimburse me.
- 12 Q. 297 Would it be fair to say there is no paper, Mr. O'Callaghan, in relation to
13 what your expenses were?
- 14 A. No. Sorry there would have been certain receipts I would have given in
11:48:37 15 but I wouldn't have a complete amount for the 10,000 pounds.
- 16 Q. 298 Insofar as there is documentation in relation to the payment the only
17 documentation that exists is the record within the cheque payments book
18 that Riga paid you 10,000 pounds?
- 19 A. That's correct.
- 11:48:47 20 Q. 299 Insofar as the payment to Mr. Dunlop is concerned the only records that
21 exists is the invoice?
- 22 A. Stadium invoice.
- 23 Q. 300 Is that right?
- 24 A. Final payment on the stadium.
- 11:48:56 25 Q. 301 The only independent records that exists being Mr. Dunlop stadium invoice
26 clearly shows that it should never have been attributed to the Quarryvale,
27 isn't that right, or the Barkhill loan?
- 28 A. That is why we never asked the bank for it, it's the wrong allocation.
- 29 Q. 302 Do you know what it was Mr. Dunlop did with the 25,000 pounds?
- 11:49:15 30 A. Oh gosh, no.

- 11:49:17 1 Q. 303 No. Do you know, Mr. O'Callaghan, that it has been the subject of some
2 evidence in this Tribunal?
3 A. Not really, no.
- 4 Q. 304 Do you know that Mr. Dunlop, when he gave evidence to the Tribunal, was
11:49:30 5 asked about that payment of 25,000 pounds?
6 A. I don't actually.
- 7 Q. 305 Do you know that he told the Tribunal that the cheque, when he received it
8 from you in September of 1993, was cashed by him in it's entirety, were
9 you aware of that?
11:49:50 10 A. No.
- 11 Q. 306 I just want to show you a document, Mr. O'Callaghan, 14228 please, this is
12 a cheque on the 14th September, Mr. O'Callaghan?
13 A. Yes.
- 14 Q. 307 And I think that on -- at 10113, from Mr. Dunlop's diary for that period
11:50:28 15 in time, I think that on the 15th September of 1993 I think that you were
16 in Dublin?
17 A. Yes.
- 18 Q. 308 And I think on the 16th, on the 17th September Mr. Dunlop cashed the
19 cheque, and you were in Cork on that day, I think, because at 10138 you
11:50:57 20 ring Mr. Dunlop on the 17th September 1993, and you ask him at 11.43 to
21 "call him in Cork" do you see that?
22 A. Yes.
- 23 Q. 309 Would you agree that it follows from that, that you were in Cork on that
24 day?
11:51:09 25 A. Yes.
- 26 Q. 310 But you were ringing Mr. Dunlop for whatever purpose, isn't that right?
27 A. Yes.
- 28 Q. 311 On the 17th September at 14228, this cheque, which is made out to Mr.
29 Dunlop personally not to Frank Dunlop & Associates, isn't that right?
11:51:27 30 A. Yes.

- 11:51:28 1 Q. 312 That cheque is cashed by Mr. Dunlop, in Allied Irish Banks in College
2 Street, on the 17th September 1993?
3 A. Yes.
- 4 Q. 313 And that has been, I think, the evidence of the bank. And at 14227 you
11:51:46 5 will see the confirmation from the bank that the cheque was cashed on the
6 17th September, and it was cashed in full, isn't that right?
7 A. Yes.
- 8 Q. 314 And Mr. Dunlop was asked by the Tribunal what he did with the money,
9 Mr. O'Callaghan. He can't assist the Tribunal what he did with it, other
10 than to say that he cashed it?
11 A. Yes.
- 12 Q. 315 Now, if we go back to 10113, Mr. O'Callaghan, can you assist the Tribunal
13 as to why Mr. Dunlop would have had a necessity for 25,000 pounds in cash
14 on the 17th September 1993?
11:52:29 15 A. I wouldn't have a notion.
- 16 Q. 316 I see. Mr. Dunlop was asked about the entries in his diary for the 17th?
17 A. Yes.
- 18 Q. 317 In the hope that it might assist his recollection as to what he had done
19 with the 25,000 pounds in cash, and there were two entries, one for the
11:52:45 20 Westbury with a Martin Lanigan O'Keefe and one at 5.30 in Power's Hotel?
21 A. Yes.
- 22 Q. 318 Now, do you agree first of all that Power's Hotel is a hotel frequented by
23 politicians Mr. O'Callaghan, do you know Power's Hotel?
24 A. No I don't, but I believe it was a hotel. I was never in it, I don't know
11:53:07 25 where it is.
- 26 Q. 319 Right. Is there any possibility that what might have happened is that you
27 gave 25,000 pounds to Mr. Dunlop to pay on to somebody else on your
28 behalf?
29 A. Not at all.
- 11:53:18 30 Q. 320 I see. And there could be no possibility that it is being treated in the

- 11:53:23 1 books and records of Riga in the same way as the payment to Mr. O'Halloran
2 or to Mr. McGrath, because in fact it's a political payment?
- 3 A. Absolutely not.
- 4 Q. 321 I see. Do you say it is a coincidence, Mr. O'Callaghan, that all of these
11:53:38 5 entries in the prime books of Riga suffer from the same infirmity?
- 6 A. Oh, yes.
- 7 Q. 322 Yes. And that it is a collection of coincidences that results in those
8 entries all being treated in the same way, in the prime books of Riga?
- 9 A. Absolutely.
- 11:53:52 10 Q. 323 I see.
11
12 CHAIRMAN: Right Ms. Dillon, let's just take a break.
13
14 MS. DILLON: Sorry, sir.
11:54:20 15
- 16 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
17 **AND RESUMED AGAIN AS FOLLOWS:**
18
- 19 MS. DILLON: Mr. O'Callaghan, please.
- 12:11:59 20
- 21 CHAIRMAN: Good afternoon.
22
- 23 Q. 324 MS. DILLON: Just in relation to that item of 10,000 pounds expenses,
24 Mr. O'Callaghan, in September 1993, just so that you can be satisfied that
12:12:15 25 that in fact was incurred, at 10164, this is an extract from the Bank of
26 Ireland Riga cheque payments book, and if you, moving up from the bottom
27 about six you see there that a cheque was drawn in favour of Owen
28 O'Callaghan.
- 29 A. Yes.
- 12:12:34 30 Q. 325 And beside that, I think the words "Barkhill expenses", isn't that right?

- 12:12:39 1 A. Yes.
- 2 Q. 326 That was the attribution that was given to the payment of that cheque by
3 Bank of Ireland for Riga, isn't that right?
- 4 A. Yes.
- 12:12:47 5 Q. 327 Right. And you see the words "5098" or the letters, the numbers "5098"
6 are also written beside it, isn't that right?
- 7 A. Yes.
- 8 Q. 328 At 10165, that cheque is debited, cheque number 2499 on the 24th September
9 1993.
- 12:13:06 10 A. Yes.
- 11 Q. 329 And are you now satisfied that in fact that is the expenses cheque that
12 forms the 10,000 pounds payment that we saw recorded in the Barkhill loan
13 within Riga together with Mr. Dunlop's 25,000, the 20,000 to Mr. McGrath,
14 the 5,000 pounds to Mr. O'Halloran, and this 10,000 pounds to yourself,
12:13:24 15 isn't that right?
- 16 A. Yes.
- 17 Q. 330 And I think at 10166, your bank account confirms receipt of that sum,
18 isn't that right?
- 19 A. Yes.
- 12:13:35 20 Q. 331 And moving onto the analysis at 10167, that's analysis by your accountant
21 Ms. Cowhig, if you move up from the bottom of that page about six entries
22 you see an entry, sorry I'd say seven entries that says "Owen O'Callaghan,
23 10,000 pounds", then (general expenses, Quarryvale 735) and the amount is
24 10,000 pounds, isn't that right?
- 12:14:03 25 A. Yes.
- 26 Q. 332 And that would mean when the initial entry is made in the cheque payments
27 book it is written up as a Quarryvale expense, isn't that right?
- 28 A. Yes.
- 29 Q. 333 When Ms. Cowhig does her audit for the year end 30 April 1994, it is again
12:14:16 30 written up as general expenses Quarryvale, isn't that right?

- 12:14:19 1 A. Yes.
- 2 Q. 334 Therefore, it is regarded within the books and records of Riga as being a
3 Barkhill or Quarryvale expense, isn't that right?
- 4 A. Yes.
- 12:14:27 5 Q. 335 If you look at the audited accounts of 10168 and we have already seen this
6 earlier today, the very last entry?
- 7 A. Yes.
- 8 Q. 336 Is Bank of Ireland "OOC, Exps" Owen O'Callaghan expenses, isn't that
9 right?
- 12:14:45 10 A. Yes.
- 11 Q. 337 That was subsequently in the following year, taken out of the Barkhill
12 loan, isn't that right?
- 13 A. That's correct.
- 14 Q. 338 And the items that were taken out of the Barkhill loan the following year
15 were the 25,000 pounds paid to Mr. Dunlop in September '93 on foot of the
16 stadium invoice, isn't that right?
- 17 A. Yes.
- 18 Q. 339 The 10,000 -- the 10,000 pounds paid to you by way of general expenses
19 Quarryvale, isn't that right?
- 12:15:08 20 A. Yes.
- 21 Q. 340 The 5,000 pounds paid to Mr. O'Halloran.
- 22 A. Mm-hmm.
- 23 Q. 341 Isn't that right?
- 24 A. That's right.
- 12:15:12 25 Q. 342 And the 20,000 pounds paid to Councillor McGrath, isn't that right?
- 26 A. Correct.
- 27 Q. 343 And they total a sum of 60,000 pounds, isn't that right? And they were
28 initially treated within the books and records of Riga and so audited as
29 being monies spent by Riga on behalf of Quarryvale, isn't that right?
- 12:15:31 30 A. Yes.

- 12:15:31 1 Q. 344 And no application was made to the Barkhill loan in respect of those
2 expenses?
- 3 A. Yes.
- 4 Q. 345 In other words, no application was made to Allied Irish Bank, isn't that
12:15:43 5 right?
- 6 A. Yes.
- 7 Q. 346 And it would be fair to say, I think, in relation to the sum of 10,000
8 pounds expenses paid to you, Mr. O'Callaghan, that there is no independent
9 documentation in relation to that, isn't that right?
- 12:15:50 10 A. Yes.
- 11 Q. 347 Right. Now, if I can -- and I will come back to deal with the change in
12 1995, Mr. O'Callaghan, of those 60,000 pounds, but I want to deal with the
13 meeting of June of 1993, at which the consideration was given to the
14 Deloitte & Touche queries. And I think that we had seen yesterday that at
12:16:12 15 earlier meetings at the bank there was concern about the completion of the
16 audit in mid 1993, that is the Barkhill audit, isn't that right?
- 17 A. Yes.
- 18 Q. 348 Right. And I think that Mr. Deane was to ensure that the matter was
19 progressed, isn't that right?
- 12:16:29 20 A. Yes.
- 21 Q. 349 And I think that 9550, he wrote to Mr. Gilmartin on the 6th May 1993 and
22 he said that "he had at last received a letter from Leo Fleming confirming
23 the outstanding points. He enclosed a copy of the letter and he said that
24 there appeared to be various items to be dealt with by Mr. Gilmartin,
12:16:51 25 O'Callaghan Properties and AIB". Isn't that right?
- 26 A. Yes.
- 27 Q. 350 He Cced that letter to you, Mr. O'Farrell, Mr. Pitcher and Mr. Maguire,
28 isn't that the position?
- 29 A. Yes.
- 12:17:01 30 Q. 351 The letter in question is the letter at 9551, which can also be found at

12:17:04 1 9535, and in this letter Mr. Fleming identified outstanding matters that
2 had to be dealt with, isn't that right?

3 A. Yes.

4 Q. 352 The first matter was Mr. Gilmartin's loan account, isn't that right?

12:17:19 5 A. Yes.

6 Q. 353 The second matter at 9552 was the option agreement of the 31st January '89
7 between O'Callaghan Properties, Tom Gilmartin about the Clondalkin lands,
8 isn't that right?

9 A. Yes.

12:17:29 10 Q. 354 The third matter was Merrygrove and it's status vis-a-vis Barkhill, isn't
11 that right?

12 A. Yes.

13 Q. 355 The fourth matter was the properties that had been acquired and whether
14 they had been acquired in Mr. Gilmartin's own name, isn't that right?

12:17:41 15 A. Yes.

16 Q. 356 The fifth matter was the Barkhill bank account at Bank of Ireland
17 Blanchardstown?

18 A. Yes.

19 Q. 357 The sixth matter was the valuation of properties and the appropriate
12:17:52 20 valuation to be applied, isn't that right?

21 A. Yes.

22 Q. 358 The seventh matter at 9554 were the secretarial matters?

23 A. Yes.

24 Q. 359 The eighth matter was Allied Irish Bank facilities, isn't that right?

12:18:08 25 A. Yes.

26 Q. 360 And then finally, Mr. Fleming says in the letter "I did write to Aidan
27 Lucey on 15th December 1992 setting out what I regarded as the unresolved
28 matters of strict accounting nature. I am attaching to this letter a
29 schedule of payments/transactions for which Deloitte & Touche received no
12:18:23 30 supporting documentation. The transactions recorded on this schedule have

12:18:27 1 been booked in the accounts of Barkhill on the basis of discussions and
2 explanations received from Tom Gilmartin, Aidan Lucey, Seamus Maguire and
3 AIB. I look forward to the finalisation of the draft financial
4 statements."

12:18:40 5
6 What Mr. Fleming is referring to there is the letter we have already seen
7 of the 15th December 1992, which had attached to it a schedule of payments
8 and transactions, isn't that right?

9 A. Yes.

12:18:51 10 Q. 361 And that schedule is at 9570, isn't that right?

11 A. Yes.

12 Q. 362 And in his letter now of the 3rd May 1993, he is again attaching to that
13 letter of the 3rd May 1993, the same schedule that will he had earlier
14 attached to his letter of the 15th December '92, isn't that right?

12:19:15 15 A. Yes.

16 Q. 363 And we know from Mr. Deane's letter at 9550 that on the 6th May he sent a
17 copy of Mr. Fleming's letter of the 3rd May together with that schedule to
18 Mr. Gilmartin -- Mr. Maguire, Mr. Pitcher, Mr. O'Farrell and yourself, is
19 that right?

12:19:39 20 A. Yes.

21 Q. 364 It would follow from a that, Mr. O'Callaghan, that when you received
22 Mr. Deane's letter of the 6th May 1993, you got with it the letter of the
23 3rd May and the schedule?

24 A. Yes.

12:19:48 25 Q. 365 That is the schedule that we have just looked at, isn't that right?

26 A. Yes.

27 Q. 366 That is the schedule at 9570.

28 A. Yes.

29 Q. 367 Now, I think that Mr. -- Mr. Deane went a step further, because on the
12:20:05 30 12th May '93 at 9568, he wrote to Mr. Maguire, and he said.

- 12:20:14 1 "As you will see from the recent letter from Leo Fleming there are a
2 number of invoices which need to be furnished. The ones that relate
3 particularly to you are listed at item 7 on the attached list". Isn't
4 that right?
- 12:20:28 5 A. Yes.
- 6 Q. 368 Item 7 on the attached list at 9570, were the Seamus Maguire invoices in
7 relation to the acquisition of the lands that are listed at item 7, isn't
8 that right?
- 9 A. Yes.
- 12:20:39 10 Q. 369 So Mr. Deane in seeking to finalise the accounts, he is identifying within
11 the document the people who will be able to give him the information or
12 should have the information, isn't that right?
- 13 A. Yes.
- 14 Q. 370 And you have got a letter from Mr. Deane yourself, in relation to the
15 outstanding queries from Mr. Fleming, and this list, isn't that right?
- 16 A. Yes.
- 17 Q. 371 Right. Now, I think that a meeting was to be arranged for the 16th June
18 '93, 9737, isn't that right?
- 19 A. Yes.
- 12:21:10 20 Q. 372 And you I think attended that meeting, Mr. Gilmartin didn't, isn't that
21 right?
- 22 A. Yes.
- 23 Q. 373 At 9746, this is the bank note, Mr. O'Callaghan, of the meeting.
- 24 A. Yes, okay.
- 12:21:25 25 Q. 374 You will note that at the meeting were Mr. O'Callaghan, Mr. Pitcher and
26 Mr. Maguire, isn't that right?
- 27 A. Yes.
- 28 Q. 375 Now, Mr. Deane isn't present at this meeting, isn't that the position?
- 29 A. Yes.
- 12:21:34 30 Q. 376 And therefore the representative at this meeting of O'Callaghan Properties

12:21:39 1 is yourself, isn't that right?

2 A. Yes.

3 Q. 377 Mr. Maguire, if he is representing anybody, is representing Mr. Gilmartin?

4 A. Yes.

12:21:45 5 Q. 378 Though he is I think still the company secretary although I am not sure of
6 that Mr. Pitcher is there from the bank?

7 A. Yes.

8 Q. 379 In addition to that Mr. O'Farrell is present, isn't that right?

9 A. I'm sure he is, yes.

12:21:57 10 Q. 380 Yes. Well he must be, because he is the person, if you look at the name
11 at the top, "MOF" is the person who makes the note?

12 A. Yes, okay.

13 Q. 381 Now, it is recorded at the commencement, under the heading "Tom
14 Gilmartin", that Mr. Gilmartin did not -- could I have that increased
15 please?

16 A. I have that, yes.

17 Q. 382 That Mr. Gilmartin didn't attend the board meeting, "He had contacted
18 Seamus Maguire earlier that morning and had indicated that he was not
19 going to attend as he was unhappy with the way the situation was
20 developing. He did not have full details and indicated that he was not
21 aware that an application had been made to the bank for increase in
22 facilities."
23
24 Is that right, that's what's recorded there, I will come back to deal with
12:22:39 25 Mr. Gilmartin. But on the balance of the matter, we had looked at some of
26 the matters had a that had been discussed but one of the matters that was
27 discussed, Mr. O'Callaghan, that we haven't looked at yet at 9749, was the
28 Deloitte & Touche letter and you see in the bottom of the note taken by
29 Mr. O'Farrell that he records.
12:23:00 30 "The letter of the 3rd May 1993 from Deloitte & Touche to John Deane was

- 12:23:05 1 reviewed."
- 2 A. Yes.
- 3 Q. 383 Now, do you agree first of all that what was being discussed at this
- 4 meeting at which you were present, was the letter of the 3rd May 1993?
- 12:23:18 5 A. Yes.
- 6 Q. 384 Right. And that we know that attached to that letter was the schedule of
- 7 items for which no supporting documentation had been furnished, isn't that
- 8 right?
- 9 A. Yes.
- 12:23:28 10 Q. 385 And looking then at the consideration at that meeting at 9749, the first
- 11 matter that is referred to there is the "Tom Gilmartin loan account",
- 12 isn't that right, item one?
- 13 A. Yes, yes.
- 14 Q. 386 "Tom Gilmartin loan account, this amount as set out in the letter was
- 12:23:48 15 agreed by the directors at the meeting". Isn't that right?
- 16 A. Yes.
- 17 Q. 387 And at 9535, on this copy of the letter of the 3rd May there appears to be
- 18 a note, Mr. O'Callaghan, that reads "Confirm J/D" do you see that?
- 19 A. Yes.
- 12:24:10 20 Q. 388 Is that a note in your handwriting?
- 21 A. It is actually, yes.
- 22 Q. 389 Isn't that right? And doesn't that suggest, Mr. O'Callaghan, that's a
- 23 note you made at the meeting?
- 24 A. Yes.
- 12:24:18 25 Q. 390 Right. And it accords with what the bank have recorded, isn't that right?
- 26 A. Yes.
- 27 Q. 391 Right. And if we go back then to 9749, and we see that the second item
- 28 that's discussed was item two in Mr. Fleming's letter, which related to
- 29 the option agreement?
- 12:24:37 30 A. Yes.

- 12:24:37 1 Q. 392 And what's recorded there is "John Deane has responded on the 14th May
2 1993 directly to Deloitte & Touche about this matter". Isn't that right?
- 3 A. Yes.
- 4 Q. 393 And then we turn to your copy of the letter at 9536, and there is a note
12:24:54 5 at the side under item two "option agreement", isn't that right, and if
6 that could be increased please? And do you agree that in the first
7 instance there is a reference to "14/5"?
- 8 A. Yes.
- 9 Q. 394 And can I suggest to you that what's written above that is "dealt with
12:25:26 10 14/5"?
- 11 A. It could be, yes.
- 12 Q. 395 And beneath that is "J/D" over written?
- 13 A. Yes.
- 14 Q. 396 And that that appears to be a notation made by you, which records the fact
12:25:30 15 that the matter had been dealt with on the 14th of May and there is a
16 reference J/D?
- 17 A. Yes.
- 18 Q. 397 It's likely again I suggest to you that that's a note you must have made
19 at the meeting with the bank, isn't that right?
- 12:25:43 20 A. It looks like that.
- 21 Q. 398 Right. If we move down to item 3, Merrygrove. And in the bank's note at
22 9749, under the heading "Merrygrove" the bank he is note records "John
23 Deane has responded directly Deloitte & Touche about this matter on the
24 14th May 1993. He has confirmed that Merrygrove is a wholly owned
12:26:11 25 subsidiary of Barkhill. He has sent a balance sheet of Merrygrove to
26 Deloitte & Touche on that date. Mary please follow up, a copy of these
27 with Aidan Lucey. As regards the share certs of Merrygrove, Owen
28 O'Callaghan indicated that these certs would be handed over to Barkhill as
29 soon as the Barkhill Limited shares were received by Riga. In this regard
12:26:29 30 no one seemed to know where the actual share certs are held for Barkhill

12:26:36 1 and I undertook to follow this up.
2
3 Mary, can you please arrange to do this with Fry's Seamus Maguire. The
4 agreement between Merrygrove and Dublin Corporation, a copy of same has
12:26:45 5 been provided to Deloitte & Touche. Mary, I think we should get a copy of
6 this as well from Aidan Lucey".
7
8 And on your copy of the letter, under the heading 3 at 9536, do you agree
9 with me, at item three that in the first instance there is an arrow with
12:27:07 10 the word "Confirmed"?
11 A. Yes.
12 Q. 399 And that it seems to be confirming that Merrygrove is a wholly owned
13 subsidiary of Barkhill, and that's a note made by you, isn't that right,
14 and it's likely to be a note made by you at the meeting, is that right?
12:27:20 15 A. It is, yes.
16 Q. 400 At the side there is a reference to JD which is a reference to Mr. Deane,
17 do you agree to that?
18 A. Yes.
19 Q. 401 And beneath that there is a reference "Shares will be" and I can't read
12:27:30 20 the rest of it, do you agree with that, Mr. O'Callaghan?
21 A. Yes.
22 Q. 402 I have the original folder, Mr. O'Callaghan, that might assist you, this
23 is the original discovery, Mr. O'Callaghan, a copy of which is on screen,
24 and it might assist you, you will see there is a tag in the document in
12:27:52 25 front of you, I think that that is the document as provided to the
26 Tribunal, I don't know whether it assists you?
27 A. Yes.
28 Q. 403 And just looking at the entry in relation to Merrygrove, there is a
29 reference there to "shares will be" something, isn't that right?
12:28:18 30 A. "Shares will be" -- yes.

- 12:28:20 1 Q. 404 Can you make out what the rest of it is?
- 2 A. I can't, I'm afraid it's got something to do with acquire -- I can't I'm
- 3 afraid.
- 4 Q. 405 Well, would you agree that it's likely to have been a note on the original
- 12:28:43 5 letter that you made at this meeting?
- 6 A. Oh, yes.
- 7 Q. 406 Right. And if I show you two pages further on, on the document you are
- 8 looking at, Mr. O'Callaghan, 9538, you will see there is a note made on
- 9 the last page of your letter, in your handwriting, isn't that right, at
- 12:29:01 10 the very top, and it's?
- 11 A. Yes.
- 12 Q. 407 There is a reference J/D being a reference to Mr. Deane to you agree with
- 13 that?
- 14 A. Yes.
- 12:29:10 15 Q. 408 Then it says "Our undertaking" or "understanding that shares are held --"
- 16 A. "That shares are held by TG and wife."
- 17 Q. 409 And that would relate to something, some issue to do with the shareholding
- 18 that arose at the meeting.
- 19 A. Yes, yes.
- 12:29:25 20 Q. 410 If we go back to deal with the next item, which item 4, "properties
- 21 acquired". If we can have 9536 please, you will see the heading item 4,
- 22 "properties acquired", and at the side there appears to be a reference to
- 23 "AIB", do you agree with that?
- 24 A. Yes.
- 12:29:42 25 Q. 411 If we look at what the bank's note records in relation to properties
- 26 acquired at 9750, we see that Mr. O'Farrell has recorded "Mary, I
- 27 indicated that I'd assumed you had sent these off to Deloitte & Touche and
- 28 perhaps would you ensure that this is the case". And then records "As
- 29 regards the claim from Dublin Corporation for a further 405,000 pounds,
- 12:30:04 30 John Deane is to confirm his understanding of the matters as set out in

12:30:08 1 that paragraph", isn't that right?

2 A. Yes.

3 Q. 412 And that would confirm that your note at 9536 is accurate, insofar as it

4 records item four is the responsibility of AIB, isn't that right?

12:30:20 5 A. Yes.

6 Q. 413 And on the following page, at 9537 dealing with the issue of the 405,000

7 pounds interest claim where the bank had recorded "John Deane is to

8 confirm his understanding of the matter as set out in the paragraph" there

9 is a note at the side "JD to confirm" what's the balance of this?

12:30:44 10 A. "This is an outstanding claim".

11 Q. 414 So your notes reflects what's recorded by the bank, isn't that right?

12 A. Yes.

13 Q. 415 If we look at item five then "Barkhill bank account of Blanchardstown" you

14 have a tick, isn't that right?

12:30:57 15 A. Yes.

16 Q. 416 And under item five at 9750, the bank record that it's noted, isn't that

17 right?

18 A. Yes.

19 Q. 417 So again that matter had been considered, isn't that right?

12:31:06 20 A. Yes.

21 Q. 418 And then at item six, if we look at your letter at 9537 which deals with

22 the valuation of properties, we note that you have circled "Hamilton

23 Osborne King", isn't that right?

24 A. Yes.

12:31:23 25 Q. 419 You have written "HOK" and beneath that being "MOF" being a reference

26 Michael O'Farrell, is that right?

27 A. Yes.

28 Q. 420 If we consider the bank's note at 9750, we note that item six records

29 under valuation of properties "Michael O'Farrell to forward suitable

12:31:38 30 extracts from the HOK valuation to Deloitte & Touche".

- 12:31:42 1 A. Yes.
- 2 Q. 421 That again records what you yourself have recorded on your copy of the
3 letter, isn't that right?
- 4 A. Yes.
- 12:31:49 5 Q. 422 And if we turn to look at "secretarial matters" at 9538, do you agree that
6 you have underlined some matters in relation to that, isn't that right,
7 under "secretarial matters" and the words "noted" appear at the side,
8 isn't that right?
- 9 A. Yes.
- 12:32:13 10 Q. 423 Under item eight at 9750, item seven I beg your pardon, secretarial
11 matters "John Deane to point out to Deloitte & Touche they are responsible
12 for secretarial affairs and that should progress the completion of
13 returns". Isn't that right?
- 14 A. Yes.
- 12:32:32 15 Q. 424 Under item eight, "Allied Irish Bank", in the banks document at 9750, it
16 records "It was agreed that Michael O'Farrell would forward copy heads of
17 terms to Deloitte & Touche". Isn't that right?
- 18 A. Yes.
- 19 Q. 425 Under your copy at 9538 there is a reference to MO which I assume is a
12:32:51 20 reference to M O'Farrell, is that right?
- 21 A. Yes.
- 22 Q. 426 So again your note is recording or replicating in shorthand what the
23 bank's note says, isn't that right?
- 24 A. Yes.
- 12:33:04 25 Q. 427 Right. And then under the next section which is, dealings with the Aidan
26 Lucey letter of the 15th December 1992, you have nothing recorded, isn't
27 that right?
- 28 A. Yes.
- 29 Q. 428 And on 9750, item nine records however "That the schedule of claims and
12:33:25 30 transactions were noted" isn't that right?

- 12:33:28 1 A. Yes.
- 2 Q. 429 That means I that I there must have been some consideration of the
3 meeting, Mr. O'Callaghan, of the schedule of claims and transactions,
4 isn't that right?
- 12:33:38 5 A. Yes.
- 6 Q. 430 Yes. And your note of that meeting, or your note on your copy of the
7 schedule and claims of transactions, Mr. O'Callaghan, is at 9539, and this
8 is this document that we had considered relatively early on in your
9 evidence, Mr. O'Callaghan, at which contained certain handwritten notes
10 made by you, isn't that right?
- 11 A. Yes.
- 12 Q. 431 I think it had been your position that these notes were made by you in
13 Cork in your office, isn't that right?
- 14 A. Yes.
- 12:34:09 15 Q. 432 Can I suggest to you now, Mr. O'Callaghan, that you have to accept that
16 you considered this document at the meeting with the bank, isn't that
17 right?
- 18 A. Yes.
- 19 Q. 433 On the 16th June 1993, isn't that right?
- 12:34:24 20 A. Considered the document, yes.
- 21 Q. 434 Yes. If I show you the sequence of the documentation in Mr. Dean's
22 discovery to the bank, if we have 9535 please and at the very top page of
23 the, your copy of the letter, you will see the numbers "JD 1.3-160", this
24 is the first page of the Deloitte & Touche letter of the 3rd May '93, do
25 you see that, Mr. O'Callaghan?
- 12:34:50 26 A. Yes.
- 27 Q. 435 And the next page is 161, that is J.deane 1.3-161, that is the second page
28 of Mr. Fleming's letter, isn't that right?
- 29 A. Yes.
- 12:35:05 30 Q. 436 And at 9537, the reference on the document is "J.deane 1.3-162" that's the

- 12:35:13 1 third page of Mr. Fleming's letter, isn't that right?
- 2 A. Yes.
- 3 Q. 437 At 9538 "J.deane 1.3-163" which is the fort page of Mr. Fleming's letter,
4 is that right?
- 12:35:24 5 A. Yes.
- 6 Q. 438 On the following page at 9539 the reference is "J.deane 1.3-164".
- 7 A. Yes.
- 8 Q. 439 And the following page at 9540 is "J.deane 1.3-165", is that right?
- 9 A. Yes.
- 12:35:42 10 Q. 440 And that would suggest, Mr. O'Callaghan, that in Mr. Deane's
11 documentation, the schedule of transactions with your notes attached to it
12 is attached to the letter of the 3rd May 1993, which had has your
13 handwritten notes on it, isn't that right?
- 14 A. Yes.
- 12:35:59 15 Q. 441 Your handwritten notes on Mr. Fleming's letter accurately records what the
16 bank itself independently have recorded, transpired at the meeting, isn't
17 that right?
- 18 A. Yes.
- 19 Q. 442 And that would mean, Mr. O'Callaghan, that you had made the notes on the
12:36:14 20 letter of the 3rd May 1993, at the meeting with the bank on the 16th June
21 1993, isn't that right?
- 22 A. I can't -- I don't follow that actually.
- 23 Q. 443 Do you agree with me that insofar, leaving aside the question of the
24 schedule for the moment, that insofar as the letter is concerned, you
12:36:35 25 would have made the notes on the letter at the meeting?
- 26 A. Yes.
- 27 Q. 444 Yes. Because they accurately reflect what Mr. O'Farrell has recorded as
28 being the decisions that were made in relation to those items, isn't that
29 right?
- 12:36:48 30 A. Yes.

- 12:36:49 1 Q. 445 Do you agree with me also that there had to have been consideration of the
2 schedule of claims and transactions, because at 9750, Mr. O'Farrell
3 records that the schedule of claims and transactions was noted, isn't that
4 right?
- 12:37:03 5 A. Yes.
- 6 Q. 446 And you are the only person who is at that meeting on behalf of Mr. Deane
7 and yourself, isn't that right, because Mr. Deane isn't there?
- 8 A. That's right.
- 9 Q. 447 Right. So the bank, that is through Mr. O'Farrell, Mr. Pitcher and
12:37:17 10 Mr. Maguire and yourself, had to have considered or looked at
11 Mr. Fleming's schedule of transactions for which no supporting
12 documentation was received, isn't that right?
- 13 A. Yes.
- 14 Q. 448 And I am suggesting to you, Mr. O'Callaghan, at 9539, that it is at that
12:37:37 15 meeting that you make the handwritten notations which are recorded on that
16 document, in the same way that you had made the handwritten notations on
17 the letter of the 3rd May 1993, which you accept was considered at the
18 meeting, do you agree with that?
- 19 A. I would say I made all those notations when I came back from the meeting
12:37:58 20 actually to give that letter to John Deane.
- 21 Q. 449 Yes, can I suggest to you, Mr. O'Callaghan, that you would have made the
22 notations at the meeting so that you could go back and accurately instruct
23 Mr. Deane in relation to what was to happen, isn't that right?
- 24 A. That is correct, yes.
- 12:38:13 25 Q. 450 Right. And if that is correct, it follows from that, Mr. O'Callaghan,
26 that you made the notations, about Mr. Fleming's outstanding invoices that
27 are contained on the schedule at 9539 at the meeting that you had with the
28 bank on the 16th June 1993, do you agree with that?
- 29 A. No I wouldn't agree with that. I would have made those notations when I
12:38:35 30 went back to my own office the day after, two days after or whatever, and

12:38:40 1 went through the document before I gave it to John Deane.

2 Q. 451 You say that notwithstanding the bank's notation that consideration was
3 given by the people at the meeting to this document, is that right?

4 A. When you say consideration was given?

12:38:51 5 Q. 452 Because it's noted at 9750, on Mr. O'Farrell's note of the meeting, isn't
6 that right?

7 A. Yes.

8 Q. 453 And not alone is it noted there, Mr. O'Callaghan, but I think that in the
9 subsequent note of that meeting, at 9739, signed by yourself, it also --
12:39:20 10 no I beg your pardon, it doesn't record that it was noted, I beg your
11 pardon. It doesn't record that it was noted, paragraph eight is noted,
12 but not the final paragraph.
13
14 Right, but you don't agree that in fact you would have made those entries,
12:39:35 15 Mr. O'Callaghan, at the same time?

16 A. I might have made some doodles and put some scribbles on the thing at the
17 meeting but the document you are specifically talking was brought back to
18 Cork by me, I would have sat down in my office and made those notes on it
19 before I passed it over top John Deane.

12:39:49 20 Q. 454 You would have had to brief Mr. Deane, isn't that right, in relation to
21 what happened at the meeting, isn't that the position?

22 A. Yes.

23 Q. 455 You would have had to make a note on your, of some sort, in order to
24 record what you were going to tell Mr. Deane, isn't that right?

12:40:03 25 A. Yeah.

26 Q. 456 Because it's clear from what happened at the meeting that Mr. Deane was to
27 take certain steps, isn't that right?

28 A. Correct.

29 Q. 457 And at 9535 I am suggesting to you, that these notes that are made on the,
12:40:16 30 your copy of the letter, were notes that were made by you at the meeting

- 12:40:19 1 and not otherwise so that could you subsequently instruct Mr. Deane, do
2 you agree with that?
- 3 A. Some of them might have been made at the meeting, that is possible, the
4 more ones like confirm JD for example on that page in front of me now more
12:40:35 5 than likely would have been made at the meeting, but the detailed notes
6 would have been made when I went back to my own office and sat down and
7 went through the document before I gave it to John Deane.
- 8 Q. 458 But Mr. Deane -- is Mr. Deane required at 9539, to address any of the
9 issues arising from this schedule, in his subsequent correspondence?
- 12:40:54 10 A. Yes I think he is, isn't he, he is yes.
- 11 Q. 459 If I show you his letter at 9786, which he writes on foot of your
12 instruction Mr. O'Callaghan when you return to him, because he is not at
13 the meeting, isn't that right?
- 14 A. Yes.
- 12:41:07 15 Q. 460 In his letter of the 22nd June 1993, he writes to Leo Fleming following
16 the board meeting of the 16th June '93, isn't that right?
- 17 A. Yes.
- 18 Q. 461 Right. And he says "I refer to your letter of the 3rd May and wish to
19 deal with the points raised as follows:
- 12:41:22 20
- 21 1. The position is as set out in your letter is noted and agreed."
22
- 23 That relates to Mr. Gilmartin's loan account, isn't that right?
- 24 A. Yes.
- 12:41:29 25 Q. 462 That's item 1. "2. This has already been dealt within my letter of the
26 14th May 1993" and that's what you have recorded on your letter, isn't
27 that right?
- 28 A. Yes.
- 29 Q. 463 "3. Dealt within my letter of the 14th May 1993" that relates to
12:41:43 30 Merrygrove, isn't that right?

- 12:41:45 1 A. Yes.
- 2 Q. 464 "5. Is noted.
- 3 6. We would suggest you use the valuation of Hamilton Osbourne King dated
- 4 19th February 1992" you'd recorded that, isn't that right?
- 12:41:59 5 A. Yes.
- 6 Q. 465 "7. We would be obliged if you would now proceed and complete the
- 7 secretarial matters, we enclose copy of the share subscription agreement
- 8 which deals with the entitlement of the various parties to their
- 9 shareholdings". That's what had been recorded by the bank, isn't that
- 12:42:15 10 right?
- 11 A. Yes.
- 12 Q. 466 Then "8th further facilities have been extended to Barkhill by AIB Michael
- 13 O'Farrell is to supply details to you.
- 14 We trust that on receipt of the information from the various parties set
- 12:42:29 15 out in our letter you will be able to complete the accounts" isn't that
- 16 right?
- 17 A. Mm-hmm.
- 18 Q. 467 Mr. Deane does not anyway, subject to anything you wish to say,
- 19 Mr. O'Callaghan, refer in any way to the schedule at 9539, isn't that
- 12:42:40 20 right?
- 21 A. Yes.
- 22 Q. 468 So can I suggest to you then that -- could I have 9539 please, that you
- 23 are unlikely to be making notes on this document for the purposes of
- 24 Mr. Deane replying to queries because Mr. Deane does not say anything
- 12:42:55 25 about these queries in his subsequent letter to Mr. Fleming, isn't that
- 26 right?
- 27 A. Yes, I'm not sure who gave me this document whether it was John Deane or
- 28 Aidan Lucey, I'm not quite sure, but those notes in that document were
- 29 made in my own office.
- 12:43:08 30 Q. 469 I am suggesting to you, Mr. O'Callaghan, that the logical inference the

12:43:11 1 documentation, the way it was kept in Mr. Deane's file, and the notes that
2 you have to have made at the meeting, that took place, in the bank on the
3 16th June 1993, means that in all probability you did not make those notes
4 when you were in Cork, that you made them at the meeting with the bank?

12:43:30 5 A. Absolutely wrong.

6 Q. 470 Right. And if you had of course made those notes at the meeting with the
7 bank in, at that meeting several possibility arise then, Mr. O'Callaghan:
8 1. That you discussed the contents of your notes with the bank, isn't
9 that right?

12:43:46 10 A. Yes.

11 Q. 471 That you might have told the bank that there were no invoices for the
12 80,000 pounds spent 1991, isn't that right?

13 A. Yes.

14 Q. 472 Alternatively, if you made those notes, Mr. O'Callaghan, at the meeting of
15 the bank, it means you were making a note for yourself that there were no
16 invoices for the 80,000 pounds and that that 80,000 pounds in mid 1991 had
17 been spent for the June election, isn't that right?

18 A. Mm-hmm.

19 Q. 473 Right. Also the other entries that were made there, or entries that I
12:44:14 20 suggest to you, Mr. O'Callaghan, are likely to have been made at the
21 meeting at the bank when you did consider this document, isn't that right?

22 A. All I can tell you is that I did not make those notes, they are detailed
23 notes, I wouldn't have concentrated to that extent at the bank and made
24 detailed notes like that, I did that in my own office.

12:44:32 25 Q. 474 Yes. I think you had previously, not to take issue with you now,
26 Mr. O'Callaghan, described these as scribblings?

27 A. That's right doodles/scribbles.

28 Q. 475 Are you now describing them as a detailed not?

29 A. They are doodles and scribbles on a piece of paper, and I wouldn't have
12:44:57 30 done that in the bank I can assure you, that would only happen -- I think

12:44:57 1 that confirms my point, that would only happen in my own office.

2 Q. 476 Can I suggest to you, Mr. O'Callaghan, that you must have done it in the

3 bank, and the reason I suggest that to you is that at the very top of the

4 document you have a note that says "J/D confirm acceptance of" and an

12:45:05 5 arrow pointing downwards, isn't that right?

6 A. Yes.

7 Q. 477 That in effect is an instruction to Mr. Deane, that Mr. Deane should

8 confirm the acceptance of these items, isn't that right?

9 A. That is right.

12:45:15 10 Q. 478 And can I suggest to you that, that is an instruction that you would have

11 noted to yourself at a time when Mr. Deane is not present, isn't that

12 right?

13 A. Yes.

14 Q. 479 Right. And that therefore it's likely to have been something that you did

12:45:32 15 at that meeting?

16 A. No.

17 Q. 480 Right.

18 A. Sorry.

19 Q. 481 And can I show you, finally, Mr. O'Callaghan, a matter that I think should

12:45:40 20 put this beyond doubt, although it is likely you will disagree with me, on

21 the following page at 9540, do you see at the bottom it says "-complete

22 secretarial matters" Deloitte & Touche complete secretarial matters?

23 A. Yes.

24 Q. 482 That is an instruction Mr. Deane gave to Deloitte & Touche in the letter

12:46:05 25 that he wrote following the meeting, isn't that right?

26 A. Yes.

27 Q. 483 And in his letter he asks them at item 7 to proceed to complete the

28 secretarial matters, isn't that right?

29 A. Yes.

12:46:18 30 Q. 484 Isn't that likely to have been a note that you made for yourself to tell

- 12:46:21 1 Mr. Deane that he was to tell the DeLoitte & Touche to complete
2 secretarial matters?
- 3 A. It's quite possible at the meeting I wrote that note, yes.
- 4 Q. 485 Isn't it likely therefore, Mr. O'Callaghan, that contrary to what you have
12:46:34 5 told the Tribunal that in reality these entries were made by you at that
6 meeting with the bank or in contemplation of that meeting at the bank, and
7 were made for the purpose of you explaining to yourself, even if you
8 weren't explaining to the bank, the purpose of the payments set out in the
9 schedule, isn't that right?
- 12:46:50 10 A. Can I explain to you that type of note is something I would have written
11 at the bank, because it was written pretty scratchily, it was written
12 pretty quickly, sitting at the meeting I would probably have written that
13 note, D & T complete secretarial matter but the small neatly written notes
14 on the document you are referring to, are written extremely neatly, which
15 are definitely done in my own office, if I was at a bank meeting they
12:47:11 16 would be scribbled as well.
- 17 Q. 486 At 9539 please.
- 18 A. If you put that document up again you will see what I am talking about.
- 19 Q. 487 I am about to take you through, Mr. O'Callaghan, because I want to suggest
12:47:22 20 to you that in fact the notes that are made on this document are notes
21 that are made following a discussion with somebody and that you have
22 attributed for example item one to Seamus Maguire, isn't that right?
- 23 A. Yes.
- 24 Q. 488 So obviously your view that was Seamus Maguire had the information in
12:47:36 25 relation to that, isn't that right?
- 26 A. Yes. That is correct.
- 27 Q. 489 In relation to the next four items you have attributed to Allied Irish
28 Bank should have the information, isn't that right?
- 29 A. Correct.
- 12:47:45 30 Q. 490 Isn't that likely to have been something you were discussing with the bank

12:47:48 1 across the table at this meeting?

2 A. No, not really, I would be aware of that.

3 Q. 491 Then you have a notation in relation to the 80,000, isn't that right?

4 A. Yes.

12:47:58 5 Q. 492 Isn't it likely that again, Mr. O'Callaghan, this is a matter that's being
6 discussed at the meeting with the bank, you are going down through the
7 schedule which is attached to the letter, you are going through all of the
8 items, and what you have noted is that there is "no invoices, June
9 elections"?

12:48:13 10 A. It is not no invoices, it is "no invoice, June election" I'm afraid, very
11 important point.

12 Q. 493 Yes, I think in fact, Mr. O'Callaghan, "no invoices" that's written at the
13 side beside the X, do you see there is an X?

14 A. Yes.

12:48:26 15 Q. 494 And do you see beside that, there's three ticks against the three figures,
16 isn't that right?

17 A. Yes.

18 Q. 495 And then beside that, between the X and the three figures the words "No
19 invoices" is that right?

12:48:37 20 A. I am not sure is that invoice or invoices, I'm not sure whether it's
21 invoice or invoices.

22 Q. 496 Well if it relates to the three tick it is must relates to the three sums,
23 isn't that right, Mr. O'Callaghan, I think we should try not to stretch
24 credulity too far, looking at that on a simple interpretation of it,

12:48:54 25 Mr. O'Callaghan, hard and all as it might be for you to accept it looking
26 at that doesn't it mean that you wrote "no invoices" beside these three
27 sums and that you did so at this meeting with the bank?

28 A. No, not at the bank I am positive of that, not at that bank, I wouldn't
29 write details like that at a meeting where there would be other people
12:49:14 30 present.

- 12:49:15 1 Q. 497 What was the purpose then of writing "JD confirm acceptance of" at the top
2 of the document?
- 3 A. That could have been done, that could have been done in my own office or
4 at the meeting, I can't say for definite about that but the small items
12:49:28 5 down along there would have been done when I had time to sit down and
6 think about it and make notes of it, I know by the way the notes are made.
- 7 Q. 498 Item eight and nine which appears to record the fact "no invoices" also, I
8 think you agreed previously, isn't that right?
- 9 A. Yes.
- 12:49:43 10 Q. 499 On the following page in relation to Ove Arup there is a reference "not
11 pay" isn't that right?
- 12 A. That's somebody, that scribble could have been written at the bank.
- 13 Q. 500 Right. So is it your position then that insofar as this document
14 concerned at 9539, you made some notes on it at the meeting with the bank?
- 12:50:00 15 A. Very few, but some notes yes.
- 16 Q. 501 It would follow from that, Mr. O'Callaghan, that consideration was given
17 to this document at the meeting with the bank, not just by you, but by the
18 bank, isn't that right?
- 19 A. Yes.
- 12:50:11 20 Q. 502 And that when you sat down at the table with Mr. Fleming, and Mr. Maguire
21 and Mr. Pitcher, one of the item that is was discussed between the four of
22 you, in the absence of Mr. Deane and Mr. Gilmartin was this schedule at
23 9539 and 9540, which was attached originally to the letter of December and
24 again the letter of May '93, isn't that right?
- 12:50:33 25 A. Yeah, now to what extent it was discussed I don't really know but yes, it
26 was discussed more than likely, yes.
- 27 Q. 503 You do accept now I think, Mr. O'Callaghan, it was discussed it had to be
28 discussed, is that right?
- 29 A. It was on the table, yes.
- 12:50:44 30 Q. 504 Not alone that, but that is supported by the documentation and records

12:50:48 1 that was kept by the bank and indeed now by your acceptance that certain
2 of the notes made could only have been made at the meeting, isn't that
3 right?

4 A. The larger notes yeah, the real scribble type notes would be done roughly
12:51:00 5 at the meeting, yes.

6 Q. 505 But you must accept now, Mr. O'Callaghan, that this consideration of this
7 document was not confined to a solitary exercise conducted in your office
8 in Cork where you had available to you the invoices for Mr. Dunlop, isn't
9 that right?

12:51:15 10 A. Yes, I brought that document back to Cork.

11 Q. 506 Yes but you brought it it to the meeting, Mr. O'Callaghan, and you
12 discussed it with the bank, isn't that right.

13 A. It was at the meeting, yes.

14 Q. 507 If the bank went down through schedule of the meeting, Mr. O'Farrell must
12:51:26 15 have asked you in relation to each item what each item related to, isn't
16 that right?

17 A. I can't, I don't recall that.

18 Q. 508 Do you agree with me that Mr. O'Farrell is a fairly meticulous person,
19 isn't that right?

12:51:39 20 A. Oh, yes, he is.

21
22 JUDGE FAHERTY: Mr. O'Callaghan sorry in fairness, I think the bank --
23 these queries were first sought in December 1992. Mr. Deane as I
24 understand it, some time in February of 1993 has written to the AIB saying
12:51:57 25 they might have, or has written a letter back to Mr. Fleming I think in
26 fairness, saying AIB might have the answers and what Ms. Dillon is putting
27 to you is that Mr. O'Farrell would, in all likelihood be looking for
28 replies to these queries.

29 A. Yes, that's possible, yes.

12:52:20 30 JUDGE FAHERTY: It's fairly probable I would have thought.

- 12:52:23 1 A. Well I can't recall, I don't remember that being discussed at the meeting,
2 in fact I'm not too sure to what extent that was discussed at that
3 particular meeting.
4
- 12:52:32 5 JUDGE FAHERTY: Because I think at one stage, maybe Ms. Dillon will correct
6 me, that Mr. Deane is telling Mr. Fleming to go back to the AIB for
7 answers to some of the queries I think that was in February of 1993.
8 A. Yes.
9
- 12:52:47 10 JUDGE FAHERTY: We know now that in May 1993 Mr. Fleming has again written
11 to a number of persons, and again the same schedule is being attached.
12 A. Yes.
13
- 14 JUDGE FAHERTY: Certainly on Mr. Fleming's part there is a concentration of
12:53:01 15 effort in relation to this matter, isn't that correct?
16 A. Yes.
17
- 18 JUDGE FAHERTY: Being brought to the attention of yourself, Mr. Deane and
19 indeed others, including Mr. O'Farrell of AIB.
12:53:11 20 A. But it wouldn't have been treated as a very important document at those
21 meetings by the rest of us, by Mr. Fleming yes by all means of course. We
22 wouldn't have given it great consideration at the particular time.
23
- 24 Q. 509 MS. DILLON: Do you agree now, Mr. O'Callaghan, that there was discussion
12:53:31 25 at this meeting in the bank about this document of the outstanding queries
26 for which there was no supporting invoices or documentation?
27 A. I can't really recall but it must have been discussed, yes.
28 Q. 510 And that you recorded, you agree, you don't agree that you recorded
29 everything that's at page 9539 and 9540 in your handwriting at that
12:53:57 30 meeting, but you do accept, I think, as you must, that certain of the

- 12:53:57 1 items recorded there had to be done by you at the meeting?
- 2 A. Certain of, I can recognise some of the scribbles actually that would
- 3 probably have been done at the meeting the bigger more free hand ones.
- 4 Q. 511 It would follow from that, Mr. O'Callaghan, that there was a discussion at
- 12:54:09 5 this meeting of that schedule, isn't that right?
- 6 A. It would follow yes, but I can't recall.
- 7 Q. 512 Well let's just look at it now for a second, on the schedule, because it
- 8 is important, Mr. O'Callaghan, not just from your point of view, but I
- 9 think also from the point of view of the bank as to what consideration was
- 12:54:25 10 given, page 9539, to the Sheafran invoices?
- 11 A. Yes.
- 12 Q. 513 Now because you know, sitting at that meeting, when they come to item six
- 13 on this list, that there are no invoices, isn't that right?
- 14 A. Yes.
- 12:54:43 15 Q. 514 Because that's what's recorded?
- 16 A. Invoices are in my possession, yes.
- 17 Q. 515 But the document doesn't record that, Mr. O'Callaghan?
- 18 A. The document records there is no invoice for the month of June.
- 19 Q. 516 No, Mr. O'Callaghan, the document doesn't record that?
- 12:54:58 20 A. Sorry for the three figures together the 25, 40, 15 no invoice, that is
- 21 correct, yes.
- 22 Q. 517 Then it records "no invoice, June election"?
- 23 A. No invoice for the month of June because the June election.
- 24 Q. 518 Now, can I ask you first of all did you tell the bank at that meeting that
- 12:55:13 25 there were no invoices for the three Shefran payments totalling 80,000
- 26 pounds?
- 27 A. I don't know if it even came up.
- 28 Q. 519 Did you tell the bank in relation to item eight, if we can scroll down
- 29 these please that there were no invoices?
- 12:55:31 30 A. Likewise I can't recollect that coming up.

12:55:33 1 Q. 520 Or that there were no invoices in relation to the three amounts paid to
2 Tom Gilmartin?
3 A. Yes.
4 Q. 521 Right. Taking just those three items, Mr. O'Callaghan, it would mean that
12:55:42 5 at some stage you had the information available to you that there were no
6 invoices in relation to items six, eight and nine, isn't that right?
7 A. Yes.
8 Q. 522 Right. And that you knew that there were no invoices for the three
9 payments that had been made to Mr. Gilmartin out of the Barkhill
12:55:58 10 subordinated ed loan, isn't that right?
11 A. Yes.
12 Q. 523 There had been no invoices in relation to the two items of 10,000 pounds,
13 the sundry items we now know went to Mr. McGrath and Mr. Lawlor, isn't
14 that right?
12:56:11 15 A. Yes.
16 Q. 524 And there were no invoices in relation to the Shefran payments totalling
17 80,000?
18 A. There were invoices for three those payments I knew there were, because I
19 had them.
12:56:19 20 Q. 525 Yes. Do you agree with me, Mr. O'Callaghan, that the document singularly
21 fails to record the fact that there were any invoices available for
22 Shefran payments at item six?
23 A. Yes it does, because I said to you they were on my bench in the middle of
24 a large bundle of files and I didn't go looking for them actually.
12:56:39 25 Q. 526 Sorry, Mr. O'Callaghan, do you agree with me, notwithstanding what you
26 have just told the Tribunal, that the document in your handwriting does
27 not record the fact that you had any invoices in the Shefran payments?
28 A. That's right.
29 Q. 527 Isn't that right? And that in fact what is apparently recorded on the
12:56:56 30 face of it, if your evidence to the Tribunal is correct, is wrong, isn't

- 12:56:59 1 that right?
- 2 A. Sorry, I don't understand that.
- 3 Q. 528 If you had invoices, Mr. O'Callaghan, in respect of the Shefran payments
- 4 what you have recorded is wrong?
- 12:57:07 5 A. Oh, yes, yes.
- 6 Q. 529 Isn't that right?
- 7 A. Yes, that's correct.
- 8 Q. 530 Is there anything else you'd like to tell the Tribunal about this
- 9 document, Mr. O'Callaghan?
- 12:57:15 10 A. No, all I can repeat is that that document that's on the screen at the
- 11 moment was filled in by me in my own office, as I have outlined previously
- 12 to you.
- 13 Q. 531 Now, I think --
- 14 A. Can I just say one thing, again I just want to repeat it there please "no
- 12:57:38 15 invoice June election", I explained why that happened, what that notation
- 16 actually means. If you look at the dates, 16th May, 30th May, 13th June
- 17 they are dates actually for the months of March, April, May, the invoices
- 18 were raised in March, April, May and were paid on those dates, the reason
- 19 why there is no invoice there for June election, is because there was no
- 12:57:59 20 invoice raised for the month of June because the local elections were on.
- 21 Q. 532 I think you have suggested initially, Mr. O'Callaghan, and correct me if I
- 22 am wrong, in relation to your earlier evidence, that there was no invoice
- 23 for June because Mr. Dunlop hadn't done any work for you in June. I think
- 24 you subsequently corrected that to accepting that Mr. Dunlop had in fact
- 12:58:24 25 done work for you in June because invoices were raised in respect of
- 26 expenses incurred?
- 27 A. By Frank Dunlop & Associates. What I said to you was that for the month
- 28 of June there was no lobbying work done by Mr. Dunlop, which was the
- 29 expensive work actually.
- 12:58:35 30 Q. 533 Are you saying, Mr. O'Callaghan, that the words "No invoice" and beneath

- 12:58:40 1 that "June election" means there was no invoice for June because of the
2 election?
- 3 A. There was no invoice for made out for the month of June because there was
4 no work done for the month of June because the local elections were on and
12:58:52 5 we had no business lobbying anybody at that particular time.
- 6 Q. 534 I think you have already agreed that in fact Mr. Dunlop did do work in
7 June and did invoice you in respect of expenses he had incurred on your
8 behalf in June of 1991, isn't that right?
- 9 A. That's correct but not lobbying work as such.
- 12:59:09 10 Q. 535 And you don't in anyway, Mr. O'Callaghan, wish to resile from the evidence
11 that you have given to the Tribunal, in relation to this document?
- 12 A. No.
- 13 Q. 536 All right. Would you agree with me that to anybody considering the
14 document, without the benefit of your insight into the document, looking
12:59:26 15 at it, would have come to the conclusion that the 80,000 pounds payments
16 that were made, that is the 25, the 40 and the 15, that A there was no
17 invoices available and B, that they were paid for the June election?
- 18 A. That is the difficulty I have, yes.
- 19 Q. 537 Yes. And with respect it's a difficulty the Tribunal has, isn't that
12:59:45 20 right?
- 21 A. Yes, I understand that.
- 22 Q. 538 Now, I think that following, or at the same time as the meeting of the
23 16th June, at 9751 you had indicated to Mr. O'Farrell, following the
24 meeting of the 16th June, there is just one matter that I want to draw to
13:00:09 25 your attention which is the second last paragraph, Mr. O'Callaghan, and
26 you see this relates to Mr. Dunlop's invoice for 64,000 pounds and we
27 discussed that yesterday, isn't that right?
- 28 A. Yes.
- 29 Q. 539 And Mr. Dunlop had raised the invoice I think in late December 1992 in
13:00:25 30 relation to expenses he had incurred, the big invoice for Frank Dunlop &

13:00:29 1 Associates?

2 A. Yes, yes.

3 Q. 540 You had paid it in February of 1992 but prior to that, in January of 1992

4 you had asked the bank to pay it, and the bank wouldn't entertain it,

13:00:39 5 isn't that right? And you raised the topic again here, Mr. O'Callaghan,

6 isn't that right because at this note of the meeting of the 16th June

7 Mr. O'Farrell records:

8

9 "During the discussion on Barkhill Owen O'Callaghan asked whether we had

13:00:52 10 included a figure of 63,000 pounds which had been paid by Riga to Frank

11 Dunlop during the final zoning stage. I indicated that I was not aware

12 that they had been seeking this figure, it had not been included in the

13 Barkhill schedule of fees due to be paid and accordingly was not covered

14 on that facility. Likewise, no additional funds had been sanctioned for

13:01:11 15 Riga other than the AQD debt and the interest roll up and accordingly it

16 had not been accommodated here either. Owen O'Callaghan accepted this and

17 said he would have to deal with the matter another way."

18

19 Did you have that conversation in the course of your meeting with

13:01:25 20 Mr. O'Farrell?

21 A. Must have had, yes.

22 Q. 541 Right. What you are seeking there is a second occasion that the bank will

23 cover the payment to Mr. Dunlop, isn't that right?

24 A. Yes.

13:01:34 25 Q. 542 And the bank refused to do so, isn't that the position?

26 A. That's right.

27 Q. 543 But you are here approaching the bank a second time in relation to the

28 payment to Mr. Dunlop, isn't that right?

29 A. Yes.

13:01:43 30 Q. 544 You didn't do so for the later invoice, for 25,000 pounds, that you paid

13:01:47 1 in September, isn't that right?

2 A. That was stadium.

3 Q. 545 Yes.

4 A. Yes.

13:01:51 5 Q. 546 But you did do so in relation to the other Frank Dunlop invoices that were
6 paid in later, in 1993, isn't that right?

7 A. That's this invoice we are talking about?

8 Q. 547 No I am talking about the retainer invoices that were paid later?

9 A. Oh, yes.

13:02:05 10 Q. 548 Isn't that right?

11 A. Yes.

12 Q. 549 Would you agree it follows also from this that you had a discussion about
13 the Barkhill fees that had been paid, isn't that right?

14 A. Yes.

13:02:12 15 Q. 550 And that that is not recorded either in the letter in Mr, if the letter
16 that, on which you had made the notations, isn't that right?

17 A. It's not recorded.

18 Q. 551 Yes.

19 A. Yes.

13:02:22 20 Q. 552 Isn't that right?

21 A. Yes.

22 Q. 553 So there was a wider discussion, Mr. O'Callaghan, is my point to you, in
23 relation to the fees that had been paid, isn't that right?

24 A. There must have been, yes.

13:02:32 25 Q. 554 Yes, so there was a discussion on Barkhill, and it was in relation to fees
26 that had been paid, isn't that the position?

27 A. Yes.

28 Q. 555 Right. And with in that you made another application verbally to
29 Mr. O'Farrell to include the 63,000 pounds?

13:02:48 30 A. I must have.

13:02:48 1 Q. 556 Is that right?

2 A. Yes.

3 Q. 557 So it was not dead in the water, as far as you were concerned, isn't that

4 right, because you were raising it again?

13:02:51 5 A. Oh that always happened, yes.

6 Q. 558 Therefore Mr. Deane was doubly wrong when in his letter of February of

7 1993 he had said, he had meant to include the figure of 63,000 pounds

8 because he had said the bank had not been asked to pay that money, isn't

9 that right?

13:03:05 10 A. Yes, that's right.

11 Q. 559 In fact the bank had --

12 A. He probably was not aware, he wasn't at the meeting, but he was not aware

13 that I had asked again.

14 Q. 560 Yes, I think he was at the meeting in January, he wasn't at this meeting

13:03:17 15 obviously that's clear, isn't that right?

16 A. That's right.

17 Q. 561 And it was because he was not at the meeting, Mr. O'Callaghan, that I am

18 putting to you that the notes that were made on the document were made for

19 the purposes of you subsequently advising Mr. Deane, isn't that right?

13:03:29 20 A. Yes.

21 Q. 562 You agree with me that's the purposes of making those notes?

22 A. Yes.

23 Q. 563 It follows from that then Mr. Deane -- Mr. O'Callaghan, I am suggesting to

24 you that it is likely that all of those notes were made at that meeting so

13:03:39 25 that could you subsequently advise your partner, Mr. Deane?

26 A. Not at all, some of the notes were made at the meeting, more detailed

27 notes were made from my own office when I could pass the information on to

28 John Deane, it makes total sense.

29

13:03:52 30 CHAIRMAN: All right. It's gone one o'clock. Mr. O'Callaghan is back on

13:03:56 1 Tuesday?

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3 MS. DILLON: Tuesday afternoon. I think George Redmond is cross-examining
4 a witness on Tuesday morning, Sir.

13:04:02 5

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

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8 **THE TRIBUNAL THEN ADJOURNED TO TUESDAY 7TH OCTOBER AT 11 AM.**

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