

09:38:02 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY**

2 **8TH OCTOBER 2008 AT 10.30 AM:**

3

4 CHAIRMAN: Now, Ms. Dillon.

10:38:56 5

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

7

8 **MR. OWEN O'CALLAGHAN CONTINUED TO BE QUESTIONED BY**

9 **MS. DILLON AS FOLLOWS:**

10:39:09 10

11 CHAIRMAN: Morning, Mr. O'Callaghan.

12 A. Morning, Sir.

13 Q. 1 Good morning, Mr. O'Callaghan.

14 A. Morning.

10:39:25 15 Q. 2 I think that yesterday we had looked at the documentation in mid 1993 and
16 certain of the accounting entries had been looked at, and also in relation
17 to the 25,000 pounds paid to Mr. Dunlop which you cashed in September '93,
18 isn't that right?

19 A. Yes.

10:39:43 20 Q. 3 Now I think that point in time, which is mid 1993, the councillors were
21 again, as we have already seen, going to look at the Quarryvale situation
22 when it came back in before the council which it ultimately did on 19th
23 October '93, isn't that right?

24 A. Yes.

10:40:02 25 Q. 4 Right. Now, I think on the 16th September '93 at 10135, Mr. Deane had a
26 lunch meeting with Mr. O'Farrell and in the course of that meeting he
27 referred to your view of the councillors position in relation to
28 Quarryvale at that point in time, this is September 1993, Mr. O'Callaghan,
29 prior to the confirming vote in October 1993.

10:40:26 30

10:40:27 1 And under the paragraph 1 headed "Barkhill" it says as follows "They are
2 very confident that the present discussions going on in relation to
3 objections etcetera will not impact on the Quarryvale decision. The
4 County Council have got counsel's opinion to the effect that the only
10:40:43 5 changes the councillors can make are to revert to the planning or zoning
6 that applied prior to the last vote i.e. in the case of Quarryvale, this
7 would mean that the zoning could only revert upwards to 500,000 square
8 feet of retail space.
9

10:40:55 10 He indicated that he would send me a copy of this counsel's opinion. Owen
11 O'Callaghan is keeping in close touch with the councillors but they remain
12 very confident that there will be no problem. Pat Rabbitte is pushing to
13 have all the objections out of the way and the plan made by the end of
14 October. While this may be optimistic he certainly looks like he will
10:41:14 15 achieve the end of December deadline. O'Callaghan is continuing his
16 discussions with the planners and this is progressing well"
17

18 Now, insofar as this document records your opinion in September 1993,
19 Mr. O'Callaghan, do you agree first of all that that opinion must have
10:41:30 20 been given to the bank by Mr. Deane?

21 A. It must have been, yes.

22 Q. 5 Yes. Do you agree that at that stage you were keeping in close touch with
23 the councillors but that you were confident there would be no problem?

24 A. Yes.

10:41:42 25 Q. 6 Right. And that indeed transpired to be the case, isn't that right?

26 A. Yes.

27 Q. 7 Your confidence wasn't misplaced insofar as when it came to be confirmed
28 on 19th October 1993, they were confirmed, isn't that right?

29 A. Yes.

10:41:55 30 Q. 8 I think you were also in discussions at that stage with the officials of

- 10:41:59 1 Dublin County Council in relation to the planning, is that right?
- 2 A. Planning application, yes.
- 3 Q. 9 Planning application. Was that so as to ensure when the planning
- 4 application came to be made on behalf of Quarryvale that problems could be
- 10:42:10 5 ironed out in advance?
- 6 A. Yes.
- 7 Q. 10 And would that have been the normal way in which you would have approached
- 8 planning applications of big developments such as this?
- 9 A. Yes, pre-planning meetings, yes.
- 10:42:21 10 Q. 11 Now, I think that also around this time, Mr. O'Callaghan, I think in
- 11 September of 1993, a sum of 10,000 pounds was paid by Riga to you in
- 12 respect of expense that is are described as Quarryvale expenses, isn't
- 13 that right?
- 14 A. Yes.
- 10:42:40 15 Q. 12 And if I show you first of all 10164, and this is an extract from the Riga
- 16 Bank of Ireland cheque payments book, isn't that right, and if you look up
- 17 from the bottom about six you will see an entry in September '93, Owen
- 18 O'Callaghan, a sum of 10,000 pounds, and if you move across you will see I
- 19 think it is "5098" beside it, isn't that right?
- 10:43:09 20 A. Yes.
- 21 Q. 13 Indicating that that is a Barkhill expense, in fact I think Barkhill may
- 22 be written beside it, is that right, beside your name?
- 23 A. Possibly, yes.
- 24 Q. 14 If that could be increased please, isn't that right?
- 10:43:24 25 A. I think it is, yes. It looks like that.
- 26 Q. 15 It would follow from that when the cheque was paid by Riga to you,
- 27 Mr. O'Callaghan, the entry that's made in the cheque payments book was
- 28 this was an expense associated with Quarryvale, isn't that right?
- 29 A. Yes.
- 10:43:35 30 Q. 16 That could only have been done on your direction, isn't that right?

10:43:37 1 A. Yes.

2 Q. 17 Now, that cheque I think was cheque number 2499 as is recorded on the

3 book, and at 10165 you see I think approximately, if you look at the date

4 24 September, you will see the cheque number 2499 is debited to the Riga

10:43:58 5 bank account on the 24th September, isn't that right?

6 A. Yes.

7 Q. 18 And there is at 10166, a lodgement on the 24th September to your own

8 account at Bank of Ireland, isn't that right?

9 A. That's right.

10:44:11 10 Q. 19 And when, at 10167, the auditor came to pick up these sundry items that

11 were paid out of the Bank of Ireland account, about a third of the way up

12 the page moving from the bottom, there is an entry "Owen O'Callaghan

13 10,000 pounds", isn't that right?

14 A. Yes.

10:44:30 15 Q. 20 Beside that are written the words "General expenses-Quarryvale 735", isn't

16 that right?

17 A. Yes.

18 Q. 21 And that would mean that the auditor was told or confirmed that the

19 payment of 10,000 pounds were expenses in connection with Quarryvale paid

10:44:46 20 by Riga on behalf of Barkhill, is that right? Is that correct?

21 A. Yes.

22 Q. 22 Now I think that at the same time, I think the position is,

23 Mr. O'Callaghan, that Riga had two cheque books and it had two bank

24 accounts, isn't that right?

10:45:02 25 A. At that time I think so, yes.

26 Q. 23 One of those bank account was the Bank of Ireland bank account, isn't that

27 right?

28 A. Yes.

29 Q. 24 And it was out of the Bank of Ireland bank account that this payment was

10:45:13 30 made, isn't that right?

- 10:45:15 1 A. Yes.
- 2 Q. 25 And that payment is clearly attributed to Barkhill, isn't that the
3 position?
- 4 A. Yes.
- 10:45:19 5 Q. 26 It's a Quarryvale expense.
- 6 A. Yes.
- 7 Q. 27 Now, in the same accounting period, that is the year end '93, or
8 ultimately became the year end I think April '94, there were payments out
9 of the Riga Allied Irish Bank account also, isn't that right, that were
10 analysed under sundries?
- 11 A. Yes.
- 12 Q. 28 And if we look at 9701; this is the analysis of the sundry payments that
13 were paid out of the Allied Irish Bank Riga account, isn't that right?
- 14 A. Yes.
- 10:45:53 15 Q. 29 We have looked at these before, if you come four down from the top you
16 will see there is a payment "Frank Dunlop 25,000 pounds Barkhill",
17 analysed to "735", isn't that right?
- 18 A. Yes.
- 19 Q. 30 And that is a payment that was made on the 14th September 1993 to Mr.
10:46:10 20 Dunlop, which was cashed by Mr. Dunlop, isn't that right?
- 21 A. Yes.
- 22 Q. 31 And if you move further down through the column, in the bottom third, you
23 will see two names "Colm McGrath" and beneath that "John O'Halloran", do
24 you see that, if that could be highlighted?
- 10:46:27 25 A. Yes, I have them.
- 26 Q. 32 Yes, you will see against Mr. McGrath's name "20,000 pounds" and the words
27 "Barkhill" and "735", isn't that right?
- 28 A. Yes.
- 29 Q. 33 And beneath that you have "John O'Halloran, 5,000 pounds, Barkhill and
10:46:40 30 735", isn't that right?

- 10:46:42 1 A. Yes.
- 2 Q. 34 That would mean, Mr. O'Callaghan, correct me if I am wrong, that at the
3 time that this audit working paper was created, the information provided
4 to the auditor was that the payment made to Frank Dunlop of 25,000 pounds,
10:46:57 5 the payment to Colm McGrath of 20,000 pounds and the payment to John
6 O'Halloran of 5,000 pounds were sums paid by Riga on behalf of the
7 Quarryvale development, which were attributable to Barkhill, isn't that
8 right?
- 9 A. Yes.
- 10:47:10 10 Q. 35 Right. Now, those three sums which were paid out of the Allied Irish Bank
11 account, amount I think to a total of 50,000 pounds, isn't that right?
- 12 A. Yes.
- 13 Q. 36 And the previous sum of 10,000 pounds expenses that were paid out of the
14 Bank of Ireland bank account that was paid to you was a sum of 10,000
10:47:29 15 pounds, isn't that right?
- 16 A. Yes.
- 17 Q. 37 And the total amount of those four sums which were all written up in the
18 your end April 1994 to Barkhill, was 60,000 pounds, isn't that right?
- 19 A. Yes.
- 10:47:43 20 Q. 38 Right. And I think in the year end April 1994, Mr. O'Callaghan, if we
21 look at 10168, and in the analysis of the nominal account number 735 which
22 was the Barkhill loan, there are a series of entries, but if we look at
23 the entries starting at the bottom, do you see the reference "Y9 Bank of
24 Ireland OOC expenses 10,000 pounds"?
- 10:48:13 25 A. Yes.
- 26 Q. 39 That's the sum of 10,000 pounds that we have just seen that was paid by
27 Riga to your bank account, isn't that right?
- 28 A. Okay. Yes.
- 29 Q. 40 And immediately above that is a Deloitte & Touche payment which we needn't
10:48:24 30 concern ourselves with, above that you have "Y5 cheque J O'Halloran 5,000

- 10:48:29 1 pounds", isn't that right?
- 2 A. Yes.
- 3 Q. 41 Above that you have "Colm McGrath 20,000 pounds", isn't that right?
- 4 A. Yes.
- 10:48:34 5 Q. 42 And above that you have "F Dunlop 25,000 pounds".
- 6 A. Yes.
- 7 Q. 43 So do you agree with me that in the books of Riga for the year end 30th
- 8 April 1994, those four payments totalling 60,000 pounds were attributed to
- 9 the Barkhill loan as expenses paid by Riga on behalf of Barkhill?
- 10:48:58 10 A. Yes.
- 11 Q. 44 Isn't that right? Now, in the first instance can I ask you, it must have
- 12 been your view, Mr. O'Callaghan, and correct me if I am wrong, that the
- 13 payment made to Mr. McGrath and Mr. O'Halloran were payments that were
- 14 made for Quarryvale, is that right?
- 10:49:11 15 A. Well, the payment made to Mr. McGrath was, that was the 20,000 pounds when
- 16 he had difficulties with the Revenue Commissioners and the payment to
- 17 O'Halloran was he wanted to set himself up independently as a councillor,
- 18 having lost the party whip. They couldn't be attributable to Riga, if
- 19 anything they had be attributable to Barkhill.
- 10:49:34 20 Q. 45 You misunderstand me, Mr. O'Callaghan, in attributing those payments to
- 21 the Barkhill loan for the year end April 1995 (sic), Riga was in effect
- 22 stating that those payments had been made by it for the benefit of
- 23 Barkhill, isn't that the position?
- 24 A. Yes, oh that's correct.
- 10:49:51 25 Q. 46 And therefore it must have been your view, as the person who made the
- 26 payment to both Mr. McGrath and Mr. O'Halloran, that those payments were
- 27 for the benefit of Quarryvale, isn't that right?
- 28 A. Yes.
- 29 Q. 47 Because they are so recorded?
- 10:50:03 30 A. Oh, yes.

- 10:50:04 1 Q. 48 Now, in the audit of the following year, that is the year end 30 April
2 1995, those four payments were transferred out of the Barkhill loan, isn't
3 that right?
- 4 A. Yes.
- 10:50:14 5 Q. 49 And if I show you 10169 this is journal entry 43, in the following year
6 and the document reads "Debit directors current account 60,000 credit
7 Barkhill Limited 60,000, being items charged to the Barkhill Limited
8 originally but which should have been charged as directors drawings for
9 the year end 30 April '94."
- 10:50:43 10 No names are given but there are four sums set out there, isn't that
11 right?
- 12 A. Yes.
- 13 Q. 50 Those four sums are 5,000 pounds, which is the payment to Mr. O'Halloran.
14 The 10,000 pounds expenses paid to you which we have just looked at, isn't
10:50:56 15 that right?
- 16 A. Yes.
- 17 Q. 51 The 20,000 pounds which is the payment to Mr. McGrath, and the 25,000
18 pounds which was the payment to Mr. Dunlop in September 1993, isn't that
19 right?
- 10:51:05 20 A. Yes.
- 21 Q. 52 Now, what discussions took place with you, Mr. O'Callaghan, about the
22 decision to move those four payments out of the Barkhill loan and into the
23 directors?
- 24 A. None actually.
- 10:51:20 25 Q. 53 Was this done by somebody else without your knowledge?
- 26 A. Oh this would have been John Deane and Clare Cowhig, yes.
- 27 Q. 54 Now, when the transaction took place, or that's recorded in this document
28 took place, that is journal entry 43, the effect of that on the Barkhill
29 loan in the first instance 10170 and this is the Barkhill loan,
10:51:52 30 Mr. O'Callaghan, for the year end 30 April '95, if you look at the very

10:51:57 1 last entry on this computer print-out, you will see there is a credit of
2 60,000 pounds on the bottom line do you see that, it's hard to read?

3 A. Yes, I do.

4 Q. 55 And that is the Barkhill loan being credited with the fact that the 60,000
10:52:12 5 pounds has been taken out of the Barkhill loan and put somewhere else,
6 into directors drawings, isn't that right?

7 A. Yes.

8 Q. 56 So the effect of this transaction is to reduce Barkhill's indebtedness to
9 Riga by 60,000, isn't that right?

10:52:26 10 A. Yes.

11 Q. 57 And there has to be the other side of the transaction which is the
12 increase in the director loans by 60,000, isn't that right? If we look at
13 10171, and again it's not great quality, but we see under the -- in the
14 centre of the page there is a reference the "nominal account directors",
10:52:47 15 isn't that right? And if we can increase where the little handwritten,
16 the entire of that column going across where the hand written notes are,
17 is that "asses"?

18 A. Yes.

19 Q. 58 Now, if we look at that, Mr. O'Callaghan, before we look at the 60,000
10:53:05 20 pounds that's added to it and we look at what's already in the directors
21 loan, in other words, these are expense that is are incurred in a year end
22 '95, April '95, isn't that right?

23 A. Yes.

24 Q. 59 Right. Because the previous 60,000 pounds we had looked at, that is Mr.
10:53:21 25 Dunlop's 25,000, Mr. McGrath's 20, Mr. O'Halloran's 5 and your expenses
26 had all been incurred in the year end April '94, isn't that right?

27 A. Yes.

28 Q. 60 And then we are, if we look to see what's already in the account before
29 the 60,000 is added in, we see that the first item is Ambrose Kelly 10,000
10:53:42 30 pounds, isn't that right?

- 10:53:45 1 A. Yes.
- 2 Q. 61 Now that, Mr. O'Callaghan, is the 10,000 pounds cash that Mr. Kelly
3 obtained for you that you told the Tribunal was in connection with buying
4 a horse?
- 10:54:03 5 A. That was July --
- 6 Q. 62 That was 11279 please, this is the cheque?
- 7 A. Yes, July '94, yes.
- 8 Q. 63 '94. And that would fall into the year end April '95, isn't that right?
- 9 A. That's correct, yes.
- 10:54:20 10 Q. 64 So the first item before any 60,000 pounds is added into the director's
11 drawings, the first item that goes in is a cheque that effectively is
12 cashed by Mr. Kelly for you?
- 13 A. For me.
- 14 Q. 65 Isn't that right?
- 10:54:33 15 A. Yes.
- 16 Q. 66 That has been Mr. Kelly's evidence and I think you agree with that, isn't
17 that right?
- 18 A. That's correct.
- 19 Q. 67 And I think if we look at debit on the account, I think when that was
10:54:44 20 originally analysed, yes at 11282 please, do you see halfway down there is
21 an entry "A Kelly 10,000", and it's analysed 742, isn't that right?
- 22 A. Sorry, one second please. Yes, I have it, yes.
- 23 Q. 68 And 742 is the reference to the director's loan account, if we go back to
24 10171?
- 10:55:18 25 A. Yes.
- 26 Q. 69 If we just turn that page and increase it as it had been, so before the
27 transaction involving the 60,000 pounds takes place, the first item that's
28 in the directors loan account is effectively the cashing of a cheque for
29 10,000 pounds that takes place in July of 1994, is that right?
- 10:55:38 30 A. August, July/August.

- 10:55:41 1 Q. 70 The cheque is dated July I think of 1994 and the transaction takes place I
2 think you told the Tribunal in August?
- 3 A. That's correct.
- 4 Q. 71 The second item that's in the director's drawing is a cash item of 10,000
10:55:53 5 pounds, isn't that right?
- 6 A. Yes.
- 7 Q. 72 And I think that is a reference to the payment of 10,000 pounds to
8 Mr. Liam Lawlor, isn't that right?
- 9 A. Yes, I think so, yes.
- 10:56:06 10 Q. 73 And the item immediately beneath that, which is also described as "cash",
11 is an item of 20,000 pounds, isn't that right?
- 12 A. Yes.
- 13 Q. 74 And that is an item of 20,000 pounds cash referring to the payment of
14 20,000 pounds to Mr. Lawlor, isn't that right?
- 10:56:23 15 A. Yes.
- 16 Q. 75 Right. Now, I think we have looked and we'll again look briefly at them
17 when we come to '95 to those two payments, isn't that right?
- 18 A. Yes.
- 19 Q. 76 But in the director's drawings for the year end April 1995 before the
10:56:38 20 adjustment is made for the 60,000, the first three items that are there
21 are three cash items, isn't that right, Mr. O'Callaghan?
- 22 A. I can't say I'm certain the first item, the first 10,000 pounds to Kelly
23 is actually, it was cash for me, yes. The second one -- yes, that's
24 correct, yes.
- 10:57:03 25 Q. 77 They were written up as we have already seen, not to Mr. Lawlor in the
26 cheque payments book, but that payment of 10,000 pounds and 20,000 pounds
27 were written up to cash, isn't that right?
- 28 A. Yes.
- 29 Q. 78 And there was an attribution under the sundries column in the cheque
10:57:18 30 payments book for one of them that referred to "LL poll C", isn't that

10:57:22 1 right?

2 A. Yes.

3 Q. 79 They were queried as sundry items by Ms. Cowhig when she came to do the

4 audit, isn't that right?

10:57:31 5 A. Yes.

6 Q. 80 One of her concerns that she identified to the Tribunal when she gave

7 evidence was that for both of those payments to Mr. Lawlor, there was no

8 invoice and that therefore they were cash payments effectively, isn't that

9 right?

10:57:44 10 A. Yes.

11 Q. 81 And she said that she went to Mr. Deane with those items and he told her

12 that they should go into the director's loan, isn't that right?

13 A. Yes.

14 Q. 82 All right. Her concern was that at the time that she was doing the audit

10:57:55 15 there was a potential investor in the wings as it were, and this matter

16 would be queried?

17 A. Yes.

18 Q. 83 Isn't that right?

19 A. Yes.

10:58:03 20 Q. 84 And also if it was attributed to the Barkhill loan the auditor of Barkhill

21 would pick up on the fact that two cash items had been paid out, isn't

22 that right?

23 A. Yes.

24 Q. 85 The effect therefore of moving the payments to Mr. Lawlor, into director's

10:58:18 25 loan and attributing them as cash payments meant they weren't subject to

26 any scrutiny by any external auditor, isn't that right?

27 A. Yes.

28 Q. 86 And any investor who might have been in the wings in late 1995 at the time

29 that Ms. Cowhig was doing the audit would not have come across these

10:58:35 30 items, either because they weren't anywhere that a due diligence would

10:58:42 1 reveal, isn't that right?

2 A. Yes.

3 Q. 87 In other words, they were being accepted by Riga as expenses of Riga,
4 isn't that the position?

10:58:48 5 A. Yes.

6 Q. 88 Okay. Now, on the next item beneath that, which is quite difficult to
7 ready think, Mr. O'Callaghan, there is a reference "OOC", I think it's a
8 sum of 1,558.76 which was an item of expense that you paid, isn't that
9 right or sorry that was paid for you? Beneath that there is a sum of
10:59:09 10 5,000 pounds expenses, which I think was from the very beginning written
11 up in the books as an expense of yours, isn't that right?

12 A. Yes.

13 Q. 89 Now, then beneath that you have the adjustment which refers to drawings,
14 isn't that right?

10:59:28 15 A. Yes.

16 Q. 90 And that is the sum of 60,000 pounds, isn't that right?

17 A. Yes.

18 Q. 91 I know it's difficult to read.

19 A. Yes, I see it, yes.

10:59:37 20 Q. 92 And what is happening there is that what's being added to the figure that
21 is are already in the director's loan account for the year end April 1995,
22 are the four payments that had been recorded to Barkhill in the year end
23 '94 but which are now being moved out, isn't that right?

24 A. Yes.

10:59:55 25 Q. 93 Now, Ms. Cowhig told the Tribunal that when she went to Mr. Deane about
26 the two Lawlor payments if I can describe them as that, and the fact that
27 there were no invoices, she told him that in addition to those two
28 payments for which there were no invoices there were a number of similar
29 payments in the previous year for which there were no invoices and she was
11:00:16 30 told to move those payments also into the directors loan, were you aware

11:00:20 1 of that?

2 A. No, I wasn't.

3 Q. 94 Right.

4 A. Not at the time. No.

11:00:24 5 Q. 95 Not at the time. Did you become aware of that subsequently,
6 Mr. O'Callaghan?

7 A. Recently, very recently.

8 Q. 96 Only in the course of this Tribunal?

9 A. Yes.

11:00:32 10 Q. 97 Right. In fact what is happening here, Mr. O'Callaghan, is that a
11 grouping is, a number of payments that have been made out of a Riga are
12 now being grouped together, isn't that right?

13 A. Yes.

14 Q. 98 And within those payments you have the first three payments where are the
11:00:49 15 Ambrose Kelly 10,000 pounds which is a cash payment, 30,000 pounds to
16 Mr. Lawlor?

17 A. Sorry cash payment for myself actually.

18 Q. 99 Yes, you have 30,000 pounds which is recorded as cash but which you say is
19 a payment to Mr. Lawlor, isn't that right?

11:01:04 20 A. Yes.

21 Q. 100 And then you have in addition to that the 60,000 pounds which was recorded
22 for the year end 1994, isn't that right?

23 A. Yes.

24 Q. 101 And that payment of 60 -- sorry that transaction of 60,000 pounds is
11:01:17 25 25,000 pounds to Mr. Dunlop, 20,000 pounds to Mr. McGrath, 10,000 expenses
26 to you and 5,000 pounds to Mr. O'Halloran, isn't that right?

27 A. Yes.

28 Q. 102 And if you look at the handwritten notes that are made at the side, if
29 that could be increased please, the first 10,000 pounds that's being
11:01:43 30 referred to in the handwritten note is the Ambrose Kelly cashing of the

- 11:01:47 1 cheque, Mr. O'Callaghan, because that is the date that's on the cheque
2 that we have already seen, isn't that right?
- 3 A. Yes.
- 4 Q. 103 The 10,000 pounds and the 20,000 pounds relate to Mr. Lawlor, because they
11:01:59 5 are the date of the payments, isn't that right?
- 6 A. That's right.
- 7 Q. 104 And then you have the 60,000 pounds which is referred to journal entry 43,
8 isn't that right?
- 9 A. Yes.
- 11:02:09 10 Q. 105 Now, the total amount of the payments that are so recorded in handwriting
11 on the document come to 100,000 pounds, isn't that right?
- 12 A. Yes.
- 13 Q. 106 That is the 60, the 20, the 10 and the 10, isn't that right?
- 14 A. That's right.
- 11:02:22 15 Q. 107 And within the composition of the payments that we know, in other words we
16 know according to your evidence what happened to them, you have two
17 payments to a senior politician namely Mr. Lawlor, totalling 30,000
18 pounds, isn't that right?
- 19 A. Yes.
- 11:02:34 20 Q. 108 You have a payment to Mr. Colm McGrath of 20,000 pounds which brings us to
21 50,000, isn't that right?
- 22 A. Yeah.
- 23 Q. 109 There is a payment of 5,000 pounds to Mr. O'Halloran which brings us to
24 55,000 pounds, isn't that right?
- 11:02:46 25 A. Yes.
- 26 Q. 110 Out of the balance there are two 10,000s; one where Mr. Ambrose Kelly
27 cashes as cheque for you for 10 and the other where you pay Quarryvale
28 expenses for 10, for which there is no receipts, isn't that right?
- 29 A. Yes.
- 11:03:01 30 Q. 111 And the final payment is the 25,000 pounds to Mr. Dunlop in September?

11:03:09 1 A. That 25 was for Quarryvale as well, wasn't it? Yes.

2 Q. 112 The 25,000 pounds to Mr. Dunlop was on foot of an invoice I think in
3 fairness to yourself, Mr. O'Callaghan, that was a stadium invoice?

4 A. The last stadium invoice, yes.

11:03:22 5 Q. 113 Not Quarryvale.

6 A. Yes.

7 Q. 114 10118 please?

8 A. Yes, the final stadium invoice.

9 Q. 115 Isn't that right?

11:03:29 10 A. Yes.

11 Q. 116 So if we go back then to page 10171 please, and just highlight the
12 handwritten notations at the side again and if that could be increased
13 please. Within that amount of 100,000 pounds, Mr. O'Callaghan, that is so
14 recorded, there are no invoices for the Ambrose Kelly 10,000 pounds
11:04:10 15 cashing of the cheque, isn't that right?

16 A. Oh no, there couldn't be.

17 Q. 117 There is no invoices in relation to the 10,000 pounds that's paid to
18 Mr. Lawlor?

19 A. No.

11:04:11 20 Q. 118 There is no invoices in relation to the 20,000 pounds that's paid to
21 Mr. Lawlor?

22 A. Correct.

23 Q. 119 Insofar as the 60,000 pounds is concerned there is no invoice in relation
24 to the 20,000 pounds paid to Mr. McGrath?

11:04:24 25 A. Yes.

26 Q. 120 There is no invoice in relation to the 5,000 pounds there are paid to
27 Mr. O'Halloran?

28 A. Yes.

29 Q. 121 There is no invoice in relation to the 10,000 pounds paid to you for
11:04:34 30 general expenses Quarryvale, isn't that right?

- 11:04:36 1 A. Correct.
- 2 Q. 122 And do you say that there was an invoice for the 25,000 pounds from Mr.
- 3 Dunlop?
- 4 A. We saw it there, yes.
- 11:04:44 5 Q. 123 Yes. If Ms. Cowhig is correct in what she says in her evidence, the
- 6 reason that she moved the 60,000 pounds into director's drawings is
- 7 because there were no invoices?
- 8 A. Yes.
- 9 Q. 124 Right. If she is correct in that how could it be, Mr. O'Callaghan, that
- 11:05:02 10 there was no invoice for the Dunlop 25,000 pounds?
- 11 A. There was an invoice for the Dunlop 25,000 pounds.
- 12 Q. 125 Yes. Can you explain why, if there was an invoice for the Dunlop 25,000
- 13 pounds it was added to the other payments for which there was no invoice
- 14 and treated as this 60,000 pounds was treated?
- 11:05:23 15 A. No, I can't, I don't know why she says that, because there was an invoice
- 16 for the 25,000 pounds, as simple as that.
- 17 Q. 126 It was a stadium invoice, isn't that right?
- 18 A. The one we just discussed, the last stadium invoice.
- 19 Q. 127 Yes, I have shown you that stadium invoice, isn't that right?
- 11:05:38 20 A. That's correct, yeah.
- 21 Q. 128 And at this time do you agree with me that there was a, there was also
- 22 Clondalkin purchases in the audited accounts, in other words the work in
- 23 progress in the stadium had not been written down completely, is that
- 24 right?
- 11:05:52 25 A. Yes, at the time.
- 26 Q. 129 And if there was a stadium invoice for 25,000 pounds from Mr. Dunlop I
- 27 would suggest to you, Mr. O'Callaghan, that the proper place to account
- 28 for that was in the work in progress in the stadium.
- 29 A. Yes.
- 11:06:05 30 Q. 130 Yes. If that is so why is it added to the other invoices for which, the

11:06:11 1 other payments for which there are no invoices and put into director's
2 loan?

3 A. I can't answer that, but quite simply that 25,000 pounds as you have just
4 shown on the screen there, the last invoice for the stadium, the figure
11:06:24 5 was 95,000 pounds, 70 plus 25 that's the invoice, that invoice was
6 produced, if Ms. Cowhig has had a different version, I don't understand
7 it, I don't know why she has.

8 Q. 131 Is it your position then that if the criteria for moving these four
9 transactions out of the Barkhill loan and into director's loan was the
11:06:46 10 absence of invoices that should not have included the 25,000 pounds?

11 A. That wasn't a criteria alone for, after the invoices.

12 Q. 132 I think that what Ms. Cowhig said?

13 A. Criteria for work in progress in the stadium was a different criteria
14 because the bank wouldn't pay those fees.

11:07:09 15 Q. 133 No Ms. Cowhig was asked, Mr. O'Callaghan, why it was that she moved the
16 60,000 out of the stadium and into -- I beg your pardon, why she moved it
17 in the way she did, in other words, why did she take it out of Barkhill
18 loan and put it into directors drawings?

19 A. I understand all that and I agree with what she said, but I don't agree
11:07:30 20 with the fact she didn't have a invoice for the 25,000 pounds for Frank
21 Dunlop for the stadium, because she had it.

22 Q. 134 So is it your position then if she had an invoice for the 25,000 pound you
23 can't explain why she put it with the other transactions for which there
24 clearly were no invoices?

11:07:48 25 A. I can't explain it, she obviously had a reason but the reason is not that
26 she didn't have an invoice.

27 Q. 135 I am going to have that checked in fairness --

28 A. Please, certainly had an invoice, I can't say what her reason was, I think
29 I heard it discussed before but I can't remember what the reason was, but
11:08:05 30 she certainly had an invoice, there's no question about that.

- 11:08:24 1 Q. 136 What she said, Mr. O'Callaghan, was that she a conversation with Mr. Deane
2 that Mr. Deane didn't come to her, she went to him, she had heard about an
3 outside investor and she went to Mr. Deane in relation to two payments to
4 Mr. Lawlor, and at the same time she said to Mr. Deane, look there are
11:08:40 5 expenses in the prior year with which there will be similar problems and
6 they will all end up in the director's loan account. And the problems
7 that she had identified is that there weren't any invoices. Now, I will
8 check that again, Mr. O'Callaghan, in fairness to you in case I made a
9 mistake in relation to it, but the thrust of her evidence appeared to me
11:09:05 10 to be that what she was saying was that the reason she moved out the
11 60,000 was because of a concern that it suffered from the same frailties
12 as the two payments to Mr. Lawlor which she picked up in that year, namely
13 that there were no invoices?
14 A. I understand that and I repeat she an invoice for the 25,000 pounds.
- 11:09:24 15 Q. 137 In any event, is it your position that if she did have an invoice for the
16 stadium payment of 25,000 pounds to Mr. Dunlop you can't explain why she
17 added it to the other three payments for which you accept that there were
18 no invoices?
19 A. Yeah I find it hard to explain that, the only reason I can think of is
11:09:42 20 that because she was concerned again because it was a stadium invoice,
21 that she felt if there was, and there was an investor on the wings at the
22 time, Grosvenor, that she would have felt that the stadium invoice would
23 be -- that Deloitte & Touche would have disagreed with that invoice.
24 That's the only reason I can think of but she had an invoice.
- 11:10:04 25 Q. 138 Certainly you would agree I think, Mr. O'Callaghan, for the audit for the
26 year end April '94 there was no concern in Riga, that is either with
27 Ms. Cowhig, Mr. Deane or yourself, but that the four payments were
28 properly attributed to the Barkhill loan, isn't that right?
29 A. Yes.
- 11:10:18 30 Q. 139 There was no concern demonstrated by the three of you, in relation to the

11:10:23 1 attribution of those four payments being the payment to Mr. McGrath the
2 expenses to yourself, to Mr. Dunlop and to Mr. O'Halloran but that they
3 were correctly attributed to the Barkhill loan, isn't that right?

4 A. That would be correct.

11:10:34 5 Q. 140 The concern in relation to those payments arose in the following year,
6 when Ms. Cowhig came to consider the two, what are described as cash
7 payments to Mr. Lawlor, isn't that right?

8 A. Yes.

9 Q. 141 And her concern arose because of an absence of invoices and the existence
11:10:50 10 of an independent investor who might be considering investing in Barkhill,
11 isn't that right?

12 A. Yes.

13 Q. 142 And that any such investor would pick up on the particular payments in the
14 year end '94 that she had identified and she moved them out of the
11:11:05 15 Barkhill loan and into the director's loan, isn't that right?

16 A. Possibly picked up on the stadium invoice as well.

17 Q. 143 Right.

18
19 MR. LUCEY: I think in fact in day 872, Ms. Cowhig dealt with that and she
11:11:18 20 said there was an invoice of that nature from Mr. Dunlop but that it was a
21 stadium invoice and that's why it was treated in that fashion, it's day
22 872 page 105 question 745.

23

24 CHAIRMAN: Can we see that?

11:12:06 25

26 MR. LUCEY: Question 745.

27

28 MS. DILLON: Yes. I think that's correct, if we look at question 760

29 also, this is where Ms. Deane (sic) is giving her a conversation with

11:12:49 30 Mr. Deane and she says at question 761, I have been trying to paraphrase

11:12:57 1 what she had said "I actually new from some conversation that there was
2 going to be an outside investor. So when I actually saw there was two
3 payments to Liam Lawlor for work done in relation to Quarryvale that had
4 no invoices I knew this was going to be a problem, so I pointed that out
11:13:11 5 to John Deane and at the same time I said, look there are expenses in the
6 prior year and there will be similar problems with and they will all end
7 up in the director's loan account".
8

9 That was the point I was trying to make to you, Mr. O'Callaghan, probably
11:13:24 10 not very clearly, is that Ms. Cowhig in her evidence appeared to describe
11 the four payments amounting to the 60,000 pounds in the same way as the
12 Lawlor payments, in other words that they had no invoices and that that
13 was her thinking in moving out the 60,000, do you understand?

14 A. Yes.

11:13:39 15 Q. 144 And it was, obviously I hadn't doing it very clearly, but it was because
16 of her connection between the two Lawlor payments and then the four other
17 payments which it is clear she did move out of the Barkhill loan, isn't
18 that right?

19 A. Yes.

11:13:54 20 Q. 145 I think her reasoning for that arose as a result of a matter she had
21 initially raised with Mr. Deane, namely the two Lawlor payments, and then
22 following on from that she appears to have told Mr. Deane that there were
23 other payments in the prior year, which were to be treated in a similar
24 fashion, isn't that right?

11:14:12 25 A. Yes. But that did not include -- she didn't say that, that the Frank
26 Dunlop invoice that she didn't have a Frank Dunlop invoice for the
27 stadium.

28 Q. 146 No but what I was putting to you is that what she did with the Mr. Dunlop
29 payment of 60,000 pounds was the same that she had done for all of the
11:14:29 30 payments for which there were no invoices, isn't that right?

- 11:14:32 1 A. That's right, that's what she did, yes.
- 2 Q. 147 And her thinking, if it is correct, as is outlined on question 761 appears
- 3 to be that she became alert to a problem with the Liam Lawlor invoices,
- 4 went to Mr. Deane and said there was a problem in the prior year, with
- 11:14:50 5 similar ones because there was an outside investor and she moved out the
- 6 60,000, which included the Dunlop payment?
- 7 A. 25. Which she had an invoice for.
- 8 Q. 148 Yes and she did say that she had an invoice for it, isn't that right?
- 9 A. Yes.
- 11:15:04 10 Q. 149 But she treats it in the same way as what I am putting to you, as the
- 11 other payments including the political payments, isn't that right?
- 12 A. She does and I think the reason is because it was a stadium payment.
- 13 Q. 150 Yes. But I think it is the case that she didn't attribute it to the work
- 14 in progress stadium, isn't that right?
- 11:15:22 15 A. I can't be sure of that.
- 16 Q. 151 I think that is the position. Again subject to checking, Ms. O'Raw can
- 17 check that, but I think that that wasn't attributed, but the point that I
- 18 am making to you, Mr. O'Callaghan, that in the conversation that took
- 19 place between Mr. Deane and Ms. Cowhig that led to the 60,000 being moved
- 11:15:40 20 out, what are grouped together in that conversation are three clear cash
- 21 payments namely the payment to Mr. McGrath, the payment to Mr. O'Halloran
- 22 and the payment of expenses to you, isn't that right?
- 23 A. Sorry the three cash payments.
- 24 Q. 152 Yes.
- 11:15:57 25 A. McGrath was not a cash payment.
- 26 Q. 153 It was made by cheque but it is in effect a cash payment because there is
- 27 no invoice for it, isn't that right?
- 28 A. Yes.
- 29 Q. 154 Mr. O'Halloran's is the same?
- 11:16:07 30 A. Yes.

11:16:07 1 Q. 155 And then the payment of expenses to you?
2 A. Yes.
3 Q. 156 And then the 25,000 pounds also grouped with those three?
4 A. Grouped with them, yes.
11:16:14 5 Q. 157 Isn't that right? And I am simply putting it to you, Mr. O'Callaghan,
6 that there had to be a similarity because the four payments for them all
7 to be grouped together, do you understand what I mean?
8 A. Yes.
9 Q. 158 Right. And when the decision was made to take them out of the Barkhill
11:16:28 10 loan and put them into the director's loan, three of those transactions
11 are payments for which there is no paper record or invoice in existence,
12 isn't that right?
13 A. Yes.
14 Q. 159 One of them is the payment that is made to Mr. Dunlop in September of
11:16:43 15 1993, isn't that right?
16 A. Yes.
17 Q. 160 On foot of the invoice?
18 A. Yes.
19 Q. 161 For the stadium, isn't that the position?
11:16:49 20 A. That's it.
21 Q. 162 And which payment is cashed and for which?
22 A. Which payment is what?
23 Q. 163 Cashed by Mr. Dunlop.
24 A. Sorry, yes.
11:16:56 25 Q. 164 Isn't that right, and for which Mr. Dunlop can provide no explanation to
26 the Tribunal for of what he did with the proceeds, isn't that right?
27 A. Well, yes, I don't know about that.
28
29 JUDGE FAHERTY: I understand, just for clarification, Ms. Dillon, my
11:17:06 30 recollection is that the payment of the 25,000 to Mr. Dunlop in September

11:17:10 1 '93 was to Mr. Dunlop personally on the cheque
2
3 MS. DILLON: That is correct.
4
11:17:15 5 JUDGE FAHERTY: That's the payment we are talking about?
6
7 MS. DILLON: The payment is a payment --
8
9 JUDGE FAHERTY: I any fairness that should be, when you are summing up the
11:17:24 10 situation for Mr. O'Callaghan.
11
12 Q. 165 MS. DILLON: Mr. O'Callaghan, Judge Faherty is correct in that 14228, the
13 point that Judge Faherty makes, Mr. O'Callaghan, is that this is not a
14 cheque made payable to Frank Dunlop & Associates, isn't that right?
11:17:45 15 A. Yes.
16 Q. 166 It's a payment that's made to out to Frank Dunlop personally, isn't that
17 right?
18 A. Yes.
19 Q. 167 Although at 10118, the invoice was from Frank Dunlop & Associates, isn't
11:17:57 20 that right?
21 A. Yes.
22 Q. 168 And therefore when Judge Faherty makes the point to you at 14228, that in
23 fact it's a cheque personally to Mr. Dunlop, that in fact is the position,
24 isn't that right?
11:18:09 25 A. That has no significance at all actually, none whatsoever, I don't know
26 why, Judge, I don't know why the full title isn't in there it has no
27 significance at all.
28 Q. 169 But you must agree, Mr. O'Callaghan, that the cheque on it's face records
29 a personal payment to Mr. Dunlop and not a payment to his company, isn't
11:18:25 30 that the position?

11:18:26 1 A. Oh, yes.

2 Q. 170 Now, did you have any discussion with Ms. Cowhig about that transaction

3 that she carried out of moving the 60,000 out?

4 A. No I'm afraid not, I wasn't consulted even.

11:18:47 5 Q. 171 Is that a matter then which was conducted between Mr. Deane and

6 Ms. Cowhig?

7 A. Oh, yes.

8 Q. 172 Right. But you agree that you would have been the person who would have

9 given the initial information to allow all of those transactions be

11:18:59 10 written up in the relevant cheque payments book?

11 A. Yes, absolutely.

12 Q. 173 Now, I think that the -- in October of 1993 there was a meeting at 10256

13 which again was not attended I think by Mr. Gilmartin, isn't that right?

14 A. Yes.

11:19:20 15 Q. 174 And at 10253, this was the meeting at which Deloitte & Touche were asked

16 to attend to go over the audited accounts, isn't that right, this is the

17 audited accounts for the year end April 1992, isn't that right, this is

18 the first audit period, Mr. O'Callaghan?

19 A. Yes.

11:19:43 20 Q. 175 Right. There were, in the year end April 1992, was the year dealing with

21 the first three Shefran payments, isn't that right?

22 A. Yes.

23 Q. 176 And there was also the payment to Mr. Lawlor and Mr. McGrath that were

24 ultimately attributed to Mr. Gilmartin's own account, isn't that right?

11:20:00 25 A. Yes.

26 Q. 177 So in -- they are the, that is the period that was being considered at the

27 meeting that took place on the 13th of October of 1993, isn't that right?

28 A. Yes.

29 Q. 178 Now, I think that the, there was agreement in general at that meeting that

11:20:19 30 after some detailed discussion that the accounts would have to be signed

- 11:20:24 1 off by the directors, but effectively there was no great dispute between
2 the people who were present at the meeting about the content of the
3 accounts, do you agree with that?
- 4 A. Yes.
- 11:20:34 5 Q. 179 There was a discussion about how one was to write up the carrying value of
6 Barkhill, in other words how one was to attribute the level of debt that
7 Barkhill was carrying, isn't that right?
- 8 A. That's right.
- 9 Q. 180 And that is described at 10265 by Mr. Fleming in his note as being
11:20:51 10 something I think that took up a great deal of discussion, isn't that
11 right, the valuation of the properties and how they were to be valued,
12 isn't that right?
- 13 A. Yes.
- 14 Q. 181 Now Mr. Fleming in his evidence to the Tribunal, told the Tribunal that he
11:21:05 15 didn't remember any dispute or disagreement at the meeting between the
16 people who were present at the meeting about the accounts, do you agree
17 with that?
- 18 A. Well, I don't recollect any dispute either.
- 19 Q. 182 Yes, and that he didn't remember there being any heated exchange or
11:21:23 20 discussion or dispute arising from a consideration of any element of the
21 account, does that accord with your recollection?
- 22 A. To the best of my knowledge, yes, I don't there was any --
- 23 Q. 183 Mr. Fleming also told the Tribunal that he does not believe that he ever
24 saw any of the Shefran invoices for 1991 and I think you don't dispute
11:21:40 25 that, Mr. O'Callaghan, is that right?
- 26 A. Yes. That's right.
- 27 Q. 184 Now, I think that the, these accounts were prepared and I think on the
28 11th November 1993 at 10378 were sent out for signature, isn't that right,
29 these were sent initially to Seamus Maguire?
- 11:21:58 30 A. Yes.

- 11:21:59 1 Q. 185 And they weren't signed until early 1994, isn't that the position?
2 A. Yes.
3 Q. 186 Right. I will come back to deal with the signature of those. Now, also
4 after the discussion with the auditors had taken place at 10256, some four
11:22:20 5 up from the bottom, "the meeting was advised that on the 21st October the
6 zoning confirmation will go through the council and no problems are
7 expected", isn't that right?
8 A. Yes.
9 Q. 187 And then it dealt with objections, isn't that the position?
11:22:35 10 A. Yes.
11 Q. 188 And also there is reference in the last part at 10257 to Connell Wilson,
12 and the fact that there were proceedings being defended in England which I
13 think we referred to yesterday, which had been brought by Connell Wilson
14 against Barkhill, isn't that right?
11:22:52 15 A. That's correct.
16 Q. 189 Now, I think the matter came before the council on the 19th October and
17 again I think the written statement came before the council on the 16th
18 November and was passed, isn't that right?
19 A. Yes.
11:23:09 20 Q. 190 And there was no difficulty or problem as you had anticipated, isn't that
21 right?
22 A. Yes.
23 Q. 191 In other words, the support remained in place. And subsequent to that, as
24 we have seen on the 9th November 1993 you made the two payments, one to
11:23:24 25 Mr. O'Halloran and one to Mr. McGrath, one of 5,000 and one of 20,000,
26 isn't that right?
27 A. Yes.
28 Q. 192 The 20,000 you believe was a payment or effectively a loan to Mr. McGrath?
29 A. Yes.
11:23:37 30 Q. 193 Although it was never recorded as such, isn't that right?

- 11:23:41 1 A. Yes.
- 2 Q. 194 All right. Now at the same time on the 10th November 1993,
3 Mr. O'Callaghan, at 10344, there is an entry on the 10th November in Mr.
4 Dunlop's diary for 9.30 to 1 o'clock, Owen O'C, do you see that?
- 11:24:02 5 A. Yes.
- 6 Q. 195 Beneath that what appears to be an entry "GH" and phone number "5924668"
7 do you see that?
- 8 A. Yes.
- 9 Q. 196 And some scribblings beneath that.
- 11:24:13 10 A. Yes.
- 11 Q. 197 You will know from the evidence that was given in the course of the
12 Tribunal after that was forensically examined, if I could have page 25645
13 that what in fact had been written beneath that, before it was altered by
14 Mr. Dunlop was "LL one and a half" and beneath that "one ready and again
11:24:35 15 beneath that half cheque" do you see that?
- 16 A. Yes, I see it.
- 17 Q. 198 You may take it I think, Mr. O'Callaghan, that that in fact was what was
18 originally written there before it was altered by Mr. Dunlop?
- 19 A. Yes.
- 11:24:53 20 Q. 199 Now, Mr. Dunlop can't offer any explanation to the Tribunal as to why he
21 had altered the entry other than he did alter the entry, isn't that right?
- 22 A. Yes, probably.
- 23 Q. 200 If we go back to look at 10344, you would agree with me I think,
24 Mr. O'Callaghan, that when Mr. Dunlop made the alteration he, it was a
11:25:15 25 deliberate alteration to mislead who was going to look at the diary, isn't
26 that right?
- 27 A. Yes.
- 28 Q. 201 And therefore it had to be something that was done by Mr. Dunlop not for
29 himself but for somebody else that was going to read the diary, is that
11:25:28 30 right?

11:25:28 1 A. Yes.

2 Q. 202 And that wasn't you I suggest to you, Mr. O'Callaghan, it was much more
3 likely to be the only other people whoever ever interested in Mr. Dunlop's
4 diary, namely the Tribunal, is that right?

11:25:39 5 A. Oh, yes.

6 Q. 203 Now, on the 9th November which is the day before this transaction is
7 recorded in Mr. Dunlop's diary, the two cheques are written to Mr. McGrath
8 and Mr. O'Halloran.

9 A. Yes.

11:25:49 10 Q. 204 On the 9th, then on the 10th of November the entry is made in relation to
11 "LL one and a half, one ready and half cheque".

12 A. Yes.

13 Q. 205 Now, do you have any assistance to offer the Tribunal in relation to any
14 financial transaction that you might have discussed in the first instance
11:26:09 15 with Mr. Lawlor on the 10th November 1993?

16 A. Absolutely none.

17 Q. 206 Do you agree that the financial transaction that was altered by Mr. Dunlop
18 is recorded in the diary as occurring at a period in which you are with
19 Mr. O'Callaghan (sic)?

11:26:28 20 A. I am with --

21 Q. 207 You are with Mr. Dunlop, I beg your pardon.

22 A. Yes.

23 Q. 208 Right.

24 A. Yes, if I was there, it looks very much as if I was there. I don't
11:26:37 25 recollect that but it looks as if I was in the office, yes.

26 Q. 209 Well if you were in the -- if you were with Mr. Dunlop on the 10th
27 November, Mr. O'Callaghan, do you remember having a meeting around that
28 time with Mr. Mr. Lawlor?

29 A. No I can't recollect -- I can't recollect, I met Mr. Lawlor very rarely in
11:27:02 30 Frank Dunlop's office, so I don't recollect that at all, and I haven't a

- 11:27:06 1 notion what he was talking about.
- 2 Q. 210 From the second day of Mr. Dunlop's public evidence to the Tribunal and
- 3 while names weren't disclosed, Mr. Dunlop told the Tribunal albeit in
- 4 public session, where the names weren't revealed of significant payments
- 11:27:23 5 being made by him to Mr. Lawlor?
- 6 A. Yes.
- 7 Q. 211 And you will have seen, Mr. O'Callaghan, in the documentation that has
- 8 been circulated that the level of payments that Mr. Dunlop says he made to
- 9 Lawlor, is that right?
- 11:27:36 10 A. Total surprise, yes indeed, yes.
- 11 Q. 212 Yes. Would you agree with me there then from the beginning of Mr.
- 12 Dunlop's attempt to provide comprehensive evidence to the Tribunal he was
- 13 happy to make disclosure of payments he said he had made to Mr. Lawlor?
- 14 A. Yes.
- 11:27:52 15 Q. 213 And there wouldn't therefore have been any reason for Mr. Dunlop for his
- 16 own benefit to have obscured in his diary reference to a financial
- 17 transaction to Mr. Lawlor, isn't that right?
- 18 A. No.
- 19 Q. 214 Particularly circumstances where he had told the Tribunal prior to
- 11:28:07 20 providing these diaries to the Tribunal that he had paid 40,000 pounds to
- 21 Mr. Lawlor in 1991 and another 25,000 pounds later, isn't that right?
- 22 A. Yes.
- 23 Q. 215 So it would be hard I suggest to you, to think of a reason why Mr. Dunlop
- 24 would be concerned to hide from the Tribunal reference to a financial
- 11:28:28 25 transaction involving Mr. Lawlor, isn't that right?
- 26 A. That's right.
- 27 Q. 216 Is it possible that what Mr. Dunlop was doing when he made the alteration
- 28 to the diary, prior to giving it to the Tribunal is that he was protecting
- 29 you, Mr. O'Callaghan, because the entry was made close to your name?
- 11:28:46 30 A. Couldn't have been. It couldn't have been. You see as I said, out of the

11:28:50 1 question that, because as I said before Frank Dunlop and Liam Lawlor must
2 have had their own arrangement which was not aware of, I have read what I
3 have read in the past, in the Tribunal, they must have had some
4 arrangement, commercial arrangement between them which I was certainly not
11:29:06 5 privy to at any particular stage. In fact, I think I mentioned to you
6 that, again only very recently that both people were very close to each
7 other and I was kept well outside that circle. I haven't a notion what
8 that is all about, it doesn't make any sense to me at all, it just doesn't
9 make sense what's written there, I have no answer or I can't even guess an
11:29:28 10 answer.

11 Q. 217 Mr. O'Callaghan, can I put it, the following to you, in the first instance
12 it's clear that your name is in the diary, isn't that right?

13 A. Oh, yes.

14 Q. 218 Right. And it is also clear that initially when Mr. Dunlop made the
11:29:42 15 entries in or around November 10th he recorded a financial transaction
16 involving Mr. Lawlor, isn't that right?

17 A. Yes.

18 Q. 219 And do you agree with me that he subsequently, he didn't obliterate it but
19 he altered it, isn't that right?

11:30:01 20 A. Yes.

21 Q. 220 Now, you will know and you have seen the documentation in the brief, such
22 as 2335, where Mr. Dunlop gave up to the Tribunal a copy of an invoice he
23 got from Mr. Lawlor in the heading Ganly International Limited and on foot
24 of which he paid Mr. Lawlor, he says in February of 1997, isn't that
11:30:21 25 right, you see there is a little notation at the bottom in Mr. Dunlop's
26 handwriting?

27 A. Yes.

28 Q. 221 Right.

29 A. I see it there.

11:30:32 30 Q. 222 When Mr. Dunlop gave evidence to the Tribunal in April of 2000,

- 11:30:36 1 Mr. O'Callaghan, if I have 10344 again please, he identified Mr. Lawlor as
2 being a person who had received at least 40,000 pounds and indeed figures
3 of more than that from Mr. Dunlop, isn't that right?
- 4 A. Yes.
- 11:30:54 5 Q. 223 Right. So can I ask you, sorry you must agree I think, Mr. O'Callaghan,
6 then that Mr. Dunlop vis-a-vis the Tribunal had no difficulty in giving
7 the Tribunal information about payments made to Mr. Lawlor by Mr. Dunlop,
8 isn't that right?
- 9 A. That's right. Yes.
- 11:31:10 10 Q. 224 And he has done so in his direct evidence here in Quarryvale and indeed in
11 other modules, isn't that right?
- 12 A. Yes.
- 13 Q. 225 And the, in fact I think the total amount of money that Mr. Dunlop has
14 told the Tribunal he paid to Mr. Dunlop was of the order of 140,000 pounds
11:31:26 15 or thereabouts?
- 16 A. Yes. I heard that figure, yes.
- 17 Q. 226 Now, assuming for the moment that Mr. Dunlop is correct in relation to
18 that, Mr. Dunlop could have had no reason to conceal from the Tribunal a
19 financial transaction that related only to himself and to Mr. Lawlor,
11:31:42 20 isn't that right?
- 21 A. Yes.
- 22 Q. 227 And indeed he didn't do so in others where we have seen for far greater
23 sums of 25,000, he gave the documentation to the Tribunal, isn't that
24 right?
- 11:31:52 25 A. Yes.
- 26 Q. 228 Right. In this entry, Mr. O'Callaghan, is it possible that what happened
27 here is that you made an arrangement with Mr. Lawlor to make a payment to
28 Mr. Lawlor which was recorded by Mr. Dunlop in his diary?
- 29 A. Not at all.
- 11:32:09 30 Q. 229 That's not possible?

- 11:32:10 1 A. Not at all.
- 2 Q. 230 Is it possible then that Mr. Dunlop might have been anxious to protect you
3 from scrutiny from the Tribunal by obliterating the entry that related to
4 Mr. Lawlor which was beside your name in the diary, is that --
- 11:32:26 5 A. He has no reason for that because there was no arrangement.
- 6 Q. 231 Yes, I think we have seen at 9990 earlier, in August of 1993, this entry,
7 which we had previously looked at, Mr. O'Callaghan, isn't that right?
- 8 A. Yes.
- 9 Q. 232 In which is the one where you discussed the retainer of two and a half
11:32:55 10 thousand pounds which is recorded by Mr. Dunlop, isn't that right?
- 11 A. Yes.
- 12 Q. 233 And you don't dispute that what Mr. Dunlop has recorded there is accurate,
13 isn't that the position?
- 14 A. What is that, sorry?
- 11:33:04 15 Q. 234 It reads "Discussed fees with OOC and agreed 2,500 per month until end of
16 December total 10" in fact I think we have seen those invoices?
- 17 A. I agree.
- 18 Q. 235 You have agreed what is recorded is accurate?
- 19 A. That is correct. Yes.
- 11:33:18 20 Q. 236 And immediately beneath your initials "OOC" if we look at 25056, what had
21 originally been recorded was "LL OOC" and what was obliterated at 9990 was
22 the presence of Mr. Lawlor, do you see that, Mr. O'Callaghan?
- 23 A. Yes.
- 24 Q. 237 If you take that in conjunction, if we could put up 10344 please together
11:33:56 25 with 9990 on screen? Do you agree with me, if they can be left as they
26 are -- do you agree with me, Mr. O'Callaghan, that both of those
27 originally recorded Mr. Lawlor as being present or having an involvement?
- 28 A. Yes.
- 29 Q. 238 Right. And do you agree with me that in one instance one is obliterated,
11:34:29 30 namely the 25th August and in the other instance it's altered?

- 11:34:33 1 A. Yes.
- 2 Q. 239 Right. And that in both cases what is being hidden or concealed by Mr.
3 Dunlop is the fact that Mr. Lawlor was present or had an involvement with
4 you in a financial transaction at which Mr. Dunlop was also involved?
- 11:34:49 5 A. Yes.
- 6 Q. 240 Right. And therefore if you are not involved in the financial transaction
7 with Mr. Lawlor as you have told the Tribunal, can I put it to you that
8 what Mr. Dunlop is doing is concealing from the Tribunal Mr. Lawlor's
9 involvement with you?
- 11:35:03 10 A. Could be, yes.
- 11 Q. 241 Yes. And can you think, Mr. O'Callaghan, of any reason why Mr. Dunlop
12 would be minded to protect you in that fashion?
- 13 A. Absolutely none. First of all those meetings might haven't have taken
14 place at all even though they are in Frank Dunlop's diary.
- 11:35:21 15 Q. 242 I beg your pardon?
- 16 A. Those meetings mightn't have taken place at all even those they are in the
17 diary I can't recollect any of those meetings. And my involvement with
18 Frank Dunlop and Liam Lawlor was extremely limited. I very rarely met
19 both of them together. I don't understand that, I have no recollection of
20 that, there was no reason at all for Frank Dunlop to do what he did there,
21 it doesn't make sense to me. Maybe he was hoping, I am totally guessing,
22 but that he if he met me himself and Liam Lawlor would discuss something
23 with me, that's all I can guess.
- 24 Q. 243 You misunderstand me, Mr. O'Callaghan, I am not concerned with what Mr.
11:35:57 25 Dunlop had originally put in his diary, I am trying to get to you assist
26 the Tribunal as to the reason why Mr. Dunlop would have obliterated it or
27 why he would have altered it before he gave it to the Tribunal, do you
28 understand?
- 29 A. In my opinion there is absolutely no reason, I just cannot understand it,
11:36:13 30 sorry I can't be any more helpful than that, I don't know what it's all

11:36:17 1 about.

2 Q. 244 But if you agree with me and I think do you, Mr. O'Callaghan, that in fact

3 what is being concealed by Mr. Dunlop is Mr. Lawlor's presence or

4 involvement?

11:36:25 5 A. Yes.

6 Q. 245 In matters involving yourself, can I ask you did you ever have any

7 discussion with Mr. Dunlop after, at any stage, in which you had a

8 discussion him about concealing Mr. Lawlor's involvement with you?

9 A. Oh sorry.

11:36:44 10 Q. 246 From the Tribunal?

11 A. Never, never.

12 Q. 247 Therefore if Mr. Dunlop did this, in order to disguise from the Tribunal

13 the fact that Mr. Lawlor was present or attended at meetings at which you

14 were present this is something that Mr. Dunlop has done of his own

11:36:57 15 volition?

16 A. Absolutely.

17 Q. 248 And it is not something that he ever did at any request made, either by

18 you or by anybody else on your behalf?

19 A. Not at all, I never even discussed or mentioned, I don't know what this is

11:37:09 20 all about.

21 Q. 249 Did Mr. Dunlop ever approach you, Mr. O'Callaghan, about this?

22 A. No.

23 Q. 250 No. And looking at the documentation that's recorded, that's on screen,

24 Mr. O'Callaghan, do you agree with me that the net result of those two

11:37:25 25 alterations or the obliteration was to conceal from the Tribunal the fact

26 that Mr. Lawlor was present or was recorded in a financial transaction?

27 A. Yes. That's why I can't understand I don't know that is there, yes I

28 agree with you.

29 Q. 251 Right. You know that Mr. Dunlop has been asked about this also and he

11:37:44 30 hasn't been able, while he agrees that he did it, he hasn't been able to

11:37:47 1 provide any reason as to why he would have done so?

2 A. Well I haven't read that I'm afraid.

3 Q. 252 Right. Excuse me one moment, Mr. O'Callaghan. Sorry about that,

4 Mr. O'Callaghan. Now I think that in November of '93, as I have shown

11:38:28 5 you, the accounts went out to be signed I think by the directors and also

6 in December 1993 I think it is the case that the Development Plan was

7 made, isn't that right?

8 A. Yes.

9 Q. 253 And there was also I think discussion about Connell Wilson at a meeting

11:38:44 10 that took place in November of 1993, at 10398, isn't that right? And this

11 was at a time where the proceedings I think were in being, but had not yet

12 been settled, isn't that right?

13 A. Yes.

14 Q. 254 I think also in November of 1993 at 10432, and I think we have dealt with

11:39:06 15 this already, Mr. Dunlop raised an invoice through Frank Dunlop &

16 Associates, which was one of the invoices entitled "costs associate with

17 Quarryvale", and it was one of those for which a breakdown was given,

18 isn't that right?

19 A. Yes.

11:39:21 20 Q. 255 10434, and I think you have agreed that the first figure of four and a

21 half thousand pounds related to hampers for councillors and then the rest

22 of them appear to be connected in some way to councillors, there is

23 references to AD and NO, which is Anne Devitt and Nora Owen, isn't that

24 right, then John O'Halloran, Therese Ridge, isn't that right?

11:39:48 25 A. Yes.

26 Q. 256 And I think that that was paid by Riga, isn't that the position, and

27 written to the Barkhill loan?

28 A. Yes.

29 Q. 257 It was one of those I think which is left within the Barkhill loan and was

11:40:00 30 not moved out by Ms. Cowhig when she came to do her review, isn't that

11:40:04 1 right?

2 A. Yes, I think so, yes.

3 Q. 258 I think that we have seen, at 10440, the analysis of the nominal code with

4 the retainers paid to Mr. Dunlop which totalled 25,756 and I think we saw

11:40:27 5 that that remained in the Barkhill loan when Mr. Dunlop's 25,000 pounds

6 stadium fee was transferred out for the year end '95, isn't that right?

7 A. Yes.

8 Q. 259 I think you agree that that in fact was the position?

9 A. Yes.

11:40:40 10 Q. 260 Now, I think in December, Mr. O'Callaghan, of 1993 funds were provided at

11 10484 to complete the purchase of the Dublin County Council lands, isn't

12 that right?

13 A. Yes.

14 Q. 261 And in this letter from Mr. Maguire he sets out the figure that is due and

11:41:00 15 again at 10483, the new invoice system is in place and authorisation is

16 sought by yourself and Mr. Pitcher, on foot of the documentation, isn't

17 that right?

18 A. Yes.

19 Q. 262 And I think that sale did take place and the sale did close, isn't that

11:41:17 20 right?

21 A. Yes.

22 Q. 263 Now, I think that on the 10th December the 1993 Development Plan was

23 adopted, isn't that the position?

24 A. Yes.

11:41:26 25 Q. 264 And in January of 1994 the council split into three new councils, isn't

26 that right?

27 A. Yes.

28 Q. 265 That was Fingal, Dun Laoghaire/Rathdown and South Dublin, and I think the

29 position in relation to Blanchardstown went into Fingal County Council,

11:41:43 30 isn't that the position?

- 11:41:45 1 A. Yes.
- 2 Q. 266 And you and Quarryvale and the old Neilstown town centre stayed with South
3 Dublin County Council, isn't that right?
- 4 A. Yes.
- 11:41:52 5 Q. 267 Who was the manager in 1994 of South Dublin County Council?
- 6 A. John Fitzgerald.
- 7 Q. 268 For how long was he the manager?
- 8 A. Probably two years, I am guessing now.
- 9 Q. 269 Who was the planning officer, can you remember?
- 11:42:11 10 A. Enda Conway as far as I know, I think, yes.
- 11 Q. 270 Now, I think also in 1994, in December of 1993, before I move on,
12 Mr. O'Callaghan, at 10553, this is the document I think that we dealt with
13 when we were talking about the stadium and it refers to meetings that you
14 were going to have with Mr. Albert Reynolds and Mr. Bertie Ahern, but I
11:42:47 15 just want to take you to the first paragraph in the document where you are
16 dealing with the issue in relation to the planning and it records:
17
18 "They have been in discussion with the planners and it will be late
19 January before any planning permission issues. He is not overly concerned
11:43:01 20 with this process and less concerned with An Bord Pleanala process".
21 Isn't that right?
- 22 A. Yes.
- 23 Q. 271 Isn't that what's recorded?
- 24 A. Yes.
- 11:43:09 25 Q. 272 When you were telling the bank that you weren't concerned with the process
26 was that because you were reasonably optimistic that you will get your
27 planning permission from Dublin County Council?
- 28 A. From the County Council, yes.
- 29 Q. 273 And thereafter if there were to be an appeal and I think it was
11:43:25 30 anticipated that there would be an appeal, isn't that right?

- 11:43:27 1 A. Oh, yes.
- 2 Q. 274 This document records that you were less concerned about the An Bord
3 Pleanala process, is that right?
- 4 A. Yes.
- 11:43:33 5 Q. 275 That would suggest, be it right or wrong, Mr. O'Callaghan, that is correct
6 you would have been reasonably confident from December 1993, that if any
7 matter were to go to the board that you would have a reasonably successful
8 outcome, would that be fair?
- 9 A. Yes, because at that stage the council, we had very good zoning, the
11:43:54 10 Quarryvale would have been designated a district town centre first of all,
11 and secondly even the actual retail floor space was capped and put on it,
12 so we would have two very important decisions taken by the council on
13 properly zoned lands, we know -- well in those days they would have
14 endorsed the local authority position or decision.
- 11:44:17 15 Q. 276 You didn't at the stage you are exercising -- expressing this opinion to
16 the bank, you hadn't in fact received any planning permission, isn't that
17 right?
- 18 A. Oh, yes, we had.
- 19 Q. 277 And I think your planning permission --
- 11:44:29 20 A. Sorry I am talking about the zoning, correct, zoning we got.
- 21 Q. 278 No, with the greatest respect to you, you are talking about planning
22 permission, Mr. O'Callaghan, because it says "They have been in discussion
23 with the planners and it will be late January before any planning
24 permission issues". Isn't that right?
- 11:44:44 25 A. That's correct but with regard to the board I was talking about zoning.
- 26 Q. 279 You couldn't have been talking about zoning because the zoning was already
27 determined, Mr. O'Callaghan, by the council on the 10th December 1993 and
28 the only planning matters that would go before the board would have been
29 planning matters, isn't that right?
- 11:44:58 30 A. But what I am saying is that I was confident of the board decision because

- 11:45:01 1 of the zoning on the site. That's what I meant by that.
- 2 Q. 280 Is that what you meant when you said you were less concerned about the An
3 Bord Pleanala process?
- 4 A. Yes. Because of the zoning we got.
- 11:45:11 5 Q. 281 Now, the matter did, when the planning permission issued it did go before
6 the board, is that right?
- 7 A. Oh, yes it.
- 8 Q. 282 Would you say you had a reasonably successful outcome before the board?
- 9 A. Reasonable, yeah.
- 11:45:24 10 Q. 283 Do you agree that there was a reduction in the financial contributions
11 that had been imposed on you under the planning conditions?
- 12 A. Yes because we appealed then, yes.
- 13 Q. 284 And when the planning permission issued there were a number of conditions
14 attached to the planning mission which I think were analysed by Mr. Benson
11:45:43 15 for Allied Irish Bank, is that right?
- 16 A. Yes, that's right.
- 17 Q. 285 I think indeed Mr. Deane told the bank that they were of the order of 3
18 million, the financial conditions attached to the planning permission,
19 isn't that right?
- 11:45:55 20 A. Yes.
- 21 Q. 286 And do you agree that there was a reduction in the An Bord Pleanala in
22 relation to those financial conditions?
- 23 A. I think there was, yeah.
- 24 Q. 287 And I think that depending on which way you look at it, the minimum
11:46:07 25 reduction was 730,000 pounds, isn't that right?
- 26 A. Yes.
- 27 Q. 288 And then depending on whether you were able to do cheaper what you had
28 been conditioned to do, there would have been further savings, isn't that
29 right?
- 11:46:19 30 A. If we could do it ourselves, yes.

- 11:46:21 1 Q. 289 Some of the conditions that were attached and there are 40 odd conditions
2 attached, required you to either do, not to do certain but required to you
3 make a financial contribution or alternatively could you do the work
4 yourself, isn't that right?
- 11:46:36 5 A. Yes.
- 6 Q. 290 Looking at it, you could decide that it would be cheaper for to you do
7 certain of the works yourself, particularly the road works, isn't that
8 right?
- 9 A. That's correct.
- 11:46:44 10 Q. 291 And I think that ultimately was the route you went down?
- 11 A. Yes.
- 12 Q. 292 So that the savings would have been more substantial at the end of the day
13 by virtue of the decision you took as to whether you were going to go the
14 pay route or the develop route, the do the work yourself route, isn't that
15 right?
- 11:46:59 15 A. Yes, yes.
- 16 Q. 293 But on a straightforward savings, for getting about that for the moment,
17 Mr. O'Callaghan, I think that the conditions, there was a saving of
18 230,000 pounds in a reduction of a figure for 250,000 towards the work in
19 connection Quarryvale which was reduced to 20,000, isn't that right?
- 11:47:17 20 A. I think so, yes.
- 21 Q. 294 And then addition you were required to replace a pedestrian bridge at a
22 cost of half a million?
23
- 24 A. Yes, that's right.
- 11:47:27 25 Q. 295 And I think that was omitted, isn't that right?
- 26 A. Yes.
- 27 Q. 296 By the board between came to deal well it, that saved you half a million
28 pounds, isn't that right?
- 29 A. Yes.
- 11:47:36 30 Q. 297 I think on two other conditions which was 17, 17 had provided for a figure

- 11:47:40 1 of 960,000 pounds to widen the Galway Road, but the board decided 960,000
2 pounds or in lieu, you could you carry out the work, isn't that right?
- 3 A. Yes.
- 4 Q. 298 And under the original permission from the council you hadn't been granted
11:47:53 5 that facility, isn't that right?
- 6 A. Yes.
- 7 Q. 299 But it would be fair to say that that wasn't an unusual condition to put
8 in by the board, isn't that right?
- 9 A. Yes.
- 11:48:02 10 Q. 300 It would be quite normal for the board to suggest that the developer, in
11 lieu of making a financial contribution could carry out the work
12 themselves?
- 13 A. Yes.
- 14 Q. 301 But it would have to be done to the satisfaction of the local authority,
11:48:13 15 isn't that right?
- 16 A. Yes.
- 17 Q. 302 And condition 18 had provided for 620,000 pounds for the provision of
18 additional west bound lane, isn't that right, on the N4?
- 19 A. Yes.
- 11:48:23 20 Q. 303 And the board provided that 620,000 pounds for the provision of that lane
21 or alternatively you could carry out the work at your own expense, isn't
22 that right?
- 23 A. Yes.
- 24 Q. 304 Would you agree that there was a straightforward savings of 730,000 pounds
11:48:36 25 in relation to conditions 16 and 21 of the planning permission that I
26 think was granted on the 13th April '94, isn't that right?
- 27 A. Yes.
- 28 Q. 305 And that, that was a saving that came about as a result of the appeal that
29 you lodged through Mr. Kelly, to An Bord Pleanala following the grant of
11:48:56 30 permission, isn't that right?

- 11:48:57 1 A. Yes.
- 2 Q. 306 And when you told the bank in December of 1993 that you were less
3 concerned with the An Bord Pleanala process, did you have in mind any
4 particular expertise that Mr. Kelly might have had in connection
11:49:11 5 processing an appeal through An Bord Pleanala?
- 6 A. No not really. You didn't have any great expertise in that regard, what
7 it meant really was that because we had proper zoning on the site I felt
8 the board would endorse the council's decision. Even if we got objectors.
- 9 Q. 307 But would it be fair to say that when you appealed and I think did you
11:49:34 10 appeal the decision of Dublin County Council, is that right?
- 11 A. Oh, yes we did. We appealed mainly the contributions.
- 12 Q. 308 You appealed the financial conditions?
- 13 A. They were very strict, very stringent, yeah.
- 14 Q. 309 The financial conditions imposed on were you significant, isn't that
11:49:49 15 right?
- 16 A. Yes, that's right.
- 17 Q. 310 But would you agree when the board gave it's decision on the 29th
18 September 1994 that there had been a substantial saving to you following
19 on the appeal?
- 11:50:00 20 A. Yes.
- 21 Q. 311 Right. Now, I just want to take you through, very briefly,
22 Mr. O'Callaghan, the actual dates in relation to the planning applications
23 and if there is anything you want to disagree with, and I don't anticipate
24 there is, please say so. I think the application was lodged on the 4th
11:50:19 25 August 1993 and we have seen that already, because you sent a cheque for
26 10,000 pounds to Mr. Kelly, isn't that right, as the planning fee?
- 27 A. Yes.
- 28 Q. 312 9949 please. This is the planning application at 9949, isn't that right?
- 29 A. Yes.
- 11:50:33 30 Q. 313 That was accompanied by the planning fee of 10,000 pounds. On the 4th

- 11:50:37 1 November at 10347, information was sought in relation to the EIS, isn't
2 that right?
- 3 A. That's correct.
- 4 Q. 314 On the 14th December '93 at 10552, the members of the South Dublin
11:50:56 5 planning committee recommended a grant of permission, isn't that right?
- 6 A. That's correct.
- 7 Q. 315 And that was councillors O'Halloran, Laing, McGrath, Ridge and Quinn,
8 isn't that right?
- 9 A. Yes.
- 11:51:07 10 Q. 316 And is that a matter you would have discussed with them, Mr. O'Callaghan,
11 prior to that meeting taking place on the 14th December '93?
- 12 A. No, I hadn't discussed it with them at all actually. I wasn't aware that
13 it was actually going to the Council when it did go to the Council.
- 14 Q. 317 Yes. I think it was the decision of the South Dublin planning committee
11:51:26 15 which was the committee that would take up the South Dublin planning come
16 January ever '94, isn't that right?
- 17 A. That's right.
- 18 Q. 318 And I think that on the 22nd December 1994 at 10587, '93, 22nd December
19 '93 the council sought further information, is that right?
- 11:51:50 20 A. That's correct. Yes.
- 21 Q. 319 I think that was provided by Mr. Kelly at 10755, on the 14th February '94,
22 isn't that the position?
- 23 A. Yes.
- 24 Q. 320 And I think on the 13th April, on the 16th February 1994 at 10776, the
11:52:07 25 file was discussed at South Dublin committee meeting, Councillors Ridge,
26 O'Halloran and McGrath recommended that permission would be granted, isn't
27 that right?
- 28 A. Yes.
- 29 Q. 321 And I think that on the 13th April 1994, at 10758 there was a grant of
11:52:26 30 permission by the council subject to a number of conditions I think 45 in

- 11:52:33 1 total, a number of which related to financial contributions, isn't that
2 right?
- 3 A. Yes.
- 4 Q. 322 I think on the 12th May 1994 at 15024, Barkhill appealed the conditions
11:52:49 5 and that that appeal was concerned primarily with the financial
6 contributions that had been levied in the grant, isn't that fair to say?
- 7 A. That's right.
- 8 Q. 323 I think the board made a decision on the 29th September at 11088, I beg
9 your pardon 11399, and permission was granted, isn't that right?
- 11:53:14 10 A. Yes.
- 11 Q. 324 With an alteration in the amount of financial contributions required by
12 you?
- 13 A. Yes.
- 14 Q. 325 Isn't that the position?
- 11:53:21 15 A. Yes.
- 16 Q. 326 Now, I think --
17
- 18 CHAIRMAN: Ms. Dillon it might be convenient time to break for a few
19 minutes
- 11:53:39 20
- 21 MS. DILLON: Yes, sir.
22
- 23 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
24 **AND RESUMED AGAIN AS FOLLOWS:**
- 11:53:44 25
- 26 Q. 327 Good afternoon, Mr. O'Callaghan. I think in January of 1994 that the
27 accounts had been circulated in November of 1993, but they weren't
28 ultimately signed off on I think until the end of January of 1994, isn't
29 that right?
- 12:13:31 30 A. Yes.

- 12:13:31 1 Q. 328 That would --
- 2 A. I think so.
- 3 Q. 329 10698, and at 10699.
- 4 A. Yes.
- 12:13:42 5 Q. 330 They are signed by yourself and by Mr. Gilmartin, isn't that right?
- 6 A. Yes.
- 7 Q. 331 And these were the accounts for the audit period ending in the 30th April
- 8 1992, 10698 please, which was the first audit period, which included the
- 9 1991 payments, isn't that right?
- 12:14:04 10 A. Yes.
- 11 Q. 332 Now, in January of 1994 the council had split and there were going to be
- 12 three councils as we have seen, and I think you telephoned the bank in
- 13 January of 1994 at 10610, isn't that right? And you told the bank in the
- 14 first paragraph, that there was a new planning officer in the new South
- 12:14:29 15 Dublin County Council and they had met the new planning officer in mid
- 16 December and that there was a request for information and that you were
- 17 now effectively dealing with the officials of South Dublin County Council,
- 18 would you agree with that?
- 19 A. Yes.
- 12:14:42 20 Q. 333 Right. And then in the next paragraph you referred to potential anchors
- 21 who had met with you, that were going to meet with you on the 3rd February
- 22 in relation to locating in the Barkhill development, isn't that right?
- 23 A. Yes.
- 24 Q. 334 Right. And then "no commitments would be received from the anchors until
- 12:15:02 25 plans were issued once the planning issued they would be able to start
- 26 firming up on those areas", isn't that right?
- 27 A. Yes.
- 28 Q. 335 And then next point, "he has no concern abouts An Bord Pleanala", isn't
- 29 that right?
- 12:15:12 30 A. Yes.

- 12:15:13 1 Q. 336 Now, if you told the bank that in January 1994, Mr. O'Callaghan, what did
2 you mean by telling the bank that you had no concerns about An Bord
3 Pleanala?
- 4 A. The very same thing, because our zoning was very specific, it had
12:15:29 5 designated the size of the district centre, district town centre and it
6 had actually given us the full retail space that we could build to,
7 250,000 square feet. So, it was more specific, the board wouldn't have
8 any issues to worry about with the exception of traffic which at the time
9 I had overlooked but otherwise it looked as if there were no real
12:15:52 10 decisions for the board to take on board.
- 11 Q. 337 Yes. By January of 1994 your planning permission had not yet issued,
12 isn't that right?
- 13 A. Yes but we had a specific zoning.
- 14 Q. 338 Yes. Your zoning was December in 1993, in order for the matter go to An
12:16:07 15 Bord Pleanala you'd have to get a decision from the council and decide
16 whether or not to appeal?
- 17 A. Yes of course.
- 18 Q. 339 You would have known from the written statement and you would have known
19 from the zoning that the maximum retail that would have been permitted was
12:16:20 20 the 250,000 square feet, isn't that right?
- 21 A. Which meant all that was decided on at this stage.
- 22 Q. 340 So that when you were making your planning application, isn't that right,
23 that would be one of the issues which you would have to address in making
24 the planning application, was that retail element couldn't exceed 250,000
12:16:34 25 square feet, isn't that right?
- 26 A. That's correct.
- 27 Q. 341 Because you would have had to have made the planning application in
28 accordance with the zoning that existed, because if you weren't going to
29 make your planning application in accordance with the zoning that existed
12:16:45 30 you would have had to apply for material contravention, isn't that right?

- 12:16:49 1 A. That is correct. Yes.
- 2 Q. 342 So that in making your planning application to the Council the zoning was
3 already determined, isn't that right, you weren't going for a material
4 contravention, so you were conforming to the zoning that was in existence?
- 12:17:02 5 A. We had a very specific zoning. Yes.
- 6 Q. 343 You had an unusual zoning, a new zoning you had the C and E combined
7 district town centre zoning, isn't that right?
- 8 A. Yes.
- 9 Q. 344 That was the first time that had ever been applied, isn't that the
10 position?
- 11 A. That's correct.
- 12 Q. 345 So insofar as your council, the application to the council was concerned
13 you would have known I assume, Mr. O'Callaghan, that the council would not
14 give you anything that wasn't permitted by your zoning, isn't that right?
- 12:17:27 15 A. Yes.
- 16 Q. 346 And in your discussions with the planners that would have been made clear
17 to you?
- 18 A. Oh, yes.
- 19 Q. 347 It was unlike three you would get anything from An Bord Pleanala that
12:17:36 20 wasn't permitted by the Development Plan?
- 21 A. Absolutely. Yes, yes.
- 22 Q. 348 So when you were considering or discussing making an appeal to An Bord
23 Pleanala it had to be something other than the zoning that you were going
24 to be appealing from an Bord Pleanala, isn't that right?
- 12:17:50 25 A. Yes.
- 26 Q. 349 That would mean depending on the conditions were attached to the planning
27 permission when it would issue, if you had to appeal one of those
28 conditions, they were the matters you would bring before the board, isn't
29 that right?
- 12:18:01 30 A. Yes.

- 12:18:01 1 Q. 350 They would have included not necessarily exclusively but they would have
2 included financial conditions also, isn't that right?
- 3 A. Yes.
- 4 Q. 351 As indeed transpired to be the case, isn't that right?
- 12:18:10 5 A. Yes.
- 6 Q. 352 It was mainly the financial conditions that you appealed, isn't that
7 right?
- 8 A. Yes.
- 9 Q. 353 Would it be fair to say that in January of 1994, as I think you previously
12:18:18 10 expressed in December 1993, you were reasonably confident of An Bord
11 Pleanala?
- 12 A. Yes, that they would endorse the council's permission of the because of
13 the specific zoning that we had achieved.
- 14 Q. 354 And in relation to whatever appeal that you might bring before the council
12:18:33 15 you were reasonably confident about going to An Bord Pleanala in the same
16 way you had been reasonably confident about the decision of the
17 councillors when you were talking to the bank in October 1993, isn't that
18 right?
- 19 A. Yes.
- 12:18:45 20 Q. 355 Now, I think and it's a formality only, Mr. O'Callaghan, in January of
21 1994 at 10630, there is an invoice from Mr. Dunlop which is I think the
22 only retainer invoice in January of 1994 but it relates in fact to
23 September 1993, isn't that right?
- 24 A. Yes.
- 12:19:09 25 Q. 356 And that I think was paid by Riga, isn't that the position?
- 26 A. Yes.
- 27 Q. 357 And authorised by you, isn't that right?
- 28 A. Yes.
- 29 Q. 358 Now, if I can just take you back to something I meant to you to ask you,
12:19:21 30 Mr. O'Callaghan, at 10610, at the bottom of this document which refers to

12:19:28 1 your telephone call to Mr. Michael O'Farrell, the following is written:
2
3 "EK Barkhill, TG meeting OOC and JD in London 22nd January '94. TG has
4 raised audit queries with OOC." Do you see that note?

12:19:46 5 A. Yes.
6 Q. 359 Now, in the first instance did you tell Mr. O'Farrell about a proposed
7 meeting with Mr. Deane and yourself to meet with Mr. Gilmartin in London
8 on the 22nd January '94?
9 A. I can't remember that but I can tell you that the meeting did not take
12:20:06 10 place.
11 Q. 360 And what is noted beneath that, Mr. O'Callaghan is that TG, that's
12 Mr. Gilmartin, had raised audit queries with you?
13 A. Yes.
14 Q. 361 Isn't that right?
12:20:13 15 A. Yes.
16 Q. 362 Now, is that correct?
17 A. I wouldn't have said that, that must have been John Deane, could possibly
18 have said that.
19 Q. 363 Is it possible that this was something that was communicated to
12:20:23 20 Mr. O'Farrell by Mr. Eddie Kay?
21 A. It's possible.
22 Q. 364 The initials EK are there, you see that?
23 A. It's possible, yes.
24 Q. 365 Is it possible this information came to the bank from Mr. Gilmartin
12:20:34 25 speaking to Mr. Kay who in turn tells Mr. O'Farrell?
26 A. That is possible, yes.
27 Q. 366 Right. And that the two points are being made, one is there is go to be a
28 meeting on 22nd January '94 and the second is Mr. Gilmartin had raised
29 audit queries with Owen O'Callaghan?
12:20:50 30 A. Yes.

- 12:20:50 1 Q. 367 What audit queries had Mr. Gilmartin raised with you, Mr. O'Callaghan?
- 2 A. Oh gosh I don't remember any of them actually, I don't think he ever
- 3 raised them with me. I know it's said there, but I don't know, to the
- 4 best of my knowledge, never mentioned to me actually. They might have
- 12:21:04 5 been mentioned to John Deane, it's possible.
- 6 Q. 368 The meeting, the note does not record the audit queries being addressed to
- 7 Mr. Deane, isn't that right?
- 8 A. That's right. Yeah.
- 9 Q. 369 They are being addressed to you?
- 12:21:16 10 A. Well yes but that's a mistake, they were never discussed with me, never.
- 11 Q. 370 You are aware of course that Mr. Gilmartin has told the Tribunal that he
- 12 complained about payments out of the Barkhill account, isn't that right?
- 13 A. Yes.
- 14 Q. 371 And that he complained about the audit and that he complained about not
- 12:21:35 15 getting adequate and sufficient information, isn't that right?
- 16 A. Yes.
- 17 Q. 372 And that he complained in particular about the payments to Shefran, isn't
- 18 that right?
- 19 A. No, that was much later.
- 12:21:45 20 Q. 373 That was in his evidence to the Tribunal.
- 21 A. Oh yeah, yeah that's right.
- 22 Q. 374 Now, is it possible, Mr. O'Callaghan, that Mr. Gilmartin had spoken to you
- 23 with queries about the audit which related to any matters to do with Mr.
- 24 Dunlop or to do with Shefran?
- 12:22:00 25 A. Never once did Mr. Gilmartin mention any audit queries or fee queries to
- 26 me. He might have well mentioned them though John Deane, I'm not sure, he
- 27 didn't speak to him all that often but not to me.
- 28 Q. 375 Did you go to London to meet with Mr. Gilmartin?
- 29 A. No, again I'm not sure, maybe John Deane went, I didn't go.
- 12:22:19 30 Q. 376 Can I show you 10786, Mr. O'Callaghan, which is a file note on

- 12:22:24 1 Mr. O'Farrell on the 22nd February, I want to draw to your attention the
2 third paragraph "John confirmed that himself and Owen O'Callaghan visited
3 T Gilmartin a month ago". That would mean you were meeting with
4 Mr. Gilmartin, if the note is accurate, in January of 1994?
- 12:22:40 5 A. Yes.
- 6 Q. 377 If we take that in a conjunction with what is recorded at the bottom of
7 10610, which is that you were to meet in London on the 22nd January 1994,
8 isn't that right?
- 9 A. It didn't take place.
- 12:22:53 10 Q. 378 Well, if it didn't take place at 10786 please, the information that
11 Mr. Deane gives to Mr. O'Farrell on the 22nd February 1994 is incorrect,
12 isn't that right?
- 13 A. That's incorrect. It's quite possible that John Deane met Tom Gilmartin,
14 that's quite possible..
- 12:23:10 15 Q. 379 The information that's provided is as follows "John confirmed that himself
16 and Owen O'Callaghan visited T Gilmartin about a month ago. Following
17 this he went to a meeting with Richard Forman from Connell Wilson. Forman
18 believes he will be able to place a deal in Quarryvale, however he needs
19 to know whether or not Marks & Spencers will be the actual tenant, if not
12:23:32 20 Dunnes will be. Deane and O'Callaghan are meeting Marks & Spencers' Roger
21 Aldridge on 3 March and they will be going back to Richard Forman
22 following that meeting. All Forman needs is a positive indication from
23 Marks & Spencers. Forman believes he can place it within 6 weeks". Is
24 that right?
- 12:23:50 25 A. Yes.
- 26 Q. 380 Do you say to the Tribunal that in fact no such meeting took place with
27 Mr. Gilmartin, Mr. Deane and yourself in January of 1994?
- 28 A. What I am say something it's quite possible, I think it did happen that a
29 meeting took place between John Deane, Tom Gilmartin and Richard Forman,
12:24:02 30 but I was not present at the meeting.

- 12:24:04 1 Q. 381 And insofar as the note on the document at 10610 records, that you were to
2 be in London on the 22nd January 1994, you say that that is inaccurate,
3 and insofar as Mr. Deane is recorded as telling the bank on the 22nd
4 February 1994 at 10786, that the meeting had in fact taken place and you
12:24:24 5 were there, you say that is also inaccurate?
- 6 A. It's quite possible that John Deane that I was supposed to be there and I
7 cancelled but I was not there.
- 8 Q. 382 And if I show you, at 10698, which is the signing off of the audit of the
9 27th January, which is dated 27th January 1994, and at 10699 you can
12:24:51 10 confirm your signature and Mr. Gilmartin's signature, isn't that right?
- 11 A. Yes.
- 12 Q. 383 Signing off on the accounts, do you know when it was that Mr. Gilmartin
13 signed off on those accounts?
- 14 A. I'm afraid not.
- 12:25:02 15 Q. 384 You note that the date is the 27th January and can I just put it to you
16 that if you had had a meeting with Mr. Gilmartin on the 22nd January 1994,
17 is it possible that Mr. Gilmartin was given the accounts to sign off on
18 them at that stage?
- 19 A. More than likely.
- 12:25:19 20 Q. 385 Yes. And therefore if you are not at that meeting it is Mr. Deane who
21 must have brought over the audited accounts to Mr. Gilmartin, is that
22 right?
- 23 A. More than likely what happened.
- 24 Q. 386 All right. But insofar as these bank documents record you as being
12:25:31 25 present at the meeting or having participated, you say that they are in
26 error and they are wrong, that you never went to the meeting?
- 27 A. Yes.
- 28 Q. 387 You say further that insofar as they apparently record Mr. Gilmartin
29 complaining to you with audit queries in relation to the audit for the
12:25:46 30 year end April 1992 that that is also wrong and inaccurate and that

- 12:25:50 1 Mr. Gilmartin never made any such complaints?
- 2 A. Yes just put a ride tore that, I wish he had discussed those things with
3 me, but never once did he mention any queries to me.
- 4 Q. 388 Now, I think that coming into March I think of 1994, I think it has
12:26:06 5 already been dealt within evidence, you met with Mr. Ahern and had your
6 discussion with him about the designation of Blanchardstown, isn't that
7 right?
- 8 A. That's correct.
- 9 Q. 389 Following on that meeting, with Mr. Ahern at some stage, and I think it's
12:26:20 10 fire say you can't be precise about it, but at a meeting attended by
11 Mr. Gilmartin and the bank, you relayed to your bankers and your partner,
12 the assurance that had been given to you at the meeting in connection with
13 the designation of Blanchardstown, isn't that right?
- 14 A. That's correct, yes.
- 12:26:35 15 Q. 390 What has been described here as the "horse's mouth" meeting, in other
16 words where you said you had it from the "horse's mouth", you confirm that
17 you did assure the bank that you had been told that Blanchardstown would
18 not get tax designation?
- 19 A. At the board meeting with everybody present, yes.
- 12:26:49 20 Q. 391 Including Mr. Deane and Mr. Gilmartin?
- 21 A. Yes.
- 22 Q. 392 Is that correct? Now, I think that on the 9th March of 1994, there is a
23 handwritten note at 10821 and this appears to record a telephone
24 conversation or a meeting with you on the 9th March '94, do you agree with
12:27:16 25 that, Mr. O'Callaghan?
- 26 A. I can't see this, I'm sorry, 10821, is it?
- 27 Q. 393 Yes, at the very top, a handwritten note it says "OOC 9th March '94".
- 28 A. Yes.
- 29 Q. 394 And then beneath that "OOC believes Richard Forman of C Wilson could
12:27:34 30 arrange institutional funding and help secure IKEA, Swedish furniture for

- 12:27:39 1 the development".
- 2 A. Yes.
- 3 Q. 395 Right. Beneath that "TG is still in dire straits. Wants to be bought out
- 4 but knows that investor funding must be progressed first. For this reason
- 12:27:49 5 OOC/JD have told TG he can progress matters with CW." Is that right?
- 6 A. Yes.
- 7 Q. 396 Beneath that "danger that TG would use his position as introducer of
- 8 institutional funds as a means to up his buy out price".
- 9 A. Yes.
- 12:28:06 10 Q. 397 Beneath that: "OOC recognises that TG feels he may be screwed again".
- 11 A. Yes.
- 12 Q. 398 Now.
- 13 A. Whose note is that.
- 14 Q. 399 That note I think, and I am subject to correction, is a note by
- 12:28:18 15 Ms. Basquille, but I am subject to correction in relation to that and I
- 16 will let you know very shortly who is the author of the note. Assuming
- 17 for a moment, Mr. O'Callaghan, that you had either a face-to-face meeting
- 18 or a telephone conversation on the 9th March 1949 with someone from the
- 19 bank, can we just go through what the bank have recorded you as telling
- 12:28:38 20 them?
- 21 A. Okay.
- 22 Q. 400 Right. If we look at the top of the document the first matter you told
- 23 the bank was of a belief that Richard Forman could arrange institutional
- 24 funding, isn't that right?
- 12:28:49 25 A. Yes.
- 26 Q. 401 Now, yesterday you told the bank of your belief that Mr, you had only
- 27 retained Connell Wilson and Mr. Forman in ease of Mr. Gilmartin or at
- 28 Mr. Gilmartin's request, isn't that right?
- 29 A. That's right.
- 12:29:02 30 Q. 402 And you don't appear to be in anyway doubting Mr. Forman's inability this

- 12:29:08 1 record of the note to deliver on the institutional funding here, isn't
2 that right?
- 3 A. That's right.
- 4 Q. 403 Certainly you don't suggest in this memorandum, to the bank on the 9th
12:29:24 5 March 1994, that either Mr. Forman or Connell Wilson were incapable or
6 incompetent of doing the job, is that right?
- 7 A. Yes.
- 8 Q. 404 Right. Now the second matter --
- 9 A. At that particular time, possibly, yes.
- 12:29:30 10 Q. 405 Do you say it was Later in your relationship with Connell Wilson that you
11 came to the view that they were incapable of doing the job?
- 12 A. I'm not sure, I never felt they could perform, but I have said it there,
13 they were never ever capable of providing the type of funding we require,
14 at that stage maybe I felt that initially he could do something about it,
12:29:51 15 I'm not quite sure.
- 16 Q. 406 Certainly in March of 1994, if this was a correct representation of your
17 views, it was your believe that they could arrange institutional funding,
18 isn't that right?
- 19 A. Yeah. What I doubt about that is that I don't see how he could have
12:30:05 20 secured the Swedish furniture people for the development, I don't know how
21 that got in there.
- 22 Q. 407 In the next paragraph, Mr. O'Callaghan, the following is recorded "TG
23 still in dire straits." Would you agree with me that if you expressed
24 that opinion to the bank you must have known of Mr. Gilmartin's?
- 12:30:18 25 A. At that stage, yes.
- 26 Q. 408 "TG still in dire straits. Wants to be bought out but know that is in
27 investor funding must be progressed first. For this reason OOC/JD have
28 told TG that he can progress matters with CW."
- 29 A. Well, at that stage, yes.
- 12:30:34 30 Q. 409 Can I ask you there, when was it did you speak with Mr. Gilmartin and tell

12:30:37 1 him that he could progress matters with Connell Wilson for the
2 institutional funding?
3 A. I can't remember but it must have been about that time because --
4 Q. 410 It would follow if you are accurate in what you are telling the bank,
12:30:48 5 Mr. O'Callaghan, that you must have either spoken to or met with
6 Mr. Gilmartin, isn't that right?
7 A. Spoken to on the telephone.
8 Q. 411 All right. And in that conversation he must have told you that he was
9 still in dire straits financially, is that right?
12:31:05 10 A. Yes, yes.
11 Q. 412 And in the next paragraph, what is recorded is your view that "There is a
12 danger that Tom Gilmartin would use his position as introducer of
13 institutional funds as a means to up his buy out price". Was that a
14 concern you expressed to the bank in March of 1994?
12:31:24 15 A. I can't remember, but that's what it says.
16 Q. 413 Yes. It would follow from that then that you were anxious to keep any
17 potential buy out price of Mr. Gilmartin's at as low a price as possible,
18 isn't that right?
19 A. That doesn't make sense, because there is another document around the same
12:31:39 20 time which also says that we were prepared to deal with Dunnes Stores as
21 an anchor on the site instead of Marks & Spencerss, which would mean that
22 any funding would be much lower using Dunnes Stores than it would be using
23 Marks & Spencers, that document is there as well actually. So, what you
24 read doesn't make sense. It doesn't add up. We had actually confirmed to
12:32:02 25 Tom Gilmartin and to the bank that we would be prepared to go ahead with a
26 weaker anchor which would reduce the funding and reduce the yield at that
27 particular time to enable Tom Gilmartin to be bought out of the project,
28 so the two of these do not make sense, do not add up.
29 Q. 414 Yes. What I am putting to you, Mr. O'Callaghan, is the apparent record by
12:32:20 30 the bank on the 9th March 1994 of What you apparently told the bank, do

- 12:32:25 1 you understand, that's What I am putting to you?
- 2 A. Yes but I think you have to find the other letter as well to be fair about
3 it.
- 4 Q. 415 I must reject any suggestion, Mr. O'Callaghan, that I am being unfair in
12:32:36 5 what I am putting to you. This material is attributed to you by the bank
6 and you are the person who is recorded as expressing these opinions and
7 all I am asking you, Mr. O'Callaghan; is whether or not it was your view
8 that if Mr. Gilmartin was involved in introducing institutional funds,
9 that he would up his buy out price?
- 12:32:59 10 A. Subject to the memo being correct and the note being correct and remember
11 that's a bank memo not from me directly.
- 12 Q. 416 All right. So is it your position that you didn't say this to the bank
13 and it's inaccurately recorded?
- 14 A. No my position is that the bank could have easily put those words more or
12:33:15 15 less into my mouth and come up with the answer without understanding what
16 I am saying to them. That's what I am saying, there is a letter there
17 disagreeing with that completely -- in correspondence to Richard Forman
18 which disagrees with that statement completely.
- 19 Q. 417 Ms. O'Raw is going to find that letter, so, Mr. O'Callaghan, so that it
12:33:31 20 can be put up on screen and I can, that may be the letter of the 10th
21 March '94, is that correct?
- 22 A. I'm not sure of the date.
- 23 Q. 418 10827.
- 24 A. That's absolutely correct, the third paragraph of that.
- 12:33:47 25 Q. 419 Yes which says "In view of Tom's situation I indicated to you that
26 O'Callaghan Properties were prepared to proceed with the funding of the
27 scheme at the present time notwithstanding the fact that a better price
28 could be achieved by postponing the approach to a later date".
- 29 A. That's what I am saying, yes.
- 12:34:08 30 Q. 420 Where do you say there there is a reference to Dunnes Stores?

- 12:34:08 1 A. It was in that context it was written actually.
- 2 Q. 421 I see. All right. In any event what I wanted to ask you about this
- 3 letter was a reference to our recent meeting in London with Tom Gilmartin?
- 4 A. Yes.
- 12:34:14 5 Q. 422 In the first line of the letter, was that a meeting that you attended,
- 6 Mr. O'Callaghan?
- 7 A. No because I didn't attend a meeting, I never met Tom Gilmartin in London
- 8 in my life.
- 9 Q. 423 Yes, I ask you that because at 10828, you are cc'd the letter as indeed is
- 12:34:29 10 Mr. Gilmartin?
- 11 A. Yes.
- 12 Q. 424 Isn't that right?
- 13 A. Yes.
- 14 Q. 425 That's John Deane's meeting, yes.
- 12:34:36 15 A. No I never met Tom Gilmartin in London.
- 16 Q. 426 If I take you back then to the document at 10821 and in the next point
- 17 that you are recorded by the bank as having told the bank on the 9th March
- 18 '94 it says "OOC recognises that TG feels he may be screwed again".
- 19 A. Yes.
- 12:34:58 20 Q. 427 Now, can I ask you first of all is that something that you accept, that
- 21 you said to the bank?
- 22 A. Something I would not say, I don't know where it came from.
- 23 Q. 428 All right. So again is it the same position as the earlier bank
- 24 documentation, that we looked at, Mr. O'Callaghan, that you can't account
- 12:35:13 25 for what has been recorded by the bank?
- 26 A. Yes and I'd be surprised if it's a Mary Basquille note, actually.
- 27 Q. 429 I'm not saying to you definitely, I thought I made it clear that it was,
- 28 Ms. O'Raw is checking for me, looking only at the handwriting I assumed it
- 29 was hers, for no other reason, it may well have been somebody else?
- 12:35:31 30 A. It wouldn't be her language.

- 12:35:32 1 Q. 430 Right. In any event, Mr. O'Callaghan, just looking at what you are
2 recorded as having told the bank, would you agree first of all that the
3 sentence "OOC recognises that TG feels he may be screwed again" is
4 something that is being attributed to you by the bank?
- 12:35:45 5 A. Yes and incorrectly.
- 6 Q. 431 Right.
- 7 A. I wouldn't use those words.
- 8 Q. 432 Was it your view in March of 1994, that Mr. Gilmartin was of the view that
9 he had been screwed once as it were or had been --
- 12:35:58 10 A. No.
- 11 Q. 433 -- treated badly?
- 12 A. No is the answer to that. In fact the direct opposite, the direct
13 opposite from Gilmartin's point of view. If anybody was screwed if you
14 want to use that word, it was me.
- 12:36:11 15 Q. 434 It was your view that what the memorandum should record was that
16 Mr. Gilmartin recognised that you were concerned that you would be screwed
17 again, is that your position, Mr. O'Callaghan?
- 18 A. Yeah, I'm not saying that.
- 19 Q. 435 All right.
- 12:36:26 20 A. But that's not a statement I would use.
- 21 Q. 436 Yes. Can I put two matters together to you at 10821, if I have the full
22 paragraph, the reference to Mr. Gilmartin still being in dire straits and
23 wanting to be bought out and take that together with the apparent
24 reference that Mr. Gilmartin is concerned that he may be screwed again and
12:36:52 25 can I suggest that they are both connected by the author of this document,
26 isn't that right?
- 27 A. Yes.
- 28 Q. 437 And that the view that Mr. Gilmartin's financial position and his ability
29 or the price on his buy out was something that was being discussed between
12:37:06 30 yourself and the bank in March of 1994, isn't that right?

- 12:37:10 1 A. Between him, us and the bank. Yes.
- 2 Q. 438 Between in this note yourself and the bank?
- 3 A. Yes.
- 4 Q. 439 And what was being considered here was a desire by Mr. Gilmartin to be
- 12:37:19 5 bought out, in the first instance?
- 6 A. Mr. Gilmartin wanted to get out from September '91.
- 7 Q. 440 Yes. In this note, Mr. O'Callaghan, what is being discussed between
- 8 yourself and the bank is a desire by Mr. Gilmartin to be bought out, is
- 9 that right?
- 12:37:34 10 A. Yes to be bought out, yes.
- 11 Q. 441 And a concern expressed, that's attributed to you, that if he was to
- 12 introduce institutional funds it would increase his buy out price, isn't
- 13 that right?
- 14 A. Which I don't agree with, I certainly do not agree with that statement.
- 12:37:49 15 Q. 442 Do you also don't agree with the attribution to you that Mr. Gilmartin
- 16 feels that in any such buy out, or transaction, he might be screwed again,
- 17 is that right?
- 18 A. I would never use that word. I point out to you that the letter was also
- 19 written on the 10th March to contradict that.
- 12:38:06 20 Q. 443 Okay. You don't dispute I assume, Mr. O'Callaghan, that you had a
- 21 conversation with somebody in the bank?
- 22 A. I'd like to know who it was actually.
- 23 Q. 444 If we look at the next part of the document, "O'Callaghan breakdown re
- 24 Barkhill loan availability", do you agree that the information that's
- 12:38:19 25 provided there is likely to have been information provided by you?
- 26 A. I don't know.
- 27 Q. 445 If we look at A it says 435,000 professional fees and purchase of
- 28 O'Donaghue's Cottage, not now proceeding?
- 29 A. That would come from me, yes.
- 12:38:41 30 Q. 446 Yes. I think it comes from you because originally I think it would be

12:38:41 1 fair to say it was your view that the O'Donaghue Cottage situation had
2 turned into almost a ransom situation?
3 A. I would be the only one that would know anything about O'Donoghue's
4 Cottage, so that's me. Yeah.

12:38:49 5 Q. 447 I think it was a ransom situation, is that right?
6 A. That's correct.
7 Q. 448 You decided to go underneath or around the cottage rather than buy it,
8 isn't that the position?
9 A. That's correct.

12:38:57 10 Q. 449 But that was something that was being handled directly by yourself?
11 A. Yes that would be me.
12 Q. 450 Does that assist you now, Mr. O'Callaghan, in accepting that in fact you
13 must have had this conversation with the bank, even if it's not accurately
14 recorded?
15 A. Oh, yes, I'm not denying that at all.

16 Q. 451 At item B the reference to 810,000 pounds was was the purchase of the
17 council land, is that right?
18 A. Yes.
19 Q. 452 Beneath that 358,000 drawn, 77,000 available, 50,000 to Ambrose Kelly and
12:39:26 20 that 25,000 pounds relates to the second payment to Connell Wilson on foot
21 of the staged payments, is that right?
22 A. Yes.
23 Q. 453 I think they were even though it's not recorded there, sterling payments,
24 isn't that right?
12:39:38 25 A. That is sterling, yes. The second one is sterling.
26 Q. 454 That's what I mean, the payment to Connell Wilson were sterling payments,
27 isn't that right?
28 A. Yes.
29 Q. 455 And then there is reference to other outstanding payments possibly Ciaran
12:39:48 30 O'Malley and then the Connell Wilson payment of 50,000, which would be two

- 12:39:53 1 25s, is that right?
- 2 A. Yes.
- 3 Q. 456 Would you agree looking at it now that it is likely that that information
- 4 is information that was provided to the bank by yourself?
- 12:40:01 5 A. I'm not saying it's accurate by any means but yes it was a discussion, it
- 6 was a phone call with me obviously.
- 7 Q. 457 And you dispute the accuracy of the note, would that be fair to say?
- 8 A. Like a lot of these notes, do I, yes.
- 9 Q. 458 Now, I think on the following day at 10827, Mr. Deane wrote to Mr. Forman
- 12:40:22 10 referring to the recent meeting in London with Tom Gilmartin?
- 11 A. Yeah.
- 12 Q. 459 And in that paragraph the following is stated "Tom stated very adamantly
- 13 that he wished to achieve a situation where he could get out of
- 14 Quarryvale as quickly as possible. He believed you could achieve a
- 12:40:39 15 forward funding package for the development and you indeed confirmed that
- 16 this was possible. However, you advised at the time that you felt that a
- 17 better price could be achieved for funding if we were prepared to wait
- 18 until the anchors had been formally committed, planning permission was in
- 19 place and a number of good quality tenants had indicated their interest.
- 12:40:55 20
- 21 In view of Tom's situation I indicated that O'Callaghan Properties were
- 22 prepared to proceed with the funding of the scheme at the present time
- 23 notwithstanding the fact that a better price could be achieved by
- 24 postponing the approach to a later date."
- 12:41:07 25 A. That's certainly doesn't agree with the previous conversation with the
- 26 bank.
- 27 Q. 460 Yes in this document what Mr. Deane is telling Mr. Wilson, is that
- 28 Mr. Wilson is to proceed to try and get the institutional funders and not
- 29 to wait, isn't that right?
- 12:41:20 30 A. Yes.

12:41:21 1 Q. 461 Now --

2 A. Based on low grade bankers which would achieve lower funding which means

3 less money for everyone including Tom.

4 Q. 462 In the next paragraph "I understand that Owen has been talking to you

12:41:37 5 recently" was that correct, had you been talking to Mr. Forman of Connell

6 Wilson?

7 A. Oh initially I spoke him quite a bit, yes.

8 Q. 463 Yes, this says according to Mr. Deane's letter that you had been talking

9 to Connell Wilson recently, isn't that right?

12:41:50 10 A. Oh, yes.

11 Q. 464 Does that assist you then, at 10821 when you spoke to the bank on the 9th

12 March '94, the first matter you deal with with the bank was your belief

13 that Connell Wilson could in fact arrange institutional funding?

14 A. Initially I possibly felt that, yes.

12:42:06 15 Q. 465 Yes.

16 A. Or I was being optimistic I suppose, yes.

17 Q. 466 Do you agree that Mr. Deane's letter of the 10th March 1994, refers to the

18 fact that you had been talking to Connell Wilson recently, isn't that

19 right?

12:42:24 20 A. Oh, yes.

21 Q. 467 And that that also deals with the first matter you had dealt with with the

22 bank on the 9th March '94, is that right?

23 A. Yes.

24 Q. 468 Now, it says "I understand that Owen has been talking to you recently

12:42:35 25 indicating the interest of Marks & Spencers in the site, both of you agree

26 it would not now be appropriate to put the question of funding of the site

27 in hand, Owen also discussed --

28 A. Could I see that?

29 Q. 469 Sorry I beg your pardon, 10827 sorry, Mr. O'Callaghan, the fourth

12:42:52 30 paragraph.

12:42:53 1 "I understand that Owen has been talking to you recently and indicated the
2 interest of Marks & Spencers in the site. Both of you agreed it would now
3 be appropriate to put the question of funding the site in hand. Owen also
4 discussed with you the interest of IKEA in the site and it was agreed you
12:43:09 5 would approach them with a view to ascertaining their interest in the
6 scheme". So you appear to have discussed IKEA with Mr. Forman.
7 A. It was I put him in contact with IKEA.
8 Q. 470 Yes. If I show you 10821 again you will see that the first matter you are
9 recorded as telling the bank is that you believe Richard Forman of Connell
12:43:30 10 Wilson could arrange institutional funding and help secure the Swedish
11 furniture, IKEA for the development, is that right?
12 A. The Swedish furniture company IKEA had been interested in Quarryvale for
13 two years before that I asked Richard Forman to go and approach their UK
14 base and see if he could line them up.
12:43:47 15 Q. 471 So do you agree, Mr. O'Callaghan, that the record of the first matter is
16 accurate, isn't that right? If Mr. Deane's letter is correct, isn't that
17 the position?
18 A. Yes.
19 Q. 472 And at 10827, he says that Mr. Forman was to look at letters, figures
12:44:03 20 which had been given to him at a recent meeting by Mr. Deane, recent
21 discussions, isn't that right?
22 A. Yes.
23 Q. 473 And the following page you would like a meeting and a fee structure, isn't
24 that right?
12:44:21 25 A. Yes.
26 Q. 474 And then he asks for his opinion on the figures and then he says "I
27 understand from Owen that you have a copy of the M&S study on the
28 Quarryvale scheme with a retail element of 250,000 square feet. As agreed
29 with Owen, perhaps you could forward a copy of it to him urgently so that
12:44:37 30 he will have an opportunity of digesting the contents before the next

- 12:44:40 1 visit of M&S on 24th March". Do you agree with that?
- 2 A. Yes.
- 3 Q. 475 Does it follow from that that you had a meeting with Mr. Forman at which
- 4 you gave him documentation that's referred to in that letter?
- 12:44:53 5 A. Yes. I could have met him in Dublin or Cork. Yeah.
- 6 Q. 476 Or could you have met him in England, is that right?
- 7 A. No, I didn't meet him in England, John Deane met him.
- 8 Q. 477 I ask you that only by virtue of what is contained in the note of
- 9 Mr. Deane's conversation at 10786, that there had been a meeting in London
- 12:45:12 10 with Mr. Gilmartin followed by a meeting with Richard Forman. You don't
- 11 agree that you were at any such meeting with Mr. Forman, is that right?
- 12 A. Not in London, no.
- 13 Q. 478 All your meetings took place in Ireland?
- 14 A. In Dublin, I think there might have been actually been one in Cork with
- 12:45:28 15 Richard Forman.
- 16 Q. 479 I see. Now, I think, Mr. O'Callaghan, there are two matters that I would
- 17 like to ask you about that occurred early in 1994, the first of which was
- 18 a meeting that is recorded in Mr. Dunlop's diary at 10911, on the 28th
- 19 April 1994, with Mr. Eoin Ryan, it's the last entry in the diary, do you
- 12:46:10 20 see that?
- 21 A. Yes.
- 22 Q. 480 Can you tell the Tribunal the circumstances in which you met Mr. Ryan and
- 23 the purposes of your meeting?
- 24 A. I did not meet Eoin Ryan actually, it had been -- we were supposed to meet
- 12:46:26 25 on a few occasions, two if not three, but it never happened and I think
- 26 the reason for the meeting and this is pure guess, I believe that Eoin
- 27 Ryan had some suggestion that he knew of some fund that might be available
- 28 to help fund Quarryvale. I'm not sure if that was accurate but he was
- 29 supposed to meet me to discuss it but I never met him, it never happened.
- 12:46:50 30 Q. 481 Mr. Ryan was, gave evidence to the Tribunal he was asked about these diary

- 12:46:55 1 entries, he didn't believe that there was an organised meeting, but he
2 believed that there was a second meeting, that there was a meeting at
3 which he ran into you in Mr. Dunlop's office, did that happen?
- 4 A. Well I don't recollect that, no. I think I might have met him in the Dail
12:47:10 5 one day maybe.
- 6 Q. 482 He said that he was a friend of Mr. Eamon Duignan's and Mr. Eamon Duignan
7 shared offices with Mr. Dunlop and on one occasion he may have run into
8 you in Mr. Dunlop's office?
- 9 A. That's possible.
- 12:47:24 10 Q. 483 He also says that there may have been a second meeting in connection with
11 the Gas Board site would you have any recollection of that?
- 12 A. No.
- 13 Q. 484 On the 4th May 1994 at 10927, Mr. O'Callaghan, the following week in
14 effect, to the first entry, there is an entry in Mr. Dunlop's diary
12:47:46 15 "OOC/Eoin Ryan etcetera".
- 16 A. Sorry you mentioned the Gas Board site, I think he represented part of the
17 city where the Anderson's Quay, where the Gas Board was, the site was.
- 18 Q. 485 Mr. Ryan told the Tribunal that he had raised objections in relation to
19 plans for a Gas Board site?
- 12:48:16 20 A. Oh, yes, that's correct.
- 21 Q. 486 Does that assist you?
- 22 A. Yes.
- 23 Q. 487 Is it likely therefore that both of these meetings that is the 28th April
24 '94 and the 4th May 1994, were meetings in connection the Gas Board site?
- 12:48:24 25 A. Possibly one of them, but that was a very brief meeting because was my
26 involve with the Gas Board he met me, but that was a very brief meeting.
27 He was representing I think people with objections to the Gas Board,
28 things to do with that.
- 29 Q. 488 Were they meetings that would have been organised by Mr. Dunlop?
- 12:48:42 30 A. Yes, I would say so, yes.

- 12:48:44 1 Q. 489 And did it, did those meetings arise because Mr. Dunlop was approached by
2 Mr. Ryan so that the meeting could be set up with you or would you have
3 approached Mr. Dunlop and asked him to set up the meeting with Mr. Ryan?
4 A. Oh God no, I had no particular reason to meet Eoin Ryan. I think what
12:49:01 5 actually happened was that I think I met him in the Dail one day in the
6 corridor and I think he said he wanted to see me about something, I don't
7 know what it was, he contacted Frank Dunlop and we met to the best of my
8 knowledge, I am very vague on this now.
- 9 Q. 490 Were you a member of the Gas Board?
12:49:17 10 A. Yes, I was.
- 11 Q. 491 When, for how long were you a member of the Gas Board?
12 A. Six years I'm not too sure when but six years.
- 13 Q. 492 Who appointed you, Mr. O'Callaghan?
14 A. Mr. Haughey, to the best of my knowledge, or the appropriate minister at
12:49:33 15 the time, whoever he was, I can't remember, but it was a Fianna Fail
16 appointment anyway.
- 17 Q. 493 Do you believe it was through Mr. Haughey?
18 A. I think it was actually, yes.
- 19 Q. 494 You also had a meeting I think with Mr. Michael Smith who was Minister for
12:49:46 20 the Environment I think in 1994 and a meeting took place in April 1994 in
21 the Foley's Hotel in Templemore.
- 22 A. Yes.
- 23 Q. 495 At 24670, in a statement to the Tribunal Minister Smith at paragraph three
24 told the Tribunal "while he didn't recall the exact date he met with you
12:50:14 25 in April 1994 in Foley's Hotel in Templemore", is that right?
26 A. Yes I did indeed, yes.
- 27 Q. 496 Who organised that meeting, can I ask you, Mr. O'Callaghan?
28 A. I would have organised it myself, I would say.
- 29 Q. 497 Would you have known Mr. Smith?
12:50:30 30 A. Probably met him on two or three occasions prior to that, yes.

- 12:50:33 1 Q. 498 Would you have known him well enough to arrange a meeting with him?
- 2 A. Oh, yes.
- 3 Q. 499 Right. What were you meeting him about?
- 4 A. Athlone.
- 12:50:39 5 Q. 500 And when you say Athlone, Mr. O'Callaghan, what in Athlone were you
6 arranging to meet Mr. Smith about?
- 7 A. I met him in Athlone, sorry I met him in Templemore to discuss, one
8 weekend, in Foley's Hotel to discuss tax designation in Athlone.
- 9 Q. 501 Were you seeking to have Athlone tax designated?
- 12:51:04 10 A. The urban council, to answer your question directly yes. Together with
11 the urban council in Athlone and with my two colleagues in Athlone, the
12 project in Athlone.
- 13 Q. 502 Now, I think Mr. Smith told the Tribunal when he gave evidence that the
14 question of qualification for Athlone for the tax designation scheme had
12:51:23 15 been considered and at the time there were a number of representations
16 that were opposed and that following his meeting he asked Emmett Stagg,
17 who was then the Minister for State to visit Athlone, would you agree with
18 that?
- 19 A. Yes.
- 12:51:37 20 Q. 503 And ultimately I think albeit late in 1994, tax designation was granted to
21 the Golden Island site in Athlone, that's a fact?
- 22 A. That's correct, yes.
- 23 Q. 504 And I think that happened, and there has been some evidence, I think you
24 yourself have given evidence, about the fact that that occurred on the
12:51:53 25 night of the change, the night before the change of government in December
26 of 1994, isn't that right?
- 27 A. Yes, yes.
- 28 Q. 505 Isn't that right?
- 29 A. Yes, that is correct, yes.
- 12:52:06 30 Q. 506 The Brendan Smith affair happened in November 1994, there was a hiatus for

- 12:52:11 1 a couple of weeks while attempts were made to change the government, isn't
2 that right?
- 3 A. That's correct.
- 4 Q. 507 And ultimately what became known as the rainbow coalition led by Mr. John
12:52:20 5 Bruton, I think in the 17th December 1994 took up office, isn't that
6 right?
- 7 A. That's right.
- 8 Q. 508 And I think on the previous day, again I am not 100 per cent sure of this,
9 but I think the 16th December '94, the order was made designating Athlone,
12:52:33 10 isn't that right?
- 11 A. That's correct. Yes.
- 12 Q. 509 I think you are not in a position, when I asked you about this previously
13 to assist the Tribunal as to why it was that designation was granted at
14 that time, is that right?
- 12:52:44 15 A. Yes.
- 16 Q. 510 I think you told the Tribunal it was a surprise to you, isn't that right?
- 17 A. Oh, yes, it was a surprise to everybody, yes.
- 18 Q. 511 Did you have any communication with Mr. Smith coming up to the end of 1994
19 about that designation?
- 12:53:04 20 A. No, I am just -- my meeting with Mr. Smith was, is that September?
- 21 Q. 512 According to Mr. Smith he say it's it was in April of 1994?
- 22 A. April, yes, that was my last, my only communication with him. Sorry
23 that's not correct. That's not correct. I had a second meeting together
24 with Athlone Urban District Council and the representative from
12:53:22 25 Quinnsworth and my two partners in Mr. Smith's office to discuss the tax
26 designation of Athlone.
- 27 Q. 513 Did that happen after April of '94?
- 28 A. I'm not sure was it before or after, probably around the same time.
- 29 Q. 514 On the 3rd May '94 at 10928, and on the following page please at 10929 at
12:53:46 30 5.15 a Ms. Noleen Beehan of Mr. Smith's office confirms a meeting on the

- 12:53:52 1 10th May 1994 in Leinster House, is that right?
- 2 A. That's it, that's not Leinster House.
- 3 Q. 515 Yes, I am putting your meeting with Mr. Smith, according to Mr. Smith's
- 4 evidence to the Tribunal is April of 1994?
- 12:54:08 5 A. Yes.
- 6 Q. 516 And I am drawing to your attention that on the 3rd May 1994, your lobbyist
- 7 organises a meeting with Minister Smith in Leinster House for the 10th May
- 8 and at 10935, recorded in Mr. Dunlop's diary for the 10th May is an entry
- 9 for "M Smith, Environment, Leinster House", isn't that right?
- 12:54:33 10 A. Yes.
- 11 Q. 517 And I was wondering, Mr. O'Callaghan, whether that was a meeting that Mr.
- 12 Dunlop organised for the 10th May 1994 for you with Mr. Smith following on
- 13 your earlier meeting in April 1994, in the hotel in Templemore?
- 14 A. That was more than likely organised by Frank Dunlop but it wasn't in
- 12:54:51 15 Leinster House, it was in the Custom House.
- 16 Q. 518 In the customs house. But did you subsequent to your first meeting with
- 17 Mr. Smith have another meeting with him at which you discussed tax
- 18 designation and at which a deputation went to see the minister from the
- 19 urban council in Athlone?
- 12:55:09 20 A. Yes that was that meeting more than likely, that was that meeting you are
- 21 referring to.
- 22 Q. 519 I am not suggesting, Mr. O'Callaghan, that you were at the meeting on the
- 23 10th May 1994, I am simply pointing out to you that it's recorded in Mr.
- 24 Dunlop's diary and it's arranged by Mr. Dunlop?
- 12:55:23 25 A. Yes.
- 26 Q. 520 I cannot say and I am not suggesting to you that it's that meeting, do you
- 27 understand?
- 28 A. Okay.
- 29 Q. 521 Right. Now, your recollection is that the meeting took place in the
- 12:55:32 30 Customs House, is that right?

- 12:55:34 1 A. Yes.
- 2 Q. 522 And it was attended by members of the urban district council?
- 3 A. Of Athlone Urban District Council.
- 4 Q. 523 Who had organised the members of Athlone Urban District Council?
- 12:55:46 5 A. Athlone Urban District Council themselves.
- 6 Q. 524 Who was communicating with the council in relation to the issue of tax
- 7 designation?
- 8 A. From my side, is it?
- 9 Q. 525 Yes.
- 12:55:55 10 A. Tom, the late Tom Diskin and Michael Tiernan.
- 11 Q. 526 This was not something you were dealing with, is that right?
- 12 A. No, no, I just --
- 13 Q. 527 Did Mr. Dunlop have anything to do with it on your behalf?
- 14 A. No, I don't think he even organised now I think of it, no he didn't, Frank
- 12:56:10 15 Dunlop had nothing to do with that loan, he was involved just in topping
- 16 out ceremony when it took place.
- 17 Q. 528 Did Mr. Dunlop for example ever prepare a list of the councillors and the
- 18 political affiliations, Mr. O'Callaghan, of the urban district council for
- 19 you?
- 12:56:27 20 A. It's possible that he did, but I don't know why he should be asked because
- 21 we all knew that. There was only about seven members I think, I would be
- 22 surprise if he was asked to do that.
- 23 Q. 529 At 23220 please, this is an entry from Mr. Dunlop's 2004 diary I think,
- 24 can I just see the very top of that please, 1994, not 2004 I beg your
- 12:57:00 25 pardon, and if we go down to the, what is recorded in the diary in this
- 26 extract from Mr. Dunlop's 1994 diary there is a list of members of Athlone
- 27 Urban District Council, isn't that right?
- 28 A. Yes, nine members sorry, not seven.
- 29 Q. 530 I beg your pardon.
- 12:57:32 30 A. Sorry I said seven members, there are nine members.

- 12:57:34 1 Q. 531 According to Mr. Dunlop's diary, isn't that right?
- 2 A. That's right.
- 3 Q. 532 It records "17 acres designated last time of which one acre has been used
- 4 and then six acres needed to be designated at Golden Island, one and a
- 12:57:47 5 half acres needed in Pearse Street". And then it says either "piling" or
- 6 "filing", is that right?
- 7 A. Yeah.
- 8 Q. 533 Right. That would suggest that Mr. Dunlop was up to speed with the
- 9 certain elements of the tax designation of Golden Island, particularly as
- 12:58:03 10 to the acreage, isn't that right?
- 11 A. Yes.
- 12 Q. 534 He certainly seemed to be able to record that six acres were needed to be
- 13 designated at Golden Island, isn't that right?
- 14 A. Yes.
- 12:58:14 15 Q. 535 And I think it says one and a half acres at Pearse Street, is that right?
- 16 A. Yes.
- 17 Q. 536 Can you assist as to why Mr. Dunlop would have been making those entries
- 18 in 1994, Mr. O'Callaghan?
- 19 A. Absolutely idea, I don't know what he was doing with it. I can say to you
- 12:58:31 20 possibly why he listed down the list of councillors on the left-hand side
- 21 of that diary there, that was probably to do with the topping out ceremony
- 22 which he was involved in, if the date is correct.
- 23 Q. 537 If we can have 11032, this is an extract I think from Mr. Dunlop's 1994
- 24 diary for I think the 24th or the 25th May and there is a reference to
- 12:58:57 25 Athlone/OOC on the 25th May 1994?
- 26 A. Yeah.
- 27 Q. 538 Now, that couldn't have been the topping out ceremony, isn't that right,
- 28 Mr. O'Callaghan, because the tax designation wasn't given until December
- 29 1994, isn't that right?
- 12:59:13 30 A. Yes.

12:59:13 1 Q. 539 And the topping out happened much later.
2 A. Yes.
3 Q. 540 And I think Mr. Dunlop put in a fee note of the some of the order of 1,800
4 pounds which was paid I think by the Golden Island development?
12:59:24 5 A. That was his only involvement in Golden Island.
6 Q. 541 I wanted to ask you that. If the topping out ceremony doesn't happen at
7 this stage, what is Mr. Dunlop doing in Athlone with you, Mr. O'Callaghan,
8 on the 25th May 1994?
9 A. I don't know. He wasn't there with me.
12:59:39 10 Q. 542 He wasn't there with you? Right.
11 A. No.
12 Q. 543 I think I can leave it there for the moment, until tomorrow.
13
14 CHAIRMAN: All right. We're sitting tomorrow at half past ten for
12:59:53 15 Mr. O'Callaghan.
16
17 MS. DILLON: Half past ten. Yes, Sir.
18
19 CHAIRMAN: We are sitting this afternoon.
13:00:02 20
21 MS. DILLON: In Cloughran.
22
23 CHAIRMAN: In Cloughran. Mr. Dunlop is to be cross examined.
24
13:00:08 25 MS. DILLON: Yes, Sir
26
27 CHAIRMAN: At 2 o'clock. All right.
28
29 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH**
13:00:20 30