

09:29:24 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY**

2 **9TH OCTOBER 2008 AT 10.30 AM:**

3
4 CHAIRMAN: Good morning, Ms. Dillon.

10:35:51 5
6 MS. DILLON: Morning, Sir. Mr. O'Callaghan please.

7 Mr. O'Callaghan, if you could wait just a moment I think there is some
8 computer hitch.

9
10:36:07 10 CHAIRMAN: Sorry, is there a difficulty?

11
12 MS. DILLON: I understand that we don't appear to be able to call up
13 documents that will be needed this morning on the screen because there is
14 some interference from the main frame of the computer. I wonder could I
10:36:20 15 ask you to rise maybe just for five minutes and it might be possible that
16 we could sort the problem.

17
18 CHAIRMAN: All right.

19
10:36:31 20 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND**

21 **RESUMED AGAIN AS FOLLOWS:**

22
23 CHAIRMAN: All right.

24
10:42:00 25 MS. DILLON: Thank you, Sir. I understand everything is ready.

26 Mr. O'Callaghan, please.

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28
29
10:35:54 30

10:35:54 1 **MR. OWEN O'CALLAGHAN CONTINUES TO BE QUESTIONED BY**

2 **MS. DILLON AS FOLLOWS:**

3

4 CHAIRMAN: Morning, Mr. O'Callaghan.

10:42:29 5 A. Morning.

6 Q. 1 MS. DILLON: Good morning, Mr. O'Callaghan.

7 A. Morning.

8 Q. 2 Yesterday I had been asking you about Mr. Dunlop's recorded attendance per

9 his diary at 11032 on the 25th May 1994, as we saw yesterday Mr. Dunlop

10:42:49 10 had an entry in his diary for "Athlone/OOC at 1 o'clock", isn't that

11 right?

12 A. Yes.

13 Q. 3 Yes. And the earlier appointment appears to have been struck out, isn't

14 that right?

10:43:06 15 A. Yes.

16 Q. 4 And I think yesterday it was your evidence to the Tribunal that Mr. Dunlop

17 had gone with you on one occasion to Athlone, isn't that right, in

18 relation to the topping out ceremony?

19 A. Yes, that's correct.

10:43:18 20 Q. 5 And I had indicated to you that this entry was in Mr. Dunlop's diary and

21 in the same year at 23220, which is written on a page at the end of Mr.

22 Dunlop or indeed the beginning of Mr. Dunlop's 1994 diary, there is a list

23 of the councillors or of members of the Urban District Council of Athlone,

24 isn't that right?

10:43:41 25 A. Yes.

26 Q. 6 Now, I don't believe that yesterday I showed you, Mr. O'Callaghan, at

27 12914, the entry in 1997 in Mr. Dunlop's diary for a topping out ceremony

28 in Athlone, on either the 22nd or 23rd May 1997?

29 A. Yes.

10:44:00 30 Q. 7 And you will see that on the 22nd May 1997 Mr. Dunlop has an entry, it

10:44:06 1 says "Pat Murphy to call" but beneath that he has the words "Athlone",
2 isn't that right?
3 A. Yes.
4 Q. 8 On the day following that, Friday 23rd he has "Topping out Athlone"
10:44:18 5 beneath that "Ring M Tiernan" and two numbers, isn't that right?
6 A. Yes, correct.
7 Q. 9 And then at the very bottom of that page, that is that date the 23rd May
8 '97, he has written "4 o'clock topping out Athlone" and an arrow bringing
9 the topping out ceremony back to the 22nd, do you agree with that?
10:44:38 10 A. Yes.
11 Q. 10 Right. That would suggest that Mr. Dunlop's diary of 1997 if it's
12 correct, that the topping out ceremony was in 1997, does that accord with
13 your recollection?
14 A. I can't be specific about the date but it's probably correct, yes.
10:44:50 15 Q. 11 Well, if I show you 12885, which is an extract from Mr. Dunlop's cash
16 receipts book, for 1997, and if you look at the date, the 13th of the 5th
17 '97, approximately halfway down the page, you will see a reference "Golden
18 Island partner" you see that?
19 A. Yes.
10:45:15 20 Q. 12 A fee of 1,210 pounds which is amalgamated with other funds and lodged to
21 Frank Dunlop and Associate's account.
22 A. Sorry what date is that, yes.
23 Q. 13 It appears to be the 13th May '97.
24 A. Yes.
10:45:29 25 Q. 14 I think Mr. Dunlop's position was that he had been paid what he described
26 as small fee for the topping out ceremony of Athlone, does that accord
27 with your recollection?
28 A. That is correct.
29 Q. 15 Will, you take the entry in Mr. Dunlop's cash receipts book together the
10:45:43 30 with entry for the 22nd and 23rd May '97, at 12914, would you agree,

- 10:45:49 1 Mr. O'Callaghan, that Mr. Dunlop's attendance in Athlone in 1997 is likely
2 to have been for the topping out ceremony?
- 3 A. Yes.
- 4 Q. 16 Right. If we go back to the diary entry that we had looked at first
10:46:01 5 yesterday, which was the entry in 1994, isn't that right?
- 6 A. Yes.
- 7 Q. 17 That we looked at, I think first this morning, does any of that assist you
8 at recollecting, at 11032 what meeting you might have had with Mr. Dunlop
9 on the 25th May 1994 in connection with Athlone?
- 10:46:26 10 A. I can't recollect any meeting with him, it must have been maybe discussed
11 at home, might have been discussed in his office, but I don't recollect
12 Frank Dunlop having any involvement at that stage in Athlone.
- 13 Q. 18 Certainly if I understood you correctly yesterday, it was your
14 recollection that Mr. Dunlop had gone to Athlone on one occasion for the
10:46:46 15 topping out ceremony and he had been paid for that, is that right?
- 16 A. That's correct, yes.
- 17 Q. 19 And I think looking at the documents now that would appear to have
18 happened in 1997 in May, is that right?
- 19 A. Yes, that's correct.
- 10:46:55 20 Q. 20 Now, if there is an entry in Mr. Dunlop's diary for Athlone for 1994 it
21 must relate to something that was happening between yourself and Mr.
22 Dunlop at that time, is that right?
- 23 A. I must have discuss order mentioned Athlone to him but I don't recollect
24 anything else because he didn't have any involvement in it.
- 10:47:13 25 Q. 21 Yes, you will see that at the bottom of the diary there was originally an
26 entry that read "8 o'clock OOC dinner, two by four club" do you see that,
27 at the very bottom of the 25th May '94? It's just scribbled out, you see
28 it says "OOO dinner then 2/4 club"?
- 29 A. Is that what that is? Okay.
- 10:47:39 30 Q. 22 That is probably a reference to a dinner that had been organised between

10:47:43 1 yourself and I think we mentioned the members of the two by four club
2 were?
3 A. That would make sense.
4 Q. 23 That appears to be cancelled, is that right?
10:47:51 5 A. Yes.
6 Q. 24 Do you think it's possible, Mr. O'Callaghan, on the 25th May 1994 Mr.
7 Dunlop might have travelled to Athlone with you, for some purpose in
8 connection Athlone?
9 A. I don't think so, no.
10:48:06 10 Q. 25 No you have no --
11 A. I can't recollect.
12 Q. 26 You can't recollect any such visit, is that right?
13 A. The only reason he would have done that and I have no recollection at all
14 of that actually, is that he would have given me a lift down there maybe,
10:48:17 15 but I doubt that.
16 Q. 27 Is it possible, you see I ask you this because of the statement made by
17 Mr. Gilmartin to the Tribunal, that you told him about being in Athlone
18 with Mr. Dunlop and with Mr. Diskin and Mr. Kelly, the owner of the Golden
19 Island site at which Mr. Diskin went to meet with Mrs. O'Rourke in
10:48:38 20 circumstances in which Mr. Dunlop refused to go to meet her, remember
21 Mr. --
22 A. Yes, yes.
23 Q. 28 What I was wondering now, Mr. O'Callaghan, is it possible that on the 25th
24 May 1994, Mr. Dunlop did go to Athlone with you?
10:48:53 25 A. No.
26 Q. 29 And it was at that time prior to any designation taking place in Golden
27 Island that Mr. Diskin went to meet with Mrs. O'Rourke?
28 A. Oh he could have. Mr. Diskin met Mrs. O'Rourke, yes. But Frank Dunlop
29 had absolutely nothing do with that. Frank Dunlop's involvement with
10:49:09 30 Mrs. O'Rourke would have been on the day of the topping out ceremony when

10:49:12 1 she refused to get involved. The only recollection -- Frank had nothing
2 to do with that, the only thing I can think of it, it's a pure, pure guess
3 that he would have driven me down to a meeting but I doubt that.

4 Q. 30 Is it possible, sorry would you agree with me it's likely that
10:49:31 5 Mr. Diskin's visit to Mrs. O'Rourke would have taken place prior to the
6 end of 1994?

7 A. I can't say.

8 Q. 31 It would have to, isn't that right, Mr. O'Callaghan, if the purpose of
9 Mr. Diskin's visit was to seek Mrs. O'Rourke's support in relation to the
10:49:50 10 designation of Golden Island?

11 A. It wasn't designation of Golden Island, it was planning actually.

12 Q. 32 Yes.

13 A. There was a problem with Mrs. O'Rourke in particular, for Golden Island.
14 She wasn't in favour of that particular location for the development.

10:50:03 15 Q. 33 Yes. But that was something that would have to, would have an impact on
16 the designation, isn't that right?

17 A. Oh, yes initially.

18 Q. 34 Isn't likely then that Mr. Diskin's visit to Mrs. O'Rourke might have
19 happened in 1994?

10:50:16 20 A. Oh it could have, yes.

21 Q. 35 But is it your evidence that in any event, even if such a visit did take
22 place between Mr. Diskin and Mrs. O'Rourke it was not at a time when you
23 were present or at a time when you were in Athlone, is that right?

24 A. No, this was a total, absolutely, this was a totally local thing, the late
10:50:32 25 Tom Diskin was from Athlone and this, as far as I was concerned he was
26 looking after the project there really, I wasn't -- I never met
27 Mrs. O'Rourke in Athlone. I wasn't present at all, Tom Diskin would have
28 met her on his own, I am sure he met her on quite a few occasions.

29 Q. 36 You yourself at 23220, Mr. O'Callaghan, can you think of any reason why
10:50:56 30 Mr. Dunlop would have recorded the names of the Urban District Councillors

- 10:51:01 1 of Athlone in his 1994 diary?
- 2 A. The only reason that I could well have been discussing Athlone with him in
3 his office some day, it's quite possible, and I don't know why, but he's
4 written down there the councillors in Athlone. I don't know why he would
10:51:20 5 have done that, but that's possible I would have discussed Athlone just in
6 passing.
- 7 Q. 37 If that is the case, Mr. O'Callaghan, it would mean that you were in a
8 position to identify to Mr. Dunlop the acreage that needed designation, is
9 that right?
- 10:51:27 10 A. Sorry that I was what?
- 11 Q. 38 In a position to identify to Mr. Dunlop the acreage that needed
12 designation, because that's what Mr. Dunlop has recorded?
- 13 A. Oh, yes. I would have said the size of the site, yes.
- 14 Q. 39 Would you yourself have known the main councillors in Athlone or was at
10:51:41 15 that a matter that was left to Mr. Diskin?
- 16 A. It was left to Mr. Diskin and Mr. Tiernan, to both of them actually, but I
17 did go to two Council meetings, so I would have met them all at a council
18 meeting in Athlone.
- 19 Q. 40 Now, one matter that I should have put to you, Mr. O'Callaghan, when we
10:51:57 20 were dealing with the question of the planning yesterday, was an
21 allegation that was made by Mr. Gilmartin that you told him that you had
22 to have Ambrose Kelly on board because of Mr. Kelly's connections with An
23 Bord Pleanala, you are aware that Mr. Gilmartin has said that, isn't that
24 right?
- 10:52:15 25 A. Yes, I am.
- 26 Q. 41 What is your attitude in relation to that allegation by Mr. Gilmartin?
- 27 A. Well, the reason we wanted Ambrose Kelly on board, yes I would have said
28 that to Tom Gilmartin more than likely, because as far as Tom Gilmartin
29 was concerned he didn't fully understand the planning system in this
10:52:34 30 country. First of all, he didn't understand the zoning system either, but

10:52:39 1 it was essential that we had a local architect, that's really what I was
2 on about, that we had an Irish architect in particular, if possible a
3 Dublin based architect who knew the way the local authority functioned and
4 not just the local authority, also the way An Bord Pleanala functioned and
10:52:55 5 thought. That's the way we should have a Dublin based architect not
6 someone from Belfast like he had.

7 Q. 42 In effect you were advocating somebody with local knowledge?

8 A. Yes.

9 Q. 43 And that would be somebody who had expertise of the system both at local
10:53:10 10 level and appeal level insofar as the board was concerned?

11 A. Yes.

12 Q. 44 Insofar as I think it was Taggarts, is that correct?

13 A. Yes, based in Belfast.

14 Q. 45 Mr. Gilmartin's firm were concerned was it your opinion that they didn't
10:53:22 15 have the expertise that was necessary to progress the matter through the
16 local authority or with the local authority or through the board?

17 A. Yes.

18 Q. 46 Right.

19 A. Yes.

10:53:31 20 Q. 47 So it's likely then that you would have said to Mr. Gilmartin that in
21 order to deal with the local authority or get the matter through the board
22 it was necessary to have Mr. Kelly on board?

23 A. A Dublin based architect, but in this case Mr. Kelly yes. The other
24 question I would have had with Taggarts was that they, were a very
10:53:47 25 arrogant type of organisation.

26 Q. 48 I beg your pardon?

27 A. They were a very arrogant firm of architects.

28 Q. 49 Did you yourself meet with Taggarts?

29 A. Yes, I did.

10:53:55 30 Q. 50 Did you find them difficult to deal with?

- 10:53:57 1 A. I won't say difficult, but a typical, probably at the time possibly
2 typical British they were overpowering, demand that the planners should do
3 what they wanted, it didn't go down too well in Dublin.
- 4 Q. 51 Whereas it was your experience through Mr. Kelly that what the Dublin
10:54:11 5 planners wanted was what they wanted rather than what the architects or
6 engineers would suggest?
- 7 A. Yes.
- 8 Q. 52 Right. Would it be fair to say that there was, from the beginning in your
9 relationship with Mr. Gilmartin a difference of opinion between you, in
10:54:25 10 relation to the retention of professional advisers?
- 11 A. Oh, yes.
- 12 Q. 53 And that Mr. Gilmartin had already a team or teams in place such as Ove
13 Arup and Taggart from the beginning whom he was promoting?
- 14 A. Yes.
- 10:54:37 15 Q. 54 You had your own team which initially was Mr. Ambrose Kelly and
16 subsequently included Mr. Dunlop?
- 17 A. Yes but I would have other people in the design team as well as the
18 architects, other engineers as well.
- 19 Q. 55 Yes. You had Ms. Auveen Byrne?
- 10:54:53 20 A. As a planning consultant.
- 21 Q. 56 And I think that Mr. Gilmartin had Mr. Ciaran O'Malley as a planning
22 consultant as well, isn't that right?
- 23 A. Yes. He also had Ove Arup and we had Fitzsimmons and company consulting
24 engineers, we had our own team.
- 10:55:08 25 Q. 57 One of the bones of contention if I can put it like that between yourself
26 and Mr. Gilmartin, he had a team in place that were owed substantial
27 funds, isn't that right?
- 28 A. That's right.
- 29 Q. 58 You brought in a new team when you became involved in Quarryvale?
- 10:55:19 30 A. Yes.

- 10:55:19 1 Q. 59 Including Mr. Kelly, Ms. Auveen Byrne, Mr. Dunlop?
- 2 A. Fitzsimmons.
- 3 Q. 60 And Fitzsimmons?
- 4 A. Yes.
- 10:55:26 5 Q. 61 And Mr. Gilmartin objected to the introduction of those personnel, is that
6 fair to say?
- 7 A. Well, only to the architects he would have preferred to keep Taggarts on
8 board because I think he owed them a lot of money.
- 9 Q. 62 But it was your view and you expressed to Mr. Gilmartin that it was your
10:55:41 10 belief that Mr. Kelly was necessary because of his local knowledge and
11 local expertise to progress the matter?
- 12 A. Local knowledge, yes.
- 13 Q. 63 Would you have held the same view in relation to the other professionals
14 that you retained, Mr. O'Callaghan?
- 10:55:52 15 A. Well, yes although Ove Arup would probably have a lot of local knowledge
16 as well because they were Dublin based but I would have had more
17 confidence in our own consulting engineers plus the fact that our own
18 consulting engineers were not as expensive as Ove Arup.
- 19 Q. 64 And insofar as Mr. Ciaran Malley was concerned who was Mr. Gilmartin's
10:56:11 20 planning consultant, was it your view that Ms. Auveen Byrne was a person
21 better placed to progress the planning application?
- 22 A. No, in fairness I wouldn't say that both of them would be the same but she
23 was involved with, I think she been involved in the Balgaddy site and
24 would have been more familiar with Quarryvale and Balgaddy than O'Malley
10:56:32 25 would have been.
- 26 Q. 65 But it would be, sorry -- the documentation appears to suggest that
27 Mr. Gilmartin was concerned over the fact that his professional team as he
28 saw it were not paid?
- 29 A. That was the real problem, yes.
- 10:56:45 30 Q. 66 That was an ongoing theme in Mr. Gilmartin's dispute with you, would you

10:56:50 1 agree with that?

2 A. I would, the reason for that, I am not a person not to pay professional
3 fees, but we couldn't afford to pay them. We tried to hold on as long as
4 we could to pay the fees.

10:57:03 5 Q. 67 Insofar as your own team were concerned, as you have outlined it, steps
6 were taken to discharge those fees, isn't that right, I think we have seen
7 that?

8 A. But again my own team would definitely not have been as expensive as the
9 team Tom Gilmartin had lined up and they would wait longer than to be paid
10 than Tom Gilmartin's team.

11 Q. 68 Yes but I think it is fair to say, Mr. O'Callaghan, that from 1991 when
12 you became involved, whether they were initially paid from Riga or the
13 Riga subordinated loan and while there was some time delay, the team
14 retained by you was paid?

10:57:37 15 A. Yes, it was.

16 Q. 69 Isn't that right?

17 A. That's fair to say.

18 Q. 70 I think you would have to agree that your professional team was paid in
19 advance of Mr. Gilmartin's professional team in some instances?

10:57:48 20 A. That is true, because they were working, that is true, yes.

21 Q. 71 I think that became a bone of contention between Mr. Gilmartin and
22 yourself?

23 A. Very much so, yes.

24 Q. 72 Mr. Gilmartin has said, has told the Tribunal that he objected to Ambrose
10:58:02 25 Kelly and he objected to Mr. Dunlop being retained, I don't think you have
26 any huge dispute in relation to that, is that --

27 A. Yes.

28 Q. 73 And therefore following on from that, it would follow that if
29 Mr. Gilmartin objected to Mr. Ambrose Kelly being retained and Mr. Dunlop
10:58:19 30 being retained, he would equally object to the fact that they were being

- 10:58:23 1 paid in circumstances where his own team wasn't, is that right?
- 2 A. Yes.
- 3 Q. 74 So the whole issue of fees and payment of professional team became a
- 4 problem between yourself and Mr. Gilmartin from the commencement of your
- 10:58:33 5 actual involvement in Quarryvale, is that fair to say?
- 6 A. That is fair to say, yes.
- 7 Q. 75 Like a running theme throughout your relationship it remained a bone of
- 8 contention, isn't that right?
- 9 A. Yes.
- 10:58:43 10 Q. 76 I think it would be fair to say that that concern of Mr. Gilmartin's
- 11 crystallised in 1994 and 1995 when he initially asked Seamus Maguire to ask
- 12 certain questions on his behalf and later he appointed Mr. Paul Sheeran to
- 13 act for him, isn't that right?
- 14 A. Yes.
- 10:59:02 15 Q. 77 I will come to deal with that in more detail but by way of general
- 16 background, Mr. O'Callaghan, you don't dispute that in general those
- 17 propositions are correct?
- 18 A. Yes.
- 19 Q. 78 Now, I think that in May of 199 -- in 1994 and in May of 199, sorry in
- 10:59:18 20 March of 1994 you had attended the Cork private dinner which you organised
- 21 and made a payment of 10,000 pounds to Fianna Fail, is that right?
- 22 A. Yes.
- 23 Q. 79 And you subsequently in May of 1994 made a payment of 10,000 pounds to
- 24 Mr. Brian Crowley, following on a request from his father, that is right?
- 10:59:36 25 A. Yes.
- 26 Q. 80 You had cleared that with the Head Office in Fianna Fail that it could be
- 27 taken out of the 100,000 pounds that you had committed to pay to Mr. Ray
- 28 Mac Sharry for Fianna Fail, is that right?
- 29 A. That's correct.
- 10:59:46 30 Q. 81 And I think later in June 1994 you paid the balance of that commitment to

10:59:52 1 Fianna Fail when you paid the 80,000 pounds, isn't that right?

2 A. Yes.

3 Q. 82 I think we have already dealt with that and I don't think there is any

4 necessity to go through in any great detail, unless there is something you

11:00:10 5 want to add to that, Mr. O'Callaghan?

6 A. No, I'm happy with that.

7 Q. 83 Right. I think in May of 1994, in the second audit period or the second

8 audit was being carried out by Deloitte & Touche in relation to the second

9 audit period for Barkhill, is that right?

11:00:21 10 A. Yes.

11 Q. 84 In other words, the first audit had gone up to the year end April 1992, is

12 that right?

13 A. Yes.

14 Q. 85 And we had seen when that audit was being done, that the Shefran 80,000

11:00:32 15 pounds had been put into the Barkhill loan having been originally paid out

16 of the Riga subordinated loan, is that right?

17 A. Yes.

18 Q. 86 That's the 80,000 pounds that was paid to Shefran or Mr. Dunlop's company

19 in early to mid 1991 by you, is that right?

11:00:46 20 A. Yes.

21 Q. 87 Right. Now, in May of 1994 at 10945, Deloitte & Touche wrote in the first

22 instance to Ms. Basquille of Allied Irish Bank, but that letter was cc'd

23 at 10946, to Mr. Lucey, Mr. Maguire, Mr. Deane, Mr. Gilmartin, Mr. Pitcher

24 and Mr. O'Callaghan, isn't that right?

11:01:14 25 A. Yes.

26 Q. 88 Would you agree if I could have 10945 please, that you would have received

27 a copy of this letter?

28 A. I must have, yes.

29 Q. 89 Now, what this letter concerns itself with is the second audit period

11:01:28 30 which was 18 months up to the 31st October 1993, you see that's the

- 11:01:34 1 heading on the letter?
- 2 A. Yes.
- 3 Q. 90 Now, in this letter Leo Fleming encloses two draft copies of the financial
- 4 statements and they have been prepared from the loan accounts and from the
- 11:01:47 5 supporting documentation in respect of Riga's transactions prepared by
- 6 Aidan Lucey in O'Callaghan Properties Limited, and what Mr. Fleming was
- 7 doing there was he was preparing another set of accounts, and this time
- 8 it's based on the information that has been provided to him by Mr. Lucey
- 9 in O'Callaghan Properties, isn't that right?
- 11:02:07 10 A. Yes.
- 11 Q. 91 What I want to draw to your attention is paragraph three he says:
- 12
- 13 "Whilst at this stage there are a few unresolved audit matters, I do not
- 14 expect that their resolution will have a major impact on the presentation
- 11:02:19 15 of the financial statement. These matters are briefly set out in appendix
- 16 1". If we look at appendix 1, which is 10942, sorry 10947 I beg your
- 17 pardon, we see that he has identified a number of matters, one was an
- 18 audit query to Mr. Maguire in relation to legal fees and expenses, there
- 19 was a VAT inquiry which was to be addressed by Mr. Lucey, isn't that
- 11:02:47 20 right?
- 21 A. Yes.
- 22 Q. 92 There was a Bank of Ireland Blanchardstown inquiry which was to be
- 23 addressed by Mr. Gilmartin and item number 4 was the agreement of the
- 24 balance with Riga Limited, and that item was the inter company loan
- 11:03:01 25 balance between Riga and Barkhill.
- 26 A. Yes.
- 27 Q. 93 Now, Mr. Fleming says the following. "The following items which were
- 28 included in the Riga balance at the 30th April '92 have been omitted by
- 29 Barber & Co. from the Riga balance at 31st October 1993." What that
- 11:03:19 30 means, Mr. O'Callaghan, is when Ms. Cowhig sent the inter company loan

11:03:23 1 balance to Mr. Lucey for the year end 30 April 1992, certain items were
2 included and when she sent the inter company loan balance to him for the
3 31st October 1993 certain items that had been there the previous year had
4 been taken out, you understand?

11:03:39 5 A. Yes.

6 Q. 94 Now, the item that is were identified as having been moved was Sheafan
7 80,000, travel expenses of 10,842 and the loan account of 6,309. Now, the
8 figure of 6,309, Mr. O'Callaghan, you may remember was the balancing
9 figure for the Riga subordinated loan, you remember we dealt with that
10 before?

11 A. Yes.

12 Q. 95 But he then asks clarification is required from Aidan Lucey and Barber &
13 Co, they are identified as the people who will provide the information,
14 isn't that right?

11:04:11 15 A. Yes.

16 Q. 96 Now, what Mr. Fleming is doing there, Mr. O'Callaghan, is he is
17 identifying a change in information that's been provided to him by Barber
18 & Co.

19 A. Yes.

11:04:25 20 Q. 97 And in his letter at 10945, he says in the next paragraph "I am also
21 attaching to this letter an analysis appendix 2 of amounts due in respect
22 of professional fees at the 31st October 1993 and 30 April 92. A
23 substantial portion of these fee provisions remain unaltered from the
24 previous period and they derive from discussions I had with Tom Gilmartin
11:04:49 25 in early 1992. I am aware from the director's meeting in October 1993
26 that many of these fees have not been fully agreed.
27
28 In the interests of prudence, I have retained these provisions in the
29 draft financial statements".

11:05:04 30

11:05:04 1 And appendix 2 is at 10948. We see recorded there a schedule of fees and
2 these were the fee that is had not been agreed at the directors meeting
3 that had taken place in October of '93 that I think we discussed
4 yesterday.

11:05:20 5 A. Yes.

6 Q. 98 Right. And you will see that there is reference there under the heading
7 "planning consultants" there is Connell Group, K O'Malley and Harrington
8 Bannon, is that right?

9 A. Yes.

11:05:30 10 Q. 99 And then beneath that there is Ove Arup civil engineers, architect A
11 Kelly, legal N Corcoran and S Maguire, audit and accountancy, Deloitte &
12 Touche, Touche Ross, public relations Sheafran and Frank Dunlop and
13 beneath that estate agents Gunnes, isn't that right?

14 A. Yes.

11:05:52 15 Q. 100 These were scheduling fees that had been effectively accrued for the year
16 end April 1992 which would fall due in 1993. What Mr. Fleming is saying
17 in the correspondence is these matters have to be resolved before that
18 audit period can be completed, isn't that right?

19 A. Yes.

11:06:07 20 Q. 101 And it would be fair to say what was in dispute, that as is recorded there
21 were the professional fee that is were due for one reason or another,
22 isn't that right?

23 A. Yes.

24 Q. 102 That would suggest that insofar as you were not happy to pay
11:06:22 25 Mr. Gilmartin's fees, Mr. Gilmartin equally wasn't happy to agree to pay
26 yours, is that right?

27 A. That's correct.

28 Q. 103 And therefore there was a kind of stand off situation effectively in
29 being, is that fair to say?

11:06:34 30 A. That is correct, yes.

- 11:06:35 1 Q. 104 Right. I will come back to deal with the, that particular appendix in a
2 moment, but I want to continue to deal with the first appendix at 10947.
3 Now, I think that following receipt of that letter of the 11th May '94 to
4 Ms. Basquille at 10986, Mr. Lucey of O'Callaghan Properties Limited sent a
11:07:05 5 copy of that letter to Ms. Clare Cowhig, and he says at 10986 "Please
6 contact me by phone" on the 17th May 1994, isn't that right?
7 A. Yes.
8 Q. 105 And attached to that at 10987 was the letter together with the appendix 1
9 and 2, isn't that right?
11:07:28 10 A. Yes.
11 Q. 106 And appendix 1 as sent to Ms. Cowhig can be seen at 10990, and there are
12 certain handwritten notes at the bottom of that, Mr. O'Callaghan, and
13 beside the word Sheafran, the words "Now include" appear to be written and
14 beneath travel expenses which are 10842 the words "Now include" are also
11:07:55 15 written apparently in Ms. Cowhig's writing?
16 A. Yes.
17 Q. 107 Now, at 10980, on the 17th May '94, Mr. Deane sent to Ms. Cowhig a copy of
18 the unresolved matters for Barkhill Limited, isn't that right?
19 A. Yes.
11:08:10 20 Q. 108 And at 10981; this is the document that Mr. Deane sent to Ms. Cowhig,
21 which also identifies the audit inquiries, the VAT, Bank of Ireland and
22 the agreement with the loan balance of Riga, is that right?
23 A. Yes.
24 Q. 109 Right. So what was of concern that having been picked up by Deloitte &
11:08:34 25 Touche, what was of concern between the parties that were involved here
26 was why had the loan balance between Riga and Barkhill been altered, isn't
27 that right?
28 A. Yes.
29 Q. 110 Right. And therefore what was required was an explanation as to why the
11:08:50 30 movement of the monies had taken place, isn't that right?

- 11:08:53 1 A. Yes.
- 2 Q. 111 Right. So I think that in February of 1995 at 11615, Mr. Fleming wrote
3 again, isn't that right, Mr. O'Callaghan?
- 4 A. Yes.
- 11:09:08 5 Q. 112 Right. To Ms. Basquille, in relation to the finalisation of the audit for
6 the 18 month period to the 31st October 1993 and at paragraph 2 he
7 identified the same query in relation to the movement of the Shefran
8 80,000, is that right?
- 9 A. Yes.
- 11:09:25 10 Q. 113 And he says "The following items have been included in the Riga balance
11 for 30 April '92 but have been omitted by Barber & Co. from the Riga
12 balance of 31 October '93".
- 13 A. Mm-hmm.
- 14 Q. 114 And the details are set out there and Sheafraan 80,000 pounds and that's
11:09:42 15 broken down by somebody to read 25 and 40K and 15K, isn't that right?
- 16 A. I don't see that -- oh, yes sorry, yes.
- 17 Q. 115 And then the word "include" is written beside the 80,000 is that right?
- 18 A. Yes.
- 19 Q. 116 Beneath in a travel expenses 10,842 and written beside that "include in
11:10:04 20 bark hill, no, included in Riga". And beneath that Barkhill number 2 loan
21 account 6,309 and beside that I think are the words "actual receipt 5
22 March '92 refund of expenses", isn't that right?
- 23 A. Yes.
- 24 Q. 117 Now, you agree with me first that on this document is identified the break
11:10:25 25 down of the three Shefraan payments?
- 26 A. Yes.
- 27 Q. 118 And therefore the payments have been identified as being the ones that
28 were made to Mr. Dunlop in 1991, isn't that right?
- 29 A. Yes.
- 11:10:36 30 Q. 119 They can't be any other payments, isn't that the position?

- 11:10:38 1 A. Correct.
- 2 Q. 120 By February of 1995 would you agree with me, Mr. O'Callaghan, that
- 3 notwithstanding the inquiry made by Mr. Fleming in May of 1994, the query
- 4 had not been replied to?
- 11:10:49 5 A. Yes.
- 6 Q. 121 Right. The information however or the query had been given to you and it
- 7 had been given to Mr. Deane, it had been given to Mr. Lucey and it had
- 8 been given to Ms. Cowhig, do you agree with that?
- 9 A. Yes.
- 11:11:04 10 Q. 122 Between the four of you, nobody had in fact provided an explanation to
- 11 Mr. Fleming, isn't that right?
- 12 A. It seems like that, yes.
- 13 Q. 123 Because by February of 1995 he writes again to Ms. Basquille, isn't that
- 14 right?
- 11:11:18 15 A. Yes.
- 16 Q. 124 He ccs that letter at 11616 to yourself, Mr. Pitcher, Mr. Gilmartin,
- 17 Mr. Deane, Mr. Maguire and Mr. Lucey.
- 18 A. Yes.
- 19 Q. 125 And they were the same people to whom the original inquiry had been cc'd,
- 11:11:32 20 isn't that right, at 10946?
- 21 A. Yes.
- 22 Q. 126 Yes. Now, it would follow from that then that yourself, Mr. Pitcher,
- 23 Mr. Gilmartin Mr. Deane, Mr. Maguire, Mr. Lucey had not provided any of
- 24 the information, isn't that right?
- 11:11:52 25 A. Yes.
- 26 Q. 127 But in addition to that, Ms. Cowhig had been asked to deal with the matter
- 27 and had been asked in May of 1994 to deal with the matter, isn't that
- 28 right?
- 29 A. Yes.
- 11:12:01 30 Q. 128 Because not alone had she got it from Mr. Lucey in O'Callaghan Properties

11:12:06 1 but Mr. Deane had sent it to her by separate letter, isn't that the
2 position?

3 A. Yes.

4 Q. 129 Right. Now, can you think of any reason as to why that information wasn't
11:12:13 5 provided by Ms. Cowhig when she was asked to provide the information or
6 the explanation by Mr. Deane or Mr. Lucey?

7 A. Well, I can't think of any reason.

8 Q. 130 All right. Do you know why it was, Mr. O'Callaghan, that those three
9 Shefran payments were moved out of the inter company loan balance between
11:12:32 10 Riga and Barkhill?

11 A. In '94?

12 Q. 131 Yes.

13 A. From what I have been told I think they were put back into Barkhill
14 because we believed at that stage now that the site was rezoned that
11:12:44 15 Barkhill would pay them.

16 Q. 132 Sorry, Mr. O'Callaghan, why were they moved out in the first place?

17 A. Because we believed that, as far as I know we believed that the banks
18 wouldn't pay them. That was '91, I think.

19 Q. 133 They had been paid out of the Riga subordinated loan in 1991, isn't that
11:13:03 20 the position?

21 A. Yes.

22 Q. 134 They had been charged within Riga to the Barkhill loan for the year end
23 April 1992, isn't that right?

24 A. Yes.

11:13:11 25 Q. 135 Because Mr. --

26 A. Sorry, they had been charged to Riga.

27 Q. 136 Yes, in Riga they been charged to the Barkhill loan?

28 A. Yes.

29 Q. 137 In other words, they were identified by Riga as being monies paid by Riga
11:13:22 30 on behalf of Barkhill, but which Barkhill now owed to Riga, isn't that

- 11:13:27 1 right?
- 2 A. Yes.
- 3 Q. 138 Now, in the following year which is the year end October '93, they been
- 4 moved out of the Barkhill loan, isn't that right?
- 11:13:36 5 A. That's right.
- 6 Q. 139 Right. So what that was saying, effectively was that those monies were no
- 7 longer owed or paid by Riga on behalf of Barkhill, isn't that right?
- 8 A. Mm-hmm.
- 9 Q. 140 Mr. Fleming picks up on it when he sees two different inter company
- 11:13:51 10 balances, isn't that right?
- 11 A. Yes.
- 12 Q. 141 He sends off his query, is that the position?
- 13 A. Yes.
- 14 Q. 142 Right. Now, first of all I want to know, Mr. O'Callaghan, if you can tell
- 11:13:59 15 the Tribunal what you know about the decision that was made to take what
- 16 effectively was Mr. Dunlop's 80,000 out of the Barkhill loan?
- 17 A. Well, I can't help you there because I wasn't involved in it.
- 18 Q. 143 Right. Did you have any discussion with either Ms. Cowhig or Mr. Deane in
- 19 relation to that decision?
- 11:14:19 20 A. No.
- 21 Q. 144 Is that a matter then that remains to be dealt with on the basis only of
- 22 the evidence of Ms. Cowhig and Mr. Deane and is a matter which you
- 23 yourself had no involvement?
- 24 A. That's absolutely correct. Yes.
- 11:14:35 25 Q. 145 You will be aware from Ms. Cowhig's evidence and I am sure I will be
- 26 corrected if I am wrong, but in summary what she said was the change took
- 27 place because the fees were considered, there was a possibility that the
- 28 fees that had been paid by Riga might not be recovered or might not be
- 29 agreed by Mr. Gilmartin as appropriate to be paid?
- 11:14:55 30 A. Yes, yes.

- 11:14:57 1 Q. 146 You have read that in Ms. Cowhig's evidence?
2 A. Yes.
3 Q. 147 I think Mr. Deane agrees with that, isn't that right?
4 A. Yes.
- 11:15:02 5 Q. 148 Now, if your evidence is correct, you had no discussion with either your
6 auditor or your partner in relation to whether or not Mr. Gilmartin would
7 agree to pay the Shefran fees, is that right?
8 A. No, I didn't, I wasn't asked.
- 9 Q. 149 So how did Mr. Deane come to the view, Mr. O'Callaghan, that Mr. Gilmartin
11:15:21 10 wouldn't agree to pay the Shefran fees?
11 A. I'm sure he would have known that because of various meetings we were at,
12 board meetings we were at, bank meetings we were at, he felt the same way
13 and I would have felt the same way. He was at the same meetings as me, he
14 would have known Tom Gilmartin was not prepared to pay those fees.
- 11:15:41 15 Q. 150 Did Mr. Deane ever come to you in view of the fact that you were the
16 person who had paid Mr. Dunlop and you had paid Shefran and discussed the
17 question of these fees with you?
18 A. Oh, yes we discussed them, we just simply couldn't afford to pay those
19 fees.
- 11:15:56 20 Q. 151 Yes but in relation to this transaction, which was taking them out of the
21 Barkhill loan?
22 A. No we didn't, I did not discuss that.
- 23 Q. 152 You didn't discuss that?
24 A. But I was involved in the fees of course, the whole fee situation of not
11:16:07 25 paying, Tom Gilmartin's consultants, I was very much involved in that, not
26 paying them. The reason they were not paid was because we couldn't afford
27 to pay them.
- 28 Q. 153 You had in fact already paid the fees, isn't that right, Mr. O'Callaghan?
29 A. Which ones?
- 11:16:20 30 Q. 154 The 80,000 pounds to Shefran.

- 11:16:23 1 A. Oh, yes.
- 2 Q. 155 The question of being able to afford or not afford to pay the fees didn't
3 arise I suggest to you because the money was debited to the Riga one
4 million subordinated loans?
- 11:16:36 5 A. That's the 80,000 pounds, yes.
- 6 Q. 156 That one million subordinated loan was a loan that was set up or advanced
7 by Riga to make payments on behalf of Barkhill?
- 8 A. Yes, that's correct.
- 9 Q. 157 That was it's function, isn't that right?
- 11:16:49 10 A. Yes.
- 11 Q. 158 So when the payments were made out of the one million Riga subordinated
12 loan they were only payments being made for the benefit of Barkhill, isn't
13 that right?
- 14 A. Yes.
- 11:16:57 15 Q. 159 So there was no question of that payment to Mr. Dunlop not being made when
16 you came to consider it or anybody came to consider it in 1993, because
17 they had in fact been paid in the first instance out of the Riga loan?
- 18 A. They had been paid, yes.
- 19 Q. 160 Right. Now, what hadn't happened was she hadn't been repaid by Barkhill,
11:17:14 20 isn't that right?
- 21 A. Yes.
- 22 Q. 161 Is what you are saying to the Tribunal, Mr. O'Callaghan, is that while
23 they had in fact been paid to Mr. Dunlop, the doubt that existed in your
24 mind or Mr. Deane's mind was whether or not Barkhill would ever repay
11:17:27 25 those fees, was that --
- 26 A. Yes, that's correct.
- 27 Q. 162 That's the concern that you had?
- 28 A. Yes.
- 29 Q. 163 Was that a concern that you discussed with Mr. Deane?
- 11:17:34 30 A. Yes we had been aware of that concern, yes both of us.

- 11:17:37 1 Q. 164 And therefore what you had focused on, or what Mr. Deane had focused on in
2 coming to this conclusion was the payment that is had been made that you
3 both considered would not be agreed to be reimbursed by Barkhill?
4 A. Yes.
- 11:17:50 5 Q. 165 And the professional fees that you identified included the Shefran 80,000
6 pounds?
7 A. Yes.
- 8 Q. 166 And would it follow from that then that at the time that this decision was
9 made, you believed or Mr. Deane believed that Mr. Gilmartin, for whatever
11:18:05 10 reason, was not going to agree to a repayment to Riga of monies spent for
11 Mr. Dunlop or Shefran?
12 A. Yes because we were not paying fee that is were due to his consultants.
- 13 Q. 167 Right. That's how the --
14 A. And they were fees we could not afford to pay to his consultants.
- 11:18:23 15 Q. 168 There were of course other fees that had been paid out by Shefran, isn't
16 that right, that had been paid out I beg your pardon, out of the Riga
17 subordinated loan fees to Mr. Maguire for example?
18 A. Yes. These are all active fees, fee that is had to be paid for
19 consultants who were active at the time.
- 11:18:39 20 Q. 169 Right. Are you saying didn't have the same concern in dealing with
21 Mr. Gilmartin about Mr. Maguire's fees, that you had about --
22 A. Oh Mr. Maguire's fees, yes.
- 23 Q. 170 You did have the same concern?
24 A. No, sorry not Mr. Maguire's fees.
- 11:18:53 25 Q. 171 That's what I was asking you?
26 A. Sorry. No, no.
- 27 Q. 172 Is that you didn't have the same concern about Mr. Maguire's fees that
28 existed in relation to Mr. Dunlop's fees?
29 A. Yes, Mr. Maguire's fees had to be paid.
- 11:19:03 30 Q. 173 Right. Now in March of 1995, which is ten months after the original query

- 11:19:15 1 is raised at 11646, Ms. Cowhig replies to the query that has been raised
2 in relation to the 80,000 pounds and at paragraph 2 she says "Inter
3 company balance with Riga. I confirm that the following figures have been
4 included in the amount due from Barkhill Limited as at 30th April 1994.
11:19:34 5 Sheafraan 80,000, Barkhill number 2 loan". Isn't that right?
6 A. Yes.
7 Q. 174 Then on the following page she deals with the third item which is the
8 travel expenses and she says "it has not been included as a debtor in Riga
9 books until we are sure that the same will be refunded. However, it is
11:19:51 10 our understanding that Riga Limited will bill Barkhill Limited for this
11 amount in due course." Is that right?
12 A. Yes.
13 Q. 175 Insofar as if we go back to 11646 and if we look at her reply to number
14 two, do you agree with me, Mr. O'Callaghan, that there is not provided
11:20:09 15 there any explanation as to why the money was moved out of the Barkhill
16 loan?
17 A. There isn't, no there isn't an explanation.
18 Q. 176 What Ms. Cowhig does is, she puts the money back into the Barkhill loan,
19 isn't that right?
11:20:27 20 A. That's right, yes.
21 Q. 177 That would conclude Mr. Fleming's query?
22 A. Yes, that's right.
23 Q. 178 Mr. Fleming no longer has a discrepancy between the year end April '92 and
24 the end of October '93, is that right?
11:20:40 25 A. I think so. Yeah.
26 Q. 179 That's what started the whole process the fact that he had picked up on
27 the discrepancy, isn't that the position?
28 A. Yes, okay. I can't be explicit about this because I'm not too familiar,
29 but that makes sense, yes.
11:20:54 30 Q. 180 That's what I wanted to ask you about, if you can assist, if the position

- 11:20:59 1 was, by March of 1995, that the, there was now a belief due to the
2 rezoning having been passed --
- 3 A. Yes.
- 4 Q. 181 -- that the money was going to be repaid by Barkhill to Riga in relation
11:21:15 5 to these three amounts paid to Mr. Dunlop, why didn't Ms. Cowhig set out
6 in her correspondence to Mr. Fleming the reason why A, she had taken it
7 out of the Barkhill loan in the first place and B why it was being put
8 back in?
- 9 A. I don't know.
- 11:21:31 10 Q. 182 You don't know?
- 11 A. Maybe she did it verbally I'm not sure but --
- 12 Q. 183 But in any event, other than the evidence that has been given to the
13 Tribunal by Mr. Deane and Ms. Cowhig in relation to this, you have no
14 personal knowledge yourself of this transaction taking place?
- 11:21:49 15 A. I wasn't even consulted, I know nothing about it.
- 16 Q. 184 You would have of course have become aware of it when you received the
17 letter and the correspondence, isn't that right?
- 18 A. If I read the letter.
- 19 Q. 185 If you read the letter. Is it your position, Mr. O'Callaghan, that you
11:22:02 20 don't believe you read the letter?
- 21 A. Absolutely.
- 22 Q. 186 All right. So this is a matter that would have been left by you to
23 Mr. Deane and Mr. Cowhig?
- 24 A. Totally.
- 11:22:13 25 Q. 187 Even if you saw the reference to Sheafran or Shefran, would that have
26 alerted you in any way that this was a matter that to which you should pay
27 attention, in view of the fact that you were the person who made the
28 payments in the very first place?
- 29 A. No Shefran wouldn't have rang a bell with me at all actually.
- 11:22:29 30 Q. 188 You wouldn't have known who Shefran was?

- 11:22:31 1 A. I wouldn't have taken any notice of it, not really.
- 2 Q. 189 If you had considered the matter, Mr. O'Callaghan, do you think that it's
- 3 likely that you would have remembered that this was the arrangement you
- 4 had made with Mr. Dunlop for the payment of Mr. Dunlop's professional fee?
- 11:22:46 5 A. If I had read the letter, yes of course I would, yes.
- 6 Q. 190 Would it be your normal practice, Mr. O'Callaghan, when you receive
- 7 letters from auditors identifying queries or problems not to consider the
- 8 documentation, not to read the correspondence?
- 9 A. Probably never read them, I doubt if I ever read one of them actually.
- 11:23:04 10 Q. 191 Do you think, Mr. O'Callaghan, that you had any discussion with your
- 11 auditor Ms. Cowhig in relation to this matter?
- 12 A. I wouldn't have, that would be John Deane.
- 13 Q. 192 Do you have remember Mr. Lucey who apparently received the correspondence,
- 14 raising that with you?
- 11:23:17 15 A. Not with me, but he would with John Deane and Ms. Cowhig, yes.
- 16 Q. 193 Now, I think in May of 1994, there was a board meeting of Barkhill, isn't
- 17 that right at 11004?
- 18 A. Yes.
- 19 Q. 194 And in the minutes of the board meeting at 11005 it's noted that
- 11:23:53 20 Mr. Gilmartin is again absent, isn't that right?
- 21 A. Yes.
- 22 Q. 195 If you look --
- 23 A. Yes, yes.
- 24 Q. 196 Yes. However, it would appear that according to this document, that he
- 11:24:03 25 requested Seamus Maguire to obtain answers to certain specific questions,
- 26 is that right?
- 27 A. Yes.
- 28 Q. 197 The first related to the Council yard, isn't that right, item one?
- 29 A. Yes.
- 11:24:20 30 Q. 198 If that could just be increased slightly, and item B related to a concern

- 11:24:21 1 by Mr. Gilmartin that you had purchased the St. Patrick's land for your
2 own benefit, isn't that right?
- 3 A. Yes.
- 4 Q. 199 Item C related to a question as to whether or not you had done a private
11:24:33 5 deal with the IDA?
- 6 A. Yes.
- 7 Q. 200 Isn't that right? And item D related to Mr. Gilmartin seeking information
8 as to what fees O'Callaghan Properties were charging that were not
9 recorded?
- 11:24:47 10 A. Yes.
- 11 Q. 201 Right. Now, I want to focus just for a moment on item D, Mr. O'Callaghan,
12 first of all may the Tribunal take it that that accurately records the
13 query that was raised by Mr. Maguire on behalf of Mr. Gilmartin?
- 14 A. Yes, I remember them well, yes.
- 11:25:04 15 Q. 202 That would suggest that Mr. Gilmartin's concern was that fees were
16 being -- that inadequate records were being kept or fees were being
17 charged about which he did not know, would you agree with that?
- 18 A. That's what he is saying, yes.
- 19 Q. 203 Is that what Mr. Gilmartin was suggesting through Mr. Maguire?
- 11:25:19 20 A. Yes.
- 21 Q. 204 And therefore Mr. Gilmartin's complaints insofar as that is concerned
22 relates to fees that were being charged by your company, isn't that right?
- 23 A. Yes.
- 24 Q. 205 Now, in fact the original share subscription agreement which had appointed
11:25:32 25 Riga as the project manager had provided for no professional fee, isn't
26 that right?
- 27 A. I think so.
- 28 Q. 206 Isn't that, in September 1991 I think, isn't that the position?
- 29 A. Mm-hmm.
- 11:25:42 30 Q. 207 And the response here, attributed to you read "Owen O'Callaghan indicated

11:25:47 1 that all the accounts that had been paid had been formally passed through
2 the bank. Mary Basquille indicated a full list of those had been
3 submitted to Tom. Owen confirmed that no other costs were being incurred
4 other than as agreed at board meetings".

11:26:00 5 A. Yes.

6 Q. 208 Was that the correct position?

7 A. That is true and Mary Basquille kept Tom Gilmartin totally up to speed.

8 Q. 209 And if Mr. Gilmartin had attended at those board meetings he would
9 verbally in any event have been informed of any costs that were discussed
10 verbally, isn't that right?

11 A. Absolutely.

12 Q. 210 Right. Was this the first occasion, if I can go back -- I beg your
13 pardon.

14 A. Sorry, yes okay.

11:26:20 15 Q. 211 Was this the first occasion at 11005 where Mr. Maguire asks questions on
16 behalf of Mr. Gilmartin?

17 A. Yes to the best of my knowledge, yes.

18 Q. 212 Would you excuse me for a moment. Insofar as item C on that list is
19 concerned, what was Mr. Gilmartin's concern about the IDA?

11:26:51 20 A. Well, that's probably a typical one of Tom Gilmartin's now, actually what
21 that is about was that on the Quarryvale site we also got permission for
22 some industrial units, the industrial section, the E zoned section. And I
23 approached the IDA and asked them if they would help us or assist us in
24 marketing some of those units like they did in their own case with their
11:27:16 25 own land. And I mentioned at the board meeting that I had done that, that
26 I had made those arrangements and was hoping the IDA would support us and
27 help to us layoff some of those units, that's the one, Tom took that and
28 turned it around completely, as to the making the statement that I
29 actually approached the IDA to prevent them buying the IDA land, that's
11:27:40 30 another one of these things that he put a complete spin on.

- 11:27:44 1 Q. 213 Were you aware of an allegation by Mr. Gilmartin that you had, in some way
2 improperly approached the IDA in relation to the development of these
3 lands?
4 A. Yeah, I think I gave Albert Reynolds 150,000 pounds some time to stop Tom
11:27:59 5 Gilmartin buying the IDA lands.
6 Q. 214 That's an allegation that was made I think subsequent to these events, is
7 that correct, Mr. O'callaghan?
8 A. I think that's where that allegation probably came from, because of me
9 trying to market the actual industrial units on the Quarryvale site
11:28:15 10 through the IDA and discussing it at a board meeting and Tom took it from
11 there and turned it around to the story he has mentioned afterwards.
12 Q. 215 Well, in fairness to Mr. Gilmartin, Mr. O'Callaghan, he had to have known
13 you had some contact with the IDA prior to this board meeting of the 19th
14 May '94 because Mr. Maguire raises this at the board meeting, isn't that
11:28:34 15 right?
16 A. Mm-hmm.
17 Q. 216 When you approached the IDA was that something you had done with
18 Mr. Gilmartin's knowledge and consent?
19 A. I told him I was meeting, yes I told him on the telephone long before that
11:28:45 20 I was going to speak to the IDA with a view to them actually marketing the
21 units we had in Quarryvale site.
22 Q. 217 Would it be fair to say that you don't appear to have discussed it at
23 board level prior to this meeting of the 19th May 1994?
24 A. It was in between, it was before this board meeting I discussed it on the
11:29:03 25 telephone with Tom Gilmartin.
26 Q. 218 Yes, but there is no documented record, is that fair to say,
27 Mr. O'Callaghan, of your discussion with Mr. Gilmartin which took place
28 prior to the 19th May?
29 A. No, it was on a telephone call.
11:29:13 30 Q. 219 Would it be fair to say then you were still in telephone contact with

- 11:29:17 1 Mr. Gilmartin as the deal progressed through 1994?
- 2 A. Oh, yes.
- 3 Q. 220 Even though Mr. Gilmartin was not at these meetings?
- 4 A. I probably would speaking to him once a month or once every two months.
- 11:29:29 5 Q. 221 Would you agree with me that if Mr. Gilmartin asked Mr. Maguire to pose
6 questions at the board meetings it meant that Mr. Gilmartin had some
7 concern, whatever it was, about the IDA?
- 8 A. Yeah, which unbelievable concern. I think what actually happened there
9 was that -- how this happens, his mind, he has a peculiar mind, I think he
11:29:50 10 probably himself had made some approach at some stage, maybe a year or two
11 before that, maybe two years before that to the IDA to buy some lands that
12 the IDA had in that area. When I suggested to him that I was going speak
13 to the IDA to market the IDA units that we got planning permission for on
14 the Quarryvale site, I remember him saying on the telephone he himself
11:30:11 15 made some approach to the IDA before that, his mind seems to move in a
16 totally different direction, he puts a totally different story, fantasies
17 about the conversation, I don't understand it really.
- 18 Q. 222 Perhaps you can assist the Tribunal with understanding why it is the
19 minutes of the board meeting don't appear to record you telling the bank
11:30:28 20 and Mr. Maguire that in fact you had discussed all of this with
21 Mr. Gilmartin in advance of this meeting and that he was fully appraised
22 of whatever steps you were going to take in relation to the IDA?
- 23 A. I don't know why it's not in the minutes of the meeting.
- 24 Q. 223 Did you so advise Mr. Maguire and the bank at that meeting?
- 11:30:46 25 A. I did, I told the bank exactly and Seamus Maguire was present here.
- 26 Q. 224 And in the minutes of this meeting, can you explain why it is that your
27 explanation or information to the bank is not recorded?
- 28 A. No but in fact the question was raised there, that was the answer I gave,
29 I explained in detail what had happened, why it's not there, I don't know.
- 11:31:06 30 Q. 225 And then item B was a concern expressed again by Mr. Maguire on behalf of

11:31:11 1 Mr. Gilmartin and the inquiry there was whether or not you had purchased
2 St. Patrick's land for his own benefit, is that right?

3 A. Well, you see that's a very important piece of land, if I can explain that
4 to you. That's St. Patrick's land across the road from Quarryvale which
11:31:30 5 is actually in the Liffey Valley itself, the Liffey Valley itself. Tom
6 Gilmartin had approached I think Irwin Druker, the solicitor acting for
7 St. Patrick's because Quarryvale would need five or six acres from
8 St. Patrick's to be able to create the proper exit, entrance and proper
9 junction that we have created in Quarryvale at the moment we have to take
11:31:54 10 in both sides of the N4 road and the northern side of the N4 was actually
11 in St. Patrick's land. So we would require about six acres of this land
12 to be able to put in the overpass and underpass that's there at the
13 present moment.
14

11:32:08 15 Instead of trying to buy that piece of land, Tom went along himself and
16 said he would buy the whole of St. Patrick's land and give 100 million for
17 it. He put down a deposit of 100,000 pounds, Irwin Druker went off to St.
18 Patrick's Trust and they agreed sell the land to Tom. Tom of course
19 couldn't pay for the land and the option ran out. The option was
11:32:28 20 increased and I think another 50,000 pounds was paid and that was lost as
21 well. So what had Tom succeeded in doing was messing up the whole
22 St. Patrick's land deal. St. Patrick's trust themselves ended up losing
23 his options and losing 150,000 pounds. I then was left in the situation I
24 had to go back to the same people and try and get six acres from them to
11:32:47 25 enable to us put a proper junction entrance/exit into Liffey Valley, and I
26 had to go back to the people who Tom had made a right fool of 12 months or
27 years prior to that.
28

29 I couldn't use his name, I couldn't use Barkhill's name because if I did I
11:33:01 30 wouldn't have got anywhere, so I used my own name. I was lucky that the

11:33:04 1 man I met, Irwin Druker was still prepared to deal with us and we bought
2 the six acres from St. Patrick's trust for a million pounds. Tom was
3 going to buy the whole place for I don't know how many hundreds of
4 millions. We were lucky we managed to get that piece of land back,
11:33:21 5 because if we didn't get it, despite all Tom's messing, we couldn't have
6 gone ahead with Quarryvale. We couldn't have put an exit/entrance into
7 the place. That was one of the difficulties we had in our planning
8 permission.
9

11:33:30 10 And that is what that piece of land was about. Of course it was bought in
11 our name, it was transferred to Barkhill and we were very, very lucky to
12 be able to buy it.

13 Q. 226 If I just deal with the query that was raised by Mr. Gilmartin through
14 Mr. Maguire at item B, which was whether or not you had purchased the
11:33:45 15 St. Patrick's land for your own benefit and the reply that's recorded
16 there was "Owen O'Callaghan indicated that you will the any such
17 arrangement was for the benefit of Barkhill. He was obliged to do a deal
18 with St. Patrick's in order to get the letter from them consenting to get
19 planning application. Contracts had been received for the purchase of the
11:34:00 20 land it is now a question of whether those contracts will be signed with
21 the payment of 25,000 by way of deposit and the balance of the million
22 payable on the 31st December '94.

23
24 John Deane indicated certain queries had been raised in relation to
11:34:13 25 mapping. The matter will come to a head shortly. Basically Barkhill has
26 to decide to move forward and enter into the commitment to purchase the
27 land".

28
29 And is that the explanation that was provided to the bank at that time?

11:34:25 30 A. That's right.

- 11:34:26 1 Q. 227 Right. And of course the query then that had been raised by Mr. Gilmartin
2 I think was dealt with in correspondence at 11166 by Ms. Basquille to
3 Mr. Seamus Maguire, where at item two under the heading "St. Patrick's
4 Hospital land" she asked the question of Mr. Maguire "Has the purchase
11:34:45 5 contract been amended to reflect the fact that Barkhill will be acquiring
6 this land and not O'Callaghan Properties Limited".
7 A. That was always the intention we just couldn't use Barkhill or Gilmartin
8 name.
9 Q. 228 Would it follow from that then, Mr. O'Callaghan, that Mr. Gilmartin had
11:34:59 10 been told or had found out that St. Patrick's land was being acquired by
11 O'Callaghan Properties Limited and not Barkhill and therefore raised a
12 query as to who was acquiring the land?
13 A. That's correct and he had some cheek to even ask that question.
14 Q. 229 Okay. In any event, it is the case that following on Mr. Gilmartin's
11:35:17 15 query, the letter of the 22nd June 1994 was sent by Ms. Basquille to
16 Mr. Maguire, isn't that right?
17 A. That's right.
18 Q. 230 Now, I think looking at item one that was identified at 11005, in relation
19 to item A on that list and that is he, that's Mr. Gilmartin "believed that
11:35:38 20 Owen O'Callaghan had acquired the council yard for his own benefit. In
21 response Owen O'Callaghan and indicated that he had not done so that the
22 council yard was obtained for the benefit of Barkhill." Was that the
23 position?
24 A. Absolutely.
11:35:52 25 Q. 231 This was a small piece of land at the top of the Quarryvale site.
26 A. About an acre of ground, a very important acre of ground at the edge of
27 the motorway.
28 Q. 232 Was that taken in the name of Barkhill, Mr. O'Callaghan?
29 A. Oh, yes, everything was in Barkhill, the only reason we couldn't use
11:36:07 30 Barkhill was if Gilmartin was associated with it, we wouldn't be able to

- 11:36:12 1 do the deal.
- 2 Q. 233 Was council yard, was that the subject matter of swap negotiation between
- 3 yourself and Mr. McLoone, is that right?
- 4 A. Well City Manager.
- 11:36:18 5 Q. 234 Yes the City Manager. In other words, it wasn't going to involve an
- 6 exchange of funds, is that right?
- 7 A. That's right.
- 8 Q. 235 You were going so cede a portion of land and the portion were going cede
- 9 what was effectively a council yard or premises?
- 11:36:33 10 A. We were going to take the council yard from them and were going to cede to
- 11 them a piece of ground around the travellers cottage at the entrance to
- 12 Quarryvale. We gave the itinerant family additional land at the request
- 13 of South Dublin County Council.
- 14 Q. 236 And again how was Mr. Gilmartin kept informed of this, Mr. O'Callaghan?
- 11:36:51 15 A. At board meetings.
- 16 Q. 237 Did you speak to him on the telephone?
- 17 A. I would tell him on the telephone as well.
- 18 Q. 238 So in your conversations with Mr. Gilmartin you are the person who would
- 19 have informed him of the developments in relation to the Council yard, the
- 11:37:02 20 developments in relation to St. Patrick's lands, your dealings with the
- 21 industrial development authority and the situation in relation to fees.
- 22 A. Now, in all fairness I wouldn't ask him in advance, I wouldn't tell in
- 23 advance, I would probably tell him when it was done.
- 24 Q. 239 You would have told Mr. Gilmartin when the deal had been --
- 11:37:19 25 A. In fairness, yeah.
- 26 Q. 240 You but you do agree I think of those items raised by Mr. Gilmartin
- 27 through Mr. Maguire they were items you say you had already discussed with
- 28 Mr. Gilmartin on the telephone?
- 29 A. Absolutely, it was outrageous for him to even raise those questions, just
- 11:37:33 30 up to devilment, trying to stop everything.

- 11:37:36 1 Q. 241 Now, is it the case or do you know, Mr. O'Callaghan, whether Mr. Gilmartin
2 was discussing any of these matters with anybody else? In other words,
3 would he have spoken to Mr. Deane about these matters?
4 A. Oh no.
- 11:37:49 5 Q. 242 Would he have had access to Mr. Aidan Lucey or to your auditors?
6 A. Nobody in our company except me.
7 Q. 243 So it would have been you he was dealing with?
8 A. Yes.
9 Q. 244 Would it be fair to say that you were the person who was also keeping the
11:38:00 10 bank informed of various matters?
11 A. I was yes, but John Deane would as well, the bank. John would be aware of
12 this and he would tell the bank as well.
13 Q. 245 But he wouldn't have been discussing it with Mr. Gilmartin.
14 A. No, no.
- 11:38:12 15 Q. 246 So where ever Mr. Gilmartin was getting his information from, it was
16 either from you or possibly from Mr. Maguire, is that right?
17 A. Yes.
18 Q. 247 And Mr. Maguire --
19 A. Mr. Maguire would know.
- 11:38:21 20 Q. 248 Yes because he was the solicitor in relation to the St. Patrick's deal?
21 A. He would know all about this.
22 Q. 249 Would you have been discussing with Mr. Maguire your negotiations with the
23 industrial development authority?
24 A. No, I would only have discussed that at the board meeting I wouldn't have
11:38:35 25 told him about the IDA, no.
26 Q. 250 So if Mr. Gilmartin was raising a query with the board through Mr. Maguire
27 in relation to that, that information had to come to Mr. Gilmartin, in
28 other words the IDA information, from somewhere else?
29 A. It came from me to him.
- 11:38:50 30 Q. 251 Now, Mr. Gilmartin has said that he heard or was told that money was paid

11:38:57 1 to Mr. Albert Reynolds in relation to your involvement in the IDA site,
2 isn't that right?

3 A. Yes.

4 Q. 252 What have you to say to that?

11:39:04 5 A. Can you tell me again, remind me what I am supposed to have done that?

6 Q. 253 I am going to say to you exactly, I think the first thing Mr. Gilmartin
7 said, leaving that aside, was that he had been told you were involved with
8 other in the IDA jumping on the site across the road and that you were
9 taking the -- you were talking to the IDA on your own behalf, you say
11:39:24 10 that's not correct, is that right?

11 A. Absolutely rubbish, fantasy.

12 Q. 254 Mr. Gilmartin I think told the Tribunal he was told by Mr. McLoone that
13 the Dublin Corporation site offer was withdrawn because of interference by
14 the IDA under government pressure, but that relates to the Dublin
11:39:44 15 Corporation site and not to these particular lands, isn't that right?

16 A. I think so, yes.

17 Q. 255 Yes, I think what Mr. Gilmartin said I think under cross-examination by
18 Mr. Sreenan, was that you, Mr. O'Callaghan, had told him that he had
19 Albert Reynolds on his pay roll and that you gave Mr. Reynolds substantial
11:40:14 20 sums of money in your house in 1994 and that Mr. Reynolds was involved in
21 making sure that the IDA blocked Mr. Gilmartin's plans.
22
23 Now, that was what Mr. Gilmartin told the Tribunal, I think on Day 728,
24 when he was being cross examined by Mr. Sreenan. Now if we just take that
11:40:35 25 in it's component parts. In the first place, did you ever suggest that
26 you had Mr. Albert Reynolds on your pay roll?

27 A. Never.

28 Q. 256 Did you ever suggest that you had any politician on your pay roll?

29 A. Never, never.

11:40:46 30 Q. 257 I think Mr. Gilmartin also said that you told him that you had Mr.

11:40:49 1 Gilbride on your pay roll and that you also at another stage produced a
2 cheque from your pocket as evidence of a payment you were going to make to
3 Mr. McGrath, is that right?

4 A. Complete figment of his imagination, complete utterly wrong. Another
11:41:06 5 segment of his fantasies I'm afraid.

6 Q. 258 In March of 1994, or in 1994, did you give substantial sums of money to
7 Mr. Reynolds?

8 A. Never.

9 Q. 259 You did attend the fundraising event in March 1994 attend by others and
11:41:21 10 you paid 10,000 pounds to Fianna Fail?

11 A. Yes, that's where he is getting the story, you see.

12 Q. 260 Right. In so far as he says Mr. Reynolds was involved in making sure the
13 IDA blocked Mr. Gilmartin's plans, did you ever approach Mr. Reynolds to
14 seek Mr. Reynolds to exercise any influence on the IDA in relation to
11:41:37 15 Mr. Gilmartin's plans?

16 A. Never, never, never, never.

17 Q. 261 Whether Mr. Gilmartin's allegations relate to the St. Patrick's Trust
18 lands or the Dublin Corporation lands or the Dublin County Council lands,
19 it's your position that you never spoke to Mr. Reynolds about any of those
11:41:54 20 lands or sought Mr. Reynolds' interference with the IDA, is that right?

21 A. Never.

22 Q. 262 Right. Do you know where Mr. Gilmartin might have obtained information
23 about Mr. Reynolds and the Industrial Development Authority?

24 A. No but he has -- I don't want to go through this, but he has a huge
11:42:13 25 imagination. In most of the things, the outrageous things he said I can
26 nearly go way back and find out, nearly trace back to how he came up with
27 that particular story. All I can say to you is that as I said at the
28 outset, I did tell him that I was trying to market the actual industrial
29 units on the Quarryvale site, his site and our site, and that I'd
11:42:48 30 approached the IDA to help us market them. We didn't get any help from

- 11:42:48 1 them by the way, but I think it's because of that he came up with the
2 story. If you mentioned something to him he goes away in a fantasy trail
3 and comes up with some terrific story, this is all I can think of
4 actually.
- 11:42:55 5 Q. 263 In 1994 Mr. O'Callaghan, as we have seen when we looked at the stadium,
6 you had a number of meetings with Mr. Albert Reynolds, is that right?
7 A. Yes.
- 8 Q. 264 I think until November of 1994 Mr. Reynolds was the Taoiseach, isn't that
9 the position?
10 A. Yes.
- 11 Q. 265 And also I think you had arranged, either yourself or through Mr. Dunlop,
12 some meetings at which you had brought the American potential financiers?
13 A. The stadium, yes.
- 14 Q. 266 To Mr. Reynolds, is that right?
15 A. Yes.
- 11:43:22 16 Q. 267 Is there any possibility that in your telephone conversations with
17 Mr. Gilmartin and when you were discussing what you were doing with the
18 IDA, you might also have mentioned that in or around the same time you
19 were meeting with Mr. Albert Reynolds?
20 A. That's possible, yes.
- 11:43:36 21 Q. 268 Would you, for example, have discussed with Mr. Gilmartin in these
22 telephone conversations the development that was going to take place on
23 the Neilstown lands at Balgaddy and your plans for the stadium?
24 A. Yes. I would have said that on the telephone, we had many telephone
25 conversations. I think this is where all the stories are coming from.
- 11:43:52 26 Q. 269 At that time, Mr. O'Callaghan, the position in relation to the stadium
27 lands was that the lands were owned by Merrygrove, is that right?
28 A. Yes.
- 29 Q. 270 Merrygrove is a wholly owned subsidiary of Barkhill?
11:44:06 30 A. Yes.

- 11:44:07 1 Q. 271 You owned 40 per cent of Barkhill, Mr. Gilmartin owned 40 per cent and the
2 bank owned 20 per cent. Effectively Mr. Gilmartin owned 40 per cent of
3 the Merrygrove lands, you owned 40 per cent and the bank held 20 per cent,
4 in real terms, is that right?
- 11:44:21 5 A. Yes.
- 6 Q. 272 And therefore any development plan for the stadium was something that
7 involved Mr. Gilmartin, is that right?
- 8 A. Yes.
- 9 Q. 273 In that context you had two developments ongoing at the time, you had
11:44:29 10 Quarryvale and the stadium, is that right?
- 11 A. Correct, yes.
- 12 Q. 274 Is there any possibility that in fact what happened was that while you
13 were discussing with Mr. Gilmartin your approaches to the Industrial
14 Development Authority you would have mentioned the fact that you were also
11:44:43 15 seeing Mr. Reynolds, albeit in relation to the stadium?
- 16 A. That's possible, yes.
- 17 Q. 275 And that in keeping Mr. Gilmartin informed of these matters on the
18 telephone, you would have been talking to him about meeting with
19 politicians, such as Mr. Reynolds?
- 11:45:01 20 A. It's possible, yes.
- 21 Q. 276 I mean isn't that likely, if you were keeping Mr. Gilmartin fully informed
22 of what you were doing in relation to the lands, in view of the fact that
23 they were his lands as well, isn't that right?
- 24 A. Yes.
- 11:45:13 25 Q. 277 You would be obliged, I assume, and would have felt yourself obliged Mr.
26 O'Callaghan to tell Mr. Gilmartin about the steps you were taking
27 politically to advance Neilstown in the stadium?
- 28 A. That's right.
- 29 Q. 278 Is that right? It would follow from that, that that you would have told
11:45:29 30 Mr. Gilmartin yourself about your meetings with Mr. Albert Reynolds and

- 11:45:33 1 your meeting with Mr. Bertie Ahern, isn't that right?
- 2 A. Yes, that's quite possible. It's quite possible, yes. And he would have
- 3 taken these and turned them the way he's turned them actually.
- 4 Q. 279 But if we start with the premise then that it is likely, Mr. O'Callaghan,
- 11:45:46 5 that in your conversation with Mr. Gilmartin you told him about your
- 6 meetings with Mr. Reynolds and what you were discussing with Mr. Reynolds
- 7 in relation to the stadium, would you agree that it's also likely you
- 8 would have told him of your meetings with Mr. Bertie Ahern?
- 9 A. Oh, yes, about designation, yes of course. The meeting in March '94, yes
- 11:46:09 10 I would have told him, of course.
- 11 Q. 280 Subsequently in November of 1994, when you met with Mr. Ahern again with
- 12 Mr. William O'Connor, is that right?
- 13 A. Yes.
- 14 Q. 281 That you would have in these telephone conversations with Mr. Gilmartin,
- 11:46:22 15 kept him fully up to date in relation to what you were doing in Quarryvale
- 16 and what you were doing in Neilstown?
- 17 A. Yes.
- 18 Q. 282 And that in these conversations that took place, would it be fair to say
- 19 that there wouldn't have been any separate portions where you would have
- 11:46:36 20 said to Mr. Gilmartin "here I am talking about Quarryvale and there I am
- 21 talking about the stadium"?
- 22 A. That's possible.
- 23 Q. 283 It was a running conversation, is that fair?
- 24 A. Yes.
- 11:46:44 25 Q. 284 Is it possible that in that context, Mr. O'Callaghan, that you would have
- 26 mentioned Mr. Reynolds' name to Mr. Gilmartin shortly after, or around the
- 27 time you were also discussing the Industrial Development Authority?
- 28 A. It's possible.
- 29 Q. 285 And it is undoubtedly the case that you did make political payments to
- 11:47:09 30 Mr. Reynolds, isn't that right? You make political donations to

- 11:47:09 1 Mr. Albert Reynolds, you had done so in March of 1994 and you had done so
2 in November, I think, of 1992?
- 3 A. No, no, not to Mr. Reynolds.
- 4 Q. 286 To Fianna Fail?
- 11:47:17 5 A. Fianna Fail, yes.
- 6 Q. 287 But the March 1994 event was held where Mr. Reynolds was the guest of
7 honour, is that right?
- 8 A. But the contribution was made to Fianna Fail.
- 9 Q. 288 Yes, no question about that. And your letter to Mr. Reynolds, I think, in
11:47:27 10 November 1992 is addressed to Mr. Reynolds, isn't that right, with your
11 contribution?
- 12 A. Yes.
- 13 Q. 289 Right. And therefore you had made two donations to Mr. Reynolds, one
14 which you had sent the letter enclosing the cheque to Fianna Fail and the
11:47:41 15 other at which you co-hosted an event that raised 50,000 pounds for Fianna
16 Fail, is that right?
- 17 A. Yes.
- 18 Q. 290 Is it possible that in your conversations with Mr. Gilmartin you would
19 have referred Mr. Gilmartin to the fact that you had made, you had had
11:47:54 20 such an event, such as the fundraiser dinner and that 50,000, or a large
21 sum of money had been raised?
- 22 A. I wouldn't have mentioned with regard to the dinner because I wasn't aware
23 of the amount of money, I wouldn't have said it in that case to him, but
24 yes, I would more than likely have said that there was this dinner, of
11:48:11 25 course, yes.
- 26 Q. 291 And would you have told Mr. Gilmartin, for example, that a number of, you
27 know, reasonably wealthy people had attended at the fundraising dinner by
28 invitation of yourself and your co-host?
- 29 A. It's possible.
- 11:48:26 30 Q. 292 Right. That you had been asked to organise this dinner, and it was quite

- 11:48:30 1 a significant event politically, isn't that right?
- 2 A. I wouldn't say that.
- 3 Q. 293 Well would you not consider having the Taoiseach of the country at a
- 4 private dinner party a significant event?
- 11:48:41 5 A. I wouldn't say it was quite significant, very ordinary event I would say.
- 6 Q. 294 The sum of money that you yourself paid at that dinner, which was 10,000
- 7 pounds, was a significant amount of money, isn't that right?
- 8 A. Yes, it was, yes.
- 9 Q. 295 Isn't it likely, Mr. O'Callaghan, that in your discussions with
- 11:48:56 10 Mr. Gilmartin you would have referred to that fact and referred to the
- 11 dinner and referred to the fact that money was raised at the dinner?
- 12 A. I would have said it was a fundraiser, yes, if I spoke to them about it.
- 13 Q. 296 So it would follow from that then you would have a discussion with
- 14 Mr. Gilmartin about the fact that you were making political payments and
- 11:49:14 15 that monies were being raised at an event at which you were present?
- 16 A. Yes.
- 17 Q. 297 Isn't that fair?
- 18 A. That's fair.
- 19 Q. 298 Now I think at 11009, at the same meeting, I think on the 19th May 1994,
- 11:49:34 20 Mr. Forman of Connell Wilson attended for part of the meeting, that is
- 21 recorded by the bank, isn't that right?
- 22 A. Yes.
- 23 Q. 299 And do you remember Mr. Forman of Connell Wilson attending a meeting, in
- 24 fact it was the board meeting of Barkhill, is that right?
- 11:49:48 25 A. Yes, I do well, yes.
- 26 Q. 300 And the purpose of that was, I think, to introduce him first of all to the
- 27 bank and to identify what Mr. Wilson was going to do and how he was going
- 28 to obtain anchor funding, not anchor funding, investment funding, is that
- 29 right?
- 11:50:04 30 A. Yes.

- 11:50:05 1 Q. 301 Would it be fair to say that you didn't indicate to the bank either privately
2 or at this meeting the fact that you felt Mr. Wilson -- Mr. Forman was not
3 the right person for the job?
- 4 A. I don't think I said it, I don't think I said it to the bank actually. I
11:50:24 5 think the bank discovered that themselves, but I didn't, I don't think I
6 said it because, I think the bank's attitude at that stage would have been
7 why waste time dealing with him, let's get somebody else and if that
8 happened there would be another problem with Tom Gilmartin. So I decided
9 we'd let it go and see if we could get lucky with Forman and maybe he
11:50:44 10 would come up with something.
- 11 Q. 302 Certainly insofar as this memorandum is concerned of Mr. Forman's
12 introduction to the bank and discussion with the bank, there is nothing to
13 indicate that Connell Wilson or Mr. Forman were considered unfit to do the
14 job, isn't that right?
- 11:50:59 15 A. Not in that report, no.
- 16 Q. 303 All right.
- 17
- 18 CHAIRMAN: Ms. Dillon we might just take a short break now.
- 19
- 11:51:15 20 MS. DILLON: May it please you, Sir.
- 21
- 22 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
- 23 **AND RESUMED AGAIN AS FOLLOWS:**
- 24
- 12:09:07 25 CHAIRMAN: Now, Mr. O'Callaghan.
- 26
- 27 Q. 304 MS. DILLON: I think, Mr. O'Callaghan, that in 1994, in the second half of
28 1994, particularly after Dunne's agreed to go into Blanchardstown as one of
29 the anchor tenants, it would be fair to say that the bank became more
12:09:49 30 concerned about their investment in Quarryvale, would you agree with that?

12:09:59 1 A. I'm not -- yeah, I'm not sure of that actually. I don't recollect that.

2 Q. 305 All right. In June of 1994, at 1119, you telephoned the bank on the 13th

3 of June, I think, 1994 which would have been after the earlier meeting at

4 which Mr. Maguire had raised the queries, is that right?

12:10:30 5 A. Yeah.

6 Q. 306 In this you initially contact the bank seeking fees in relation to

7 Deloitte & Touche, isn't that right?

8 A. Yes.

9 Q. 307 And then in the third paragraph "Mr. Forman had been on indicating he was

12:10:42 10 making progress in seeking additional information which has been provided

11 by Mr. O'Callaghan". So, you had your relationship with Mr. Forman at

12 that stage, isn't that right?

13 A. Oh, yes.

14 Q. 308 And then he, in the next paragraph it's recorded "He has been having a

12:10:56 15 number of conversations recently with Vincent O Doherty who has been

16 speaking with Roger Aldridge from Marks & Spencers. Vincent O Doherty has

17 indicated to Owen that the timing of Quarryvale is not great from Marks &

18 Spencers point of view, given that the city centre development at the same

19 time, but O Doherty has also indicated that Marks & Spencers are

12:11:15 20 interested.

21

22 O'Doherty's main interest has been in the context of his Lucan shop and

23 the impact Quarryvale would have on same. He has gone on to indicate that

24 if Marks & Spencers are going into Quarryvale he would like to go in there

12:11:31 25 too." Isn't that right?

26 A. Yes.

27 Q. 309 "He indicated that he heard on good authority that Green and Dunnes are

28 close to doing a deal at 50 to 60 pounds per square foot which would

29 compare to 100 per square foot projected from the anchors in Quarryvale.

12:11:46 30 This would clearly represent a very tough deal and in O'Callaghan's view

- 12:11:50 1 must leave Greens uncomfortable with the overall financial viability of
2 the project. He is not certain the information is entirely accurate."
3 Isn't that right?
- 4 A. Yes.
- 12:11:55 5 Q. 310 So you are then there informing the bank of the fact that Dunnes are going
6 to the Blanchardstown?
- 7 A. Yes.
- 8 Q. 311 You subsequently confirm to the bank that that's the case, isn't that so?
- 9 A. Yes.
- 12:12:03 10 Q. 312 In the next paragraph the following is recorded "I asked him whether he
11 had heard from Tom Gilmartin recently, he indicated that he had not spoken
12 to him since our last meeting in bank Centre Three weeks ago". Isn't that
13 right?
- 14 A. Yes.
- 12:12:14 15 Q. 313 So in that period you hadn't been in touch with him, but in the next
16 paragraph records that yourself and Mr. Deane had a number of discussions
17 with McGrath in relation to funding and restructuring, isn't that right?
- 18 A. Yes.
- 19 Q. 314 And I think if we turn then to July of 1994, at 11205, Ms. Basquille
12:12:38 20 records a phone call from you in relation to a possible joint venture
21 industrial development to be undertaken by Green Property and Dublin
22 Corporation and this site which she says "had always been referred to by
23 you as the IDA site is owned by Dublin Corporation, have no funds to
24 develop it themselves. They have been given first refusal into Dublin
12:12:57 25 Corporation who would require a development partner and had approached
26 Owen in this regard several months ago. While Green Property had been
27 nominated as joint developer, Dublin County Council have retained a nine
28 month option period within which they can decide if they want to develop
29 it themselves."
- 12:13:13 30 A. Yes.

- 12:13:13 1 Q. 315 And therefore two things are happening with Green Property at this time,
2 Mr. O'Callaghan, one is that they appear to have entered into a joint
3 venture agreement with Dublin Corporation in relation to certain lands
4 that the Corporation, that's one matter, isn't that right?
- 12:13:26 5 A. Yes.
- 6 Q. 316 The other matter was that you had heard a rumour that Dunnes had signed up
7 to go into Blanchardstown as anchor tenant, isn't that right?
- 8 A. Yes.
- 9 Q. 317 And I think that at 11212 on the 5th July, you rang the bank and you told
12:13:43 10 the bank that you had a phone call from Frank Dunne that morning advising
11 him that Dunnes Stores had signed a contract with Green property to
12 acquire 110,000 square feet in Blanchardstown. It is intended that
13 Blanchardstown will now commence in the autumn and will be completed in
14 late '95. Isn't that right?
- 12:14:01 15 A. Yes.
- 16 Q. 318 Just in relation to the time scale for Blanchardstown, you yourself were
17 still in the planning process as it were?
- 18 A. Yes.
- 19 Q. 319 In relation to Quarryvale and you didn't have extant planning permission
12:14:10 20 that would allow to you start development, isn't that right?
- 21 A. Yes.
- 22 Q. 320 So clearly Blanchardstown was going to be off the blocks quicker, isn't
23 that right?
- 24 A. Yes.
- 12:14:19 25 Q. 321 And in addition they now have Dunnes as an anchor tenant?
- 26 A. Yes.
- 27 Q. 322 You had said I think yesterday that your preferred tenant would have been
28 Dunnes as opposed to Marks & Spencers, isn't that right?
- 29 A. No.
- 12:14:30 30 Q. 323 Sorry I beg your pardon, did I misunderstand you?

12:14:31 1 A. The other way around.

2 Q. 324 You had preferred Marks & Spencers to Dunnes, is that right?

3 A. Yes.

4 Q. 325 I had misunderstood you, I had understood to you say that in fact your

12:14:40 5 preferred option would have been Dunnes and not Marks & Spencers?

6 A. If I did I was wrong. It's Marks & Spencers.

7 Q. 326 Ms. O'Raw will check that and I'll let you know, I may have misheard you,

8 Mr. O'Callaghan, in that regard.

9

12:14:54 10 In any event, in the second paragraph the following is recorded, "Dunne

11 had been emphatic in his promise to O'Callaghan that this would not effect

12 Dunnes interest in Quarryvale. O'Callaghan felt this was also the

13 situation. He advised that he was aware of the fact that Dunnes had done

14 a very good deal with Green. Owen O'Callaghan highlighted the fact that

12:15:09 15 this was a positive rather than a negative development for Quarryvale as

16 it would force the anti in completing the deal. He felt that all local

17 representatives and politicians would now support Quarryvale to ensure

18 that it started as a matter of priority.

19

12:15:21 20 I indicated to Owen O'Callaghan that he's highlighted the need to get a

21 satisfactory funding package in place. I repeated our assertion that this

22 was an issue which not be funded by borrowing. It was an equity issue and

23 while AIB would play its part, our involvement is largely around the

24 present exposure whereby we had funded the site to this stage. Owen

12:15:40 25 O'Callaghan fully accepted this view and acknowledged that John Deane and

26 he were working on this issue as a matter of Priory. Indeed in this

27 regard he was going London next week to discuss the matter further with

28 Ronson's people".

29

12:15:53 30 And I think, Ronson were one of a series of people with whom you had

12:15:56 1 dialogue ongoing at this time, about investment in Quarryvale, isn't that
2 right?

3 A. Yes.

4 Q. 327 There were a number of other people Hammersons with whom you were talking
12:16:06 5 at the time, isn't that the case?

6 A. Yes.

7 Q. 328 What has now happened, Mr. O'Callaghan, is that at this juncture the fact
8 that Dunnes had signed up to Blanchardstown was a matter of concern to the
9 bank, would you agree with me in relation to that?

12:16:19 10 A. No. What would be more of a concern to the bank would have been the fact
11 that Marks & Spencers were going to open the store in Grafton Street in
12 the centre of Dublin and that that might delay their going into
13 Quarryvale, Marks & Spencers we wanted in Quarryvale, not Dunnes Stores.

14 Q. 329 In July of 1994, following on your telephone conversation with Mr. McGrath
12:16:42 15 on the 5th July, on the 13th July, at 11253, you have a meeting with
16 Mr. McGrath and Mr. Kelleher of the bank and Mr. Deane is also in
17 attendance, isn't that right?

18 A. Yes.

19 Q. 330 And under the heading "introduction" the purpose of the meeting is
12:16:57 20 described as "To get an update on the Quarryvale development following the
21 recent announcement by Green Property that they signed up Dunnes in
22 Blanchardstown".

23 A. Yes.

24 Q. 331 Would that indicate to you that it was considered by the bank that it was
12:17:09 25 a matter of concern to the bank that Dunnes Stores had now signed up to
26 Blanchardstown?

27 A. Well, maybe it did concern them. I don't really think it did because they
28 understood the picture as well as I did. We didn't have any room for
29 Dunnes Stores in Quarryvale. We couldn't put Dunnes Stores and Marks &
12:17:29 30 Spencers and that together. I think they were well aware of that. I am

- 12:17:34 1 not sure, maybe they didn't understand it at the time, but we were not
2 concerned about Dunnes Stores going into Blanchardstown.
- 3 Q. 332 The second paragraph at the outset Dave McGrath referred to his letter of
4 the 7th July to Owen O'Callaghan outlining the banks concerns over the
12:17:52 5 lack of progress in signing up anchor tenants and on funding arrangements?
6 A. That would be Marks & Spencers.
- 7 Q. 333 Yes, would you agree in general that the bank were concerned about the
8 fact that there had been a failure to sign up anchor tenants?
9 A. Yes but the main reason there was, Dunnes compounded a small bit but the
12:18:09 10 main difficulty was that Marks & Spencers had decided to take the store in
11 Grafton Street and that would delay their entry into Quarryvale.
- 12 Q. 334 Your position is set out in the fourth paragraph because you tell them you
13 are not concerned about Blanchardstown and you believe that Marks &
14 Spencers want to go into Quarryvale but they had a timing problem in
12:18:26 15 relation to Grafton, isn't that right?
16 A. That's it, yeah.
- 17 Q. 335 Under the heading "development update" if you look at the first paragraph
18 you confirm to the bank that Frank Dunne of Dunnes Stores is still
19 interested into in going no Quarryvale, isn't that right, if only to keep
12:18:40 20 Marks & Spencers out?
21 A. Yes, that's it in a nutshell, yes.
- 22 Q. 336 In the third paragraph "the big decision is identified, whether they go
23 for Dunnes or Marks & Spencers and the preference would be the latter",
24 isn't that right, that is Marks & Spencers?
12:18:54 25 A. Yes.
- 26 Q. 337 And in the fifth paragraph, the next paragraph it's recorded "At the end
27 of August if Marks & Spencers do not come on board Owen will conclude a
28 deal with Dunnes and he would like them to continue pursuing him for the
29 purpose of concluded a better deal on price. In this regard, Owen
12:19:17 30 referred to a lot of publicity about M&S instigated by Owen? Going into

12:19:17 1 Quarryvale and this will help their case in keeping Dunnes interested and
2 keen."
3
4 On the following page it records that "In relation to Connell Wilson
12:19:25 5 Richard Forman, they have indicated that capital shopping centres, British
6 Land and Hammersons are interested but it's not practical at this stage
7 without signed up anchors to pursue them any further. There is an added
8 complication that Forman is owed a further 25,000 pounds being the second
9 last payment of 25,000 per quarter due to him". Isn't that right?
12:19:44 10 A. Yes.
11 Q. 338 Right. And that would suggest that Mr. Forman was still working for you
12 and that there was no concern expressed by you to the bank or indeed the
13 bank to you about his ability to do the job, isn't that right?
14 A. Yes.
12:19:56 15 Q. 339 Right. Now, the bank's position is set out at the bottom of the page.
16 Where the bank state that "They understood and appreciate that planning
17 permission had to come first, followed by signing of anchors and then
18 funding. However, our concerns remain about the possible failure of the
19 anchors funding situation and need for urgency. It was reported in the
12:20:16 20 newspapers today that Roches Stores are going to follow Dunnes into
21 Blanchardstown".
22 A. Yes.
23 Q. 340 Would you agree with me which is the proposition that I had started with,
24 Mr. O'Callaghan, which was that the banks became concerned about the fact
12:20:26 25 that Dunnes had signed up to Blanchardstown and that that precipitated an
26 urgency about your development insofar at banks were concerned?
27 A. Well, it didn't really help but I repeat the main concern, they were aware
28 of this, was Marks & Spencers store in the city centre.
29 Q. 341 Insofar as the bank's documentation record their position, their position
12:20:49 30 as stated appears to be that they became concerned once Dunnes had gone

- 12:20:53 1 into Blanchardstown, that may have been due to a lack of appreciation on
2 the bank's part of the situation, is that right?
- 3 A. Yeah, maybe they didn't understand it, possible, because the deal Dunnes
4 Stores did with Blanchardstown we wouldn't have done in Quarryvale, no
12:21:08 5 matter what.
- 6 Q. 342 Yes. If we look at the top of the following page of the bank's memorandum
7 at 11255 the following is recorded "Given that Quarryvale is approaching
8 critical juncture and while the bank has been reasonably passive up to
9 now, because of our extremely large exposure to the project and the fact
12:21:25 10 that some serious decisions would also have to be made by us in the
11 short-term, we require outside professional assistance to oversee the
12 development. In addition we see someone from the bank's side being
13 assigned to the project on a full time basis, evidence also of how
14 seriously the bank views it's exposure". That was the first time that had
12:21:42 15 been suggested by the bank, is that right?
- 16 A. Yes, what date is that please?
- 17 Q. 343 That is July?
- 18 A. '94.
- 19 Q. 344 Yes, '94. And the meeting is called by the bank according to the opening
12:21:54 20 paragraph, following on the bank being informed of Dunnes signing up to
21 Blanchardstown, isn't that right?
- 22 A. Yes.
- 23 Q. 345 And the bank now appear to be indicating to yourself and Mr. Deane that
24 they are going to take a more pro active view, isn't that right, pro
12:22:08 25 active approach, and the next paragraph records that Mr. Deane had a
26 serious difficulty with the concept of an independent consultant, isn't
27 that right?
- 28 A. Yes.
- 29 Q. 346 It was essential that you remain and be seen to remain in control of where
12:22:21 30 the development is concerned, isn't that right?

- 12:22:23 1 A. Yes.
- 2 Q. 347 And you wanted to be in charge of controlling the design team and
3 negotiation with tenants, isn't that right?
- 4 A. Yes.
- 12:22:30 5 Q. 348 The bank explained they saw the consultants role differently, he would
6 work in the back room, isn't that right?
- 7 A. Yes.
- 8 Q. 349 Really what the bank were saying is that their consultant, if they put
9 them in, would be providing information to the bank, is that right?
- 12:22:42 10 A. Yes.
- 11 Q. 350 Obviously the bank had a concern that they would be kept completely up to
12 speed in relation to whatever negotiations or discussions were ongoing, is
13 that right?
- 14 A. Yes.
- 12:22:52 15 Q. 351 They mentioned Mr. Benson, that's Mr. Frank Benson?
- 16 A. The late Frank Benson.
- 17 Q. 352 Is that right? Do you remember this, Mr. O'Callaghan?
- 18 A. Yes.
- 19 Q. 353 Do you agree with me now that there is a change in the bank's attitude at
12:23:04 20 this point in time following on Dunnes going into Blanchardstown which led
21 to these meetings and to the bank taking a more hands on approach in
22 relation to Quarryvale?
- 23 A. I agree with you, except that the reason for it is mainly the Marks &
24 Spencers difficulty, their referencing Dunnes Stores there but it is the
12:23:29 25 actual Marks & Spencers thing, yes they were becoming more concerned, of
26 course.
- 27 Q. 354 And I think in the next memorandum in September '94 at 11343, and you are
28 not present at this meeting which is between Mr. Kelleher, Mr. O'Farrell
29 and Mr. Deane, isn't that right?
- 12:23:49 30 A. Yes.

12:23:50 1 Q. 355 Mr. Deane is recorded under the heading "planning update" ss being
2 "confident that planning permission will be received by the end of
3 September and he feels it unlikely there will be oral hearings because of
4 the size of the project". That must have been a reference to the appeal
12:24:04 5 to An Bord Pleanala?
6 A. Sorry he says -- sorry, he says unlikely.
7 Q. 356 He says he is confident that planning permission will be received by the
8 end of September and he feels that it's unlikely there will be oral
9 hearings because of the size of the project. I am suggesting to you that
12:24:20 10 in view of the fact that the planning permission issued on the 13th April
11 1994 and you lodged an appeal on the 12th May 1994, he is referring to
12 progress through An Bord Pleanala, isn't that right?
13 A. Yes, yes.
14 Q. 357 And in the next paragraph under the heading "anchor update shopping
12:24:40 15 centre" he is providing information to the banks in relation to Marks &
16 Spencers and the problem with Marks & Spencers was opening the store in
17 Grafton Street, isn't that right?
18 A. Yes.
19 Q. 358 Right. Then he refers to IKEA, Quinnsnorth, Roches Stores, isn't that
12:24:56 20 right?
21 A. Yes.
22 Q. 359 But in relation to Roches, Mr. Deane is recorded as telling the bank that
23 Deane was aware that Roches are likely to follow Dunnes into
24 Blanchardstown, given that Clondalkin shopping centre has started and
12:25:10 25 Blanchardstown is about to start the capping issue for Quarryvale is
26 likely to be less of an issue, isn't that right?
27 A. Yes.
28 Q. 360 So what is being dealt with between Mr. Deane and the bank is an update to
29 the bank on the anchor, information in relation to proposed anchors start
12:25:25 30 isn't that right?

12:25:25 1 A. Yes.

2 Q. 361 That I suggest to you again shows that there is concern within the bank as
3 to what progress is being made, isn't that the position?

4 A. Absolutely.

12:25:32 5 Q. 362 The second person the bank had, independent of the anchors was a
6 development partner, is that the position?

7 A. Yes.

8 Q. 363 Okay. And at 11344 Mr. Deane updates the banks in relation to the
9 discussions with Ronson's, British Land and Hammerson's, isn't that right?

12:25:49 10 A. Yes.

11 Q. 364 And it seems that Connell Wilson have been talking to British land, isn't
12 that right?

13 A. I'm afraid so.

14 Q. 365 And again there is no reference or expression there of unhappiness with
15 the way Connell Wilson were conducting their business, isn't that right?

12:26:01 16 A. Mm-hmm.

17 Q. 366 At 11345 on the following page, the bank again raised their concern under
18 the heading "project management arrangements" about putting in an
19 independent consultant, isn't that right?

12:26:17 20 A. Yes.

21 Q. 367 And they raised the question in the fourth paragraph:
22
23 "We raised the question of appointing Frank Benson as independent
24 consultant to the project, and Deane felt this was premature given that
12:26:31 25 the site could be sold to either British Land or Hammersons which could
26 effectively clear the bank. However, given that there is no certainly on
27 any take out yet, the risk remain as serious one for the bank and there is
28 also a clear issue in relation to the feasibility of the project."
29

12:26:45 30 Next paragraph "Deane was clearly resisting the concept of independent

- 12:26:49 1 consultant looking over their shoulder. He mentioned that Owen
2 O'Callaghan will agree to the appointment but he would not be happy about
3 it." And was that your position, Mr. O'Callaghan?
- 4 A. Yes, I knew Frank Benson I didn't have any difficulty --
- 12:27:03 5 Q. 368 But Mr. Deane is recorded as having a difficulty?
- 6 A. Yes, he had.
- 7 Q. 369 What was Mr. Deane's difficulty with an independent consultant?
- 8 A. He was concerned that I would be concerned about it, but I wasn't. He
9 didn't know that at the time actually. He didn't have any difficulties,
10 he just, his difficulty was that I would be concerned about it, but I
11 wasn't concerned about it.
- 12 Q. 370 Certainly he records you there as, that would you agree to the
13 appointment, isn't that right?
- 14 A. Yes.
- 12:27:26 15 Q. 371 In the second paragraph under the heading "project management" there is a
16 proposal "to extend the Connell Wilson contract for a further three months
17 period given that they are making progress with the UK funding side",
18 isn't that right?
- 19 A. Mm-hmm.
- 12:27:40 20 Q. 372 Again in view of your evidence yesterday, I just want to put it to you,
21 Mr. O'Callaghan, that there is no suggestion in that contemporaneous
22 document of dissatisfaction on your part, Mr. Deane's part on the bank's
23 part with Connell Wilson, is that right?
- 24 A. We probably weren't aware at that stage of the amount of damage that
12:27:58 25 Connell Wilson were causing with the UK funders or institutions. It was
26 when we went around ourselves to meet the various institutions like
27 Hammersons and British Lands etcetera that we discovered what had been
28 happening before that. It was only happening because of a lack of
29 information or lack of credibility on behalf of Connell Wilson really.
- 12:28:16 30 Q. 373 Do you agree, Mr. O'Callaghan, having looked at those documents, that

- 12:28:20 1 following the appointment of Dunnes or following the agreement by Dunnes
2 to go into Blanchardstown that the bank became more concerned about their
3 position?
- 4 A. No, the Marks & Spencers decision to go into Grafton Street.
- 12:28:35 5 Q. 374 Was the matter of concern?
- 6 A. That's what concerned them, because it was Marks & Spencers we wanted for
7 Quarryvale, we wanted an English line up for Quarryvale more so than an
8 Irish line up.
- 9 Q. 375 There is no reference in any of those documents up to and including the
12:28:52 10 2nd September 1994 of Mr. Gilmartin having been informed or consulted
11 about any matter, do you agree with that, Mr. O'Callaghan?
- 12 A. Yes.
- 13 Q. 376 Why is it do you any that think that in view of your telephone
14 conversations with Mr. Gilmartin that it is not there recounted to the
12:29:09 15 bank Mr. Gilmartin's views in relation to either the investor funding that
16 was being dealt with or indeed the position in relation to anchors?
- 17 A. Well, at that particular stage I wasn't telling him an awful lot about
18 what was happening because -- well I was quite simply afraid that he might
19 upset the situation. I didn't -- for example, as you have asked the
12:29:31 20 question, for example the people like Hammerson and British Land and
21 Ronson and Grosvenor, you couldn't go near those people unless you had a
22 proper presentation, if you went to them once and got it wrong the first
23 time you didn't go back a second time. This is what Forman was doing.
24
- 12:29:49 25 In particular with Ronson who was an ex-partner of ours, we worked
26 together before, the Heron Corporation, it was Forman in particular who
27 had put them off, put Ronson off the deal. So we were afraid that if
28 Gilmartin and Forman went around together to these people that we would
29 never, we'd loose them, it's as simple as that I'm afraid.
- 12:30:13 30 Q. 377 Was your concern about Mr. Gilmartin being let loose effectively on the

- 12:30:17 1 anchors similar to the concern --
- 2 A. Not the anchors the funders.
- 3 Q. 378 Was that similar to the concern you had about Mr. Gilmartin dealing with
- 4 the councillors, in that he had been promoting a development of 1.5
- 12:30:29 5 million square feet?
- 6 A. Yes.
- 7 Q. 379 Right. So is it fair to say that in your view then Mr. Gilmartin was
- 8 neither fit nor competent either to negotiate with the councillors of
- 9 Dublin County Council in relation to the zoning of the lands or with any
- 12:30:42 10 potential investors?
- 11 A. Absolutely correct. It would be like running a donkey in the Grand
- 12 National.
- 13 Q. 380 All right of the that was your view of Mr. Gilmartin, was Mr. Gilmartin
- 14 aware, Mr. O'Callaghan, that that was your view of him and his business
- 12:30:58 15 expertise?
- 16 A. Mr. Gilmartin would be too proud to listen to that or take any notice of
- 17 that.
- 18 Q. 381 Yes. And just dealing then briefly with matters, equine as it were,
- 19 around this time in July of 1994, you cashed the cheque at 11279, I beg
- 12:31:15 20 your pardon, Mr. Ambrose Kelly cashes the cheque?
- 21 A. Yes.
- 22 Q. 382 On your behalf, isn't that right?
- 23 A. Yes.
- 24 Q. 383 Which you had intended to use to buy an animal at the Horse Show?
- 12:31:28 25 A. At the RDS.
- 26 Q. 384 At the RDS, the reason I draw that matter to your attention, is that that
- 27 is the 10,000 pounds that was attributed to the Barkhill loan, isn't that
- 28 right, I beg your pardon, Mr. O'Callaghan, not to the Barkhill loan but to
- 29 the director's loan?
- 12:31:43 30 A. The director's loan, yes.

- 12:31:44 1 Q. 385 I think that is written up initially at 11278 to the cheque payments book
2 of Riga, approximately halfway down the page, isn't that right, you see A
3 Kelly 10,000 pounds, that's analysed under sundries, isn't that right?
4 A. Yes.
- 12:32:00 5 Q. 386 And if one comes across the page, you see that that is treated as a sundry
6 item, isn't that the position?
7 A. Yes.
- 8 Q. 387 And then I think at 11282 in the analysis of sundries by Barber & Co,
9 approximately halfway down this page, this sum of 10,000 pounds is
12:32:22 10 analysed to 742, isn't that right?
11 A. Yes.
- 12 Q. 388 And then if we look to 742, 11283, that is the nominal account for the
13 director's loan, is that right?
14 A. Yes.
- 12:32:47 15 Q. 389 And therefore where that drawing of 10,000 pounds by you is being posted
16 in the books and records is as part of a director's loan, isn't that
17 right?
18 A. Yes.
- 19 Q. 390 Okay. And also with that, in the same year end, Mr. O'Callaghan, which is
12:32:54 20 the 30th April 1995, there is a cash sum of 10,000 pounds and a cash sum
21 of 20,000 pounds, isn't that right?
22 A. Yes.
- 23 Q. 391 Immediately beneath that figure.
24 A. Yes.
- 12:33:06 25 Q. 392 And the first sum, which is a sum of 10,000 pounds is attributable, 11378
26 please, and if we increase the second half of this document the sum of
27 10,000 pounds is attributable to a payment made by you to Mr. Lawlor, is
28 that right?
29 A. Yes.
- 12:33:27 30 Q. 393 And therefore in the director's loan of the year, for the year end April

- 12:33:32 1 1995, the first item that goes in is the 10,000 pounds cash that was drawn
2 by you in the first week in August 1994, isn't that right?
- 3 A. Yes.
- 4 Q. 394 The second item that goes into the director's loan is the 10,000 pounds
12:33:48 5 that had been paid to Mr. Lawlor, isn't that right?
- 6 A. Yes.
- 7 Q. 395 And at 11379, three from the bottom, of the cheque payments book, you see
8 an entry written up to cash, isn't that right, in the sum of 10,000
9 pounds?
- 12:34:06 10 A. Yes, yes.
- 11 Q. 396 If we go across under the sundries column, we see 10,000 pounds analysed
12 and we see the words "OOC/Poll CLL" and above that 5098, isn't that right?
- 13 A. Yes.
- 14 Q. 397 And 5098 we know was the attribution for the Barkhill loan in the prime
12:34:28 15 books and records of Riga, is that right?
- 16 A. Yes.
- 17 Q. 398 That was picked up at 11381, some six from the bottom by Ms. Cowhig in
18 doing the audit for the year end April '95, she picks up two items of
19 cash, 10,000 and 20,000, and she takes them out of the Barkhill loan and
12:34:49 20 she puts them into the director's drawings, isn't that right?
- 21 A. Yes.
- 22 Q. 399 And the second item that is to be found there, Mr. O'Callaghan, is the
23 second payment that's made to Mr. Lawlor on the 13th March 1995, is that
24 right?
- 12:35:04 25 A. Yes.
- 26 Q. 400 And at 11384 we see that for the year end 30 April '95 in the director's
27 drawings the first item is the 10,000 pounds cash that is attributed to
28 Mr. Kelly, the second is an item of 10,000 pounds cash which is not
29 attributed, is that right?
- 12:35:26 30 A. Yes.

- 12:35:26 1 Q. 401 And the third item is 20,000 pounds cash which similarly is not
2 attributed, is that right?
3 A. Yes.
4 Q. 402 But which you say is payments made to Mr. Lawlor, isn't that right?
12:35:37 5 A. Yes.
6 Q. 403 I wanted to ask you, Mr. O'Callaghan, because I think I didn't ask you
7 previously when we had discussed this, if we look at 11379 and looking at
8 the item of 10,000 pounds, which is the third item from the bottom, which
9 is the payment to Mr. Lawlor, is that right?
12:36:00 10 A. Yes.
11 Q. 404 When you made the payments to Mr. McGrath they are recorded as payments to
12 Mr. McGrath in the cheque payments book, is that right?
13 A. Yes.
14 Q. 405 When you made payments to Mr. Dunlop they were recorded as payments to Mr.
12:36:14 15 Dunlop?
16 A. Yes.
17 Q. 406 And Mr. Gilbride's payments were recorded when they were made out of your
18 personal account as payments to Mr. Gilbride, is that right?
19 A. Yes.
12:36:23 20 Q. 407 The two payments that you made to Mr. Lawlor, which was the 20,000 and the
21 10,000 pounds are recorded as cash, is that right?
22 A. Yes.
23 Q. 408 Can you remember, Mr. O'Callaghan, whether you gave a cheque made out to
24 cash to Mr. Lawlor or whether you cashed the cheque and paid Mr. Lawlor in
12:36:40 25 cash?
26 A. I think I made a cheque out to cash.
27 Q. 409 Was that at Mr. Lawlor's request?
28 A. Yes, they were the only two occasions that ever occurred, that was at
29 Mr. Lawlor's, the late Mr. Lawlor's request, specifically.
12:36:55 30 Q. 410 So when you make the payment on the 27th September 1994 in the sum of

12:37:00 1 10,000 pounds and the 13th March 1995 in the sum of 20,000 pounds, to
2 Mr. Lawlor, both of those are recorded as cash payments?
3 A. Absolutely, yes.
4 Q. 411 Right. Did it occur to you, Mr. O'Callaghan, to query with Mr. Lawlor why
12:37:17 5 it was he wanted cheques made out to cash?
6 A. The reason why he took so long to give him that money, because he was
7 entitled to it before that actually because of the work he had done, was
8 because I wanted to pay him by cheque in the normal way, he wouldn't
9 accept it. So I eventually, because he annoyed me so much I eventually
12:37:39 10 did what he asked me to do and gave it to him in cash. I made the cheque
11 out to cash.
12 Q. 412 Sorry --
13 A. I didn't ask him why.
14 Q. 413 Are you telling the Tribunal today, Mr. O'Callaghan, that the reason why
12:37:56 15 the cheques are made out to cash is that Mr. Lawlor had been asking you
16 for the money for some time, you had wanted to make a cheque made payable
17 to Mr. Lawlor, he wouldn't accept it and that it was only when you agreed
18 make a payment to cash that Mr. Lawlor would take it?
19 A. That's it.
12:38:04 20 Q. 414 Did that tell you anything about Mr. Lawlor and his business activities,
21 Mr. O'Callaghan?
22 A. Well, I didn't know what he was -- it didn't sound right really, I know
23 that. I assumed that he was probably trying to avoid paying tax or
24 something, I wasn't sure. It was his business, I didn't ask about it.
12:38:26 25 Q. 415 But you certainly demurred in the first instance when he asked you
26 initially?
27 A. I always did, yeah.
28 Q. 416 For a cheque made out to cash?
29 A. Yeah that's correct, everything I did was paid by cheque and up front and
12:38:38 30 recorded, they were the only two exceptions, it took me a long time to

- 12:38:41 1 agree to it, I eventually agreed because he kept on about it.
- 2 Q. 417 How long did it take to you agree to it?
- 3 A. It could have taken 12 months.
- 4 Q. 418 So for the previous 12 months up to September of 1994 Mr. Lawlor had been
- 12:38:53 5 asking you for money, is that right?
- 6 A. Yes.
- 7 Q. 419 Yes and when you paid the sum of 10,000 pounds to him in September 1994 by
- 8 way of a cheque made out to cash, did Mr. Lawlor tell you that was not
- 9 enough?
- 12:39:06 10 A. He did.
- 11 Q. 420 Right. And did he tell you he would be coming back for more money?
- 12 A. Yes, he did
- 13 Q. 421 And it would have to be paid in a similar fashion?
- 14 A. Well he didn't say that but that was not said at the time, when he did
- 12:39:18 15 come back he said it had to be, yeah.
- 16 Q. 422 And when Mr. Lawlor insisted on being paid 30,000 pounds by way of cheques
- 17 made out to cash and not made out to him, when that happened and you were
- 18 concerned about it, did you recollect what Mr. Gilmartin had originally
- 19 told you about Mr. Lawlor?
- 12:39:36 20 A. No.
- 21 Q. 423 When Mr. Gilmartin --
- 22 A. Yes, it didn't cross my mind know.
- 23 Q. 424 It didn't cross your mind?
- 24 A. No.
- 12:39:44 25 Q. 425 That Mr. Gilmartin in 1989 and years before that, had been complaining to
- 26 you and indeed to others, effectively that Mr. Lawlor I think he described
- 27 him here and in other venues as "a gangster" and that he complained about
- 28 Mr. Lawlor and Mr. Lawlor's activities, isn't that right?
- 29 A. Yes.
- 12:40:02 30 Q. 426 You would have known that in 1989?

- 12:40:04 1 A. Yes.
- 2 Q. 427 Right. When Mr. Lawlor refused to take a cheque made out to Liam Lawlor
- 3 from you, Mr. O'Callaghan, did any alarm bell go off in your head when you
- 4 looked at the idea of writing a cheque made out to cash to a national
- 12:40:20 5 politician in circumstances where the national politician had refused to
- 6 take from you a cheque made out to them in their own name?
- 7 A. It did, that's why it took me so long to pay it to him.
- 8 Q. 428 When this happened, did it occur to you to go back to Mr. Gilmartin and
- 9 discuss with Mr. Gilmartin what he had previously said to you about
- 12:40:37 10 Mr. Lawlor?
- 11 A. I hadn't thought about it, I hadn't -- it hadn't crossed my mind.
- 12 Q. 429 When Mr. Lawlor refused to take from you a cheque made out to him in his
- 13 own name, in view of the fact that he was a national politician, did you
- 14 go back to Mr. Dunlop and ask Mr. Dunlop's advice about how were you going
- 12:40:54 15 to deal with this, these requests from Mr. Lawlor?
- 16 A. No.
- 17 Q. 430 Did you ask anybody's advice?
- 18 A. No.
- 19 Q. 431 Did you consider approaching your, Mr. Albert Reynolds who was the senior
- 12:41:06 20 member in Fianna Fail at the time, isn't that right, in September 1994?
- 21 A. Yes.
- 22 Q. 432 Yes. He was the Taoiseach in September 1994, isn't that right?
- 23 A. Yes.
- 24 Q. 433 And he was a man who was well known to you, Mr. O'Callaghan?
- 12:41:20 25 A. That's correct.
- 26 Q. 434 And here is a member of that political party, standing in front of you in
- 27 September 1994 and telling you that he will not take a cheque made out to
- 28 him in his own name, that he wants a cheque made out to cash, isn't that
- 29 right?
- 12:41:35 30 A. That's right.

- 12:41:35 1 Q. 435 Did you take that information and bring it to the attention of the senior
2 party figures in Fianna Fail, whom you knew?
3 A. No I did not.
- 4 Q. 436 It's fair to say, Mr. O'Callaghan, disagree with me if you want, that you
12:41:49 5 would see yourself as a supporter of Fianna Fail, isn't that right?
6 A. Oh, yes.
- 7 Q. 437 And is it the position that you understood that this was a one off event
8 with Mr. Lawlor, in other words, you were the only person who had ever
9 been asked to deal with Mr. Lawlor in this fashion?
12:42:06 10 A. I wouldn't know that.
- 11 Q. 438 No but did you --
12 A. I wouldn't ask him that.
- 13 Q. 439 But did you suspect, Mr. O'Callaghan, when Mr. Lawlor was A following you
14 for money for 12 months and B insisting on being paid by way of cheques
12:42:17 15 made out to cash, that this might not have been the first time that
16 Mr. Lawlor operated in this way?
17 A. That's possible, I didn't ask him.
- 18 Q. 440 No, I'm not suggesting that you did, but can I take it or can the Tribunal
19 take it that it would have crossed your mind that this was not the first
12:42:36 20 time that Mr. Lawlor had conducted himself in this fashion?
21 A. Yes.
- 22 Q. 441 And that therefore Mr. Lawlor was a person who was in the habit of
23 expressing a preference of being paid in cash?
24 A. Well, I'm not sure about cash, but when he did work for somebody he wanted
12:42:52 25 to be paid, that I was aware of.
- 26 Q. 442 Yes, you now knew in September 1994 that he wasn't going to take a cheque
27 from you made out to Liam Lawlor, is that right?
28 A. That's correct, yes.
- 29 Q. 443 I assume there was no question in your mind of offering to pay him in
12:43:06 30 cash, as in actual notes, is that right?

- 12:43:10 1 A. Oh no, never did that.
- 2 Q. 444 So you were going to give him a cheque, albeit made out to cash at his
3 request?
- 4 A. Yes.
- 12:43:16 5 Q. 445 I assume that it crossed your mind that this was not the first time that
6 Mr. Lawlor had done this?
- 7 A. Yes.
- 8 Q. 446 Right.
- 9 A. Yes, it would have crossed my mind possibly, of course.
- 12:43:25 10 Q. 447 And whatever about your view of making a payment to Mr. Lawlor in your
11 experience of making political payments, Mr. O'Callaghan, this was a
12 unique political payment insofar as the politician was insisting that the
13 cheque be made out to cash, is that fair?
- 14 A. Absolutely correct, yes.
- 12:43:44 15 Q. 448 That was followed in March of '95 by the 20,000 which was dealt with in
16 the same way?
- 17 A. Yes, complete surprise to me, the first time that it happened, yes.
- 18 Q. 449 And I assume that when he came back the second time you knew there was no
19 point in even offering him a cheque made out to Liam Lawlor?
- 12:43:59 20 A. Yes.
- 21 Q. 450 In view of your support for Fianna Fail, Mr. O'Callaghan, did it occur to
22 you that this was something that you should bring to the attention senior
23 members of the party?
- 24 A. Didn't cross my mind I'm afraid.
- 12:44:13 25 Q. 451 Did you ever consider discussing it with any of the politicians in Fianna
26 Fail whom you had supported?
- 27 A. No, no I didn't boast about these things, I didn't discuss these things
28 with anybody.
- 29 Q. 452 Did you discuss it with Mr. Deane?
- 12:44:30 30 A. I did I think, yes I did.

- 12:44:31 1 Q. 453 And when I ask you that, Mr. O'Callaghan, you would have discussed the
2 making of the payment to Mr. Lawlor with Mr. Deane, is that right?
- 3 A. Possibly did, I discussed everything with him, I am sure I would have done
4 that as well.
- 12:44:45 5 Q. 454 Would you have discussed with Mr. Deane the fact that Mr. Lawlor was
6 insisting on being paid by way of a cheque made out to cash?
- 7 A. Possibly would, yes.
- 8 Q. 455 Did you have any discussion with Mr. Lawlor or did Mr. Lawlor seek to be
9 paid in actual cash, Mr. O'Callaghan?
- 12:45:02 10 A. Well, if he was that's, maybe that was in his mind as well but I wasn't
11 going to do that. Maybe that was in his mind, yes, I'm not sure, but as
12 far as I was concerned it was a cheque made out to cash.
- 13 Q. 456 Would you agree that it's likely if you had been prepared to give him
14 10,000 pounds in cash he would have been happy to receive it?
- 12:45:19 15 A. In actual cash, yes.
- 16 Q. 457 Yes. But the compromise was that you would give him a cheque but a cheque
17 made out to cash because he wouldn't take a cheque made out to Liam
18 Lawlor, is that right?
- 19 A. Yes.
- 12:45:30 20 Q. 458 And in doing that, which was a unique event for you, Mr. O'Callaghan, in
21 paying a politician, isn't that right?
- 22 A. Very much so.
- 23 Q. 459 Because all of the other payment that is had been recorded have been
24 recorded in the cheque payments?
- 12:45:45 25 A. In the cheque payments and recorded for everybody to see, that's
26 absolutely true.
- 27 Q. 460 In so far as Mr. Lawlor was concern did that cause you any concern about
28 your relationship with Mr. Lawlor which had commenced at a minimum by
29 1991, isn't that right?
- 12:46:00 30 A. Well, Mr. Lawlor had done a certain amount of work, quite a lot of work

12:46:04 1 for us actually, I won't go through, you know what they were, he did four
2 or five different things for us. And basically this is the whole stadium
3 project had collapsed as well which he felt he was involved in, or was
4 collapsing, and he actually kept on to me on quite a few occasions for
12:46:24 5 payment due to him, and I told him, I agreed that I would recompense him
6 because he did a lot of work for us, for the company and for me. I agreed
7 pay to him, when he kept on and on, I suggested I would pay him by cheque,
8 he then he refused to accept the cheque, eventually I said look I am not
9 going to cash a cheque and give you cash, I don't do those things, he said
12:46:45 10 I will accept a cheque made out to cash. Again that dragged on for months
11 and months, eventually because I was asked so many times for I eventually
12 gave to him, I did the same with the second one actually. I didn't say a
13 word to anybody or tell anybody about it with the exception of John Deane.
14 Q. 461 When you gave him the first payment in September 1994, Mr. O'Callaghan, of
12:47:09 15 10,000 pounds, you believed that that was not sufficient to meet
16 Mr. Lawlor's demands, is that right?
17 A. Well, I did but he said to me at the time that it wasn't.
18 Q. 462 What did he say to you actually?
19 A. He said that that wasn't enough for all the work he had done actually.
12:47:21 20 Q. 463 Did he continue between September 1994 and March of 1995 to press you in
21 relation to another payment?
22 A. Yes.
23 Q. 464 When I asked you did he press you, would he have spoken to you of this
24 regularly?
12:47:36 25 A. Yes.
26 Q. 465 How regularly?
27 A. Every two months.
28 Q. 466 So during that period you would have met Mr. Lawlor on and off, is that
29 right?
12:47:44 30 A. He would have met me, let me put it that way.

- 12:47:46 1 Q. 467 Would you have met him in Mr. Dunlop's office?
- 2 A. Very rarely in Mr. Dunlop's office.
- 3 Q. 468 You were aware and I think you have told the Tribunal of the fact that
- 4 there was a special or close relationship between Mr. Dunlop and
- 12:47:58 5 Mr. Lawlor?
- 6 A. Very close.
- 7 Q. 469 I think you have said to the Tribunal they had their own relationship,
- 8 isn't that right?
- 9 A. Which I was not privy to, yes.
- 12:48:04 10 Q. 470 You yourself had your own agreement with Mr. Dunlop, isn't that right?
- 11 A. Yes.
- 12 Q. 471 This was an area in which Mr. Dunlop from what you have told the Tribunal
- 13 would have had some expertise because you have told the Tribunal you
- 14 believed that Mr. Dunlop was a person who would have to make political
- 12:48:17 15 payments at around election time, is that right?
- 16 A. Yes.
- 17 Q. 472 He was also a person Mr. Dunlop, who had been introduced to you through
- 18 Mr. Lawlor, isn't that right?
- 19 A. Yes, indeed.
- 12:48:26 20 Q. 473 When this demand is being made of you in the first instance,
- 21 Mr. O'Callaghan, for the unacceptable amount of 10,000 pounds, why didn't
- 22 you go to Mr. Dunlop and ask Mr. Dunlop about Mr. Lawlor?
- 23 A. I never discussed any political payment or any payment with anybody else
- 24 except the person I was talking to. I never discussed anything with Frank
- 12:48:51 25 Dunlop as you well know, I just didn't do those things.
- 26 Q. 474 All right. Can I suggest to you there were a number of feature abouts
- 27 this discussion with Mr. Lawlor, Mr. O'Callaghan, about which it would
- 28 have been reasonable for you to speak with Mr. Dunlop in the first
- 29 instance you are being asked for money by a senior politician in
- 12:49:10 30 circumstances in which you are reluctant to pay it, isn't that right?

- 12:49:14 1 A. Yes.
- 2 Q. 475 Right.
- 3 A. I wouldn't say reluctant, that's not quite correct. I appreciated the
- 4 fact that Mr. Lawlor done a lot of work for me in his own constituency and
- 12:49:25 5 remember our two projects were in his own backyard really which he felt he
- 6 controlled really. He did a lot of work for me to the stadium, through
- 7 contacts with Green Properties, through community associations, in
- 8 particular community associations, so I did appreciate that. What I did
- 9 not appreciate was that I would much prefer to recompense him by cheque in
- 12:49:49 10 the normal way made out to Liam Lawlor rather than by cash that was the
- 11 only problem I had with him.
- 12 Q. 476 And can I suggest that the other problem you had was that you couldn't
- 13 come to an agreement with Mr. Lawlor about what was the correct amount?
- 14 A. Yes, that was in dispute, as usual, yeah, he was looking probably for a
- 12:50:03 15 bit more than I thought I should give him.
- 16 Q. 477 And that is clear, because in March '95, you paid him the additional
- 17 20,000 pound?
- 18 A. Yes.
- 19 Q. 478 When you were faced with this dilemma in the months leading up to
- 12:50:14 20 September 1994, when you made the 10,000 pounds payment to Mr. Lawlor, why
- 21 is it, Mr. O'Callaghan, that you didn't go to Mr. Dunlop and ask Mr.
- 22 Dunlop for his input into the difficulty that you were facing?
- 23 A. Well, I made all these decisions myself, I didn't want anybody's advice
- 24 really.
- 12:50:33 25 Q. 479 And once you were pushed or pressed by Mr. Lawlor, ultimately,
- 26 Mr. O'Callaghan, you conceded to Mr. Lawlor and made the cheque out to
- 27 cash, is that right?
- 28 A. I did indeed.
- 29 Q. 480 But you refused any suggestion made by Mr. Lawlor that you would pay him
- 12:50:47 30 in actual cash, isn't that right?

12:50:49 1 A. Yes, I think so, yes.

2 Q. 481 In other words, you didn't make any payment in cash, in other words notes,
3 to Mr. Lawlor, isn't that the position?

4 A. Yes, that's correct, yes.

12:51:00 5 Q. 482 And the compromise that was reached between yourself and Mr. Lawlor was
6 that Mr. Lawlor would take two cheques made out to cash which you paid
7 him, is that right?

8 A. Yes.

9 Q. 483 Other than the fact that you knew you had paid him, there is no
12:51:13 10 documentary record, isn't that right?

11 A. Yes.

12 Q. 484 Right. It is the notation in the cheque payments book that's presently on
13 screen that has the initials "LL" beside it, that indicates the recipient
14 was Mr. Lawlor, is that right?

12:51:33 15 A. Yes.

16 Q. 485 Right. Mr. Lawlor for example never issued you with a receipt or invoice?

17 A. Oh no.

18 Q. 486 Or an acknowledgement of any description?

19 A. No.

12:51:34 20 Q. 487 Would that be something that you wouldn't, it wouldn't be a surprise to
21 you?

22 A. No, no surprise.

23 Q. 488 All right. Did you ever discuss with Mr. Ambrose Kelly this request from
24 Mr. Lawlor and the method in which you had paid or the mechanism by which
12:51:54 25 you had paid?

26 A. Oh no.

27

28 JUDGE FAHERTY: Mr. O'Callaghan, can I ask you, just in view of your
29 evidence that you had agreed to recompense Mr. Lawlor, what you say were
12:52:05 30 his efforts, in relation to the two projects, did you ever just consider

12:52:11 1 when Mr. Lawlor asked you for the money to give him the cheque made out to
2 Mr. Lawlor, irrespective of what the manner which he was asking for the
3 cheque?

4 A. Well I did, Judge. I offered it to him and he wouldn't take from me, the
12:52:27 5 cheque made out to himself.

6
7 JUDGE FAHERTY: So you are saying you had in fact written out a cheque to
8 Mr. Dunlop, or Mr. -- I beg your pardon, Mr. Lawlor.

9 A. No sorry I offered to him, I suggested, I didn't write out the cheque I
12:52:40 10 had the cheque book in my hand and I suggested I would make the cheque out
11 to his name but he wouldn't take from me, he wouldn't accept it.

12
13 JUDGE FAHERTY: . Yes. You had made decisions before, obviously, you are
14 a businessman and paying people who, professionals for their services and
12:52:59 15 on occasions you had to make as you say hard choices to allow certain
16 professionals not to be paid immediately because of whatever, I mean,
17 these are decisions, but did you never consider simply sending a cheque if
18 you had formed the view that Mr. Lawlor, the late Mr. Lawlor was owed
19 money, of simply sending a cheque in the post to Mr. Lawlor, and if he
12:53:26 20 didn't accept it, so be it.

21 A. Well, yes, I could have done that, I would have assumed he would probably
22 have given it back to me.

23
24 JUDGE FAHERTY: I see.

12:53:37 25
26 JUDGE KEYS: Mr. O'Callaghan, I wonder could I ask you, just following up
27 on Judge Faherty, were you afraid of the consequences to your project if
28 you didn't comply with the manner in which Mr. Lawlor requested payment?

29 A. Yes.
12:53:54 30

12:53:55 1 JUDGE KEYS: My understanding is that Mr. Lawlor was in a very strong
2 position in a sense from a political point of view and could influence
3 people obviously.
4 A. Yes.

12:54:07 5
6 JUDGE KEYS: So I take it then that in relation to the demands of money he
7 was making, that you would have found it very, very difficult not to meet,
8 or at least meet him halfway, even though I mean the story that comes
9 across, or the picture being painted about Mr. Lawlor is that he demanded
12:54:25 10 a lot of money when he made requests.
11 A. Yes.
12
13 JUDGE KEYS: And that not to play ball, if I might put it like that, could
14 have an adverse effect on what you were trying to do.

12:54:38 15 A. That's correct, Judge, yes.
16
17 JUDGE KEYS: Thank you.

18 A. If I could just repeat, sorry, Judge, in this case he was being
19 recompensed for work he had actually done for me, but what you are saying
12:54:50 20 is correct.
21
22 JUDGE KEYS: I appreciate that, you have said that, he had done work.

23 A. I agree with what you are saying.
24

12:54:58 25 JUDGE KEYS: Thank you.
26

27 Q. 489 MS. DILLON: Mr. Dunlop told the Tribunal of his view that insofar as the
28 late Mr. Liam Lawlor was concerned that it was important to have
29 Mr. Lawlor on side because if Mr. Lawlor wasn't on side he could do damage
12:55:09 30 to a project, is that a view that Mr. Dunlop discussed with you?

- 12:55:14 1 A. Yes, he would have discussed that with me, yes.
- 2 Q. 490 And I think that certainly we have seen that in the early stages of the
- 3 project there was a concern expressed by Mr. Dunlop and I think agreed
- 4 with by yourself, that Mr. Lawlor's involvement as not an expert but as
- 12:55:29 5 being on the team as it were, was something that you would prefer not to
- 6 be known in public, because that could have adverse consequences for the
- 7 development, isn't that right?
- 8 A. That's correct.
- 9 Q. 491 Would it follow from that then that insofar as it was important to have
- 12:55:42 10 Mr. Lawlor on side, it was equally important not to have Mr. Lawlor
- 11 working against you?
- 12 A. Absolutely.
- 13 Q. 492 Right. And was it in that context as Judge Keys has indicated to you,
- 14 that you felt yourself compelled to make the payment to Mr. Lawlor in the
- 12:55:56 15 manner that you have described to the Tribunal?
- 16 A. Yes, that would be correct. And except that in this case it was for work
- 17 done, but yes, that would have been a factor in making sure he got his
- 18 money.
- 19 Q. 493 Would it follow from that then, Mr. O'Callaghan, that Mr. Lawlor from the
- 12:56:13 20 time that he commenced his involvement with you in Quarryvale and
- 21 throughout the period up to 1994 and 1995, you regarded as a person of
- 22 significant political influence?
- 23 A. Yes.
- 24 Q. 494 Right. And that you were --
- 12:56:26 25 A. This is his constituency I was in the heart of. Yes.
- 26 Q. 495 Yes. And in acknowledgement of that political influence and to ensure
- 27 that it was not used against you or your development you were compelled
- 28 you felt to make the payments in the manner you have described to
- 29 Mr. Lawlor?
- 12:56:40 30 A. Yes.

- 12:56:40 1 Q. 496 And that if Mr. Lawlor hadn't been a national politician, wielding the
2 influence that he did, and the potential for harm that he could cause, you
3 would not have made those payments, is that your position?
- 4 A. If Mr. Lawlor, in this case there is a subtle difference here, Mr. Lawlor
12:56:55 5 did a lot of work in my opinion, for me, in west County Dublin, with
6 regard to the stadium, the funding of the stadium, to in particular his
7 efforts with Green Property which were very, very, very important and
8 which is also very important, his connections with the local community
9 associations, that I did not have, Frank Dunlop didn't have or anybody
10 else didn't have.
- 11 Q. 497 Did you ever discuss with Mr. Lawlor whether he had received any payments
12 from Green Property?
- 13 A. No, I did not discuss that.
- 14 Q. 498 Did you know until you saw the documentation from the Tribunal?
- 12:57:27 15 A. No, I did not.
- 16 Q. 499 That Mr. Lawlor was in receipt of significant sums of money Green
17 Property?
- 18 A. I did not know that until I read it actually it.
- 19 Q. 500 Was a surprise to you in view of what you knew yourself of the way
12:57:38 20 Mr. Lawlor operated?
- 21 A. Yes.
- 22 Q. 501 Right. Do you think that that's something he should have disclosed to you
23 or told you when he was approaching you in respect of these things?
- 24 A. Well, yes in regard to - well only in regard to Blanchardstown I felt he
12:57:51 25 should have said that to me, because I always felt he was totally on my
26 side, on the Quarryvale side.
- 27 Q. 502 I think that when you made the first payment to Mr. Lawlor, which was
28 September 1994, it would be true to say that the stadium project had not
29 yet come to a halt, isn't that right?
- 12:58:14 30 A. That's correct, yes.

- 12:58:15 1 Q. 503 In fact the death Nell wasn't sounded, if your evidence is correct,
2 Mr. O'Callaghan, until you met with Mr. Ahern in November of 1994 and that
3 you had gone to that meeting prepared to make the presentation accompanied
4 by Mr. O'Connor in the belief that it would be well received, isn't that
12:58:30 5 right?
6 A. That's correct.
7 Q. 504 So when you made the first payment to Mr. Lawlor in September 1994, at
8 that stage the stadium project was a vibrant project as far as you were
9 concerned?
12:58:40 10 A. Still was but Mr. Lawlor was not officially involved in it.
11 Q. 505 But if you were to suggest you were only making the payment of 10,000
12 pounds in September '94 to Mr. Lawlor because the stadium project was at
13 an end that wouldn't be correct, is that right?
14 A. No.
12:58:55 15 Q. 506 Right. I think that in November of 1994, when the change of government
16 took place, you told the Tribunal that you did discuss with Mr. Albert
17 Reynolds how unhappy you were with the brush off you had received from
18 Mr. Ahern at the meeting, isn't that right?
19 A. I think I said that to him, yes.
12:59:11 20 Q. 507 When you met with Mr. Reynolds after Mr. Reynolds was no longer Taoiseach,
21 which must have been after the end of November '94, did you not consider
22 raising with him the request for money and the cash payments you had been
23 asked to make my Mr. Lawlor?
24 A. No, I did not, no.
12:59:29 25 Q. 508 When you went to meet with the party treasurer in November 1994, that is
26 the party treasurer of Fianna Fail as he then was, Mr. Ahern, did it not
27 occur to you, Mr. O'Callaghan, to raise with Mr. Ahern the concerns that
28 you had about making the payments you had made in September 1994 to a
29 national politician of that party, namely Mr. Lawlor?
12:59:51 30 A. No I did not, as I said to you, this was, in this particular case with the

12:59:55 1 exception the way the payment was made it was for work done by Mr. Lawlor.

2

3

CHAIRMAN: Right Ms. Dillon it's just one o'clock.

4

13:00:03 5 MS. DILLON: May it please you, Sir.

6

7

CHAIRMAN: Mr. O'Callaghan will be back next?

8

9

MS. DILLON: Tuesday afternoon at 2 o'clock. I think there is a very

13:00:10 10 short witness whom I understand will be less than half an hour tomorrow

11

morning at half ten in Cloughran.

12

13

CHAIRMAN: All right.

14

13:00:18 15 MS. DILLON: Thank you, Sir.

16

17

THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,

18

FRIDAY 10TH OCTOBER 2008 AT 10.30 AM.

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