

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY

16TH OCTOBER 2008 AT 10.30 AM

CHAIRMAN: Morning Ms. Dillon.

MS. DILLON: Morning, Sir. Before you start, Sir, in fairness to Mr. Lucey, he has provided a document that suggests that there may have been a second planning application on behalf of Barkhill in July of 1995. So I propose to leave over the issue of the 10,000 pounds cheque to Mr. Ambrose Kelly that we dealt with yesterday, to which I was going to revert this morning with Mr. O'Callaghan, and it might be possible to clarify the matter and provided Mr. Lucey has no objection, perhaps when Mr. Sreenan is finished next week, if I can revert and deal with that matter.

MR. LUCEY: I have no difficulty with that, Sir. Thank you.

MS. DILLON: Mr. O'Callaghan please.

10:35:42 1 **MR. OWEN O'CALLAGHAN CONTINUES TO BE QUESTIONED BY**

2 **MS. DILLON AS FOLLOWS:**

3

4 CHAIRMAN: Morning, Mr. O'Callaghan.

10:36:01 5 Q. 1 Good morning, Mr. O'Callaghan.

6 A. Morning.

7 Q. 2 I think there were a few matters in 1997 that I wanted to deal with you
8 prior to moving on to some of the other matters, and I think in 1997 South
9 Dublin County Council commenced it's review of the 1993 Dublin Development
10 Plan, isn't that right?

10:36:18 10
11 A. Yes.

12 Q. 3 You sought and made submissions to the council in the course of that
13 Development Plan that the retail cap of 250,000 square feet on the
14 Quarryvale lands would be lifted, isn't that right?

10:36:32 15 A. Yes.

16 Q. 4 It would be fair to say, I think, that you initially made your approaches
17 to the officials of South Dublin County Council, isn't that right?

18 A. Yes.

19 Q. 5 And I think that you made a presentation at 12806 on the 18th February
10:36:46 20 1997 to the planning and development committee as is recorded in
21 Mr. Dunlop's diary for the 18th February, and you will see at 3 o'clock,
22 he records you were to make a presentation to the planning and development
23 committee on an informal basis, isn't that right?

24 A. Yes.

10:37:05 25 Q. 6 And I think that at 12851 on the 7th March you had a meeting in the
26 Hermitage Golf Club with Mr. Dunlop and Ms. Therese Ridge, isn't that
27 right, on the 7th March 1997?

28 A. Yes, it says it there but I'm not sure of that.

29 Q. 7 Yes, I think it is the case that at that stage for 1997 Ms. Ridge was the
10:37:34 30 Cathaoirleach or Chairman of South Dublin County Council, isn't that

- 10:37:37 1 right?
- 2 A. Yes, I think so, yes.
- 3 Q. 8 I think you did, at that time, subsequently, ask her to do the turn of the
- 4 sod ceremony, isn't that right, in Quarryvale?
- 10:37:50 5 A. Yes, that's correct she was Chairman, that's correct. Yes.
- 6 Q. 9 If you look at 12873, Mr. O'Callaghan, it might assist you with this press
- 7 release, released by Mr. Dunlop in April of 1997, records the fact that
- 8 "The Grosvenor Estates holding and O'Callaghan Properties, the development
- 9 was started on the 21st April when the chairperson of South Dublin County
- 10 Council, Councillor Therese Ridge turned the first sod." Isn't that
- 11 correct?
- 12 A. That's correct. Yes.
- 13 Q. 10 If we go back to your meeting as recorded in Mr. Dunlop's diary at 12851
- 14 for 7th March 1997 with Mr. Dunlop and Ms. Ridge and yourself, isn't it
- 10:38:26 15 likely that that was a meeting in connection with Quarryvale?
- 16 A. With the turning of the sod I would expect, yes.
- 17 Q. 11 On the 5th March 1997, some two days before you met with Councillor Ridge,
- 18 at 12852, you wrote to Mr. Kavanagh, who was the County Manager in respect
- 19 of a meeting you had with him the previous Tuesday, isn't that right?
- 10:38:49 20 A. Yes.
- 21 Q. 12 And in that you described it as the most positive meeting you had with a
- 22 County Manager and you hadn't met him you said even though he had spent 7
- 23 years in Cork County, isn't that right?
- 24 A. Yes.
- 10:39:02 25 Q. 13 Was that the case, Mr. O'Callaghan, was Mr. Kavanagh unknown to you before
- 26 you met him in connection with Quarryvale?
- 27 A. Sorry was he what?
- 28 Q. 14 Unknown to you?
- 29 A. Unknown, yes, sorry I knew of him, but I had not met him.
- 10:39:11 30 Q. 15 You identified in that letter two problems, one was to do something with

10:39:15 1 the Neilstown site, isn't that right?

2 A. Yes.

3 Q. 16 And the second was to lift the restriction on the Quarryvale cap, isn't

4 that right?

10:39:23 5 A. Yes, correct.

6 Q. 17 This were the two matters that you wanted to deal with Mr. Kavanagh, isn't

7 that the position?

8 A. Yes.

9 Q. 18 Right. I think that Mr. Kavanagh, at 12859 acknowledged your letter but

10:39:37 10 said that he'd have to think about the matter, isn't that right?

11 A. That's correct.

12 Q. 19 I think you met with him again at 12915 on the 27th of May, 1997, although

13 Mr. Kavanagh's name is not recorded in Mr. Dunlop's diary, because on the

14 29th May, at 12916, you wrote to Mr. Kavanagh thanking him for meeting

10:40:00 15 with you on the Tuesday to discuss the Quarryvale retail restriction.

16 A. Yes.

17 Q. 20 Isn't that right? You thanked him for his positive approach to removing

18 the restriction when the Development Plan commences in September, isn't

19 that right?

10:40:14 20 A. Yes.

21 Q. 21 Is it the case then that by May of 1997 you had an understanding with

22 Mr. Kavanagh that when the review of the Development Plan commenced and

23 the maps were prepared by the officials that there would be no restriction

24 recorded on the Quarryvale site, that that would be the official position?

10:40:32 25 A. From the official point of view, yes.

26 Q. 22 You would still have the hurdle of the councillors would have to endorse

27 that, isn't that right?

28 A. Yes, absolutely.

29 Q. 23 But just, it wouldn't have been the difficulty that would have faced you

10:40:44 30 in trying to overturn something the manager wanted, isn't that right?

- 10:40:49 1 A. Correct.
- 2 Q. 24 It would have been the position it was easier to get councillors to agree
3 with something the manager wanted because there was going to be less
4 contention, isn't that right?
- 10:40:57 5 A. Always, yes.
- 6 Q. 25 And that I think you have told the Tribunal would have been your approach
7 dealing with matter in Cork and it was an approach you brought with you to
8 Dublin would that be fair?
- 9 A. Always. Yes.
- 10:41:06 10 Q. 26 Would it be fair to say then that by May of 1997 your understanding was
11 that when the maps were to be published in South Dublin, there would not
12 be an element in the written statement containing a cap on Quarryvale?
- 13 A. Yes.
- 14 Q. 27 And that in fact I think transpired to be the case, isn't that right?
- 10:41:21 15 A. Yes.
- 16 Q. 28 Now, I think that on the 21st April, at 12872, as is recorded apparently
17 in Mr. Dunlop's diary, on the 21st April, Councillor Chairperson Ridge
18 turned the sod and work commenced, isn't that right?
- 19 A. Yes.
- 10:41:40 20 Q. 29 On the Quarryvale development?
- 21 A. Yes.
- 22 Q. 30 Yourself and Grosvenor as partners in the development, isn't that right?
- 23 A. That's correct.
- 24 Q. 31 Now, I think that Mr. Dunlop raised an invoice, at 12937, in respect of
10:41:56 25 expenses incurred in connection with the sod turning ceremony, isn't that
26 right?
- 27 A. Correct.
- 28 Q. 32 And I think that that was duly paid at 12938, the total amount being just
29 slightly over three and a half thousand pounds, that was duly paid, isn't
10:42:11 30 that right?

- 10:42:12 1 A. Correct.
- 2 Q. 33 And dealt with as part of the Quarryvale expenses, isn't that right?
- 3 A. Yes.
- 4 Q. 34 So that would have been regarded as being an expense incurred by Riga on
- 10:42:22 5 behalf of Barkhill, isn't that right?
- 6 A. Yes.
- 7 Q. 35 Now, I think that Mr. McGrath also incurred some expenses in relation to
- 8 the Quarryvale sod turning ceremony at 12878 and 12879?
- 9 A. Yes.
- 10:42:43 10 Q. 36 These were in turn paid, isn't that right?
- 11 A. Yes.
- 12 Q. 37 They were relatively small amounts?
- 13 A. Yes.
- 14 Q. 38 So it would be fair to say that Mr. McGrath had a reasonable involvement
- 10:42:51 15 also in the sod turning ceremony, isn't that right?
- 16 A. Oh, yes, his company had, yes.
- 17 Q. 39 And on the, at this stage, Mr. O'Callaghan, were you operating out of
- 18 Mr. McGrath's offices in Clondalkin?
- 19 A. No, I wouldn't say -- occasionally using his offices if it was necessary,
- 10:43:06 20 instead of the building site office I would use his office, occasionally.
- 21 Q. 40 Now, on the 5th September '97, at 12987, you wrote to Mr. Tom Doherty, the
- 22 deputy county manager asking him to, telling him you were writing to
- 23 officially request South Dublin County Council to remove the restriction
- 24 on the retail element, and you set out a number of reasons why that should
- 10:43:31 25 be done, isn't that right?
- 26 A. Yes.
- 27 Q. 41 And that was acknowledged at 12995, isn't that right?
- 28 A. Yes.
- 29 Q. 42 And by the 10th October 1997, Mr. O'Callaghan, at 13013, you were in a
- 10:43:52 30 position to confirm to Mr. Kavanagh, the manager, that you had met with 13

10:43:58 1 of the 26 elected members, very quietly and on a one to one basis, all are
2 in favour of lifting the cap, isn't that right?

3 A. That's correct.

4 Q. 43 Now, can I just pause there for a moment and ask you about those meetings
10:44:09 5 with the councillors, by 1997, Mr. O'Callaghan, were you in a position to
6 set up those meetings with the councillors yourself?

7 A. Yes.

8 Q. 44 Right. And insofar as your dealings with Mr. Kavanagh and Mr. Doherty
9 were concerned in relation to lifting the cap, that was something you
10:44:25 10 dealt with yourself, isn't that right?

11 A. Yes.

12 Q. 45 Insofar as you made approaches to the councillors seeking, I assume, for
13 them to support what you knew to be or understood to be the manager's
14 position, they were advances or approaches that you made yourself?

10:44:42 15 A. Yes.

16 Q. 46 Right. And would it be fair to say that looking at Mr. Dunlop's diaries
17 for this period, there appears to be relatively little contact between Mr.
18 Dunlop and yourself?

19 A. Well, yes, there was contact. Not to the same extent as there was in
10:44:59 20 '92/'93 of course.

21 Q. 47 Mr. Dunlop says it was part and parcel of his duties to contact you or
22 telephone you on Saturday nights and to discuss what he understood might
23 be in the papers the following day and that he had been doing that on an
24 ongoing basis for a long time?

10:45:13 25 A. That is correct.

26 Q. 48 And is that something that for the duration of your relationship with Mr.
27 Dunlop was something that happened as a matter of regularity?

28 A. Yes.

29 Q. 49 Right. And unless you were abroad or Mr. Dunlop was abroad this was
10:45:25 30 something that happened every week, isn't that right?

10:45:27 1 A. Yes.

2 Q. 50 So you were in a position to keep -- touch base as it were with Mr.

3 Dunlop?

4 A. Very much, he was still -- he was our eyes and ears in Dublin.

10:45:36 5 Q. 51 Yes as well as being your eyes and ears in Dublin he was being paid a

6 retainer?

7 A. Absolutely.

8 Q. 52 Therefore you would have been free to call upon him for any assistance

9 that you felt Mr. Dunlop could provide in relation to any particular

10:45:48 10 difficulty that faced you, isn't that right?

11 A. Absolutely and used his office as well.

12 Q. 53 And Mr. Dunlop I think as his diaries have recorded picked you up from the

13 airport on occasion?

14 A. Occasionally, yes.

10:45:59 15 Q. 54 Matters such as that sort. Now, in this letter you confirmed to the

16 manager that you have spoken to 13 of the 26, so over 50 per cent, or 50

17 per cent of the people are in support, isn't that what you are telling the

18 manager?

19 A. Yes.

10:46:14 20 Q. 55 And he said "everybody I have met has asked me if the manager is prepared

21 to recommend the removal of the cap, I will meet the remaining elected

22 member in the next few weeks and the Cathaoirleach", isn't that right?

23 A. Yes.

24 Q. 56 That's confirming you had met with Councillor Ridge at this stage or were

10:46:29 25 going to meet with her, isn't that right?

26 A. Yes.

27 Q. 57 Now, did you meet the balance of the councillors, Mr. O'Callaghan?

28 A. Yes I think, if my recollection is correct I think I met them all.

29 Q. 58 Right. Would you be in a position to summarise to the Tribunal briefly by

10:46:45 30 way of a political divide, those councillors that were in favour of the

10:46:48 1 removal of the cap?

2 A. Everybody.

3 Q. 59 Everybody.

4 A. Yes.

10:46:52 5 Q. 60 So including the Labour Party?

6 A. Even Democratic Left.

7 Q. 61 And Democratic Left. There was no opposition to the removal of the cap,

8 is that the position from the --

9 A. From the elected members.

10:47:05 10 Q. 62 Yes. Would it be fair to say that your understanding of the Labour Party

11 and Democratic Left's general position in relation to the review of the

12 Development Plan was they tended to support the manager?

13 A. Yes, I suppose yes.

14 Q. 63 You would have known that for example from Mr. O'Halloran's experience

10:47:24 15 when he lost the Labour Party whip, isn't that right?

16 A. Yes.

17 Q. 64 And I think you have agreed that he lost the Labour Party whip and you

18 subsequently I think made a donation to him, arising from his failure to

19 follow the Labour Party line in relation to Quarryvale, isn't that right?

10:47:39 20 A. Yes.

21 Q. 65 So you would have been aware from your knowledge of that experience that

22 it was in general, the Labour Party and indeed I think the Democratic Left

23 party's position to support the manager, isn't that right?

24 A. I'd say that's a very broad statement but in general I'd say I would agree

10:47:55 25 with you, but it was also more than likely the Labour Party and Democratic

26 Left would follow each other and were not that in favour of development,

27 I'm afraid.

28 Q. 66 But if the manager was not recommending or proposing the retention of the

29 cap, that was something that the Labour Party and Democratic Left were

10:48:13 30 likely to go with, isn't that right?

- 10:48:14 1 A. Yes.
- 2 Q. 67 In general they didn't oppose the manager?
- 3 A. Yes, in general.
- 4 Q. 68 I think by October of '97, at 13017, you had spoken at least with Deputy
- 10:48:27 5 Councillor Sean Ardagh, isn't that right?
- 6 A. Yes.
- 7 Q. 69 And you referred him to the council meeting on the 3rd November 1997 in
- 8 relation to the Development Plan, and you confirmed that the manager
- 9 confirmed he will recommend the removal of the restriction or the cap from
- 10:48:43 10 the retail element?
- 11 A. Yes.
- 12 Q. 70 Then you set out the benefits that would follow, isn't that right, as you
- 13 saw it?
- 14 A. Yes.
- 10:48:49 15 Q. 71 Then you said in the third paragraph "The attitude of the elected members
- 16 I have spoken to, to date seems quite favourable".
- 17 A. Yes.
- 18 Q. 72 Then you asked him for his support, isn't that right?
- 19 A. Yes.
- 10:48:59 20 Q. 73 You sent him a letter you had spent to Mr. Doherty, isn't that the
- 21 position?
- 22 A. Yes.
- 23 Q. 74 Now, I think that on the 17th November 1997, at 13045, you expressed
- 24 yourself as being somewhat disappointed with Mr. Doherty in having
- 10:49:21 25 Quarryvale classed as a district centre, isn't that right?
- 26 A. Yes.
- 27 Q. 75 And it would follow from that, that what was contained in the written
- 28 statement was less than you were expecting, isn't that right?
- 29 A. Yes.
- 10:49:31 30 Q. 76 You entered into a debate in effect with the wording, isn't that right?

- 10:49:35 1 A. Yes.
- 2 Q. 77 I think in general what you were suggesting was that this was going to
3 downgrade Quarryvale?
- 4 A. Yes.
- 10:49:40 5 Q. 78 Isn't that right? In other words, it was a retrograde step from what you
6 had already from December 1993, isn't that right?
- 7 A. Yes.
- 8 Q. 79 There is just one note in handwriting I want to ask you about,
9 Mr. O'Callaghan, do you see at the very top of the page, underneath the
10:49:54 10 words "town/district"?
- 11 A. Yes.
- 12 Q. 80 You have written the word "Wording"?
- 13 A. Yes.
- 14 Q. 81 Beneath that it seems to say "No definition of" and beneath that "No
10:50:07 15 restriction on district C".
- 16 A. Yes.
- 17 Q. 82 Is that a note recording that, within the definitions or within the
18 written statement there would be no restriction on the district centre, in
19 other words, if you were stuck with the words district centre there would
10:50:25 20 be no restriction on the retail element?
- 21 A. Yes.
- 22 Q. 83 Are you recording there a conversation you that had with somebody?
- 23 A. Probably with Tom Doherty I would say.
- 24 Q. 84 And following on you sending on this correspondence to Mr. Doherty, you
10:50:38 25 sought to persuade him, more to your line of thinking, isn't that right?
- 26 A. Yes.
- 27 Q. 85 And would it be fair to say you would have been happy with no restriction
28 or definition of a restriction in the written statement?
- 29 A. Yes.
- 10:50:51 30 Q. 86 Right. Now, just in the very last paragraph you say "Now that I believe

- 10:50:57 1 both yourselves and the elected members seem to be in favour of removing
2 the cap I would like if at all possible to hold the Quarryvale situation
3 as district town centre".
- 4 A. Yes.
- 10:51:09 5 Q. 87 Beneath that you have written the words "now problem" or "no problem",
6 isn't that right?
- 7 A. "No problem."
- 8 Q. 88 No problem?
- 9 A. "Now" --
- 10:51:18 10 Q. 89 Sorry now problem. Was that what you identified as a difficulty facing
11 you?
- 12 A. Basically it didn't mean a lot at the time, but to me I thought it meant a
13 lot more than it actually did, I was trying to get the words district town
14 centre included in the Development Plan rather than just district centre.
- 10:51:34 15 Q. 90 I think on the following page, you refer to the fact that you are going
16 meet him on Wednesday and, at 13047, you wrote I think to Mr. Enda Conway
17 and to Mr. Tom Doherty referring to your meeting on Wednesday as being
18 very constructive meeting and you describe Quarryvale designated as
19 town/district centre so your concerns are now alleviated, isn't that
10:51:57 20 right?
- 21 A. Yes.
- 22 Q. 91 The cap lifted and whole project can go forward, isn't that right?
- 23 A. Yes.
- 24 Q. 92 The concerns you had expressed in the correspondence to the officials had
10:52:06 25 now been address in the meeting and your concerns were allayed?
- 26 A. Yes.
- 27 Q. 93 In addition to that you knew that the manager was not going to publish
28 maps that contained a 250,000 square feet cap on Quarryvale, isn't that
29 right?
- 10:52:20 30 A. Yes.

- 10:52:20 1 Q. 94 Now in fairness, if that had happened Quarryvale would have been the only
2 centre with such a cap, isn't that right?
- 3 A. Yes.
- 4 Q. 95 Now, you just acknowledged their assistance and look forward to meeting
10:52:34 5 them again, you wrote, at 13048, on the 20th November in not dissimilar
6 terms to Mr. Doherty, isn't that right? But you did go on to ask him, in
7 the second paragraph, for "confirmation that Quarryvale and Neilstown
8 would both be designated town district centre locations and this will be
9 confirmed in the new Development Plan and the blue colour put on the map"?
- 10:52:58 10 A. Yes.
- 11 Q. 96 And the blue colour was designation for town centre, isn't that right?
- 12 A. Yes.
- 13 Q. 97 I think was the designation colour for major town centre?
- 14 A. Yes.
- 10:53:05 15 Q. 98 Certainly in the '93 plan it had been the colour for major town centre,
16 isn't that right?
- 17 A. That's correct.
- 18 Q. 99 So once blue went on Quarryvale and blue went on Neilstown it would be
19 entitled subject to any wording that was put in, to the maximum permitted
10:53:19 20 retail, isn't that right?
- 21 A. Yes.
- 22 Q. 100 And then you note in the next paragraph "that Mr. Conway classified
23 Quarryvale as a special site and that the restrictive square footage would
24 not apply to Quarryvale and would not be referred to in the Development
10:53:33 25 Plan", isn't that right?
- 26 A. Yes.
- 27 Q. 101 That in fact transpired to be the case when the maps were published by the
28 officials, isn't that right?
- 29 A. That's correct.
- 10:53:40 30 Q. 102 When the plan was put on display and indeed went before the officials,

10:53:44 1 there was no cap on the retail element, isn't that right?

2 A. That's correct.

3 Q. 103 Now in that, and ultimately the plan, that was the plan that was adopted,
4 isn't that right, by South Dublin County Council?

10:53:56 5 A. Yes.

6 Q. 104 Right. Albeit in 1998, isn't that right?

7 A. Yes.

8 Q. 105 The plan I think was finally made, I think, was adopted in, on the 15th
9 December 1998 but your position was copper fastened on the 24th September
10:54:11 10 1998, isn't that right?

11 A. Yes, I think that was the date.

12 Q. 106 In September 1998 there was a meeting I think, isn't that right?

13 A. Yes.

14 Q. 107 And I think the Tribunal has heard evidence from Mr. Ciaran Kennedy who
10:54:26 15 was the planning officer in South Dublin County Council in that regard,
16 isn't that right?

17 A. Yes, but it was subject to a master plan.

18 Q. 108 Yes.

19 A. Okay.

10:54:36 20 Q. 109 Subject to the master plan, but insofar as you in 1997 had been seeking to
21 achieve an aim, the aim was the removal of the restrictive retail cap
22 element on Quarryvale and you had official agreement for that by the end
23 of September 1997, isn't that right?

24 A. That's correct, yes.

10:54:55 25 Q. 110 And you found that to be the case when the maps were published by the
26 officials, because there was no cap, isn't that right?

27 A. Yes.

28 Q. 111 There was subsequently motions brought by certain councillors that were
29 dealt within September 1998, but they were not successful, isn't that
10:55:10 30 right?

- 10:55:10 1 A. Yes.
- 2 Q. 112 Looking now just at that small sequence of documents that I have shown
3 you, Mr. O'Callaghan, would you agree with me that in getting yourself and
4 Barkhill to the stage where there was apparently general agreement that
10:55:24 5 the cap would be removed, that Mr. Dunlop seems to have little or no
6 involvement?
7 A. Very little to do with the cap, yes, removal the cap, yes.
- 8 Q. 113 And that the primary mover in relation to the removal of the cap was
9 yourself and your contacts with the officials of South Dublin County
10:55:39 10 Council in the first instance, isn't that right?
11 A. Yes.
- 12 Q. 114 And thereafter if the letters you have written to Mr. Doherty are correct,
13 you met yourself with the councillors of South Dublin County Council?
14 A. Yes.
- 10:55:53 15 Q. 115 And you don't appear to have required the services of Mr. Dunlop in order
16 to make those meetings or make those arrangements, isn't that right?
17 A. Yes.
- 18 Q. 116 All right. Now I think --
19 A. Sorry, we now had a much smaller group of councillors 26 instead of 78,
10:56:09 20 much easier.
21 Q. 117 Now, I think in November 1997, Mr. O'Callaghan, just for completeness, I
22 think, at 13050, you made a donation to a Fine Gael dinner, a table of
23 ten, I think you will see it is five from the bottom?
24 A. Yes.
- 10:56:31 25 Q. 118 Isn't that right?
26 A. Yes.
- 27 Q. 119 Was that something that was something that was arranged through Councillor
28 Ridge?
29 A. Yes.
- 10:56:38 30 Q. 120 Was that something you did at the request of Councillor Ridge, isn't that

- 10:56:41 1 right?
- 2 A. Yes.
- 3 Q. 121 Did Councillor Ridge approach you directly in relation to seeking your
4 support for that event?
- 10:56:47 5 A. Yes.
- 6 Q. 122 She had I think previously, you had supported her in March of that year
7 through Mr. Dunlop, isn't that right?
- 8 A. Yes.
- 9 Q. 123 This I think we looked at that yesterday, but in November of 1997 that
10:57:00 10 table of ten for Fine Gael was a fundraising function for Councillor,
11 Chairperson Therese Ridge, is that the position? And I think that you
12 made that payment out of your own bank account, I think initially, is that
13 right?
- 14 A. I think so, yes.
- 10:57:16 15 Q. 124 You were reimbursed from Riga, is that the position?
- 16 A. That's correct. I would have been reimbursed.
- 17 Q. 125 And I think that was analysed to "political donations" at 13053, isn't
18 that right? If you look at the second last entry and it says "Fine Gael
19 1,000".
- 10:57:38 20 A. Yes.
- 21 Q. 126 Beneath that, above that is the Fianna Fail payment that was made for the
22 election?
- 23 A. The election in 1997.
- 24 Q. 127 Isn't that right?
- 10:57:45 25 A. Correct.
- 26 Q. 128 There is no suggestion again correct me if I am wrong, that that political
27 donation to Councillor Ridge was attributable to Barkhill, isn't that
28 right?
- 29 A. Yes.
- 10:57:56 30 Q. 129 Right. That wasn't written to Barkhill, isn't that the position?

- 10:57:59 1 A. No.
- 2 Q. 130 Why was that, Mr. O'Callaghan?
- 3 A. I don't know really, it should have been Barkhill, it should have been.
- 4 Q. 131 Now in November 1997, Mr. O'Callaghan, another event happened and that was
- 10:58:18 5 the establishment of the Tribunal, isn't that right?
- 6 A. Yes.
- 7 Q. 132 This Tribunal was established. And I think it was established on the 4th
- 8 day of November 1997, isn't that the position?
- 9 A. November '97, yes.
- 10:58:34 10 Q. 133 Right. And at that time did you discuss with Mr. Dunlop or with Mr. Deane
- 11 the establishment of the Tribunal?
- 12 A. We must have, yes.
- 13 Q. 134 And what was the nature of your conversation with Mr. Dunlop around the
- 14 time that the Tribunal was established?
- 10:58:54 15 A. I don't think I remember that exactly now.
- 16 Q. 135 In general terms?
- 17 A. Well, I certainly discussed it with him because I asked him what it was
- 18 and what, I didn't know anything about this at the time, not that he knew
- 19 anything about it, but I asked him what was involved or what would it
- 10:59:13 20 probably entail, something to that effect really. He didn't know an awful
- 21 lot about it either. We wouldn't have known a lot about the Tribunal
- 22 actually, how could we.
- 23 Q. 136 Well, would you have known in broad terms, Mr. O'Callaghan, that it was a
- 24 Tribunal established in the first instance to inquire into allegations of
- 10:59:30 25 planning corruption?
- 26 A. Oh, yes.
- 27 Q. 137 And would you have known that at it's commencement it was enquiring into
- 28 allegations made by Mr. James Gogarty in relation to the payment of bribes
- 29 or corrupt payments to Mr. Ray Burke in which Mr. Michael Bailey and a
- 10:59:49 30 company called Bovale had a connection?

10:59:50 1 A. I would have read that, of course.

2 Q. 138 In broad general terms would you have been aware that it was a corruption
3 inquiry?

4 A. Yes.

10:59:59 5 Q. 139 And would you have been aware that what was being inquired into was the
6 planning process?

7 A. Yes.

8 Q. 140 Now, you did not in 1997, receive any communication, isn't that right,
9 from the Tribunal, isn't that the position?

11:00:13 10 A. I'm not sure what I received communication, I think it was probably --
11 that's correct, yes, it was later '98, yes.

12 Q. 141 But when the Tribunal was established, in view of the fact that it was a
13 matter that was current and in the newspapers, is that something you would
14 have discussed with Mr. Dunlop?

11:00:30 15 A. Would have spoken generally, yes.

16 Q. 142 Yes. Did you ever in the course of those general conversations, ever
17 raise the question with Mr. Dunlop who had now been working for you since
18 1991, about whether or not he had ever made payments to senior political
19 figures?

11:00:46 20 A. No I didn't, I never mentioned that to him.

21 Q. 143 Was it something that ever arose in conversation between you?

22 A. No.

23 Q. 144 For example did the name Mr. Lawlor ever arise in the context of any
24 inquiry into planning corruption in conversation between yourself and Mr.
11:01:01 25 Dunlop?

26 A. No. It would not actually, we wouldn't have discussed that at all.

27 Q. 145 Now I think, just to take a summary position in relation to the question
28 of the Barkhill payments in 1998. At 23305, you will have seen this
29 documentation, I think you have agreed that it's correct, I just want you
11:01:28 30 to agree with me that throughout 1998, Barkhill continued to pay Frank

11:01:34 1 Dunlop & Associates the retainer being 5,000 pounds plus VAT?

2 A. Oh, yes.

3 Q. 146 And that that pertained from January through to December of 1998, isn't

4 that right?

11:01:45 5 A. Yes.

6 Q. 147 Right. And in, in other words, the position that had existed in 1997

7 continued, isn't that right?

8 A. Yes.

9 Q. 148 Right. And in 1997, could I have the previous page please, 23304, sorry,

11:02:01 10 in 1997, I think, we see that the similar position had existed in relation

11 to the retainers paid by Barkhill, isn't that right?

12 A. Yes.

13 Q. 149 And there were two payments made to Mr. Dunlop by Riga in 1997, isn't that

14 right?

11:02:20 15 A. Yes.

16 Q. 150 The first of which was a sum of 121,000 pounds in relation to Horgan's

17 Quay, isn't that the position?

18 A. Horgan's Quay, correct.

19 Q. 151 And the second was a figure of 3,698.83 which I think was an expenses

11:02:35 20 figure for aerial photography that we looked at yesterday, isn't that

21 right?

22 A. Yes, yes.

23 Q. 152 They were the figures paid in 1997, isn't that right?

24 A. Yes.

11:02:43 25 Q. 153 Then when we look at 1998, at 23305, we see that Riga, that Barkhill

26 continues to make the payments to Mr. Dunlop for the 12 month period

27 January to December, isn't that right?

28 A. That's right.

29 Q. 154 In addition there are three payments in 1998, a figure of 121,000, which

11:03:05 30 is paid in June of '98, a figure of 363,000 which is paid in October '98

- 11:03:12 1 and then a figure of 55,543.57 paid in November, isn't that right?
- 2 A. Yes.
- 3 Q. 155 All of those figures inclusive of Value Added Tax, isn't that the
4 position?
- 11:03:25 5 A. Yes.
- 6 Q. 156 Now after the Tribunal was established and you may not have known it at
7 the time, Mr. Oh O'Callaghan, but Mr. Gilmartin was contacted by the
8 Tribunal in February of 1998, were you aware of that?
- 9 A. Not at the time, no.
- 11:03:45 10 Q. 157 Now in February of 1998, and really I want to try and focus if we can on
11 Mr. Dunlop, Mr. Gilmartin had a telephone conversation with Mr. Hanratty
12 on the 5th February 1998. So the Tribunal is established in November and
13 by February of the following year Mr. Gilmartin is in contact with the
14 Tribunal, you have seen these telephone attendances in the brief, isn't
11:04:11 15 that right?
- 16 A. Yes, yes.
- 17 Q. 158 Right. And I think that at 15747, you can satisfy yourself as to the
18 date, isn't that right, the 5th February '98?
- 19 A. 5th February, yes okay.
- 11:04:28 20 Q. 159 At 15751, in the last paragraph Mr. Gilmartin made the following
21 allegation to Mr. Hanratty he says "That Frank Dunlop is a major bag man
22 for cash payments to Fianna Fail. He had a major input in relation to
23 council decisions and rezoning decisions. He also played a major bag man
24 role in relation to the International Financial Services Centre". Isn't
11:04:57 25 that right?
- 26 A. Yes.
- 27 Q. 160 Now and then if you go two above that you see that Mr. Gilmartin is
28 complaining that a councillor to look at is Hanrahan and another is
29 McGrath, isn't that right?
- 11:05:09 30 A. Yes.

11:05:09 1 Q. 161 And above that he says another one to be looked at is John Gilbride, isn't
2 that right?

3 A. Yes.

4 Q. 162 So in Mr. Gilmartin's first telephone conversation with the Tribunal
11:05:22 5 leaving aside the councillors that he complains about, one of his first
6 complaints relates to Mr. Dunlop, isn't that right?

7 A. Yes.

8 Q. 163 And the complaints that he makes is a complaints that Mr. Dunlop is a bag
9 man for politicians, isn't that right?

11:05:36 10 A. Yes.

11 Q. 164 Okay. And that's an allegation effectively of corruption against Mr.
12 Dunlop, isn't that right?

13 A. Yes.

14 Q. 165 Now, that is Mr. Gilmartin's first contact with the Tribunal, and that's
11:05:50 15 Mr. Gilmartin's first allegation about Mr. Dunlop, isn't that right?

16 A. Yes.

17 Q. 166 As the record shows. Now I think if we look at -- sorry I beg your
18 pardon, 15758, on the 20th February 1998, in a conversation between
19 Mr. Gallagher and Mr. Gilmartin in the first paragraph Mr. Gilmartin makes
11:06:21 20 the following complaints.
21
22 He says that "Frank Dunlop and Ambrose Kelly were paid out of this account
23 and that Dunlop got between 300,000 and 500,000 pounds to pay
24 politicians". Would you, looking at that, Mr. O'Callaghan, agree with me
11:06:39 25 that what Mr. Gilmartin is complaining about in connection with Mr. Dunlop
26 in February of 1998, is that Mr. Dunlop was involved in bribing
27 politicians?

28 A. That's what he is trying to say, yes.

29 Q. 167 Yes. Do you think there is any ambiguity about what he is saying?

11:06:56 30 A. I don't believe anything.

- 11:06:57 1 Q. 168 I didn't ask you that, Mr. O'Callaghan, I asked you looking at the
2 document, that is the apparent record, is there any ambiguity reading it,
3 as to what Mr. Gilmartin is saying?
4 A. What do you actually mean by that?
- 11:07:08 5 Q. 169 Is it unclear to you in anyway what Mr. Gilmartin is saying about Mr.
6 Dunlop?
7 A. On that document no, no. It's clear, quite clear.
- 8 Q. 170 Yes. Now, and he says earlier in that memorandum that there was a
9 company, Barkhill was a company set up by him in relation to the
11:07:25 10 Quarryvale site which was taken over and which he believes is still
11 trading, isn't that right?
12 A. Yes.
- 13 Q. 171 And he goes on later to talk about other matters, but again I want to
14 concentrate on Mr. Dunlop, at 15761, in the same memorandum at paragraph
11:07:42 15 17, Mr. Gilmartin complains that you and Mr. Dunlop, the Fianna Fail
16 public relations man, were very close, would you agree with that?
17 A. Yes, oh, yes.
- 18 Q. 172 He goes on to say "County Councillors started backing off the Quarryvale
19 project, Gilmartin was being held to ransom. He was under pressure from
11:08:00 20 the bank and the Revenue Commissioners", isn't that right?
21 A. Yes.
- 22 Q. 173 So in the second attendance, where Mr. Gilmartin is speaking to the
23 Tribunal he complains that Mr. Dunlop has been paying politicians, that he
24 is close to you and that that has had a certain effect on his business,
11:08:16 25 isn't that right, insofar as Mr. Dunlop is concerned, that's what he is
26 saying?
27 A. If we finish off what he said there as well just to put in context, that
28 Gilbride was being paid by O'Callaghan and Gilbride was under the
29 instructions from Charlie Haughey and Ray Burke.
- 11:08:33 30 Q. 174 Yes. Gilmartin said that "Gilbride got 100,000 pounds approximately"

11:08:36 1 isn't that right? So again the allegation Mr. Gilmartin was making
2 thereabout Mr. Gilbride was that A, he had been paid by you, isn't that
3 right, secondly that he had been paid 100,000 pounds approximately and the
4 third, that Mr. Gilbride was under instructions from Mr. Haughey and
11:08:52 5 Mr. Burke, isn't that right?

6 A. That's correct.

7 Q. 175 Right. I think then on on the 20th February 1998 the same day, in a
8 second telephone call at 15753, this is the date of the telephone
9 attendance, if you move to 15755 looking at paragraph six which was
11:09:23 10 dealing with you, I want to draw to your attention the bottom line he
11 says:

12
13 "The second time that O'Callaghan came back he had the dirty tricks
14 brigade of the government who started a disinformation campaign against
11:09:37 15 him orchestrated by Frank Dunlop" isn't that right?

16 A. That's what he says.

17 Q. 176 Now, do you agree there that Mr. Gilmartin's complaints against Mr. Dunlop
18 is that Mr. Dunlop was involved in a disinformation campaign about him?

19 A. Well, that's his complaint.

11:09:51 20 Q. 177 That's his complaint. If we move onto the next paragraph he extends on
21 that and says "The disinformation campaign extended to the Inland Revenue
22 in England, who as a result pursued him and petitioned him in bankruptcy
23 successfully for 10 million. He subsequently had this set aside but at
24 great difficulty and substantial cost. This placed him in the position
11:10:12 25 where Allied Irish Banks in Ireland forced him out and forced him to sell
26 out to O'Callaghan which was the object of the exercise of O'Callaghan and
27 the dirty tricks politicians."

28
29 Now, insofar as that is concerned do you agree with me that Mr. Gilmartin
11:10:27 30 is allying Mr. Dunlop and his alleged activities to you and politicians

11:10:32 1 who were involved in dirty tricks?

2 A. That's what he saying.

3 Q. 178 That's what he is saying. At paragraph eight insofar as Mr. Dunlop is

4 concerns Mr. Gilmartin complains that "O'Callaghan then gone got money,

11:10:46 5 300,000 pounds paid to Frank Dunlop who was the bag man and he paid off

6 the councillors including Hanrahan, Lawlor and others".

7 A. Yes.

8 Q. 179 Do you agree there that the allegation being made by Mr. Gilmartin in

9 February of 1998 is an allegation that Mr. Dunlop was involved in bribing

11:11:01 10 councillors?

11 A. That's what he is saying.

12 Q. 180 That's what he is saying. He goes on then at the finish of the paragraph

13 he says "There had been meetings between Lawlor, O'Callaghan and Dunlop in

14 Dail Eireann and elsewhere. The reason that he was forced out was that he

11:11:17 15 would not pay off the corrupt politicians. Subsequent to his departure

16 O'Callaghan paid off the corrupt politicians and ultimately got rezoning

17 for the development".

18

19 That's an allegation I think you will agree, Mr. O'Callaghan, against you

11:11:30 20 that you have paid politicians, isn't that right?

21 A. That's what he says.

22 Q. 181 Be they senior, junior or any kind of politicians, Mr. Gilmartin is

23 setting out there his complaints against you, isn't that right?

24 A. Yes.

11:11:40 25 Q. 182 And in the final paragraph in that attendance at 15757 in paragraph 13 of

26 that attendance, Mr. Gilmartin says the following, or is recorded as

27 saying the following "During the course of the telephone conversation

28 Mr. Gilmartin mentioned a company known as Sheafraun Limited. This was a

29 company through which monies were paid either to or by O'Callaghan. He

11:12:05 30 also mentioned a company called Barkhill Limited, this was Mr. Gilmartin's

11:12:08 1 own company which was taken over by O'Callaghan. Mr. Gilmartin indicated
2 that it would be worthwhile looking at these companies". Isn't that
3 right?

4 A. Yes.

11:12:17 5 Q. 183 Do you agree with me, in this which is his third conversation with the
6 Tribunal, Mr. Gilmartin has now identified a company called Shefran which
7 he says was a company to which you paid monies or through which monies
8 were paid by you, isn't that right?

9 A. That's what he says. Yes.

11:12:33 10 Q. 184 Right. Now I think that Mr. Gilmartin then, I think on, I beg your pardon
11 26th February at 15763, spoke again to counsel to the Tribunal in
12 paragraph three is recorded of "talking of his concerns of payments that
13 were made out of the accounts of that company -- which is Barkhill -- to
14 Chevron (spelled C-H-E-F-R-O-N) and to Frank Dunlop and furnished to us,
11:13:05 15 that is to the Tribunal counsel, a photocopy of an invoice number 742 of
16 the 1st October from Frank Dunlop to Barkhill and a copy of schedule 5 of
17 the public relations and marketing costs of Barkhill Limited to the 30th
18 April 1992, paragraph 4. He does not know what the payments to Chevron
19 were for." Isn't that right?

11:13:25 20 A. Yes.

21 Q. 185 Now, in the course of those four conversations, Mr. O'Callaghan, do you
22 agree with me that from the commencement of his involvement with the
23 Tribunal, Mr. Gilmartin made an allegation that Mr. Frank Dunlop was
24 involved in bribing politicians?

11:13:43 25 A. Yes, he made that allegation, yes.

26 Q. 186 And he also made an allegation against you, that you were involved also in
27 bribing politicians, isn't that right?

28 A. Yes.

29 Q. 187 He identified -- according to the attendances that payments had been made
11:13:58 30 to a company called Shefran, isn't that right, although it's spelled

- 11:14:02 1 incorrectly, isn't that right?
- 2 A. Yes.
- 3 Q. 188 And that these payments were used in some way that warranted
- 4 investigation, isn't that right?
- 11:14:10 5 A. Yes.
- 6 Q. 189 He also identified in February of 1998, a number of councillors by name
- 7 whom he said warranted investigation, isn't that right?
- 8 A. Yes.
- 9 Q. 190 And he included among those, Mr. Liam Lawlor, Mr. Sean Gilbride,
- 11:14:29 10 Mr. Finbar Hanrahan and Mr. Colm McGrath, isn't that right?
- 11 A. Yes.
- 12 Q. 191 Effectively, I suggest to you what he was suggesting was that they were
- 13 councillors who should be looked at in the context of a corruption inquiry
- 14 and do you agree with that?
- 11:14:37 15 A. That's what he suggested, yes.
- 16 Q. 192 Now, since February of 1991, Mr. O'Callaghan, Mr. Dunlop had been your
- 17 lobbyist, isn't that right?
- 18 A. Yes.
- 19 Q. 193 Right. Mr. Gilmartin had met Mr. Dunlop if Mr. Dunlop is correct, at most
- 11:14:54 20 on three occasions, isn't that right?
- 21 A. Yes.
- 22 Q. 194 And you don't dispute that that is the case, isn't that right?
- 23 A. Yes.
- 24 Q. 195 Did you know that Mr. Dunlop was making corrupt payments?
- 11:15:08 25 A. No, not at all.
- 26 Q. 196 It's your position that until Mr. Dunlop had his road to Damascus
- 27 conversion in April of 2000, you were never aware of the fact that Mr.
- 28 Dunlop was corruptly paying councillors?
- 29 A. That is correct.
- 11:15:23 30 Q. 197 The allegation that Mr. Gilmartin made to this Tribunal in February of

- 11:15:28 1 1998 is true insofar as Mr. Dunlop is concerned, if Mr. Dunlop is now
2 telling the truth to the Tribunal, isn't that right?
- 3 A. Could you just say that again please?
- 4 Q. 198 The allegation made by Mr. Gilmartin to this Tribunal, about Mr. Dunlop in
11:15:46 5 February of 1998 is true, if Mr. Dunlop's evidence to this Tribunal is
6 correct?
- 7 A. If Mr. Dunlop's evidence is correct, yes.
- 8 Q. 199 If Mr. Dunlop has told the truth since the 18th April of 2000 about what
9 he did with what he has described as his war chest, it follows that what
11:16:05 10 Mr. Dunlop -- what Mr. Gilmartin told the Tribunal in February 1998 is
11 true insofar as Mr. Dunlop is concerned, isn't that right?
- 12 A. Within -- I can't be specific about that, basically what Gilmartin said he
13 through in everything actually, in wild ranting statements that he made.
14 Likewise, what Frank Dunlop has said in his evidence are allegations, I am
11:16:33 15 not sure whether they are true or not.
- 16 Q. 200 What Mr. Dunlop says, Mr. O'Callaghan, if you don't understand it, is that
17 he wilfully and with knowledge, systematically bribed councillors in
18 Dublin County Council, over an extended period of time, with cash payments
19 to secure rezonings for developers. That is Mr. Dunlop's evidence to this
11:16:56 20 Tribunal. And it is evidence he has given in the course of at least 15
21 modules, the last of which is Quarryvale?
- 22 A. Yes.
- 23 Q. 201 Assuming for the moment that your former lobbyist is telling the truth in
24 this regard, since April 2000 and that was it was his practice to engage
11:17:13 25 in systematic bribery and corruption of councillors to achieve rezoning,
26 how did Mr. Gilmartin know in February 1998 that that was Mr. Dunlop's
27 practice?
- 28 A. I don't know.
- 29 Q. 202 Right.
- 11:17:29 30 A. I don't know.

- 11:17:29 1 Q. 203 You see, if Mr. Dunlop is telling the truth to this Tribunal now?
- 2 A. Mm-hmm.
- 3 Q. 204 And has been telling the truth to this Tribunal for the last 15 modules,
4 and the evidence he has given to the, as to how he used the money that was
11:17:44 5 in the Rathfarnham account and which was in the Irish Nationwide Building
6 Society account is true, it follows that Mr. Gilmartin was correct in
7 February of 1998, when he identified Mr. Dunlop as a person who was
8 involved in bribing politicians to secure rezonings, isn't that right?
- 9 A. Well Mr. Gilmartin just through very wide statements.
- 11:18:08 10 Q. 205 I understand your position, Mr. O'Callaghan, in relation to
11 Mr. Gilmartin's wild statements. I really just want to deal with Mr.
12 Dunlop, right? Because if, what I am putting to you is this, that if Mr.
13 Dunlop's evidence to this Tribunal is true that he bribed councillors,
14 then Mr. Gilmartin was correct in February 1998 when he told the Tribunal
11:18:32 15 in secret session or private session, that Mr. Dunlop was involved in
16 bribery, isn't that right?
- 17 A. Yes.
- 18 Q. 206 Now, what I would like to know, Mr. O'Callaghan, is how did Mr. Gilmartin
19 know in February 1998, that Mr. Dunlop was involved in bribery and
11:18:49 20 corruption when you, the person with whom Mr. Dunlop had a far closer
21 association, were unaware of what Mr. Dunlop was doing?
- 22 A. I can't answer that question. I don't know. And you have a lot of ifs
23 and buts in what you just said there, but I don't know how Gilmartin knew
24 that if he did, I would say he was throwing out wild guesses actually, and
11:19:10 25 wild accusations would be my opinion of what Gilmartin said.
- 26 Q. 207 With respect to you, Mr. O'Callaghan, the allegations that Mr. Gilmartin
27 made about Mr. Dunlop in February of 1998 related to using a company
28 called Shefran and bribing politicians, isn't that right?
- 29 A. Yes.
- 11:19:26 30 Q. 208 It is a fact and you participated in it, that payments --

- 11:19:30 1 A. How do you mean participated?
- 2 Q. 209 If you let me finish I will explain to you, Mr. O'Callaghan, it is a fact
- 3 and you participated in making payments to a company called Shefran, isn't
- 4 that right?
- 11:19:43 5 A. Yes.
- 6 Q. 210 So insofar as Mr. Gilmartin complains in February of 1998 that payments
- 7 were routed through Shefran that is a fact, isn't that right?
- 8 A. Payments were paid, yes okay. Payments were paid to Shefran, yes as well
- 9 as payments were paid to Frank Dunlop & Associates.
- 11:19:56 10 Q. 211 Yes. If Mr. Dunlop is correct in his evidence to the Tribunal --
- 11 A. If he is correct.
- 12 Q. 212 -- if Mr. Dunlop is correct that he has been involved in wide spread and
- 13 systematic bribery of councillors, is correct in his evidence, it follows
- 14 that in some way Mr. Gilmartin in February of 1998 was aware of something
- 11:20:15 15 about Mr. Dunlop that you were unaware of, isn't that right?
- 16 A. Yes.
- 17 Q. 213 Can you assist the Tribunal as to how it was Mr. Gilmartin was aware in
- 18 February 1998 of Mr. Dunlop's practices of corruption and you weren't?
- 19 A. I wasn't aware of it, I don't know how Gilmartin was aware of it, if he
- 11:20:34 20 was aware of it. What I am saying to you, to try and assist is that he
- 21 was just throwing out wild rants about this situation. I don't think he
- 22 was aware of anything actually.
- 23 Q. 214 All right.
- 24 A. Can I say one thing else, since we are on this, I don't think the
- 11:20:48 25 politicians agree with what Frank Dunlop said.
- 26 Q. 215 If this you are correct in the evidence you have given to the Tribunal,
- 27 this is not something Mr. Gilmartin said to you over the many years that
- 28 you dealt with Mr. Gilmartin on the telephone?
- 29 A. Never discussed with me, Gilmartin never once mentioned to me.
- 11:21:08 30 Q. 216 So how is it then that in February of 1998, when there is communication

- 11:21:12 1 between a planning corruption inquiry and Mr. Gilmartin, the first person
2 against whom Mr. Gilmartin makes an allegation is Mr. Frank Dunlop and if
3 Mr. Dunlop is telling the truth since April 2000, that allegation appears
4 to be true?
- 11:21:27 5 A. I don't know. And in fact I would say it was just a wild guess on
6 Gilmartin's behalf.
- 7 Q. 217 Do you say that Mr. Gilmartin when he selected Mr. Dunlop's name as a
8 person to get -- against whom to make an allegation was lucky in that
9 it subsequently transpired to be the case that Mr. Dunlop was
11:21:45 10 systematically bribing politician?
- 11 A. You wouldn't want to be a genius to have selected Frank Dunlop.
- 12 Q. 218 Why is that, Mr. O'Callaghan?
- 13 A. Because, the obvious thing is if Gilmartin wanted to throw out the names,
14 there was Dunlop and me, the two of us he would hit of course, who else?
- 11:21:59 15 Q. 219 Are you saying the reason that Gilmartin selected Mr. Dunlop as a person
16 against whom to make the allegation was because Mr. Dunlop was working for
17 you?
- 18 A. Because both of us, if you wanted to attack Quarryvale you attack me and
19 you attach Dunlop, who else?
- 11:22:11 20 Q. 220 Yes. But the allegation that Mr. Dunlop makes -- the allegation that
21 Mr. Gilmartin makes against Mr. Dunlop is an allegation of bribery?
- 22 A. Yes.
- 23 Q. 221 And of paying councillors or paying politicians for rezoning, isn't that
24 right?
- 11:22:25 25 A. Yes.
- 26 Q. 222 It's a specific allegation.
- 27 A. Yes.
- 28 Q. 223 And it is an allegation that Mr. Dunlop if his evidence is correct,
29 accepts now is true, isn't that right?
- 11:22:34 30 A. Yes.

- 11:22:34 1 Q. 224 All right. And what I would like to you try and assist the Tribunal with,
2 Mr. O'Callaghan, as best you can, is how did Mr. Gilmartin know in
3 February of 1998, that Mr. Dunlop was engaged in bribery and corrupting
4 County Councillors when you, the person with whom Mr. Dunlop had a much
11:22:55 5 closer relationship didn't know any such thing?
6 A. Yes well, I knew absolutely nothing about this, as to how Gilmartin knew
7 about it and I am trying to be as positive as I can, would say it was
8 probably from his point of view, just a wild acquisition, but I would also
9 say it's possible and again I can't be certain of this, it's possible that
11:23:14 10 certain journalists made those allegations or got him to make those
11 allegations.
12 Q. 225 All right, if we deal with that then if we can, are you saying that by
13 February of 1998 it was common knowledge in Dublin that Mr. Dunlop was
14 involved in corrupt activities and that journalists knew that?
11:23:29 15 A. I'm not sure, I can't say that but it's certainly possible that
16 journalists were attempting to establish that.
17 Q. 226 All right. Are you aware of any publication in any newspaper that
18 indicated or suggested that Mr. Dunlop was involved in bribery and
19 corruption prior to February of 1998?
11:23:45 20 A. I can't remember now but I am sure there was something around that.
21 Q. 227 Think the documentation shows, Mr. O'Callaghan, that in September 1998 and
22 October 1998 and I think it was the 4th October 1998, Mr. Dunlop is
23 publicly identified for the first time, isn't that right?
24 A. Yes.
11:24:03 25 Q. 228 In the context of this Tribunal. Are you suggesting that there was
26 information in the ether, as it were, up to February of 1998 about Mr.
27 Dunlop's corrupt activities and that Mr. Gilmartin in some way must have
28 been made aware of them?
29 A. It's possible, yes.
11:24:19 30 Q. 229 All right. Now, if you never had a discussion about Mr. Dunlop's probity

- 11:24:24 1 with Mr. Gilmartin, it would follow that Mr. Gilmartin has to get his
2 information about Mr. Dunlop from somewhere else, isn't that right?
- 3 A. Yes.
- 4 Q. 230 Right. Now, looking at it with the benefit of all of the information that
11:24:36 5 you have, can you see from whom Mr. Gilmartin would have obtained the
6 information prior to February 1998, that Mr. Dunlop was involved in
7 bribery and corruption?
- 8 A. I can't answer that question because I don't know.
- 9 Q. 231 Would you agree with me that it's unlikely that Mr. Dunlop made a
11:24:56 10 confession to Mr. Gilmartin?
- 11 A. Oh no.
- 12 Q. 232 And would you --
- 13 A. I would be surprised, of course.
- 14 Q. 233 And certainly if Mr. Dunlop ever made a confession to Mr. Gilmartin that
11:25:06 15 he was involved in bribing councillors up to this point in time that's
16 something of which you are unaware?
- 17 A. Sorry that's something I am unaware, yes.
- 18 Q. 234 Yes. You yourself, if I understand your evidence correctly and again
19 correct me if I am wrong, never had it suggested to you by Mr. Gilmartin
11:25:21 20 that Mr. Dunlop was involved in corrupt activities?
- 21 A. Never.
- 22 Q. 235 And you yourself because you didn't know it, could never have told Mr.
23 Dunlop, could have told Mr. Gilmartin that Mr. Dunlop was involved in
24 corrupt activities?
- 11:25:35 25 A. That's correct, yes.
- 26 Q. 236 All right. So Mr. Gilmartin has to get his information from somewhere
27 else unless it is as you say a lucky strike, isn't that right?
- 28 A. Well, it's probably a wild accusation but again maybe it's from some
29 journalist I am just assuming.
- 11:25:49 30 Q. 237 Is it a mystery to you, Mr. O'Callaghan, as to where Mr. Gilmartin could

11:25:52 1 have obtained the information by February of 1998, that Mr. Dunlop was
2 involved in bribery and corruption in Dublin?

3 A. Well I suppose I don't know if it's a mystery, somebody must have told
4 him.

11:26:06 5 Q. 238 And that somebody, whoever it was, had to know what Mr. Dunlop was doing.
6 A. More than likely a journalist, yeah.

7 Q. 239 It would follow from that then that some person as yet unknown and
8 unidentified within the four walls of this Tribunal, was in a position to
9 tell Mr. Gilmartin that Mr. Dunlop was involved in bribery and corruption,
11:26:25 10 isn't that right?

11 A. That's possible, yes.

12 Q. 240 Okay. And is it possible, Mr. O'Callaghan, that when Mr. Gilmartin
13 refused to take Mr. Dunlop on board in February, March or April of 1991
14 that it was for the reasons outlined -- I beg your pardon? Sorry, that it
11:26:48 15 was for those reasons outlined by him, namely that Mr. Dunlop in his view,
16 had a reputation for being a bag man for politicians?

17 A. No, I would disagree with that completely, I think I gave the reason for
18 that before. It was because Mr. Gilmartin, two reasons; he wanted to
19 handle the whole Quarryvale situation himself, he felt he could.
11:27:10 20 Secondly, he felt that all he had to do was get the Minister for the
21 Environment on his side and he would get what he wanted planning wise and
22 designation wise, he didn't believe that he had to deal with any local
23 elected members or officials.

24 Q. 241 Yes. But if Mr. Gilmartin never made an allegation to you in May of 1991
11:27:30 25 or April 1991 or March '91, that he didn't want Mr. Dunlop involved
26 because of Mr. Dunlop's conduct, it follows that he didn't make that
27 allegation to you then, isn't that right?

28 A. Yes.

29 Q. 242 Right. So some time between then, which is February or March 1991 and
11:27:47 30 February 1998, somebody told Mr. Gilmartin that Frank Dunlop was involved

- 11:27:53 1 in bribery and corruption?
- 2 A. Somebody must have, yes.
- 3 Q. 243 And that that was operated in part through a company called Shefran, isn't
- 4 that right?
- 11:28:00 5 A. Yes.
- 6 Q. 244 None of that was known to you, Mr. O'Callaghan?
- 7 A. None of which?
- 8 Q. 245 Mr. Dunlop's activities?
- 9 A. No, no.
- 11:28:08 10 Q. 246 Right. And therefore you couldn't be the person who could ever have
- 11 discussed any such matter with Mr. Gilmartin, isn't that right?
- 12 A. Absolutely not.
- 13 Q. 247 And it would be fair to say, I think, that until September and October of
- 14 1998, Mr. Dunlop was never publicly identified as a person who was
- 11:28:28 15 involved in any inquiry with this Tribunal, isn't that right?
- 16 A. Yes.
- 17 Q. 248 Right. And indeed there was no suggestion publicly that Mr. Dunlop was
- 18 involved in bribery or corruption until he had, gave his evidence to the
- 19 Tribunal on day 146 of this Tribunal, isn't that right, in April of 2000?
- 11:28:48 20 A. Yes.
- 21 Q. 249 That was the first time when you became aware that Mr. Dunlop had in fact
- 22 been involved in whole scale bribery and corruption, isn't that right?
- 23 A. Alleged to have been involved, yes.
- 24 Q. 250 Can you assist the Tribunal at all, Mr. O'Callaghan, in this issue, which
- 11:29:03 25 is I suggest to you a central issue, which is how it is that
- 26 Mr. Gilmartin, who on everybody's evidence had little or nothing to do
- 27 with Frank Dunlop, knew long before everybody else, that Mr. Dunlop was in
- 28 the bribery business?
- 29 A. I don't know.
- 11:29:23 30 Q. 251 And have you thought about that, Mr. O'Callaghan, in the past six or seven

11:29:26 1 years when you have been involved in this Tribunal as a result of your
2 relationship with Mr. Dunlop?

3 A. Yes I have, yes. And I just don't know, I have no answer for that really.

4 Q. 252 Mr. Gilmartin, who can defend himself very well, has been described by Mr.
11:29:43 5 Dunlop as a buffoon and by yourself as a fantasist, isn't that right?

6 A. Absolutely.

7 Q. 253 It is your evidence to the Tribunal that in relation to a significant
8 amount of the allegations that Tom Gilmartin has made that he is imagining
9 it, he is misleading the Tribunal and himself, he may be telling outright
11:30:01 10 lies?

11 A. Outrageous lies.

12 Q. 254 Outrageous lies and it is not the truth, isn't that right?

13 A. That is correct.

14 Q. 255 But on the central allegation, Mr. O'Callaghan, which is that Frank Dunlop
11:30:13 15 was bribing councillors to secure rezoning, in some fashion, that you
16 can't explain, he knew that years before you knew that, isn't that right?

17 A. Yes.

18 Q. 256 And you still, having considered it and thought about it, can't assist the
19 Tribunal as to how it was in February 1998, when there wasn't a scintilla
11:30:36 20 of publication about Frank Dunlop in any newspaper, Mr. Dunlop could be
21 described by Mr. Gilmartin to the Tribunal as a person who was involved in
22 bribery and corruption?

23 A. Yes.

24 Q. 257 You can't explain that?

11:30:50 25 A. I can't explain that no, I'm sorry I can't.

26 Q. 258 You agree he also identified, in February of 1998, that the Tribunal
27 should look at payments that were made to Shefran, isn't that right?

28 A. Yes.

29 Q. 259 That's what he said. He also identified three councillors by name, isn't
11:31:08 30 that right, Mr. Gilbride?

11:31:11 1 A. Yes.

2 Q. 260 Mr. McGrath.

3 A. Yes.

4 Q. 261 Mr. Hanrahan.

11:31:15 5 A. Yes.

6 Q. 262 And an ex-councillor and national politician, Liam Lawlor, isn't that

7 right?

8 A. Yes.

9 Q. 263 It is the case that payments were made to Mr. Gilbride, isn't that right?

11:31:26 10 A. Political contributions by me to help him get elected, yes.

11 Q. 264 It is the case that payments were made to Mr. McGrath, isn't that right?

12 A. Same.

13 Q. 265 Some of them were loans I think in fairness to yourself.

14 A. Yes.

11:31:39 15 Q. 266 It is the case that payments were made to Mr. Lawlor, both recompense and

16 political contribution as you have described it?

17 A. Yes, all recorded and totally --

18 Q. 267 Yes.

19 A. Yes.

11:31:51 20 Q. 268 And in February of 1998 if I understand you correctly, Mr. Gilmartin

21 wouldn't have known of the nature of the payments that had been made to

22 either Mr. Gilbride, Mr. McGrath or Mr. Lawlor, isn't that right?

23 A. 1998? Yes. I'm not sure if he could have found out, I don't know. I

24 don't know.

11:32:22 25 Q. 269 You never told him?

26 A. No, I never told him.

27 Q. 270 Because that's your evidence to the Tribunal?

28 A. I never told him.

29 Q. 271 So how was he able, in February of 1998 to identify those three people to

11:32:33 30 the Tribunal as somebody that should be investigated in the context of a

11:32:38 1 planning corruption inquiry?

2 A. Yes, I don't know.

3 Q. 272 You don't know. And do you know how it was that Mr. Gilmartin was in a

4 position to complain and identify Shefran as a vehicle that was used for

11:32:52 5 paying politicians to the Tribunal in February of 1998?

6 A. I'd say that was a guess.

7 Q. 273 On his part?

8 A. Yes.

9 Q. 274 All right. And that it was as a result then of some concern,

11:33:03 10 Mr. Gilmartin must have had about Shefran that caused him to identify it

11 as a vehicle that the Tribunal should look at, isn't that right?

12 A. Yes.

13 Q. 275 And so then your position is that if the Tribunal had gone to you in

14 February of 1998, Mr. O'Callaghan, you wouldn't have been able to assist

11:33:24 15 the Tribunal about Mr. Dunlop's activities in anyway, isn't that right?

16 A. No, absolutely not, oh no.

17 Q. 276 You wouldn't have been able to point the finger?

18 A. You said 1998.

19 Q. 277 1998 yes, in February of 1998?

11:33:36 20 A. Absolutely not.

21 Q. 278 When Mr. Gilmartin is making these allegations, if the Tribunal had gone

22 to you you wouldn't have been able to help the Tribunal in relation to Mr.

23 Dunlop, isn't that right?

24 A. No, I could not, no.

11:33:48 25 Q. 279 But Mr. Gilmartin was in a position from some source of information?

26 A. Some source, yes.

27 Q. 280 Unknown to you?

28 A. That's correct.

29 Q. 281 To point the finger accurately at Mr. Dunlop?

11:33:58 30 A. I wouldn't say accurately, but to point the finger, yes.

- 11:34:02 1 Q. 282 Well accurately of course if Mr. Dunlop's evidence is correct?
- 2 A. If it is correct, yes.
- 3 Q. 283 But subject to that caveat if Mr. Dunlop's evidence is correct,
- 4 Mr. Gilmartin in February of 1998 accurately pointed the finger at Mr.
- 11:34:15 5 Dunlop, isn't that right?
- 6 A. Yes.
- 7 Q. 284 You would not have been in a position to do that?
- 8 A. No I certainly would not, no no.
- 9 Q. 285 Because it's your position, Mr. O'Callaghan, and your evidence to the
- 11:34:24 10 Tribunal, that you were innocent of any understanding of Mr. Dunlop's
- 11 conduct until Mr. Dunlop, in this Tribunal, in the witness box, conceded
- 12 that he had made corrupt payments, isn't that right?
- 13 A. Yes.
- 14 Q. 286 And it is only then, in April of 2000 that for the first time you
- 11:34:41 15 appreciate what your lobbyist who has been your lobbyist since 1991 has
- 16 been doing?
- 17 A. That's what he said he was doing, yes.
- 18 Q. 287 Is it your position that you don't believe Mr. Dunlop now in relation to
- 19 what he says he was doing, Mr. O'Callaghan?
- 11:34:55 20 A. I'm not sure of it, politicians don't even agree it --
- 21 Q. 288 I'm not interested --
- 22 A. Sorry.
- 23 Q. 289 I am just asking about yourself?
- 24 A. I'm not sure.
- 11:35:03 25 Q. 290 Do you say when Mr. Dunlop tells the Tribunal now he was involved in
- 26 systematic bribery and corruption in the course of the review of the '83
- 27 Development Plan that his evidence over that's 15 modules is a lie?
- 28 A. I'm not saying it's a lie, I am not sure if I am believe him, I'm not sure
- 29 if it's accurate or correct.
- 11:35:21 30 Q. 291 Do you say, is it that on a personal basis you find it hard to believe?

- 11:35:25 1 A. Absolutely, yes.
- 2 Q. 292 That a person whom you knew so well was involved in this type of behaviour
- 3 for so long and you were unaware?
- 4 A. And knew the politicians so well as well.
- 11:35:36 5 Q. 293 Is it because of your relationship with Mr. Dunlop that you find it hard
- 6 to accept Mr. Dunlop's conduct?
- 7 A. Yes, and it's amazing that this applies to the local authority elections
- 8 in '91 and the general election in '92. The elections coincide with a
- 9 vote in both years, May June in '91 and November, December '92, it's
- 11:35:56 10 amazing.
- 11 Q. 294 And of course '91 is the year which you paid the 80,000 pounds to Shefran
- 12 and '92 is the time you paid 70,000 pounds by direct credit transfer to
- 13 Mr. Dunlop.
- 14 A. That's right.
- 11:36:09 15
- 16 JUDGE KEYS: Mr. O'Callaghan, can I just ask you one question, can you
- 17 think of one reason why Frank Dunlop would come into this Tribunal and lie
- 18 about bribing councillors or politicians? Can you think of one reason why
- 19 he would make up that story, destroy his own name, destroy his business,
- 11:36:31 20 destroy everything he stood for. Why do you think he would come in and
- 21 lie about that?
- 22 A. I don't really know, Sir, I don't know.
- 23
- 24 JUDGE KEYS: Mm?
- 11:36:41 25 A. Sorry, I don't know. I can't answer that question, I don't know.
- 26
- 27 JUDGE KEYS: Would that not lead you to the conclusion that in all
- 28 probability, when he gives evidence that he did pay politicians, or bribe
- 29 them, that that is accurate evidence on his part?
- 11:36:59 30 A. I'm not sure.

11:37:01 1
2 JUDGE KEYS: Well think about it. I mean I'm trying to throw about in my
3 mind why a professional man like him would come in, make up a story that
4 he had been bribing politicians and expose the risk of him being destroyed
11:37:24 5 publicly in relation to his good name, why he'd make that up?
6 A. It's to hard to believe.
7
8 JUDGE KEYS: But I mean, would that not lead to you think strongly that he
9 must have been doing it?
11:37:38 10 A. It's very hard for me to believe that, or to accept that.
11
12 JUDGE KEYS: I see.
13
14 Q. 295 MS. DILLON: It's really either one thing or another, Mr. O'Callaghan,
11:37:48 15 isn't that right? Either Mr. Dunlop is perjuring himself on a wholesale
16 basis before this Tribunal and damaging the reputations of numerous
17 councillors to whom he says he made corrupt payments, isn't that right?
18 A. Yes.
19 Q. 296 Or alternatively, he did do it?
11:38:05 20 A. Yes.
21 Q. 297 And he has paid bribes to councillors over the years, it's one or the
22 other isn't it?
23 A. One or the other, yes.
24 Q. 298 In any event, on the central point, which was my question to you in
11:38:17 25 relation to Mr. Gilmartin's allegation in February '98, you can't assist
26 as to how Mr. Gilmartin was able to identify that trait of Mr. Dunlop's
27 that was unknown to you?
28 A. I don't know specifically why he was, I can't put my thumb on it, I don't
29 know.
11:38:37 30 Q. 299 Insofar as your relationship with Mr. Dunlop is concerned, Mr. Dunlop

11:38:42 1 throughout the currency of this Tribunal has been a person with whom you
2 have been in contact, isn't that right?

3 A. Yes.

4 Q. 300 You have had discussions with Mr. Dunlop about the Tribunal and in later
11:38:53 5 years about the contact the Tribunal had with each of you individually,
6 isn't that right?

7 A. Yes, but not the detail.

8 Q. 301 No, but you have discussed the Tribunal, the workings of the Tribunal and
9 it would be fair to say that in the very early stages, when the Tribunal
11:39:09 10 contacted you and your companies and Mr. Dunlop and his companies there
11 was a quasi joint approach by both of you to the Tribunal?

12 A. Initially. Oh, yes.

13 Q. 302 You would agree with that?

14 A. Yes.

11:39:21 15 Q. 303 And submissions were made to the Tribunal in tandem as it were, isn't that
16 the position?

17 A. Yes.

18 Q. 304 And you affected at that stage a joint position, isn't that right?

19 A. Yes.

11:39:30 20 Q. 305 And really what you were coming up here to deal with by the time late '98
21 happened were allegations being made by Mr. Gilmartin, isn't that right?

22 A. Yes.

23 Q. 306 But long before that ever got into the public domain, Mr. O'Callaghan,
24 before the Tribunal ever wrote to you in October '98 or Mr. Dunlop in
11:39:50 25 October '98, in February '98 the core allegations were made against you
26 and against Mr. Dunlop by Mr. Gilmartin, isn't that right?

27 A. In private.

28 Q. 307 In private?

29 A. Yes.

11:40:02 30 Q. 308 Isn't that the position?

11:40:03 1 A. Yes.

2 Q. 309 And in addition he made allegations against a number of councillors, isn't
3 that right?

4 A. Yes.

11:40:09 5 Q. 310 And you can't assist in relation to any of that, as to how he came by that
6 information?

7 A. As to how Tom Gilmartin came by that information.

8 Q. 311 Yes.

9 A. No, I'm sorry.

11:40:20 10 Q. 312 Now in May of 1998, at 13152, on the 20th May 1998, the 21st May and the
11 22nd May, Mr. Dunlop has entries in his diary, isn't that right, various
12 entries?

13 A. Yes.

14 Q. 313 Now on the 22nd May, this is an entry that we have dealt with,
11:40:43 15 Mr. O'Callaghan, as best we can in attempting to decipher what Mr. Dunlop
16 has over written, isn't that right?

17 A. Yes.

18 Q. 314 And this entry that's over written on the 22nd relates to a meeting that
19 took place between yourself and Mr. Dunlop on the 22nd May, isn't that
11:40:59 20 right?

21 A. Yes.

22 Q. 315 And I think if we look at 25062, this is what was written beneath Mr.
23 Dunlop's entry and I think doing the best we can to decipher it and Mr.
24 Dunlop when it was shown to him agrees that it probably reads something
11:41:21 25 like: "Clearance or cheque to issue for 100,000 or it could be 600,000,
26 remainder to be discussed 1 September '98", and then some word that could
27 possibly be "planning", isn't that right?

28 A. Yes.

29 Q. 316 And it's initialled FD?

11:41:38 30 A. Yes.

11:41:43 1 Q. 317 "300K remaining" is possibly what it says also, isn't that right?
2 A. Possibly.
3 Q. 318 Now, in May of 998 you had a discussion with Mr. Dunlop about money, isn't
4 that right?
11:41:55 5 A. Yes.
6 Q. 319 And on June 4th 1998 you wrote, I think you paid a cheque to Mr. Dunlop
7 through Riga on foot of an invoice at 13156, isn't that right?
8 A. Yes.
9 Q. 320 That invoice was for the balance?
11:42:17 10 A. Balance correct.
11 Q. 321 Isn't that right?
12 A. Yes.
13 Q. 322 Of the retainer?
14 A. Retainer, yes.
11:42:22 15 Q. 323 You say Mr. Dunlop in his evidence as you are aware says it was the
16 success fee?
17 A. Yes because he never fully understood it, he said it was part of the
18 success fee. He thinks of it as part of the success fee.
19 Q. 324 Yes. On the 4th June at 13185, Mr. Dunlop in his diary records the fact
11:42:40 20 that he received cheque on the 4th June, received "OOC cheque 100K dated
21 3rd".
22 A. I can't see that. Oh yes, I have it.
23 Q. 325 If that could be increased please, "OOC cheque 100 dated 3rd", and that
24 accords with what because a cheque did issue to Mr. Dunlop, isn't that
11:43:05 25 right?
26 A. Oh, yes.
27 Q. 326 In the sum of 100,000 pounds.
28 A. That's correct.
29 Q. 327 That was in relation to the balance of the, you say retainer that was due
11:43:13 30 from Riga/Barkhill to Mr. Dunlop?

- 11:43:16 1 A. From September '93 onwards.
- 2 Q. 328 Isn't that right?
- 3 A. To October '96, yes.
- 4 Q. 329 We have seen in relation to all of those retainers up to this point in
- 11:43:24 5 time that those retainers had been claimed by Riga from Barkhill or else
- 6 paid directly by Barkhill, isn't that right?
- 7 A. Yes.
- 8 Q. 330 And insofar as this payment was concerned, which is the sum of 100,000
- 9 pounds, if we go back to Mr. Dunlop's diary and we look at the, 13152
- 11:43:47 10 please, on the 20th May 1998, which is two days before your conversation
- 11 with Mr. Dunlop that results in the 100,000 pounds, Mr. O'Callaghan,
- 12 Mr. Tom Gilmartin met in London with his solicitor Mr. Noel Smyth and
- 13 dictated a detailed transcript or note or attendance, containing matters
- 14 which -- amounting to allegations, but which Mr. Gilmartin has said was
- 11:44:17 15 trying to give an overview of the entire process as he understood it?
- 16 A. Yes.
- 17 Q. 331 A long document, you have seen it in the brief, isn't that right?
- 18 A. Yes.
- 19 Q. 332 Now, can I ask you whether or not your payment or agreement on the 22nd
- 11:44:31 20 May of 1998 was in anyway connected with Mr. Smyth's attendance with
- 21 Mr. Gilmartin in London on the 20th May 1998?
- 22 A. Sure I didn't even know Gilmartin was meeting Smyth.
- 23 Q. 333 Yes. It would appear from the cross-examination of Mr. Gilmartin by the
- 24 late Mr. Liam Lawlor, that the late Mr. Liam Lawlor knew of it.
- 11:44:55 25 A. Oh that's news to me.
- 26 Q. 334 Is that news to you? And that he appears to have been aware of what was
- 27 described as the Noel Smyth statement or in some way of the contact
- 28 between Mr. Smyth and Mr. Gilmartin but you were unaware, isn't that
- 29 right?
- 11:45:10 30 A. Oh, absolutely, yes.

- 11:45:10 1 Q. 335 Right. Now, insofar as that payment is concerned, that is the payment of
2 100,000 pounds to Mr. Dunlop's company, can I ask you, Mr. O'Callaghan
3 whether that was written up to Barkhill?
- 4 A. No, I don't think so that was strictly Riga. Grosvenor had been in place
11:45:32 5 at the time and I don't think I could have claimed it back from Barkhill.
- 6 Q. 336 Now let's analyse that for a moment, Mr. O'Callaghan. This is a balancing
7 retainer payment, isn't that right?
- 8 A. Yes.
- 9 Q. 337 Okay. If we have 13156, now I think you have agreed with me, the schedule
11:45:48 10 of retainer payments that were made to Mr. Dunlop's company from 1992
11 onwards, isn't that right?
- 12 A. 1993.
- 13 Q. 338 Yes. And in the, insofar as those retainer payments are concerned they
14 were either paid by Barkhill and repaid by, they were either paid by Riga
11:46:06 15 and repaid by Barkhill or they were paid by Barkhill, isn't that right?
- 16 A. Yes.
- 17 Q. 339 Now this, if your evidence is correct, Mr. O'Callaghan, means that this
18 payment is a payment that should be similarly treated, isn't that right?
- 19 A. Yes.
- 11:46:18 20 Q. 340 And therefore because this is a balancing payment of those retainers from
21 1993, this figure of 100,000 pounds which you paid to Mr. Dunlop should be
22 claimed by Riga against the Barkhill loan, isn't that right?
- 23 A. Yes.
- 24 Q. 341 And was it?
- 11:46:33 25 A. No.
- 26 Q. 342 Why not?
- 27 A. Because at this stage when it was paid Grosvenor were involved in Barkhill
28 and rather than explain the situation to them we decided we'd pay it
29 ourselves.
- 11:46:43 30 Q. 343 Why wouldn't you want to explain the situation of a legitimate payment of

- 11:46:47 1 a balancing statement of unpaid retainers to Mr. Dunlop to your partner
2 Grosvenor?
- 3 A. Because when we did our deal with Grosvenor, we agreed all payments were
4 paid up to date, as you probably know there was a figure of 300,000 paid
11:46:59 5 to make up for all those payments taken place that we mightn't have picked
6 up, I had overlooked that completely, so we couldn't have gone back to
7 Grosvenor and asked for that payment, so we paid it ourself.
- 8 Q. 344 There isn't a shred of paper Mr. Dunlop apart, Mr. O'Callaghan, apart from
9 what's recorded in Mr. Dunlop's diary surrounding this payment, isn't that
11:47:24 10 right, before it is generated, isn't that the position?
- 11 A. I made out those figures myself.
- 12 Q. 345 And it is on a face-to-face meeting you say between yourself and Mr.
13 Dunlop that this is agreed, isn't that right?
- 14 A. Yes.
- 11:47:35 15 Q. 346 But if this is the same type of payment, Mr. O'Callaghan, as the retainers
16 that have been paid, it is I suggest a payment to which, about which you
17 should have gone to Grosvenor and sought their agreement in relation to
18 it?
- 19 A. No our agreement and back payments had been finalised with Grosvenor we
11:47:55 20 just could not have gone back.
- 21 Q. 347 You never provided a contingent figure in your negotiations with Grosvenor
22 for any back retainer for Mr. Dunlop, isn't that right?
- 23 A. No. I had forgotten about it actually.
- 24 Q. 348 There is no suggestion in any of the documentation surrounding the
11:48:10 25 agreements between Grosvenor and Barkhill that there was any contingent
26 liability to Mr. Dunlop, isn't that right?
- 27 A. No.
- 28 Q. 349 Or that there was any element of a potential unpaid fee to Mr. Dunlop
29 arising out of his involvement in Quarryvale, isn't that right?
- 11:48:25 30 A. This was never discussed, but there was an overall figure selected 300,000

- 11:48:31 1 pound to make up for payments that had been omitted. So this was never
2 discussed in any detail, no.
- 3 Q. 350 So the position is no contingency was made in your arrangements between
4 Barkhill and Grosvenor for the payment of any contingent sum to Mr.
11:48:45 5 Dunlop?
- 6 A. Not specifically to Mr. Dunlop, no.
- 7 Q. 351 Whether that sum arose by way of unpaid retainer as you say happened in
8 June of 1998 or whether it arose by way of a success fee in connection
9 with Quarryvale, isn't that right?
- 11:48:58 10 A. Yes.
- 11 Q. 352 Right. So the effect of that, Mr. O'Callaghan, was that when you decided
12 to pay the 100,000 pounds plus VAT to Mr. Dunlop in June of 1998, it was a
13 figure that was not going to be subject to the scrutiny of Barkhill's
14 auditors or Grosvenor's auditors because it remained in Riga at all times?
- 11:49:15 15 A. It was a cost that Riga would have to take because we had overlooked it.
- 16 Q. 353 But it was not a retainer figure that was treated in the same way as the
17 other retainer figures were treated as between Barkhill and Riga, isn't
18 that right?
- 19 A. Yes because most of this retainer figure had taken place before Grosvenor
11:49:33 20 became involved, this figure went back to '93, '94, '95, '96 before
21 Grosvenor became involved with us, so this was a Riga payment that had to
22 be made by Riga.
- 23 Q. 354 You misunderstand me, Mr. O'Callaghan. There is no suggestion that once
24 this sum was paid that any attempt was ever made to attribute it either to
11:49:53 25 Barkhill in the first instance or to Grosvenor if the second instance?
- 26 A. Couldn't have happened, that's correct.
- 27 Q. 355 Insofar, leaving aside Grosvenor, insofar as Barkhill is concerned, if
28 this was a balancing figure for a retainer, if the earlier retainer had to
29 be paid by Barkhill or reimbursed by Barkhill, this figure should have
11:50:12 30 been similarly treated, isn't that right?

- 11:50:14 1 A. No that's not correct.
- 2 Q. 356 I'll make it -- I'll clear that for you, Mr. O'Callaghan. You tell the
- 3 Tribunal that the 100,000 pounds paid in June of 1998 is a balancing
- 4 retainer figure on foot of an arrangement that had commenced in 1993?
- 11:50:32 5 A. Yes.
- 6 Q. 357 That is -- that retainer was a retainer paid by Riga on behalf of Barkhill
- 7 on a monthly basis to Mr. Dunlop, is that correct?
- 8 A. Yes.
- 9 Q. 358 And we have seen that in later years the retainer was taken up and paid by
- 11:50:46 10 Barkhill, isn't that right?
- 11 A. In later years.
- 12 Q. 359 Isn't that right?
- 13 A. From '96 onwards.
- 14 Q. 360 From '96 onwards.
- 11:50:53 15 A. When Grosvenor became involved.
- 16 Q. 361 It was paid directly by Barkhill, in either case whether it was paid
- 17 directly by Barkhill or it was paid by Riga for Barkhill, the retainer was
- 18 a liability of Barkhill, isn't that right?
- 19 A. Yes.
- 11:51:05 20 Q. 362 However, when you come to make your balancing payment to Mr. Dunlop in
- 21 June of 1998, you contain that payment within Riga and never seek to pass
- 22 it on to Barkhill, isn't that right?
- 23 A. Yes.
- 24 Q. 363 The effect of that, Mr. O'Callaghan, is that the only auditors who will
- 11:51:21 25 ever examine this payment of 100,000 pounds are your auditors, that is
- 26 Riga's auditors, isn't that right?
- 27 A. Yes.
- 28 Q. 364 It will never be subject to scrutiny by Barkhill's auditors, isn't that
- 29 right?
- 11:51:32 30 A. Yes.

- 11:51:33 1 Q. 365 Because it has never been put forward as an accrual or amount that will
2 have to be paid by Barkhill, isn't that right?
3 A. Yes.
- 4 Q. 366 It will never be subject to any examination by Grosvenor because they are
11:51:43 5 never told about it?
6 A. Yes.
- 7 Q. 367 What you did, Mr. O'Callaghan, was to contain the payment to Mr. Dunlop in
8 June 1998 within the four walls of your company, isn't that right?
9 A. Because I had to, yes.
- 11:51:53 10 Q. 368 And you made no effort to seek that Barkhill would contribute or make a
11 payment to Mr. Dunlop in connection with this, isn't that right?
12 A. Because if I asked Barkhill I would be asking Grosvenor and I wasn't
13 entitled to do that. I couldn't have done that, it wouldn't have been
14 fair to Grosvenor, this was an old payment, I couldn't have done that I'm
11:52:14 15 afraid.
- 16 Q. 369 And Grosvenor did a due diligence when they became involved in 1996, and
17 that due diligence would have revealed the existence of any contingent
18 liability to Mr. Dunlop had it been recorded?
19 A. Yes, if it was recorded.
- 11:52:29 20 Q. 370 But of course this potential payment was never recorded?
21 A. No because it was overlooked, forgotten about.
- 22 Q. 371 Yes 100,000 pound had been overlooked?
23 A. Over four or five years.
- 24 Q. 372 Equally I think the 300,000 plus VAT that you paid in October of 1998 to
11:52:45 25 Mr. Dunlop was similarly treated, isn't that right?
26 A. That was a Riga payment as well.
- 27 Q. 373 Yes, that was a success fee in connection with removing the cap on
28 Quarryvale, if Mr. Dunlop's invoice is correct, isn't that right?
29 A. Yes.
- 11:52:56 30 Q. 374 And I think your evidence to the Tribunal is that that payment was a

- 11:53:00 1 success fee to Mr. Dunlop and it was something you had agreed with him in
2 January of 1993, isn't that right?
- 3 A. That there would be a success fee, yes.
- 4 Q. 375 That there would be a success fee, I will come shortly to deal with the
11:53:13 5 circumstances in which you actually came to make the payment to Mr.
6 Dunlop, but simply dealing now with the global position, in October of
7 1998, when you agreed to pay the 300,000 pounds plus VAT to Mr. Dunlop, it
8 was in respect of the success fee in connection with Quarryvale, isn't
9 that right?
- 11:53:28 10 A. Because -- yes in connection with Quarryvale because the Revenue
11 Commissioners had called it in really from him.
- 12 Q. 376 I am going to come to deal with Mr. Dunlop's requirement for funds,
13 Mr. O'Callaghan, I am just dealing now with the purpose of the payment
14 from Barkhill or from Riga's point of view, you understand?
- 11:53:45 15 A. Yes.
- 16 Q. 377 The invoice that Mr. Dunlop provided to you was described as part payment
17 of a success fee for Quarryvale, isn't that right?
- 18 A. Yes, he described it as part payment, yes.
- 19 Q. 378 Leaving aside that --
- 11:53:55 20 A. Okay.
- 21 Q. 379 -- I think you don't disagree with Mr. Dunlop that it was a payment of a
22 success fee in connection with Quarryvale?
- 23 A. That is correct.
- 24 Q. 380 Similar to the payment of 100,000 pounds in June of 1998, that payment of
11:54:08 25 300,000 pounds, while it was for the benefit of Barkhill was never passed
26 on to Barkhill, isn't that right?
- 27 A. Yes.
- 28 Q. 381 That was a payment that was kept within the four walls of Riga, isn't that
29 right?
- 11:54:22 30 A. Yes.

- 11:54:22 1 Q. 382 And you never sought to pass that on to Barkhill as a Barkhill expense,
2 isn't that right?
- 3 A. You couldn't do that, I never did, no I could not do that.
- 4 Q. 383 You had never identified in the due diligence with Barkhill that you had a
11:54:35 5 contingent liability to Mr. Dunlop in relation to either back pay for
6 retainers or for an unspecified sum for success fee, isn't that right?
- 7 A. Correct.
- 8 Q. 384 And your failure to disclose that to Grosvenor in 1996 left Riga with a
9 liability to pay 400,000 pounds in 1998 to Frank Dunlop, isn't that right,
11:55:02 10 without recourse to Barkhill?
- 11 A. Yes.
- 12 Q. 385 Isn't that right?
- 13 A. It wouldn't have recourse to Barkhill it was a Riga payment to be made by
14 Riga, not by Barkhill.
- 11:55:11 15 Q. 386 If you had disclosed as part of the due diligence, Mr. O'Callaghan, in
16 1996 to Grosvenor that you had a contingent liability to Mr. Dunlop of the
17 order of 400,000 pounds, whether by way of retainer or success fee, it's
18 something that could have been taken into account by Grosvenor, isn't that
19 right?
- 11:55:29 20 A. No, no, no. They would not take it into account, it had nothing to do
21 with them, that was my problem to get the project where it was, Riga had
22 to pay that. It could have been O'Callaghan Properties paid that not
23 Grosvenor.
- 24 Q. 387 If you had a contingent liability to Mr. Dunlop, unspecified and
11:55:44 25 unquantified that related to the development of Quarryvale that was
26 something you could have put forward to Grosvenor when you did the deal
27 with Grosvenor in 1996?
- 28 A. They wouldn't have paid it.
- 29 Q. 388 That's a different question, whether they would have paid it or not, in
11:55:59 30 order for them to negotiate it, Mr. O'Callaghan, you'd have to tell them

11:56:02 1 about it, isn't that right?

2 A. Yes.

3 Q. 389 You didn't tell them about two things insofar as Mr. Dunlop was concerned,

4 you didn't tell them that you had some non-specific arrangement with Mr.

11:56:12 5 Dunlop to pay him a success fee, isn't that right?

6 A. Yes.

7 Q. 390 You didn't tell them that you owed him back money in respect of retainers

8 where he hadn't been paid the full amount?

9 A. I wouldn't be telling them that, that was a Riga problem.

11:56:24 10 Q. 391 Isn't that right?

11 A. Yes.

12 Q. 392 Mr. Dunlop in the work that he did through this period, his invoices were

13 passed on to Barkhill, isn't that right?

14 A. Mm-hmm.

11:56:34 15 Q. 393 And his retainer was in effect a Barkhill retainer?

16 A. Yes.

17 Q. 394 So insofar as the retainers were concerned he paid those retainers were

18 paid by Barkhill?

19 A. Yes.

11:56:44 20 Q. 395 I suggest to you, Mr. O'Callaghan, that if these two invoices for the

21 300,000 pounds in October and the 100,000 pounds in June were similar to

22 those invoices you would have passed them on to Barkhill?

23 A. No.

24 Q. 396 I am suggesting to you.

11:57:00 25 A. No, sorry you are wrong.

26 Q. 397 I am suggesting these are different invoices for a different purpose?

27 A. Not at all.

28 Q. 398 I see. Sorry, Sir.

29

11:57:07 30 CHAIRMAN: I just wanted to ask, Mr. O'Callaghan, just in relation to

11:57:10 1 that before I forget it, when you were negotiating with Grosvenor for a
2 sum of money which was eventually agreed at whatever, would you -- would
3 you have discussed or disclosed to Grosvenor all the details of the
4 payments that had been made by you as part of the project to have the land
11:57:41 5 rezoned and so on, would they have been made aware of that? Was that a
6 consideration for Grosvenor in deciding on what price to pay?
7 A. Yes.
8
9 CHAIRMAN: Yes. I see. I mean, if these payments of 100,000 and 300,000
11:58:03 10 --
11 A. Oh sorry, yes.
12
13 CHAIRMAN: If they had been properly a Barkhill payment.
14 A. Yes.
11:58:09 15
16 CHAIRMAN: And if you had been conscious of them as liabilities coming
17 down the road, would you have disclosed them to Grosvenor? Would there be
18 any reason to do so in the sense, would it have allowed you maybe seek a
19 slightly higher price from Grosvenor?
11:58:29 20 A. Well not really, not really, Sir. Basically Grosvenor put a figure on the
21 price based on what they felt the residual value of the site actually was,
22 the other items that additional cost they had, they wouldn't take them
23 into consideration at all.
24
11:58:47 25 CHAIRMAN: So it wasn't a case of Grosvenor going through the accounts?
26 A. Oh, no.
27
28 CHAIRMAN: And deciding on how much it had cost you to date?
29 A. They had no interest in that, that was my problem. They actually, they
11:59:07 30 would have taken the planning permission, they would have seen what we

11:59:07 1 could have put on the site, they would have seen what units we could put
2 there, what link road we would have got, they would have used whatever
3 yield they felt was appropriate and they would work out a residual value
4 of what the land was worth and that is what they paid, they were not
11:59:18 5 interested in anything else actually.

6

7

CHAIRMAN: All right. We'll take a break.

8

9

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

11:59:31 10

AND RESUMED AGAIN AS FOLLOWS:

11

12

CHAIRMAN: Afternoon, Mr. O'Callaghan. Now, Ms. Dillon.

13

Q. 399 Good afternoon, Mr. O'Callaghan.

14

A. Afternoon.

12:16:52 15

Q. 400 I think that by September of 1998, after you had paid the money to
16 Mr. Dunlop, by the end of September, matters started to emerge into the
17 public arena in relation to Quarryvale, isn't that right, and particularly
18 in relation to Mr. Gilmartin?

19

A. Yes.

12:17:15 20

Q. 401 And at 16355, on the 20th September there was an article by Mr. Jodie
21 Corcoran in the Sunday Independent, isn't that right?

22

A. Yes.

23

Q. 402 And within the confines of that article Mr. Gilmartin was spoken about,
24 isn't that right, if you look at the fourth column and you come halfway
12:17:35 25 down the page, I think it reads as follows:

26

27

"Meanwhile the Sunday Independent has learned that a brother of the former
28 Taoiseach, Mr. Haughey informed Gardaí of serious allegations made by
29 businessman Tom Gilmartin in relation to a number of his building projects
12:17:50 30 in the 1990s". Isn't that right?

- 12:17:53 1 A. Yes.
- 2 Q. 403 It goes on to record "Sean Haughey a former senior Dublin Corporation
3 official was later interviewed by Gardaí in 1989 in relation to those
4 allegations. Former City Manager Frank Feeley also sat in on an
12:18:07 5 interview". Isn't that right?
- 6 A. Yes.
- 7 Q. 404 Now, you would have known that was in connection with Mr. Gilmartin,
8 because you yourself had spoken to Mr. Haughey about the Gilmartin
9 allegations in 1989, isn't that right?
- 12:18:17 10 A. Yes.
- 11 Q. 405 And among the allegations Mr. Gilmartin had made to you in 1989 were
12 allegations that Mr. Lawlor and Mr. Redmond had been involved in some
13 improper conduct, isn't that right?
- 14 A. Yes.
- 12:18:29 15 Q. 406 And an allegation that in order to get anything done in Dublin you had to
16 pay councillors to get things moving, isn't that right, I think you
17 provided a statement to the Tribunal of your recollection in relation to
18 those matters, isn't that the position?
- 19 A. That's correct.
- 12:18:40 20 Q. 407 So when you read this you would have realised that if you hadn't known it,
21 that this, Mr. Gilmartin was the Mr. Tom Gilmartin that you had been
22 involved within Quarryvale, isn't that right?
- 23 A. Yes.
- 24 Q. 408 And in the bottom of the article it says "According to a reliable Garda
12:18:58 25 source, among the more serious allegations was that a named Fianna Fail TD
26 arranged a meeting between Mr. Gilmartin and four Dublin Councillor who is
27 each demanded 100,000 pounds in return for a favourable rezoning decision.
28 Mr. Gilmartin told Mr. Haughey he was angered at the request and refused
29 to make the payments. According to the Garda source Mr. Gilmartin also
12:19:20 30 told Mr. Haughey that the Fianna Fail TD had about in receipt of 3,500

- 12:19:25 1 pounds a month from a British property development company Arlington
2 Securities." Isn't that right?
- 3 A. Yes.
- 4 Q. 409 Would you have known when you read that article that the senior Fianna
12:19:35 5 Fail TD that was discussed there was Mr. Liam Lawlor?
- 6 A. Yes.
- 7 Q. 410 Would it be fair to say that you, this is a matter if which Mr. Dunlop had
8 known about it prior to publication on the 20th September 1998, would have
9 been discussed between yourself and Mr. Dunlop on your Saturday night
12:19:51 10 discussion on the 19th September 1998?
- 11 A. More than likely he would have discussed it, yes.
- 12 Q. 411 And therefore you would have known that Mr. Gilmartin was making
13 allegations and those allegations were in the context of money being paid
14 to politicians, isn't that right?
- 12:20:06 15 A. Yes.
- 16 Q. 412 Now, I think at this stage Mr. Dunlop had not been identified, isn't that
17 right?
- 18 A. I'm not sure.
- 19 Q. 413 Right. And I think if we look at the sequence of disclosure on the
12:20:23 20 following Sunday, which is the 27th September '98, at 16356 there was an
21 article by Mr. Frank Connolly headed "developer claims he gave Flynn
22 50,000 pounds for Fianna Fail funds", and at 16357 it opens by stating
23 "Property developer Tom Gilmartin had claimed he made a political donation
24 of 50,000 pounds in the early 1980s". Isn't that right?
- 12:20:53 25 A. Yes.
- 26 Q. 414 At the very bottom of that column I think it is the case that you are
27 named for the first time, isn't that right, the article records "Gilmartin
28 was involved in the initial attempt to develop the Quarryvale project in
29 west Dublin as a massive shopping complex, but project was taken over by
12:21:13 30 developer Owen O'Callaghan with financial support from AIB".

- 12:21:15 1 A. Yes. I wonder how did the journalist get all that information.
- 2 Q. 415 Looking at the second column, just leaving it exactly where it is, if you
- 3 move across the next column it says:
- 4
- 12:21:23 5 "Gilmartin was bought out of Quarryvale by O'Callaghan and for the sum of
- 6 8.3 million and this was netted down to 7 million" and it refers to Noel
- 7 Smyth and goes on to deal with complaints of difficulties with the
- 8 revenue, isn't that right?
- 9 A. It is obvious Tom Gilmartin is using Jodie Corcoran to get these things
- 10 out, etcetera.
- 11 Q. 416 What is also happening, Mr. O'Callaghan, is that in the, what is entering
- 12 into the public domain now, are complaints being made by Mr. Gilmartin and
- 13 your name is being mentioned and Quarryvale is being mentioned for the
- 14 first time, isn't that right?
- 12:21:55 15 A. Yes.
- 16 Q. 417 And I think that in other articles, at 25318, published on the same day,
- 17 entitled "Tribunal to quiz Flynn and Ahern", there are references to
- 18 complaints being made by Mr. Gilmartin and also references to Quarryvale,
- 19 isn't that right?
- 12:22:16 20 A. Yes.
- 21 Q. 418 Now, you would have known when you discussed this with Mr. Dunlop on the
- 22 Saturday night and you would have known when you discussed it with Mr.
- 23 Dunlop that this was a Tribunal matter, isn't that right?
- 24 A. Yes.
- 12:22:27 25 Q. 419 And that Mr. Gilmartin, if you hadn't known it to this point in time, was
- 26 making complaints or allegations to the Tribunal?
- 27 A. Yes indeed, and he was talking to journalists about this, yes.
- 28 Q. 420 Yes. This was being reported in the newspapers, isn't that right?
- 29 A. Yes.
- 12:22:40 30 Q. 421 But up to this point in time, the Tribunal hadn't been in contact with

12:22:43 1 you, isn't that right, Mr. O'Callaghan?

2 A. No, that's right.

3 Q. 422 Right. Now, I think on the Sunday following those four articles, on the
4 Monday I think, sorry on the following week, yes I beg your pardon, 13291
12:23:05 5 there was an article on the Monday at 15 -- at 16360 which suggested that
6 Mr. Gilmartin wouldn't testify, isn't that right?

7 A. Yes.

8 Q. 423 And I think that on the following Friday, that is the 2nd September 1998,
9 Mr. Gilmartin swore an affidavit in Luton, which was provided to the
12:23:30 10 Tribunal, isn't that right?

11 A. Yes.

12 Q. 424 Right. And just looking then briefly at that document at 16028, he made
13 allegations about Mr. Liam Lawlor, isn't that right?

14 A. Yes.

12:23:46 15 Q. 425 And he made allegations about payments in connection Mr. Liam Lawlor,
16 isn't that right?

17 A. Yes.

18 Q. 426 And if we turn to the next page, this dealt with the Arlington matter and
19 if we go on, the next three-pages deal with the Arlington matter and
12:24:02 20 finally at 16032 at paragraph 14, he refers to payments that were made to
21 Mr. Lawlor, isn't that right?

22 A. Yes.

23 Q. 427 Right. And at paragraph 18 at 16034, he made complaints about Mr. Lawlor
24 and Mr. Redmond, isn't that right?

12:24:24 25 A. Yes.

26 Q. 428 And at 16035, he set out the circumstances in which a payment was made of
27 50,000 pounds to Mr. Flynn, isn't that right?

28 A. Yes.

29 Q. 429 And that can be found at the following page at 16036 and at 16037 he makes
12:24:47 30 reference at paragraph 23 to you leaving a meeting and coming back and

- 12:24:52 1 saying there would be no designation on the Blanchardstown site and that
2 Bertie Ahern had seen to it that the Green Property site and Quarryvale
3 would never receive designation, isn't that right?
- 4 A. Yes.
- 12:25:02 5 Q. 430 And in the preceding paragraph he deals with a demand for 5 million pounds
6 that was made in government buildings, isn't that right?
- 7 A. Can I just see that one?
- 8 Q. 431 Yes at paragraph 22, 16037, he described leaving the meeting, he was
9 approached by a man who told him he was going to make a lot of money, that
12:25:25 10 man sought 5 million pounds, isn't that right?
- 11 A. Yeah.
- 12 Q. 432 On the following page at paragraph 24 at 16038, he swore to his belief
13 that substantial sums of money were paid as bribes by Owen O'Callaghan to
14 politicians from the account of Barkhill Limited through Shefran Limited
12:25:43 15 and Frank Dunlop, isn't that right?
- 16 A. Yes.
- 17 Q. 433 Right. Now insofar as that is an allegation made against Mr. Dunlop,
18 again it must be true if what Mr. Dunlop has told the Tribunal is true,
19 isn't that right?
- 12:25:55 20 A. It must be true if --
- 21 Q. 434 Insofar as Mr. Dunlop is concerned?
- 22 A. Yes.
- 23 Q. 435 Right. But insofar as you are concerned, Mr. O'Callaghan, it's your
24 position you never paid a bribe to anybody, is that it?
- 12:26:05 25 A. Absolutely not. Yes, yes.
- 26 Q. 436 And in the next heading, under the heading "councillors" he sets out how
27 he was asked for 100,000 pounds by Councillor Hanrahan and a reference to
28 Councillor McGrath and that he never gave them any money, isn't that
29 right?
- 12:26:27 30 A. Yes.

12:26:27 1
2 CHAIRMAN: Sorry he said he was asked for 100,000 pounds by a number of
3 councillors.
4 Q. 437 MS. DILLON: Yes, one of them was Finbar Hanrahan a councillor from Lucan,
12:26:31 5 another was Colm McGrath, I never gave them any money, isn't that right?
6 In the next paragraph he refers to Senator Willie Farrell who he knew and
7 an introduction to Sean Gilbride, isn't that right?
8 A. Yes.
9 Q. 438 And at paragraph 27 on the following page he sets out his belief that
12:26:52 10 Councillor Gilbride gave up his job for a year and worked for O'Callaghan
11 in the campaign to get zoning for Quarryvale, isn't that right?
12 A. Yes.
13 Q. 439 That wasn't something that had entered the public domain at that stage,
14 isn't that right?
12:27:05 15 A. Yes.
16 Q. 440 That wasn't something that you told to Mr. Gilmartin yourself, isn't that
17 right?
18 A. Yes.
19 Q. 441 Right. And then he sets out that in the affidavit was an outline of the
12:27:13 20 events, isn't that right?
21 A. Yes.
22 Q. 442 The fact of that was reported in the newspapers the following week that
23 Mr. Gilmartin had agreed to testify at 16361 and that he had provided a
24 statement to the Tribunal, isn't that right?
12:27:34 25 A. Yes.
26 Q. 443 And there was reference in the newspapers the following weekend, that is
27 the weekend of the 4th October 1998 to the fact that the Tribunal had met
28 with Mr. Gilmartin and received a sworn document from Mr. Gilmartin, isn't
29 that right?
12:27:50 30 A. Yes.

- 12:27:51 1 Q. 444 There was also an article in the newspapers at 19901 which identified Mr.
2 Dunlop, isn't that right?
- 3 A. Yes.
- 4 Q. 445 As having been in receipt of money in connection with Quarryvale from you,
12:28:13 5 isn't that the position?
- 6 A. Yes.
- 7 Q. 446 Right. And Mr. Dunlop is recorded at the bottom of the second column as
8 having confirmed "that as part of his duties as a lobbyist he made
9 political contributions to a range of politicians and parties over the
10 12:28:27 years, all of which were documented and available for inspection by the
11 revenue, the Flood or Moriarty Tribunals". Isn't that right?
- 12 A. Yes.
- 13 Q. 447 And in your discussions with Mr. Dunlop, did Mr. Dunlop discuss with you
14 the nature of the political donations that he had made as part of his
15 12:28:44 duties as a lobbyist?
- 16 A. No.
- 17 Q. 448 And when you read this article, Mr. O'Callaghan, and you saw what your
18 lobbyist had said about the nature of the duties as he saw it, did you ask
19 him what payments Mr. Dunlop had made on your behalf in the discharge of
20 12:29:01 his duties as your lobbyist?
- 21 A. No I did not ask him specifically that, I asked him what was it was all
22 about but he dismissed the whole thing very flippantly, which he is
23 inclined to do. He dismissed the whole investigation completely.
- 24 Q. 449 If we look at the specific matter that if this is accurate which records
25 12:29:21 Mr. Dunlop as confirming something, if we just look at the matter that Mr.
26 Dunlop is recorded as confirming, which is that "as part of his duties as
27 a lobbyist he made political contributions to a range of politicians and
28 parties over the years".
- 29 A. Yes.
- 30 12:29:34 Q. 450 In simple understanding, Mr. O'Callaghan, I suggest to you that when you

- 12:29:37 1 read that you would have known that Mr. Dunlop was making political
2 donations on behalf of his clients, one of whom was yourself, isn't that
3 right?
- 4 A. Yes, I assumed he was always doing that, yes.
- 12:29:47 5 Q. 451 And therefore at this stage did you go to Mr. Dunlop and ask him for a
6 breakdown of the political payments that Mr. Dunlop had made in the
7 discharge of his functions as your lobbyists?
- 8 A. No, I did not and if I did I wouldn't be sure of the answer I had get.
- 9 Q. 452 Did you ever seek an assurance from Mr. Dunlop that the payments he made
10 and to which he had admitted to and were referred to in the newspaper were
11 all legitimate payments?
- 12 A. I would have assumed always as I said before, that the contributions that
13 Frank Dunlop had made and I am sure he would have been asked for a lot of
14 political contributions that they would have been political contributions
12:30:22 15 to help the colleagues, the councillors get elected. I always assumed
16 that and I assumed he would be asked for more contributions than anybody
17 else.
- 18 Q. 453 That's not my question, Mr. O'Callaghan. My question to you is; did you
19 seek an assurance from Mr. Dunlop that any payments he had made while he
12:30:37 20 was your lobbyist were bona fide political donations?
- 21 A. No I did not look for an assurance because I assumed there was no need for
22 an assurance. I would accept that any contributions he made were
23 political contributions.
- 24 Q. 454 Therefore it never occurred to you if I understand you correctly,
12:30:53 25 Mr. O'Callaghan, correct me if I am wrong, to ever seek an assurance from
26 Mr. Dunlop that in any of the activities that he had involved himself with
27 on your behalf, that he had ever made any anything other than a proper
28 political payment?
- 29 A. There was no reason to ask him.
- 12:31:12 30 Q. 455 All right. So at this stage even when matters are beginning to emerge

- 12:31:12 1 into the public arena for the first time and Mr. Dunlop has been named,
2 isn't that right?
- 3 A. Yes.
- 4 Q. 456 He has been named in the context of Quarryvale and as your lobbyist, isn't
12:31:19 5 that right?
- 6 A. Yes.
- 7 Q. 457 You never go to Mr. Dunlop and seek any assurance from Mr. Dunlop that the
8 monies or, that you gave him, were ever used for anything other than
9 proper purposes?
- 12:31:31 10 A. No because that very last paragraph in the statement is exactly as I felt,
11 he did make political contributions and he would have had to make a lot of
12 them.
- 13 Q. 458 Yes, and following on that, at the same time in the newspaper articles at
14 16364, Mr. Dunlop is recorded as having spoken with I think Mr. Frank
12:31:58 15 Connolly of the Sunday Business Post in the central column?
- 16 A. Yes.
- 17 Q. 459 The following is stated "One day in 1991 O'Callaghan called on PR
18 consultant a former Fianna Fail government press officer who suggested
19 that the best course of action was to seek the rezoning of the site".
- 12:32:15 20 A. Sorry, I haven't got that.
- 21 Q. 460 Do you see "one day in 1991"?
- 22 A. Yes.
- 23 Q. 461 "There meant a considerable round of consultations with councillors
24 resident, groups and planners. If I had a penny for every pint I bought
12:32:29 25 during those years, I would be living in a warm climate said Dunlop, a
26 non-drinker who lobbied hard for the rezoning and subsequent planning
27 permission despite an intensive campaign by Green Property against the
28 development". Isn't that right?
- 29 A. Yes.
- 12:32:41 30 Q. 462 It would follow if that's an accurate quote that Mr. Dunlop spoke to

- 12:32:44 1 Mr. Connolly, isn't that right?
- 2 A. I'm sure Connolly, Corcoran and Dunlop were continuously --
- 3 Q. 463 Speaking to each other?
- 4 A. -- communicating with each other. Yes.
- 12:32:52 5 Q. 464 And what Mr. Dunlop is discussing with these journalists and what's being
- 6 recorded is what Mr. Dunlop has done in the course of his job as a
- 7 lobbyist, isn't that right?
- 8 A. Looks like that.
- 9 Q. 465 This is something you would have discussed with Mr. Dunlop before he gave
- 10 the interviews, isn't that right?
- 11 A. No, no God he wouldn't ask me about his interviews, he would do them
- 12 himself.
- 13 Q. 466 No the subject matter of the interview was a discussion about Mr. Dunlop's
- 14 conduct as your lobbyist, is that something Mr. Dunlop would have
- 15 discussed with you?
- 12:33:16 16 A. No.
- 17 Q. 467 Right. Is it your position then that you were unaware prior to Mr. Dunlop
- 18 giving these interviews of the fact that these interviews were going take
- 19 place?
- 12:33:26 20 A. I knew absolutely nothing about these interviews.
- 21 Q. 468 You knew nothing about these interviews?
- 22 A. I didn't know, I obviously assumed that Frank Dunlop would be continuously
- 23 talking to journalists he didn't specifically ever tell me who he was
- 24 talking to or speaking to and never asked me for any information or
- 12:33:40 25 assistance, he just did it himself.
- 26 Q. 469 Around this time, Mr. O'Callaghan, this is early October of 1998, did Mr.
- 27 Dunlop approach you for money in connection with the problem with the
- 28 Revenue Commissioners?
- 29 A. Oh, yes. His success fees.
- 12:33:56 30 Q. 470 If I can show you in order to put a time line on this, Mr. O'Callaghan,

- 12:34:02 1 13291, on the 30th September 1998, if Mr. Dunlop and Mr. McGowan his
2 accountant are correct, Mr. Dunlop discloses to his accountant for the
3 first time that he has not made proper disclosure to the Revenue
4 Commissioners?
- 12:34:22 5 A. Yes.
- 6 Q. 471 On the 2nd October 1998, at 16206, Mr. Dunlop's accountant, Mr. McGowan
7 rings the chief inspector's office of the Revenue Commissioners and in the
8 second paragraph explains to him that client brought something to his
9 attention within the past 48 hours which requires disclosure to Revenue,
10 family circumstances of client and the fact that he wishes to make
11 disclosure now before anything becomes public, isn't that right?
- 12 A. Yes.
- 13 Q. 472 And there is some discussion about a prior audit which is described as
14 having withered on the vine and certain advices are given to Mr. Dunlop's
15 accountant and one of the advices is that as soon as possible he should
16 make a substantial payment to the Revenue, isn't that right?
- 17 A. Yes.
- 18 Q. 473 And that would be well known Revenue advice, isn't that right?
- 19 A. Yes.
- 12:35:19 20 Q. 474 It wouldn't be unknown that if you are going to come clean to the revenue
21 in relation to past misdemeanours that the best approach is to come with a
22 substantial cheque, isn't that right?
- 23 A. I believe so.
- 24 Q. 475 Now, did Mr. Dunlop approach you?
- 12:35:32 25 A. No, I don't know, now I didn't know that this was happening actually. He
26 approached me when he got his bill from the Revenue I believe, or when he
27 was about to get it, I wasn't sure how it led up to this. Can I just
28 explain to you if you wish?
- 29 Q. 476 Yes.
- 12:35:49 30 A. Or will I just --

12:35:50 1 Q. 477 Yes.

2 A. Okay. Two things here, it goes back to the balancing payment you

3 mentioned, just before the break. Basically Frank Dunlop's success fee

4 was based on the lifting of the cap. The cap was lifted as we agreed

12:36:09 5 there before the break, when the Development Plan at that particular

6 period, but it was lifted in such a way that it wasn't definitely lifted,

7 it was subject, there was a condition of lifting, subject to a master plan

8 being carried out. So everybody thought the cap was lifted and there was

9 a lot of commotion about this, but it was a conditional lifting and we had

12:36:30 10 to do a proper master plan which to this day is not agreed and hopefully

11 will be agreed early next year, only then will the cap be lifted properly.

12

13 Frank Dunlop was, the cap was not lifted really from his point of view

14 from his financial gain point of view. And because of that and we assumed

12:36:48 15 shortly after '98 that it would have been agreed and we agreed the master

16 plan we would have succeeded in that. So he was leaving the cap, the

17 figure that was never discussed between us, he was leaving it out there

18 until the whole master plan was finalised and we could agree on what was

19 due, what fee he might get for it.

12:37:07 20

21 In the meantime he was looking for money this is why I suggested we would

22 give him the balancing retainer payment, which we gave to him, which he

23 has confused slightly as part of his success fee. That was made up as I

24 described because shortfall in the retainer of 5,000 pound a month,

12:37:24 25 shortfall some months we paid him 1,000, some months 2,000 and for one

26 whole year we didn't pay anything from '93 until '96 the best way to sort

27 out the financial difficulty when he was looking for money in '98, was the

28 success fee due to him, he was waiting a long time for it, was that

29 despite the fact it was subject to the cap being lifted, was to give him

12:37:44 30 his balancing payment. Which we did and which I did and which he actually

12:37:48 1 at some stage confused as part of the success fee.
2
3 That was done in I think that was paid in, I think that was the January
4 '98?

12:37:59 5 Q. 478 The balancing payment of 100,000 pounds.
6
7 JUDGE FAHERTY: June, I think.

8 A. Sorry June '98. Shortly after that I didn't realise that Frank Dunlop had
9 any revenue problems and one of Frank Dunlop's weakest points is his
10 accounting system is very poor. He approached me to say that he had a
11 difficulty with the Revenue Commissioners and they were looking for a lot
12 of money from him and that he would now have to call in his success fee or
13 as he said himself part of his success fee. He eventually came to me and
14 told me that the figure was 300,000 pounds to settle his Revenue problems
12:38:14 15 and we gave him that as the success fee despite the fact that the invoice
16 I got from him had said part of his success fee. So that money was paid
17 and as far as I was concerned the success fee was then also paid despite
18 the fact that the cap had not officially been lifted. I think Frank has
19 eventually accepted that, I think he has accepted that situation now, that
12:38:33 20 the success fee is paid.
21
22 That's how those two payments came together actually.

23 Q. 479 Well just looking now at the separation of those two payments for the
24 moment, Mr. O'Callaghan, we have already dealt with the one that you paid
12:39:02 25 on the 3rd June of 1998?
26 A. Yes.

27 Q. 480 On foot of your discussion on the 22nd May 1998, isn't that right?
28 A. Yes.

29 Q. 481 And in October 1998 at 13291, I was showing you Mr. Dunlop's diary to
12:39:18 30 assist you in a time line, and I had indicated to you Mr. Dunlop's

- 12:39:23 1 evidence confirmed by his accountant, that on the 30th September 1998, Mr.
2 Dunlop made disclosure to his accountant of his failure to make proper and
3 adequate returns to the Revenue?
- 4 A. Yes, I wasn't aware of that at the time.
- 12:39:37 5 Q. 482 On the 2nd October, that is that Friday, Mr. Gilmartin swore the
6 affidavit, the contents of which I have put to you, isn't that right?
- 7 A. Yes.
- 8 Q. 483 And on the following Monday which is October 5th, at 13301 Mr. Dunlop
9 provided an invoice at 13302.
- 12:40:10 10 A. Yes.
- 11 Q. 484 Which was paid that day or the following day, isn't that right?
- 12 A. Yes, because I think he settled with the Revenue at this stage.
- 13 Q. 485 I don't think it's the case, Mr. O'Callaghan, but it's not an issue we
14 need discuss at any length that there was at that stage any settlement
15 between Mr. Dunlop and the revenue. What I am pointing out to you now if
16 I could have 13291 please on screen together with 13301.
17
18 If we just take these two pages of Mr. Dunlop's diary as representing two
19 consecutive weeks, Mr. O'Callaghan. The sequence appears to be as
20 follows; on the 30th September 1998 following the publication of four
21 stories in the newspaper on the 27th September 1998, Mr. Dunlop made
22 disclosure to his accountant of his failure to pay adequate tax.
- 23 A. Yes.
- 24 Q. 486 On the 1st October, the following day, you have a meeting that lasts all
25 day with Mr. Dunlop, according to Mr. Dunlop's dairy, do you see that?
- 26 A. I don't think it's all day.
- 27 Q. 487 Well it simply says "OOC all day" that's why I put it to you, I am just
28 putting to you what the diary records, Mr. O'Callaghan, and I accept for
29 the moment that it's a half day?
- 12:41:43 30 A. I think it was a half.

- 12:41:44 1 Q. 488 All right. On the following day, which is the 2nd October, Mr. Gilmartin
2 swears an affidavit which is provided to the Tribunal, containing
3 allegations against certain people, including yourself and Mr. Dunlop,
4 isn't that right?
- 12:41:58 5 A. Yes.
- 6 Q. 489 Right. On the following Sunday, which is the 4th, reference is made in
7 articles in the newspapers to the fact that Mr. Gilmartin is going to
8 testify to the Tribunal, we have seen those documents, isn't that right?
- 9 A. Yes.
- 12:42:12 10 Q. 490 On the following Monday, which is the 5th October Mr. Dunlop provides an
11 invoice in the sum of 300,000 pounds plus VAT, described as part payment
12 of success fee and addressed to Riga, isn't that right?
- 13 A. Yes.
- 14 Q. 491 That is stamped on the document as being received on the 7th, but the
12:42:31 15 300,000 success fee, whether it was received then or subsequently is
16 debited to the Riga bank account on the 9th October 1998, the following
17 Friday?
- 18 A. Yes.
- 19 Q. 492 So some time, Mr. O'Callaghan, between the 28th September 1998 and at it's
12:42:50 20 latest point, that is the 9th October 1998 you agreed to pay 300,000
21 pounds plus VAT to Mr. Dunlop, isn't that right?
- 22 A. Yes, I did.
- 23 Q. 493 And did you do so?
- 24 A. Yes.
- 12:43:01 25 Q. 494 Now, first of all can you tell the Tribunal on what date you had your
26 discussion with Mr. Dunlop?
- 27 A. I can't remember but from the diary it looks as if it was Thursday the
28 1st.
- 29 Q. 495 Yes. And in the course of that, which is the day after Mr. Dunlop makes
12:43:15 30 his disclosure to his accountant, but before his accountant has approached

- 12:43:19 1 the revenue which takes place on the 2nd October, what did Mr. Dunlop tell
2 you?
- 3 A. Told me he had a problem with the revenue, serious problem with the
4 revenue and he was going to be asked for I think it was 300,000 pounds and
12:43:33 5 he asked me could I help him by sorting out, by paying his success fee to
6 him, I agreed I would do it, that's what that meeting was about.
- 7 Q. 496 And is that the meeting that is referred to as "OOC all day", which is
8 probably a half day meeting?
- 9 A. I presume it is.
- 12:43:50 10 Q. 497 How long did that discussion take with Mr. Dunlop?
- 11 A. Could have been there for two hours I would say in his office.
- 12 Q. 498 Did you discuss with Mr. Dunlop how his difficulties with the revenue had
13 arisen?
- 14 A. In broad terms, yes.
- 12:44:06 15 Q. 499 And in broad terms, what is did Mr. Dunlop tell you?
- 16 A. I presume he told me he wasn't paying his taxes, as simple as that.
- 17 Q. 500 Did you discuss the payments that had been made to Mr. Dunlop by your
18 company to Shefran?
- 19 A. Not specifically, no.
- 12:44:23 20 Q. 501 Did you ask Mr. --
- 21 A. Sorry can I go back, Shefran would have been nothing to me, Shefran was
22 part of Frank Dunlop, I keep on saying that, I can be paying any name you
23 like as long as they were paid to Frank Dunlop's office or one of his
24 companies.
- 12:44:38 25 Q. 502 Would you have asked Mr. Dunlop whether there was any possible downside or
26 exposure to yourself or your companies in his difficulty with the revenue?
- 27 A. Possibly.
- 28 Q. 503 Would you have discussed with Mr. Dunlop the series of articles that had
29 appeared in the newspapers the previous Sunday in relation to
12:44:55 30 Mr. Gilmartin, his allegations and allegations of bribery and corruption

- 12:44:58 1 recollect and the naming of yourself, Quarryvale and Mr. Dunlop in the
2 newspapers?
- 3 A. Very, very briefly, because I remember this I do remember, Frank Dunlop
4 was very upset about this revenue problem, that was the main, main
12:45:09 5 problem. It was a big problem, a lot of money at that particular time.
- 6 Q. 504 Did Mr. Dunlop discuss with you that if the newspapers stories were true,
7 or accurate and if Mr. Gilmartin was discussing Quarryvale with the
8 Tribunal there was a likelihood that yourself and Mr. Dunlop would be
9 brought into the Tribunal, was that something that was discussed?
- 12:45:30 10 A. No it wasn't discussed and the reason of that this I do remember well was
11 that Frank Dunlop treated it very lightly, which I think surprised me.
- 12 Q. 505 Mr. Dunlop's invoice was dated the 5th October 1998 and was paid then or
13 the following day, isn't that right?
- 14 A. Sorry can you repeat that please?
- 12:45:52 15 Q. 506 Mr. Dunlop's invoice is dated 5th October 1998?
- 16 A. Yes.
- 17 Q. 507 And it was paid by Riga then or the following day, isn't that right?
- 18 A. Yes.
- 19 Q. 508 Right. In what circumstances, Mr. O'Callaghan, did you make the payments
12:46:00 20 so urgently to Mr. Dunlop?
- 21 A. Because as I recollect I think he had made some, his accountant had made
22 an agreement with the revenue and was subject to paying immediately or,
23 might even have been worse than that might have even made a payment
24 himself, his own cheque maybe and there was nothing to meet it unless we
12:46:22 25 reimbursed him.
- 26 Q. 509 Did you ask Mr. Dunlop why he had failed to make proper returns to the
27 revenue over the years?
- 28 A. No, I did not.
- 29 Q. 510 Did you ask Mr. Dunlop how his problem with the revenue had arisen?
- 12:46:31 30 A. No.

- 12:46:32 1 Q. 511 Did you ask Mr. Dunlop whether his problems with the revenue were in
2 anyway tied into the publication of material in the newspapers that
3 suggested he might become tied up in a planning corruption inquiry?
4 A. No I didn't ask him that, but I had a fair idea, as I said to you Frank
12:46:45 5 Dunlop's accounting system was never very good.
- 6 Q. 512 Did Mr. Dunlop indicate to you as he apparently had indicated to his
7 accountant, when he met with his accountant on the 30th, that one of Mr.
8 Dunlop's concerns was that these matters were going to become public?
9 A. Yes, I think so.
- 12:47:05 10 Q. 513 Did Mr. Dunlop tell you, Mr. O'Callaghan, what had precipitated his crisis
11 of conscious that led him to make disclosure to the revenue?
12 A. No, I think what he actually said was that if it did become public that he
13 could have a revenue bill, that's what it's all about.
- 14 Q. 514 That in fact --
12:47:26 15 A. That he would be investigated.
- 16 Q. 515 -- Mr. Dunlop's concern in relation to a possible revenue investigate was
17 predicated upon the newspaper articles that had implicated him as being
18 involved potentially in a Tribunal?
19 A. Yes.
- 12:47:39 20 Q. 516 Which had been published in the newspapers the previous week, isn't that
21 right?
22 A. Yes.
- 23 Q. 517 And what Mr. Dunlop found himself in, Mr. O'Callaghan, when he went to his
24 accountant, was in a crisis situation, isn't that right?
12:47:50 25 A. Yes.
- 26 Q. 518 And that crisis situation was precipitated by a potential examination of
27 him in a public forum, namely a Tribunal, isn't that right?
28 A. Yes.
- 29 Q. 519 It was because of that concern that Mr. Dunlop makes disclosure to his
12:48:04 30 accountant and from his accountant to the revenue, isn't that right?

- 12:48:07 1 A. Yes.
- 2 Q. 520 It would follow from that, that if Mr. Dunlop's concern related to
3 disclosure to the revenue he anticipated that any inquiry by the Tribunal
4 would require a trawl through his finances, isn't that right?
- 12:48:19 5 A. Yes.
- 6 Q. 521 And that that trawl through his finances would reveal the deficiency that
7 would be identified by the revenue in the first instance, isn't that
8 right?
- 9 A. In his accounting system, yes.
- 12:48:29 10 Q. 522 And of course any such trawl if properly carried out would have revealed
11 the existence of Mr. Dunlop's secret bank accounts?
- 12 A. Yes.
- 13 Q. 523 Now, did it take Mr. Dunlop two hours to explain all that to you, Mr.
14 O'Callaghan, when you met with him?
- 12:48:41 15 A. Mr. Dunlop didn't explain those personal details to me at all. There was
16 no reason for him to do, it he wouldn't do it.
- 17 Q. 524 Well Mr. Dunlop comes to you in trouble, Mr. O'Callaghan, isn't that right
18 and he is in trouble with the revenue because of a potential involvement
19 with this Tribunal?
- 12:48:56 20 A. I don't know if he, yes he was in trouble with the revenue because he
21 wasn't paying his taxes.
- 22 Q. 525 He was in trouble with the revenue according to what his accountant told
23 the Tribunal because of a concern that matters could go public, isn't that
24 right?
- 12:49:07 25 A. Yes because he wasn't paying his taxes full stop.
- 26 Q. 526 Yes, but he comes to you in his hour of difficulty, isn't that right?
- 27 A. Yes.
- 28 Q. 527 And you give him the money to pay?
- 29 A. Because the money was due to him.
- 12:49:17 30 Q. 528 Yes you give him the money, isn't that right?

- 12:49:20 1 A. Yes.
- 2 Q. 529 Before you give him the money, Mr. O'Callaghan, what assurances did you
3 get from him that any potential involvement he had in the Tribunal could
4 not implicate you?
- 12:49:29 5 A. Absolutely none.
- 6 Q. 530 Did you have any discussion with this man whose looking for 300,000 pounds
7 plus VAT off you as to any potential down side for you or your companies
8 in your involvement with the Tribunal?
- 9 A. No, we didn't have that type of discussion, the discussion was about Frank
12:49:45 10 Dunlop having a revenue problem, owing taxes to the revenue, owed money by
11 me, and he wanted it.
- 12 Q. 531 Mr. Dunlop's concern is precipitated by the publicity, isn't that correct?
- 13 A. Yes.
- 14 Q. 532 And his concern as expressed to his accountant and as his accountant told
12:50:04 15 the revenue was because of a concern that matters would go public, isn't
16 that right?
- 17 A. Yes.
- 18 Q. 533 The only way that they could go public was because of on involvement with
19 this Tribunal?
- 12:50:20 20 A. Yes.
- 21 Q. 534 He goes to you in his hour of need, Mr. O'Callaghan, for 300,000 pounds to
22 give the revenue, and it arises out of his concern about a potential
23 involvement in this building, isn't that right, in this Tribunal?
- 24 A. Yes but in fact --
- 12:50:30 25 Q. 535 If we stop at yes. If Mr. Dunlop's concern arose because of a potential
26 involvement in this Tribunal, is it your evidence to the Tribunal that in
27 the course of your two hour conversation when he asked you for 300,000
28 pounds you never discussed what Mr. Dunlop had done that might bring him
29 before this Tribunal?
- 12:50:49 30 A. No, I did not.

- 12:50:50 1 Q. 536 All right. So --
- 2 A. Because Mr. Dunlop's problem was not just, as far as I was concerned Mr.
- 3 Dunlop's revenue problem had, was not just it did not involve Quarryvale
- 4 alone, Mr. Dunlop's problem was a global problem that he had. He had a
- 12:51:06 5 revenue, a tax problem. With everything else he was involved in and
- 6 whatever else his business was involved in. Quarryvale was just one of
- 7 these, if it was a problem with him.
- 8 Q. 537 Yes.
- 9 A. It wasn't just particularly Quarryvale we were talking about, he was
- 12:51:20 10 talking about, he had a revenue problem full stop. It could have been
- 11 anything else he was involved in, I didn't know what else he was involved
- 12 in.
- 13 Q. 538 You misunderstand me, Mr. O'Callaghan, what I am asking you about is that
- 14 if you accept that Mr. Dunlop's concern was publicity by being involved in
- 12:51:36 15 this Tribunal in the course of your discussions with Mr. Dunlop and prior
- 16 to you agreeing to pay him the 300,000 pounds, is it your evidence to the
- 17 Tribunal that you never asked him for any assurance about why he might be
- 18 involved in this Tribunal?
- 19 A. No, I never asked him, no.
- 12:51:56 20 Q. 539 And therefore you were satisfied to pay Mr. Dunlop the 300,000 pounds
- 21 success fee that you were happy you owed him in order to get him out of
- 22 his difficulties with the Revenue Commissioners?
- 23 A. Well, it was his money.
- 24 Q. 540 All right. I think when he made disclosure to the revenue at 25311, on
- 12:52:13 25 the 8th October and he furnished a cheque of 243,478 pounds?
- 26 A. Yes.
- 27 Q. 541 Which is funded primarily I think out of your cheque, isn't that right?
- 28 A. Yes indeed.
- 29 Q. 542 He provides working papers setting out the basis of calculations that are
- 12:52:31 30 made, the following page please, isn't that right?

- 12:52:34 1 A. Yes.
- 2 Q. 543 And in the working papers that he provides he provides at 25314, Shefran
3 payments?
- 4 A. Yes.
- 12:52:44 5 Q. 544 And on the following page and on the third page he provides other
6 receipts?
- 7 A. Yes.
- 8 Q. 545 And those receipts that Mr. Dunlop discloses to the revenue under the
9 heading "other receipts" are the 175,000 pounds that you paid him through
10 Shefran, isn't that right?
- 11 A. Yes.
- 12 Q. 546 So in making his disclosure to the revenue, Mr. Dunlop makes absolutely
13 certain that the payments you made to him, which were paid to Shefran, are
14 included in the disclosure, isn't that right?
- 12:53:18 15 A. Yes.
- 16 Q. 547 When you agreed to pay the 300,000 pounds to Mr. Dunlop so that he could
17 get out of his difficulty with the revenue, did you ask him to insure that
18 any of those Shefran payments would be included if he hadn't already made
19 disclosure about them?
- 12:53:34 20 A. No I did not, this was a general tax problem he had as far as I was
21 concerned.
- 22 Q. 548 So you never asked any question of Mr. Dunlop about whether any of the
23 monies you had paid him or Barkhill had paid him might be contributing to
24 his tax problem?
- 12:53:46 25 A. No, I didn't ask him that because there was an overall problem he had as
26 far as I was concerned.
- 27 Q. 549 What did you talk about for two hours, Mr. O'Callaghan, if you didn't talk
28 about the detail of Mr. Dunlop's tax problem that had brought him to your
29 door or you didn't discuss why he might be involved in the Tribunal?
- 12:54:01 30 A. We talked about a lot of other things, between all the phone calls Frank

- 12:54:04 1 Dunlop would have taken at the meeting.
- 2 Q. 550 I see. Did you talk about Tom Gilmartin?
- 3 A. Possibly he came up in conversation, yes, I'm sure.
- 4 Q. 551 Did you talk about the allegations that Mr. Gilmartin was making?
- 12:54:16 5 A. I'd say we probably did, but as I said to you before Frank Dunlop
6 dismissed these very trivially, didn't take any great notice of them.
- 7 Q. 552 Did you have any concern about the interviews Mr. Dunlop was giving to the
8 media?
- 9 A. No.
- 12:54:31 10 Q. 553 Did you have any concern about the fact that Mr. Dunlop was talking about
11 matters concerning you to the media?
- 12 A. No. In fact I would leave that totally in his hands I wouldn't give any
13 advice to Mr. Dunlop on that.
- 14 Q. 554 Is there any suggestion or concern that you might have paid him the money
12:54:49 15 in order to keep you out of the Tribunal?
- 16 A. Not at all.
- 17 Q. 555 No. Was that anything you ever discussed with Mr. Dunlop to make sure
18 that you had no involvement in the Tribunal?
- 19 A. Absolutely not.
- 12:55:02 20 Q. 556 At 22009, Mr. O'Callaghan, on the Sunday after you paid the money to Mr.
21 Dunlop and Mr. Dunlop has made his settlement provisionally with the
22 revenue, an article appeared which identified Mr. Dunlop, isn't that
23 right, quite clearly and Mr. Lawlor, isn't that right?
- 24 A. Yes.
- 12:55:26 25 Q. 557 And in the content of that article, in the third column it records "Last
26 week in the company of his solicitor and in an interview which he
27 tape-recorded, Mr. Dunlop said that Shefran Limited was a company under my
28 indirect control".
- 29 A. Sorry I have lost that, yes sorry, yes.
- 12:55:47 30 Q. 558 Beneath that it says "Yesterday" which would have been the Saturday "in a

12:55:54 1 telephone interview he added, Tom Gilmartin did not want me under any
2 circumstances and I use that word advisedly, involved in the Quarryvale
3 project. In order to avoid him being aware of my involvement invoices for
4 professional services were issued through Shefran".

12:56:09 5 A. Yes.

6 Q. 559 And that subsequently became part and parcel of Mr. Dunlop's statement to
7 the Tribunal, isn't that right?

8 A. Yes.

9 Q. 560 And do you agree with that?

12:56:17 10 A. Yes, initially, that is correct, yes.

11 Q. 561 And on the previous day, in the telephone interview, that was the
12 Saturday, you would have had your normal Saturday night conversation with
13 Mr. Dunlop, isn't that right?

14 A. Yes, more than likely, yes.

12:56:31 15 Q. 562 Would Mr. Dunlop have discussed with you the fact that he was giving
16 interviews about Shefran and about the receipt of monies from you to the
17 newspapers?

18 A. It's possible, yeah, it's possible.

19 Q. 563 And would you agree with me that what Mr. Dunlop is doing here is he is
12:56:46 20 giving a reason for why Mr. Gilmartin did not want him involved, isn't
21 that right?

22 A. I'm not sure of that.

23 Q. 564 Isn't that what Mr. Dunlop is doing? He is saying Tom Gilmartin did not
24 want me involved in the project, isn't that right?

12:57:04 25 A. That's right.

26 Q. 565 There is no ambiguity and he says in order to avoid Tom Gilmartin knowing
27 about it we decided invoice through Shefran?

28 A. That's as I said to you in evidence that existed from the first month or
29 so after we started lobbying for Liffey Valley.

12:57:20 30 Q. 566 This is confirmation through the media by Mr. Dunlop that the Shefran

12:57:23 1 payments that had been, the money that had been paid to him through
2 Shefran and about which he had made disclosure to the Revenue the previous
3 week, was done in order to make sure that Mr. Gilmartin didn't know about
4 it, if what he's saying is correct?

12:57:37 5 A. That's what I said in evidence, yes, same thing.

6 Q. 567 Now when you spoke with Mr. Dunlop about what he was going to say in the
7 newspapers in your Saturday night conversation, did you in the course of
8 that conversation or any conversation ever ask Mr. Dunlop look did you
9 ever pay anybody out of that money, you would have discussed I assume with
12:58:00 10 Mr. Dunlop, that he was going to tell Mr. Jodie Corcoran about Shefran and
11 the reason why the money was paid to Shefran?

12 A. I never suspected Mr. Dunlop was doing anything like he has allegedly
13 done.

14 Q. 568 I am not asking you that. I am asking you in the course of your Saturday
12:58:16 15 night conversations with Mr. Dunlop the purpose of which if your evidence
16 is correct; is to discuss what's going to be in the newspapers, whether
17 you ever asked him the question that I suggest to you it would have been
18 appropriate to ask him, whether out of all of that money that had been
19 paid to Shefran, he had ever made a payment to a politician?

12:58:33 20 A. No, I didn't ask him that.

21 Q. 569 All right. And I think that you provided a statement for the Tribunal at
22 24585, Mr. O'Callaghan, in relation to the 300,000 pounds payment and you
23 say that there is no truth in the allegation that you paid Mr. Dunlop
24 monies either to tell a certain story to the Tribunal or not to talk to
12:58:58 25 the Tribunal at all, isn't that right?

26 A. That would be the case.

27 Q. 570 By this stage when you paid the 300,000 pounds, Mr. O'Callaghan, the
28 Tribunal hadn't been in contact with you, isn't that right?

29 A. I don't think so.

12:59:09 30 Q. 571 I think that the first time the Tribunal wrote to your solicitors I think

- 12:59:14 1 subject to correction, was the 15th October 1998, which was posted on the
2 16th October 1998?
- 3 A. Yes.
- 4 Q. 572 Mr. Dunlop would have received a letter from the Tribunal I think on the
12:59:28 5 13th October 1998, isn't that right?
- 6 A. Yes.
- 7 Q. 573 Would it be fair to say that as soon as Mr. Dunlop got the letter from the
8 Tribunal he would have told you about it?
- 9 A. Oh, yes he would, yes.
- 12:59:38 10 Q. 574 And you likewise would have told him?
- 11 A. Yes, that would be correct, yes.
- 12 Q. 575 But by the time you paid the 300,000 pounds to Mr. Dunlop neither of you
13 had had any formal communication from the Tribunal?
- 14 A. I don't think so.
- 12:59:52 15 Q. 576 Isn't that the factual position?
- 16 A. Yes, that's correct.
- 17 Q. 577 Isn't that the position?
- 18 A. Yes.
- 19 Q. 578 Right. And is it your evidence to this Tribunal that in handing over
13:00:01 20 300,000 pounds plus VAT to Mr. Dunlop on the 8th or the 7th October 1998,
21 you did so without ever seeking any confirmation from Mr. Dunlop as to
22 what he had done with your money when you had a paid it to him in 1991 and
23 1992?
- 24 A. I never asked him that question.
- 13:00:20 25 Q. 579 All right. Were you ever minded, Mr. O'Callaghan, at any stage,
26 subsequently in your relationship with Mr. Dunlop, to ask him for an
27 assurance as to what he had done with the money that you had given to him
28 and which had been paid to Shefran?
- 29 A. No.
- 13:00:37 30 Q. 580 May the Tribunal take it that to this day you have never asked Mr. Dunlop

13:00:44 1 what he did with the money?

2 A. Oh I have never asked him no, that is a fact, to this day I don't know

3 what he did with the money.

4 Q. 581 Have you ever asked him whether he paid a bribe to a politician?

13:00:57 5 A. No I haven't.

6 Q. 582 Have you ever asked him for an assurance that he never did anything wrong

7 while he was acting for you?

8 A. No.

9 Q. 583 No.

13:01:06 10 A. No.

11 Q. 584 Why not?

12 A. Because well, it's a conversation I wouldn't have him for a start.

13 Secondly, I don't believe in my opinion that he did anything wrong really.

14 He has made a lot of allegations -- nothing has been proved yet or

13:01:31 15 established -- I find it very hard to believe, so when I don't believe it

16 myself, I don't even feel like asks those questions plus I'm not even sure

17 what kind of an answer I'd get from him.

18 Q. 585 Wouldn't you, looking back on it now, Mr. O'Callaghan, regard it as an

19 extraordinary omission on your part? That in your dealings with Mr.

13:01:51 20 Dunlop in October and November of 1998, in the teeth of a series of

21 articles which were inching if I may say so, closer and closer to both

22 yourself and Mr. Dunlop, as being involved in this Tribunal, you never put

23 to Mr. Dunlop the central question, isn't that right?

24 A. That's right.

13:02:08 25 Q. 586 The central question that you should have put to Mr. Dunlop is a simple

26 question, did you ever bribe anyone on my behalf, isn't that right?

27 A. Mm-hmm.

28 Q. 587 And you never asked him that question, isn't that?

29 A. Never did that. I suppose one of the reasons for that is that because all

13:02:23 30 of this came for a source that I would absolutely wouldn't believe one

13:02:28 1 word that came out of this same individual's mouth, that's Tom Gilmartin,
2 maybe that's what put it into my mind. Maybe that's why I haven't said, I
3 probably have such a dislike for what that man has said and a distrust for
4 that what that man has said and done and he is such a notorious and
13:02:45 5 outrageous liar that I actually -- I wouldn't insult Frank Dunlop by
6 asking him.

7 Q. 588 On the other hand there is an alternative reason, Mr. O'Callaghan, as to
8 why you mightn't have asked Mr. Dunlop the question, isn't that right?

9 A. What is that?

13:02:56 10 Q. 589 That you knew the answer, because you knew what Mr. Dunlop was doing in
11 1991 and 1992 when you retained him, isn't that right?

12 A. I can tell you that I was not aware of that, if he was doing what you say
13 or alleging he is doing.

14 Q. 590 If Mr. Dunlop was doing what Mr. Dunlop says he did, and if you knew about
13:03:16 15 it, Mr. O'Callaghan, that would be a reason as to why you never had to ask
16 Mr. Dunlop about what he was doing, isn't that right?

17 A. That's if I knew about it, yes.

18 Q. 591 So it's a choice in your mind, Mr. O'Callaghan, is this the situation,
19 because the allegation was being made by a man who you detested, that is
13:03:36 20 Mr. Gilmartin, and who --

21 A. Man I detested because I did so much for and he has said, made such
22 horrendous allegations about me.

23 Q. 592 And whom you did not believe, isn't that right?

24 A. Absolutely correct, not one word would I believe, I'm afraid.

13:03:51 25 Q. 593 In circumstances where your lobbyist comes to you with a revenue problem.

26 A. Yes.

27 Q. 594 Right. And that means, Mr. O'Callaghan, and you know it probably as well
28 as everybody else here, that when somebody comes to you with a revenue
29 problem it means that is they have not made proper disclosure to the
13:04:07 30 revenue, isn't that right?

13:04:08 1 A. Correct.

2 Q. 595 And Mr. Dunlop has two problems, one he hasn't made disclosure to the
3 revenue and second the matter is going to go public, isn't that right?

4 A. Yes.

13:04:17 5 Q. 596 So you knew that Mr. Dunlop was mismanaging his own financial affairs to
6 some degree or other?

7 A. Which he was capable of doing because as I said to you his accounting
8 system was anything but appropriate.

9

13:04:29 10 CHAIRMAN: All right Ms. Dillon it's past 1 o'clock we'll adjourn until 2
11 o'clock.

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THE TRIBUNAL THEN ADJOURNED FOR LUNCH

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13:04:44 15

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THE TRIBUNAL RESUMED AS FOLLOWS AT 2 PM.

- 13:04:45 1
- 2
- 3 CHAIRMAN: All right, Ms. Dillon.
- 4 Good afternoon, Mr. O'Callaghan.
- 14:01:21 5
- 6 Q. 597 MS. DILLON: Good afternoon. Mr. O'Callaghan, when Mr. Dunlop received
- 7 the first letter from the Tribunal did he discuss with you the fact that
- 8 he had received a letter from the Tribunal?
- 9 A. He probably did, yes.
- 14:01:38 10 Q. 598 Did he discuss with you in general the broad outline of the Tribunal's
- 11 inquiries?
- 12 A. Not initially, no.
- 13 Q. 599 23042 please, arising from the article in the Sunday Business Post which
- 14 we have already looked at, the Tribunal wrote to Mr. Dunlop on the 6th
- 14:01:57 15 October 1998, which would have been the day after the invoice for 300,000
- 16 pounds was raised, isn't that right?
- 17 A. Yes.
- 18 Q. 600 Mr. Dunlop raised the invoice with you on the 5th October 1998 in order to
- 19 pay the legal fees. And on the 6th October 1998, he received it's first
- 14:02:19 20 letter from the Tribunal, isn't that right?
- 21 A. Yes.
- 22 Q. 601 And the subject matter of the query was in relation to item one, "On what
- 23 dates, by whom and in what amounts was Mr. Dunlop or his company paid
- 24 500,000 pounds in fees for his assistance in acquiring the rezoning and
- 14:02:35 25 planning permission for Quarryvale". Isn't that right?
- 26 A. Yes.
- 27 Q. 602 "Number 2. Furnish a copy of all invoices.
- 28 3. Furnish copies of all receipts.
- 29 4. Furnish copies of all documentation in relation to payments.
- 14:02:49 30 5. The article goes on to state "Dunlop has confirmed that a part of this

14:02:55 1 sum was used to make political donations which are fully documented".
2 Isn't that right?
3 A. Yes.
4 Q. 603 That was contained in the article, isn't that right?
14:03:01 5 A. Yes.
6 Q. 604 In relation to that part of the article which was in the Sunday Business
7 Post of the 4th October 1998, the Tribunal inquired of Mr. Dunlop that he
8 provide information in relation to each donation made by him or his
9 company, looking for the date, by whom, to whom the donation was made, the
14:03:20 10 amount whether it was cash, cheque, the branch, bank account, the normal
11 queries, isn't that right?
12 A. Yes.
13 Q. 605 It would follow from that that on the 6th October 1998, following on the
14 publication in the newspaper on the 4th October 1998, Mr. Dunlop had
14:03:35 15 confirmed in public that part of the sum of money used to -- sum of money
16 used by him from the funds received by you had been used to make political
17 donations, isn't that right?
18 A. Yes.
19 Q. 606 You were aware of that, isn't that right, Mr. O'Callaghan?
14:03:51 20 A. Yes.
21 Q. 607 And when Mr. Dunlop got this letter from the Tribunal asking him for a
22 breakdown and details in relation to all of these payments, did Mr. Dunlop
23 discuss with you the payments he had made out of the funds that you had
24 provided and for which he was now being asked to account to the Tribunal?
14:04:09 25 A. He never discussed this documentation with me.
26 Q. 608 But he did discuss with you that he had received documentation from the
27 Tribunal?
28 A. That's it, yes.
29 Q. 609 Right. And it was clear from that documentation that what the Tribunal
14:04:20 30 was enquiring into was the 500,000 pounds that Mr. Dunlop and his company

- 14:04:25 1 had been paid for his assistance in getting the rezoning and planning
2 permission for Quarryvale, isn't that right?
- 3 A. Yes.
- 4 Q. 610 And therefore when he discussed this with you, even if he didn't go into
14:04:36 5 the detail of the content of the letter, Mr. O'Callaghan, he would have
6 discussed with you in broad terms that it was a Quarryvale, Owen
7 O'Callaghan related inquiry?
- 8 A. Yes.
- 9 Q. 611 Right. And you would have known obviously that the subject matter of the
14:04:49 10 inquiry had to relate to payments made by Mr. Dunlop, isn't that right?
- 11 A. Yes.
- 12 Q. 612 There wouldn't have been any point in the Tribunal inquiring into Mr.
13 Dunlop in circumstances where is there was no inquiry into payment made by
14 Mr. Dunlop to politicians, isn't that right? So when Mr. Dunlop got this
14:05:06 15 documentation at a minimum he had to inform you that the thrust of the
16 Tribunal's inquiries was whether or not payment had been made to
17 politicians in connection Quarryvale, isn't that right?
- 18 A. Yes.
- 19 Q. 613 Right. And therefore when you are sitting across the table from Mr.
14:05:20 20 Dunlop and discussing this piece of correspondence the initiating --
- 21 A. Sorry we never discussed this piece of correspondence.
- 22 Q. 614 When you are discussing the content of the correspondence with Mr. Dunlop,
23 you have to know and Mr. Dunlop has to tell you, that the central theme of
24 the Tribunal's inquiries from Mr. Dunlop is whether or not he had made any
14:05:37 25 payments to politicians?
- 26 A. Basically what happened was Frank Dunlop treated as I said to you, this
27 very, very casually, I'm afraid and his only concern at the time was that
28 he would have to defend his situation or defend Gilmartin's allegations
29 and that he wanted his fees paid.
- 14:05:52 30 Q. 615 We'll come to the question of legal fees shortly.

- 14:05:57 1 A. I never saw this document.
- 2 Q. 616 Yes, because the issue of legal fees hadn't arisen at this stage, isn't
- 3 that right? At this point in time when Mr. Dunlop receives this letter of
- 4 the 6th October 1998 what you have agreed to pay to Mr. Dunlop is 300,000
- 14:06:10 5 pounds so that he can deal with the revenue, isn't that right?
- 6 A. That's for revenue strictly, yes.
- 7 Q. 617 Now, at that time Mr. Dunlop had received a letter from the Tribunal, you
- 8 had not yet received any correspondence, but the central thrust of the
- 9 Tribunal's inquiry of Mr. Dunlop is what payments he had made to
- 14:06:25 10 politicians out of the money he had received in connection with
- 11 Quarryvale, isn't that right?
- 12 A. Yes.
- 13 Q. 618 In the general discussions that you had with Mr. Dunlop at this time,
- 14 arising out of the receipt of this correspondence, was that the subject
- 14:06:39 15 matter of your discussion?
- 16 A. No.
- 17 Q. 619 But you knew from your discussion with Mr. Dunlop what the Tribunal was
- 18 looking for?
- 19 A. He told me that he had received correspondence, that was more or less the
- 14:06:50 20 extent of it.
- 21 Q. 620 Yes. I think that in a statement you have provided to the Tribunal you
- 22 have told the Tribunal that you had regular communications with Mr. Dunlop
- 23 and at 15259, in a statement dated 10th February 2003, 15259 please, this
- 24 is 256 I think, 259, on the following page, you state the following in the
- 14:07:24 25 first paragraph.
- 26
- 27 "On a few occasions primarily in response to various matters which had
- 28 appeared in the media, our client endeavoured to seek an indication from
- 29 Mr. Dunlop as to the correctness of those reports and by inference the
- 14:07:37 30 evidence which he proposed to give to the Tribunal in relation to those

14:07:40 1 matters. Mr. Dunlop on each such occasion cut our client short and
2 changed the topic" isn't that right?

3 A. That's correct, yes.

4 Q. 621 When you approached Mr. Dunlop to seek an indication from Mr. Dunlop as to
14:07:50 5 the correctness of the reports in the media, did that also deal with the
6 reports of the 4th October, which had suggested that Mr. Dunlop had made
7 payments to politicians out of the money you had provided?

8 A. He didn't discuss that with me.

9 Q. 622 He didn't discuss that with you. Is it a then case when Mr. Dunlop
14:08:06 10 received the correspondence from the Tribunal that was on screen a moment
11 ago at 123042, that while he made you aware of the broad nature of the
12 letter --

13 A. Very broad, yes.

14 Q. 623 Yes. He did not discuss with you the central theme of the letter which
14:08:24 15 was whether or not Mr. Dunlop had made payments to politicians out of the
16 money that he had been given in connection with Quarryvale, is that the
17 position?

18 A. That is correct, yes.

19 Q. 624 It would be tantamount, Mr. O'Callaghan, to ignoring the elephant, isn't
14:08:37 20 that right?

21 A. Yes, absolutely.

22 Q. 625 Yourself and Mr. Dunlop in this series of discussions that you are having,
23 you at no stage ever discuss the central theme of all of these matters,
24 isn't that the position?

14:08:48 25 A. We did not have a series of discussions I'm afraid, we did not have a
26 series of discussions. Frank Dunlop kept the subject very much to
27 himself. He barely involved me in it, his only concern was could he
28 actually have his legal fees paid.

29 Q. 626 Yes. Insofar as that is concerned, Mr. O'Callaghan, the position in
14:09:08 30 relation to that is that you agreed to pay his legal fees arising out of

- 14:09:14 1 his involvement in the Tribunal?
- 2 A. Yes, I would like any of our consultants.
- 3 Q. 627 Yes when did that happen?
- 4 A. Shortly after this he contacted me and that was his main concern. He said
- 14:09:23 5 he would have get legal representation, it was going to be expensive he
- 6 felt. He asked would we would be prepared to pay the fees. I only
- 7 thought about it for a very short time and said yes we would.
- 8 Q. 628 Was there any type of a monetary limit on that commitment you made to Mr.
- 9 Dunlop?
- 14:09:39 10 A. No becuase we hadn't a notion what it would cost.
- 11 Q. 629 Okay. At 1338, Mr. Dunlop has an entry in the diary for 10th November
- 12 1998, which is approximately four weeks after you had paid him the 300,000
- 13 pounds for the revenue problem, isn't that right?
- 14 A. Yes,.
- 14:09:59 15 Q. 630 And following receipt of communication from the Tribunal, isn't that
- 16 right?
- 17 A. Yes.
- 18 Q. 631 And I think that on the 13th November 1998, 13339 please, there is an
- 19 invoice in the sum of 55,543.57 directed to Riga in respect of Mr.
- 14:10:18 20 Dunlop's legal fees, isn't that right?
- 21 A. Yes because we agreed to pay his fees, if any of our consultants are in
- 22 trouble we will help in the same way, I also assumed because this was
- 23 based on as I assumed, as a false allegation from Tom Gilmartin I believed
- 24 these fees would have been refunded eventually.
- 14:10:38 25 Q. 632 At this stage a number of things had happened, Mr. O'Callaghan. There had
- 26 been a series of newspaper articles that identify Mr. Dunlop as being the
- 27 subject matter of likely inquiry by the Tribunal, isn't that right?
- 28 A. That's correct.
- 29 Q. 633 You yourself, I think, received a communication from the Tribunal in mid
- 14:10:55 30 October of 1997, 1998 for the first time, isn't that right?

14:10:58 1 A. '98. Yes.

2 Q. 634 Isn't that the position?

3 A. Yes.

4 Q. 635 Sorry I beg your pardon, yes in 1998, isn't that right?

14:11:11 5 A. Yes.

6 Q. 636 And you got a letter and you engaged in your own correspondence with the

7 Tribunal?

8 A. Yes.

9 Q. 637 Isn't that right? And you had retained your own legal team?

14:11:14 10 A. Oh, yes, yes.

11 Q. 638 Mr. Dunlop had been the subject matter of comment in the newspapers and

12 had come to you in early October with a problem where he was going to make

13 disclosure to the revenue of unpaid income arising out of a concern that

14 matters in connection with Mr. Dunlop were going to be made public, isn't

14:11:33 15 that right?

16 A. Yes.

17 Q. 639 That concern was a concern connected with the Tribunal, isn't that the

18 position?

19 A. Yes.

14:11:36 20 Q. 640 You agreed to pay and did pay the 300,000 pounds to Mr. Dunlop?

21 A. As part, as his success fee, which was money due to him, yes I agreed.

22 Q. 641 The following month in November of 1998, you made another agreement with

23 Mr. Dunlop in connection with the Tribunal, isn't that right?

24 A. In connection with the legal fees.

14:11:54 25 Q. 642 You agreed pay the legal fees?

26 A. Yes.

27 Q. 643 You continued to do so for some time, isn't that right?

28 A. Until after April 2000.

29 Q. 644 We will come to April 2000 in a moment, but in the course of that,

14:12:04 30 Mr. O'Callaghan, does it follow you had to have another meeting with Mr.

- 14:12:09 1 Dunlop at which that was discussed?
- 2 A. I'm not sure if there was a meeting, I can't remember, definitely
- 3 discussed it on the telephone.
- 4 Q. 645 Well are you telling the Tribunal that your agreement to pay Mr. Dunlop's
- 14:12:21 5 legal fees arose as a result of a telephone conversation with Mr. Dunlop?
- 6 A. I can't remember exactly, it might have been a meeting face-to-face as
- 7 well, I don't know what actually happened.
- 8 Q. 646 Right. Well, on the 23rd October 1998, 13320 on the Friday the 23rd, Mr.
- 9 Dunlop has an entry in his diary recording that you were in town and a
- 14:12:45 10 meeting with Matt, who is apparently Mr. Cooper, of the Sunday Times, in
- 11 the Davenport Hotel, isn't that right?
- 12 A. Is that the 20th.
- 13 Q. 647 I think that is the 23rd?
- 14 A. Yes.
- 14:13:02 15 Q. 648 Of October 1998, did you meet with Mr. Matt Cooper in the Davenport Hotel
- 16 with Mr. Dunlop?
- 17 A. I certainly did not.
- 18 Q. 649 You are aware that there was an article in the newspapers by Mr. Cooper on
- 19 Sunday the 25th at 19898?
- 14:13:21 20 A. I never met Mr. Cooper in my life.
- 21 Q. 650 Entitled "Hunt for 50,000 pounds cheque hots up". And at 19899, an
- 22 article that discusses the work of the Tribunal which hinged on two key
- 23 witnesses, one of which was Mr. Gogarty and the other of which was
- 24 Mr. Gilmartin, isn't that right?
- 14:13:41 25 A. Yes.
- 26 Q. 651 Isn't it likely that you would have been made aware of that article, isn't
- 27 that right?
- 28 A. On the Saturday.
- 29 Q. 652 On the Saturday by Mr. Dunlop?
- 14:13:50 30 A. More than likely, yes.

14:13:53 1 Q. 653 By November 11th, by November 13th you had agreed with Mr. Dunlop to pay
2 his legal fees, isn't that right?
3 A. Well, yes.
4 Q. 654 Isn't that the position?
14:14:03 5 A. Well, I haven't got the date but yes, I did agree to pay his fees, yes.
6 Q. 655 Would it be fair to say Mr. Dunlop was unlikely to have issued the first
7 invoice unless you agreed pay?
8 A. Oh Absolutely.
9 Q. 656 And the first invoice was 13th November, 13339.
14:14:17 10 A. If he issued the invoice on that date, I agreed to pay the fees before
11 that.
12 Q. 657 Does it follow from that, Mr. O'Callaghan, 13339 please that by the 13th
13 November 1998 you had agreed to fund Mr. Dunlop's legal fees in connection
14 with this Tribunal?
14:14:37 15 A. Yes.
16 Q. 658 Right. If we just look at the executives tent of those fees as they
17 transpired, Mr. O'Callaghan, 13339 is on screen, the next is 13370,
18 16,247.49.
19 13414 is 21,650,
14:15:08 20 13493 April '99, 6,129.47,
21 13523 is 28,76.90.
22 13585, 9th June '99, 6,323.24.
23 13586, 13th July '99, 3,545.12.
24 13587, 13 August 1999, 14,363.50.
14:15:47 25 13677, November '99, 19,552.18.
26 January 2000, 13707, 6,709.34.
27 13719, February 2000, 45,635.15.
28 13749, March 2000, 3,066.28.
29 13791, 29th April 2000, 9,074.25.
14:16:22 30 13865, 18th May 2000, 135,416.48.

- 14:16:30 1 13793, 11th July 2000, 17,782.66, isn't that right?
- 2 A. Yes.
- 3 Q. 659 Now, you can take it from me, Mr. O'Callaghan, because I didn't do the
- 4 calculation, but it has been done, that the total amount of those payments
- 14:16:48 5 by way of a net figure, that is exclusive of VAT, after an adjustment for
- 6 a VAT payment, is 301,161 pounds and inclusive of VAT is 364,396.26
- 7 pounds.
- 8 A. Yes.
- 9 Q. 660 Right. When you stopped paying Mr. Dunlop's legal fees in connection with
- 14:17:13 10 the Tribunal, you have paid 301,161 pounds out of Riga to meet Mr.
- 11 Dunlop's legal fees, isn't that right?
- 12 A. That's correct.
- 13 Q. 661 And you did so on foot of an open ended agreement that you made with Mr.
- 14 Dunlop before the 13th November 1998, isn't that right?
- 14:17:29 15 A. Yes.
- 16 Q. 662 Right. First of all why did you agree to pay Mr. Dunlop's legal fees?
- 17 A. Because he asked me number one. Number two, because I felt that these
- 18 were false allegations made by Gilmartin against Frank Dunlop.
- 19 Q. 663 Can I stop you there. When you were concerned about the falsity of the
- 14:17:51 20 allegations being made by Mr. Gilmartin, did you ask Mr. Dunlop whether
- 21 there was any truth in the allegation that he was involved in making
- 22 payments to councillors?
- 23 A. I don't think I did, because I didn't have to. There it would have been a
- 24 superfluous question for me to ask.
- 14:18:10 25 Q. 664 Why did you agree to pay Mr. Dunlop's legal fees?
- 26 A. Because as I said they were false allegations by Mr. Gilmartin, number
- 27 one. Number two, Frank Dunlop was working for us -- or no. 3 rather, like
- 28 any of our consultant ifs they had difficulties or got into problems like
- 29 structural engineers or whatever, we would always come in to assist and
- 14:18:30 30 this is exactly why we did it. I also believed that eventually because I

- 14:18:34 1 believed they were false allegations that this money would eventually be
2 refunded, Frank Dunlop had said he was not, which wasn't correct at the
3 time, but he said he was not in a position to pay those fees. I believed
4 he was not that position, I didn't know he had funds available.
- 14:18:49 5 Q. 665 You have seen in the brief and you've heard Mr. Dunlop's evidence that at
6 the time he asked you for the 300,000 pounds to assist in the revenue
7 payment he had 345,000 pounds on deposit, isn't that right?
- 8 A. I didn't know that.
- 9 Q. 666 I accept that. But do you accept now having seen the bank statement that
10 at that time Mr. Dunlop was in funds to that extent?
- 11 A. Yes, I now know that.
- 12 Q. 667 And it would follow from that that insofar as he asked you for the money
13 because he hadn't the fund to pay it for the revenue he couldn't have been
14 telling you truth, isn't that right, I think you have to accept that?
- 14:19:19 15 A. I accept that.
- 16 Q. 668 Now, I think you provided a statement to the Tribunal at 14606 in relation
17 to the issue of the legal fees, and in that statement you tell the
18 Tribunal in the fourth paragraph that your view was that the allegations
19 by Mr. Gilmartin were spurious and of no substance in respect of the
14:19:42 20 alleged payments by Mr. Dunlop and that you were not aware of any alleged
21 payment had been made to members of Dublin County Council other than those
22 donations notified by Mr. Dunlop to you.
- 23 A. Yes.
- 24 Q. 669 And on that basis you agreed refund Mr. Dunlop in respect of legal costs,
14:19:58 25 and you want to reiterate and stress that it was in the belief that Mr.
26 Dunlop's involvement with the Tribunal flowed only from allegations penned
27 against his professional conduct in relation to Quarryvale?
- 28 A. That's what I thought at the time, yes.
- 29 Q. 670 Assurances regarding this were given by Mr. Dunlop throughout the period
14:20:13 30 and given the nature of our professional relationship and the fact that

14:20:16 1 neither I, Riga, Barkhill were involved in any such payments to elected
2 member in return for any planning favours, there was no reason for me to
3 doubt that Mr. Dunlop was telling the absolute truth.
4

14:20:26 5 Now insofar as you refer there to assurances given to you by Mr. Dunlop
6 throughout the period, do those assurances refer to the fact that it was
7 your understanding that Mr. Dunlop's involvement with the Tribunal related
8 only to Quarryvale?

9 A. I understood that, yes.

14:20:43 10 Q. 671 It is the case and you have seen in the documentation that up until April
11 of 2000 the Tribunal's inquiries with Mr. Dunlop were focused only on
12 Quarryvale, isn't that right?

13 A. Yes.

14 Q. 672 It was only following Mr. Dunlop's second day of evidence in the Tribunal
14:20:55 15 that the Tribunal became aware that Mr. Dunlop was involved in many other
16 developments, isn't that right?

17 A. Yes.

18 Q. 673 So in fairness to Mr. Dunlop the correspondence with the Tribunal
19 involving Mr. Dunlop relating only to Quarryvale up to April 2000, isn't
14:21:11 20 that the position?

21 A. Yes.

22 Q. 674 You go on to say in "April 2000 Mr. Dunlop gave evidence to the Tribunal
23 and his revelations came as a total surprise to me. Having thought about
24 these revelation it is became apparent to me that Mr. Dunlop's involvement
14:21:22 25 in the Tribunal was not one which related solely to his link with the
26 Quarryvale development. I decided to cease any assistance given to Mr.
27 Dunlop in his involvement with the Tribunal, as it would appear that;

28
29 1. He was taking monies paid to him or Shefran Limited for professional
14:21:38 30 work done and advices given to me and my connected companies in respect of

14:21:41 1 Quarryvale development and putting them or part of them into a war chest
2 which he in turn utilised for payments to certain elected members and;
3 2. He was involved with other developments and developers who in turn
4 were the subject matter of the private investigations of the Tribunal and
14:21:54 5 their fees or a part of them, were also being transferred into this war
6 chest. Therefore his involvement with the Tribunal was not limited solely
7 to the allegations made by Mr. Gilmartin and those reported in the media."
8

9 Is that your position?

14:22:08 10 A. That's my position.

11 Q. 675 Does it follow from that, when you provided that statement, that you
12 believed at that stage that Mr. Dunlop when he told the Tribunal he was
13 making payments to politicians, or had a war chest which he was using to
14 make payments to elected members, was telling the truth you?

14:22:24 15 A. I believe he is telling the truth yes, sorry can you repeat that please?

16 Q. 676 In this statement that you made?

17 A. The statement, yes.

18 Q. 677 On the 4th November 2005, in the paragraph I have just quoted to you --

19 A. Yes.

14:22:36 20 Q. 678 -- is there Tribunal to understand from that paragraph that when you made
21 that statement you believed that Mr. Dunlop was telling the truth when he
22 had told the Tribunal that he had utilised his war chest for making
23 payments to councillors?

24 A. Yes.

14:22:49 25 Q. 679 You don't suggest in this statement that you don't believe Mr. Dunlop in
26 that regard, isn't that right?

27 A. Yes, I don't, I don't suggest that there, that's correct.

28 Q. 680 However, your evidence this morning to the Tribunal as I understand it,
29 Mr. O'Callaghan, is that did you not believe Mr. Dunlop?

14:23:04 30 A. Yes. Because I have been thinking of a lot of it since.

14:23:07 1 Q. 681 So is it the position then at the time you made this statement to the
2 Tribunal on the 4th November 2005, it was your belief that Mr. Dunlop was
3 telling the truth?
4 A. Yes.

14:23:15 5 Q. 682 When he had told the Tribunal he was paying politicians out of your money?
6 A. Yes.
7 Q. 683 And other people's money, isn't that right?
8 A. Yes.

9 Q. 684 So at some stage between November 2005 and you giving your evidence today,
14:23:26 10 Mr. O'Callaghan, you have changed your mind?
11 A. I don't know what to believe now to be honest and answer your question.
12 Q. 685 Is the position now having considered it further you are no longer secure
13 in your belief that Mr. Dunlop in fact didn't make payments?
14 A. I am not that certain any more, I just don't know.

14:23:44 15 Q. 686 All right. But at the time you provided this statement your clear opinion
16 was that Mr. Dunlop was telling the truth, although that no longer remains
17 your opinion?
18 A. That's correct.

19 Q. 687 Insofar as the legal fees are concerns, the final paragraph, in your
14:23:57 20 statement records:
21
22 "The legal fees paid by Riga Limited on production of relevant invoices
23 from Mr. Dunlop related as far as I was concerned and honestly believed
24 solely to the involvement of Mr. Dunlop with the Tribunal to assist them
14:24:10 25 in their private enquiries in relation to false allegations of certain
26 improper payments concerning the Quarryvale development only."
27
28 Now, I think in fairness to Mr. Dunlop it is the position that all of the
29 inquiries passing between Mr. Dunlop and the Tribunal up to mid April 2000
14:24:26 30 related only to Quarryvale.

- 14:24:27 1 A. Yes.
- 2 Q. 688 It was only when Mr. Dunlop gave evidence on the 2nd and third day of his
3 evidence that it became clear that Mr. Dunlop's activities went wider than
4 Quarryvale, isn't that right?
- 14:24:37 5 A. Yes.
- 6 Q. 689 Is it also the position, Mr. O'Callaghan, that when you prepared this
7 statement and signed it on the 4th November 2005, you no longer believed
8 that Mr. Dunlop was innocent of any wrongdoing?
- 9 A. When I signed the statement, yes.
- 14:24:52 10 Q. 690 And that not alone did Mr. Dunlop make improper payments in connection
11 with Quarryvale, but that it went wider than that and he made improper
12 payments in relation to other developments?
- 13 A. Yes.
- 14 Q. 691 Right. Now, insofar as the payments to Mr. Dunlop were concerned, insofar
14:25:07 15 as the legal fees are concerned, I think the position is, there isn't any
16 issue in relation to it, that those fees were passed on by Mr. Dunlop to
17 his legal team, isn't that right?
- 18 A. I believe so, yes.
- 19 Q. 692 Looking at the global situation then, Mr. O'Callaghan, in 1993, you made
14:25:27 20 an arrangement with Mr. Dunlop for an unspecified success fee, isn't that
21 right?
- 22 A. Yes.
- 23 Q. 693 Nothing happened in any meaningful way in relation to that success fee
24 until June of 1998, isn't that right?
- 14:25:42 25 A. Yes.
- 26 Q. 694 And you made a payment which Mr. Dunlop described as part of his success
27 fee, but which you have told the Tribunal was nothing to do with the
28 success fee, but related to the retainer, isn't that right?
- 29 A. It was the balancing figure on the retainer but could easily have been
14:25:57 30 attributed by Mr. Dunlop to his success fee, he could have made that

14:26:06 1 mistake.

2 Q. 695 You say that the payment for the success fee happened in October of 1998

3 when Mr. Dunlop first became the subject of inquiries by the Tribunal and

4 when Mr. Dunlop elected to make disclosure to the revenue, isn't that

14:26:14 5 right?

6 A. When Mr. Dunlop was -- exactly, in the difficulty with the revenue.

7 Q. 696 Yes. And is it fair to say then that between 1993 and 1998, that is

8 October '98, Mr. Dunlop sought payment of that success fee from you on a

9 number of occasions?

14:26:31 10 A. No.

11 Q. 697 Of a success fee?

12 A. Of a success fee, but -- yes. I think what he wanted to do was establish

13 the amount of the success fee.

14 Q. 698 Yes. Right. But the matter crystalised between yourself and Mr. Dunlop

14:26:46 15 in October 1998, isn't that right?

16 A. When he was in trouble with the revenue, yes.

17 Q. 699 Arising from the inquiries of the Tribunal?

18 A. Yes.

19 Q. 700 Isn't that right? And at a time when the Tribunal started to correspond

14:26:57 20 with Mr. Dunlop, isn't that right?

21 A. Yes, obviously he then went, he had to make disclosure because of the

22 Tribunal and he found he was in trouble.

23 Q. 701 Yes. He came back to you and you paid him the success fee. So the

24 crystallisation of the debt or the agreement between yourself and Mr.

14:27:15 25 Dunlop and the payment of those monies related to Mr. Dunlop's exposure to

26 this Tribunal and through that to the Revenue Commissioners?

27 A. And if the Tribunal wasn't created he probably wouldn't have had a success

28 fee paid for another few years.

29 Q. 702 And coming with Mr. Dunlop to the attention of the Tribunal,

14:27:31 30 Mr. O'Callaghan, was yourself, and you would have appreciated that, isn't

- 14:27:34 1 that right, and that in fact transpired to be the case, isn't that right?
- 2 A. That's correct.
- 3 Q. 703 All of that was predicated upon the allegation that had originally been
- 4 made in February of 1998 by Tom Gilmartin, isn't that right?
- 14:27:47 5 A. Yes.
- 6 Q. 704 And in his first discussion with the Tribunal he had pointed the finger at
- 7 Mr. Dunlop for corrupt activities, isn't that right?
- 8 A. Simply because Quarryvale was a success and he wasn't involved in it.
- 9 Q. 705 Yes. And that's your position in relation to that?
- 14:28:01 10 A. Absolutely my position.
- 11 Q. 706 Immediately following, that is in the following month, November 1998 you
- 12 entered into a separate agreement with Mr. Dunlop for an open ended
- 13 agreement to pay his fees as they fell due in connection with his dealings
- 14 with this Tribunal?
- 14:28:20 15 A. It had to be open ended because we were not aware of the figure.
- 16 Q. 707 As though fees arose and as they were passed on Riga paid those invoices,
- 17 isn't that right?
- 18 A. Yes, yes.
- 19 Q. 708 In total by the time you ceased paying the fees for Mr. Dunlop you had
- 14:28:33 20 paid just, very slightly over 300,000 net?
- 21 A. Yes.
- 22 Q. 709 Slightly over 3 and a half thousand, 350,000 pounds gross, isn't that
- 23 right?
- 24 A. Yes.
- 14:28:43 25 Q. 710 And therefore between 1997 when -- 1998 and 1999, up to mid 2000 you had
- 26 paid Mr. Dunlop 600,000, plus 100,000, that's 700 thousand pounds, would
- 27 you agree with that?
- 28 A. Yes.
- 29 Q. 711 The greater portion, Mr. O'Callaghan, of the monies paid to Mr. Dunlop by
- 14:29:05 30 you and your companies arose after this Tribunal was established and not

- 14:29:10 1 before, isn't that right?
- 2 A. Yes.
- 3 Q. 712 Of the total that was paid by Barkhill and Riga to Mr. Dunlop the greater
- 4 portion of those payments arose after the 7th November 1997, when this
- 14:29:24 5 Tribunal was established, isn't that right?
- 6 A. Despite the fact that at least 300,000 of that was due from way back in
- 7 1993.
- 8 Q. 713 Yes. I think we have been through that, isn't that right?
- 9 A. Yes.
- 14:29:34 10 Q. 714 No need to go through that again, or in relation to the documentation.
- 11 After the Tribunal was established and after it became clear that Mr.
- 12 Dunlop was going to be involved in the Tribunal and through Mr. Dunlop you
- 13 and Quarryvale and Barkhill and Riga, you paid to Mr. Dunlop a figure of
- 14 slightly in excess of 700,000 pounds, is that correct?
- 14:30:04 15 A. It's not fair to round it off like that because 300,000 pounds of that was
- 16 due from 1993.
- 17 Q. 715 I will break it down for you then, Mr. O'Callaghan. You paid 100,000
- 18 pounds in June of 1998 plus VAT in respect of back payments.
- 19 A. Which was a back payment, yes.
- 14:30:17 20 Q. 716 You paid 300,000 pounds plus VAT in October 1998 in respect of a success
- 21 fee?
- 22 A. Which was due since 1993, which was agreed in 1993, yes and we were
- 23 waiting for the cap to be lifted, yes.
- 24 Q. 717 And you paid 300,000 plus VAT to Mr. Dunlop for his legal costs in
- 14:30:34 25 connection with the Tribunal?
- 26 A. Legal costs, exactly yes.
- 27 Q. 718 The net figure, leaving aside the question of VAT, is slightly over
- 28 700,000 pounds, do you agree with that?
- 29 A. Yes.
- 14:30:50 30 Q. 719 Right. It forms the greater portion of the monies that were paid to Mr.

14:30:50 1 Dunlop and his companies from you and your companies, isn't that right?

2 A. Yes.

3 Q. 720 Right. In the entire time that you dealt with Mr. Dunlop in making those

4 arrangements and discussing that money, did you ever once ask him whether

14:31:05 5 or not he had any potential exposure before the Tribunal for having made a

6 corrupt payment?

7 A. No, I did not.

8 Q. 721 You had 700,000 pound of your money, Mr. O'Callaghan, invested or paid to

9 Mr. Dunlop, isn't that right?

14:31:23 10 A. Yes.

11 Q. 722 If Mr. Dunlop was found for example to have behaved corruptly or to have

12 lied to the Tribunal or to have misled the Tribunal, he wasn't going to

13 get his money back from the Tribunal, isn't that right?

14 A. Yes.

14:31:35 15 Q. 723 Right. So your 300,000 pounds was effectively backing Mr. Dunlop having a

16 successful day out before the Tribunal?

17 A. Against Mr. Gilmartin, that was a no bet, at that time.

18 Q. 724 Yes. As you knew?

19 A. As I saw it, yes.

14:31:51 20 Q. 725 So your investment, I beg your pardon, that's the wrong word, your

21 agreement to pay the legal fees for Mr. Dunlop was predicated upon a

22 belief that Mr. Dunlop had not done anything wrong?

23 A. Yes.

24 Q. 726 In circumstances where you never put the question to him as to whether he

14:32:04 25 had done anything wrong?

26 A. Yes and because they were allegations made by Gilmartin which I certainly

27 did not believe.

28 Q. 727 Yes. But when the matter moved into the hands of the Tribunal and the

29 Tribunal was enquiring of Mr. Dunlop, it never occurred to you at any

14:32:19 30 stage up to April of 2000 to put the question to Mr. Dunlop as to whether

14:32:23 1 or not any payments had been made?

2 A. No because I believed Mr. Dunlop.

3 Q. 728 Now, after Mr. Dunlop gave evidence to the Tribunal and told the Tribunal

4 that his earlier evidence was incorrect and that in fact he had been

14:32:38 5 engaged in wide spread corruption, did you meet with Mr. Dunlop?

6 A. This is after April 2000, yes, I did.

7 Q. 729 What discussion did you at that stage have with Mr. Dunlop?

8 A. Well I met him very shortly after the April date, April 2000 date in his

9 home and in a restaurant close to his house and had a very, very brief

14:32:57 10 discussion because he was in very bad form. I didn't have any official

11 discussion with him really, just wanted to see how he was, spoke to

12 himself and his wife. It last add very short time.

13 Q. 730 Did you discuss with him or ask him whether he had ever made payments out

14 of the Quarryvale monies on your behalf?

14:33:14 15 A. I at the time did I not, no.

16 Q. 731 Did you ever discuss it with him?

17 A. Yes about a month afterwards I met him again.

18 Q. 732 What discussion did you have then?

19 A. At that time we told him that we were dropping our retainer because he had

14:33:26 20 been on retainer up to then, we weren't going to pay it any more and I

21 also told him we were not going to pay his legal fees any more, just to

22 clarify that. I did agree that we would pay whatever legal fees were

23 still due that he had promised I think we would pay, the bills or invoices

24 were paid up to May probably, May or June of the year 2000. These were

14:33:46 25 fees incurred before and we didn't want to cut him off immediately because

26 his lawyers made commitments to him.

27 Q. 733 I think your evidence to the Tribunal had been that once Mr. Dunlop had

28 given the evidence to the Tribunal that showed the circumstances were

29 different to those that you had understood you ceased paying for the legal

14:34:04 30 bills, isn't that right?

- 14:34:05 1 A. That's right, but we kept going for about three months I think.
- 2 Q. 734 In April of 2000, at 13791, there was an invoice for 9,074 which you paid,
3 isn't that right?
- 4 A. Yes.
- 14:34:19 5 Q. 735 And in July 2000, at 13793, there was an invoice for 17,782.66 which you
6 paid?
- 7 A. Yes.
- 8 Q. 736 And in May 2000, at 13865, after Mr. Dunlop had given his evidence there
9 was an invoice for 135,416.48 pounds?
- 14:34:46 10 A. Yes. I think that was for senior counsel.
- 11 Q. 737 Whoever it was, Mr. O'Callaghan, do you agree with me that the totality of
12 the three invoices that you paid after Mr. Dunlop gave his road to
13 Damascus evidence to the Tribunal amount to 50 per cent of the total bill?
- 14 A. Yes because they were committed actually, he was committed, these fees had
15 been committed.
- 14:35:05 16 Q. 738 And it is a fact that after Mr. Dunlop gave his evidence in April of 2000
17 in which he identified himself as a corrupt payer of politicians, you paid
18 three invoices for Mr. Dunlop, isn't that right?
- 19 A. He asked me to do that because these fees were due, just couldn't cut it
20 off sharp like that.
- 14:35:23 21 Q. 739 And they total almost half the total amount, in fact I think the net
22 figure is probably almost half?
- 23 A. Half the figure.
- 24 Q. 740 Half the figure that was paid in total for the legal fees, isn't that
25 right?
- 14:35:35 26 A. Yes.
- 27 Q. 741 You made those payments for Mr. Dunlop after Mr. Dunlop had given his
28 evidence to the Tribunal in which he admitted that he had made corrupt
29 payments to politicians including in connection with Quarryvale, isn't
14:35:49 30 that right?

- 14:35:49 1 A. That's true.
- 2 Q. 742 You believed his evidence at that stage, isn't that right,
3 Mr. O'Callaghan, because you provide The the statement to the Tribunal in
4 2005 that I have shown you a few moment ago, isn't that right?
- 14:36:01 5 A. Yes.
- 6 Q. 743 And notwithstanding that belief, Mr. Dunlop in April of 2000 was now
7 telling the truth and made corrupt payments, you honoured your agreement
8 with him and paid the balance of Mr. Dunlop's legal fees, is that the
9 position?
- 14:36:12 10 A. Those fees were due and long due before April of 2000, and he asked me to
11 complete it and I did, I think it was a reasonable thing to do.
- 12 Q. 744 You think it was a reasonable thing to do?
- 13 A. I do, yes.
- 14 Q. 745 And in your discussion with Mr. Dunlop which took place after April 2000,
14:36:32 15 in connection with Quarryvale, did you at that stage discuss with Mr.
16 Dunlop whether the payments that he was saying he had made in connection
17 with Quarryvale?
- 18 A. Not really, no discussion with him at all about the subject.
- 19 Q. 746 All right.
- 14:36:51 20 A. I did ask him on the second meeting, not the first meeting, I did ask on
21 the second meeting, probably end of May or early June I think, what the
22 situation was and what payments he had made and what was it all about and
23 what did he do, and his answer was very, very I suppose sharp answer back
24 to me, it was a case of something to the effect that you know, you are not
14:37:19 25 involved in this it's nothing to do with you, it's none of your business
26 and stay out of it, something like that, dismissed the subject something
27 like that.
- 28 Q. 747 You couldn't have been under any illusion that the thing wasn't serious at
29 that stage?
- 14:37:33 30 A. Oh, yes.

- 14:37:33 1 Q. 748 There had been wide spread publicity?
- 2 A. At the time I believed it was serious.
- 3 Q. 749 And Mr. Dunlop's evidence to the Tribunal indicated that he was involved
- 4 in more developments than Quarryvale and he had made payments in
- 14:37:45 5 developments other than Quarryvale, isn't that right?
- 6 A. That is right.
- 7 Q. 750 Now, you met with Mr. Dunlop after his evidence to the Tribunal, isn't
- 8 that right?
- 9 A. Yes.
- 14:37:51 10 Q. 751 I think in the statement that I opened earlier to you, it's confirmed I
- 11 think through your solicitor, at 15260, on the 10th February 2003, in
- 12 which, in the second paragraph you say as follows through your solicitors:
- 13
- 14 "There have been a few meeting between our client and Mr. Dunlop at which
- 14:38:22 15 matters described in the foregoing paragraphs have been discussed. These
- 16 meetings took place at either the Great Southern Hotel Dublin Airport or
- 17 at a restaurant close to Mr. Dunlop's home both mutually convenient
- 18 locations. They number approximately four in total. Both the meetings
- 19 and the telephone conversations referred to above took place in the
- 14:38:40 20 absence of any other party".
- 21
- 22 In that were you referring to Mr. Dunlop's, after Mr. Dunlop had given
- 23 evidence to the Tribunal that you had met with Mr. Dunlop on three or four
- 24 occasions after he had given his evidence?
- 14:38:54 25 A. After April 2000.
- 26 Q. 752 Yes.
- 27 A. What date is on that?
- 28 Q. 753 February 10th 2003?
- 29 A. Yes, I think, yeah that's what that is saying.
- 14:39:04 30 Q. 754 And when you met with Mr. Dunlop after Mr. Dunlop had given his evidence,

- 14:39:09 1 which you initially believed?
- 2 A. Yes.
- 3 Q. 755 What discussion did you have with Mr. Dunlop about what Mr. Dunlop was
- 4 saying he had done on your behalf?
- 14:39:18 5 A. As I said to you, I had no real discussion, he dismissed the matter
- 6 completely, didn't want to discuss with me, told me that I had not been
- 7 involved, it was none of my business and to stay out of it, he just did
- 8 not want to discuss it.
- 9 Q. 756 Your concern would have been a slightly different concern to Mr. Dunlop's,
- 14:39:35 10 isn't that right? Your concern, Mr. O'Callaghan, would have been to
- 11 satisfy yourself as to what payments if any Mr. Dunlop was saying he had
- 12 made on behalf of Quarryvale, isn't that right?
- 13 A. Yes.
- 14 Q. 757 Right. And did you put that question to Mr. Dunlop?
- 14:39:51 15 A. No, I did not, but I have read, I have seen his evidence, after April
- 16 2000.
- 17 Q. 758 Yes.
- 18 A. No I didn't put it to him, no.
- 19 Q. 759 I think Mr. Dunlop says that you never sought an assurance from him, isn't
- 14:40:05 20 that right?
- 21 A. He said that, yes, that's because he dismissed it so flippantly, he has
- 22 said that. But I did ask him, did I ask him that question and he
- 23 dismissed it very quickly.
- 24 Q. 760 But he didn't give you a reply if you asked the question?
- 14:40:19 25 A. Did he, he gave me a very brief reply.
- 26 Q. 761 In July of 2000, at 13799, you wrote to Mr. Dunlop in connection with the
- 27 payment you had recollected being made to Mr. Colm McGrath, isn't that
- 28 right?
- 29 A. That's correct.
- 14:40:34 30 Q. 762 And in July of 2000 you said "Dear Frank, it has been on my mind that some

14:40:40 1 monies were paid to a solicitor in Dublin on behalf of Colm McGrath I have
2 no account of this. I am anxious to establish if this has happened or
3 not, it could have been sometime no 1992. Can you throw some light on the
4 subject? I have spoken to Colm, who has some recollection of this
14:40:54 5 happening but is not quite sure. I know you have confirmed to me that you
6 never paid politicians on my behalf, you might contact me after your
7 holidays" did you write that letter?

8 A. Yes.

9 Q. 763 Is it true?

14:41:06 10 A. Yes.

11 Q. 764 And Mr. Dunlop had confirmed to you in July of 2000, that he had never
12 paid politicians on your behalf?

13 A. Yes.

14 Q. 765 In circumstances in which, where he had told the Tribunal that he had made
15 payments to politicians for the benefit of Quarryvale?

16 A. Yes, I asked him, yes, that's correct, yes.

17 Q. 766 So are you telling the Tribunal that notwithstanding Mr. Dunlop's publicly
18 stated position in evidence, he gave you a private assurance that no
19 payments had been made, is it on your behalf, Mr. O'Callaghan,
14:41:37 20 specifically or the development?

21 A. Sorry what he said was, no, what he said was the question was different,
22 what he said was that -- I asked him the question, I asked, when I tried
23 to ask about this on the second meeting with him after April 2000, and his
24 attitude was very, very quickly was you know nothing about this, you have
14:41:54 25 no involvement in this, it has nothing do do with you, don't get involved,
26 that's what I referred to there and that's what I am saying to him there
27 in that letter, that's what I'm confirming in that letter.

28 Q. 767 You don't state in this letter that he hadn't given you an assurance?

29 A. No I haven't, I said it like that.

14:42:10 30 Q. 768 You in fact confirm the opposite, isn't that right?

14:42:11 1 A. How do you mean?

2 Q. 769 You say that Mr. Dunlop has confirmed to you that he never paid
3 politicians on your behalf.

4 A. Yes that's what he said to me, his attitude me and his remark was don't
14:42:23 5 get involved in this, this has nothing to do with you, you are not aware
6 of what happened, stay away from it. That was dismissing the whole show,
7 this has been Frank Dunlop's attitude always to this from the very, very
8 beginning. His business was his open business and never informed me.

9 Q. 770 There is nothing in what you have just recounted Mr. Dunlop as saying that
14:42:41 10 amounted to any assurance that he hadn't paid politicians on your behalf.

11 A. I am telling what you he said to me, and that's what he said to me. I
12 remember it well and that note is trying to confirm that as best I can.

13 Q. 771 Do you remember the document I showed you yesterday, Mr. O'Callaghan, it's
14 a document belonging to Mr. Dunlop from October of 1996 in which he told
14:43:03 15 his bank that he expected to get a million pounds from Quarryvale?

16 A. Yes, I remember that.

17 Q. 772 Remember the document I think, I will get it up on screen in a moment, I
18 don't have the number to hand, you weren't in a position to explain that
19 document, isn't that right?

14:43:16 20 A. Yes.

21 Q. 773 That was I think a 1993 document, isn't that right, subject now to seeing
22 the date on it?

23 A. I am not sure what year.

24 Q. 774 In any event it was -- yes, you are adamant that there was no agreement
14:43:32 25 with Mr. Dunlop for a million pounds, isn't that right?

26 A. Absolutely not, no, no.

27 Q. 775 It is the case however, Mr. O'Callaghan, that under one guise or another
28 between 1998 and 2000 you paid over 700,000 pounds to Mr. Dunlop?

29 A. How was I to know '93 or '96 or whenever it was, that there was going to
14:43:54 30 be 300 odd thousand pounds in legal fee.

- 14:43:57 1 Q. 776 I suppose really the real question is whether in 1993 or 1994 you had an
2 agreement with Mr. Dunlop for the payment of a sum of a million pounds.
3 A. No, not a million pounds, no.
- 4 Q. 777 You had no agreed figure with Mr. Dunlop, isn't that --
- 14:44:11 5 A. I had a success fee, yes.
- 6 Q. 778 In early 2000, Mr. O'Callaghan, I think the Tribunal wrote to you through
7 your solicitors on a number of occasions, seeking information, isn't that
8 right?
9 A. Yes.
- 14:44:41 10 Q. 779 And I that I by the time that Mr. Dunlop came to give evidence on the 11th
11 April 2000, while matters were in train as it were, nothing in fact had
12 been provided to the Tribunal, isn't that right, although it was
13 subsequently provided?
14 A. Nothing provided by whom?
- 14:44:58 15 Q. 780 You hadn't provided your statement to the Tribunal, isn't that right, at
16 that stage?
17 A. Yes.
- 18 Q. 781 And it was provided in or around the same time, isn't that right, your
19 first statement to the Tribunal?
20 A. I can't remember.
- 21 Q. 782 Let me assist you at 3116, I think this is a letter from your solicitors
22 sending in effect what was your first statement dated 12th April to the
23 Tribunal on 3117, isn't that right?
24 A. Yes.
- 14:45:37 25 Q. 783 And in that statement, at 3118 you record there are queries that have been
26 put to you by the Tribunal and you refer to schedules, isn't that right,
27 you set out the query from the Tribunal and you refer to a schedule in
28 your statement marked question one?
29 A. Yes.
- 14:46:00 30 Q. 784 Those schedules are at 3121 and in those you detailed certain political

- 14:46:07 1 payments that had been made by you, isn't that right?
- 2 A. Yes.
- 3 Q. 785 All right. Now, I think that it is the case that Mr. Dunlop gave evidence
4 to the Tribunal on the 11th April 2000 for the first time, isn't that
14:46:19 5 right?
- 6 A. Okay.
- 7 Q. 786 That is the date on which Mr. Dunlop first gave evidence to the Tribunal
8 and that was then followed I think by the provision of your statement and
9 I think Mr. Dunlop next gave evidence on the 18th April 2000, isn't that
14:46:33 10 right, that is the position? Did you have any meeting with Mr. Dunlop to
11 discuss Mr. Dunlop's approach to the Tribunal, prior to April of 2000?
- 12 A. Absolutely not, no discussion at all, in fact we rarely discussed the
13 Tribunal, if we discussed it at all -- in fairness to Frank Dunlop that
14 was at his suggestion.
- 14:46:58 15 Q. 787 Did Mr. Dunlop ever come to you for assistance in preparing documentation
16 or getting documentation ready for the Tribunal?
- 17 A. Oh, yes, he came to Cork for some invoices, yes.
- 18 Q. 788 Did he come to Cork in March 1999?
- 19 A. I think that's when it was, yes.
- 14:47:13 20 Q. 789 Did you have a meeting at 13451, that seems to have lasted some of the day
21 on the 10th March 1999 or alternatively the 9th March?
- 22 A. We had a meeting, yes he was in Cork for half a day at least.
- 23 Q. 790 According to Mr. Dunlop he met with you and he met with some accountants
24 and you were discussing documentation to provide to the Tribunal would you
14:47:43 25 agree with that?
- 26 A. For whatever invoices he was missing, copy invoices of whatever he was
27 missing.
- 28 Q. 791 These were the Shefran invoices?
- 29 A. Shefran invoices as well as some Frank Dunlop invoices he was missing as
14:47:55 30 well.

- 14:47:56 1 Q. 792 Yes. He had no copy of the Shefran invoices, isn't that right, at all?
- 2 A. I don't think he had.
- 3 Q. 793 And the only person who had a copy of those invoices, Mr. O'Callaghan, was
- 4 yourself?
- 14:48:08 5 A. I had the originals.
- 6 Q. 794 You had the originals. Mr. Dunlop came to you looking for copies of the
- 7 Shefran invoices arising out of his dealings with the Tribunal, isn't that
- 8 right?
- 9 A. Yes.
- 14:48:16 10 Q. 795 And --
- 11 A. Sorry not just Shefran invoices he was looking for a lot of invoices his
- 12 accounting system isn't great.
- 13 Q. 796 I think Mr. Dunlop told the Tribunal that he had Frank Dunlop & Associates
- 14 invoices but he had a gap in his documentation in relation to the Shefran
- 14:48:32 15 invoices?
- 16 A. No, did he not have all the Frank Dunlop invoices, we gave him a lot of
- 17 copy invoices.
- 18 Q. 797 Would you agree in a general sense that the subject matter ever your
- 19 meeting and discussion with Mr. Dunlop in March 1999 related to the
- 14:48:45 20 business of the Tribunal?
- 21 A. Oh, yes.
- 22 Q. 798 Right.
- 23 A. Completely.
- 24 Q. 799 And nothing else. And did you confine your discussions at that stage to
- 14:48:53 25 dealing with the documentation that was to be provided to the Tribunal?
- 26 A. Yes because we had present with us Aidan Lucey, Clare Cowhig and I think
- 27 John Deane might have joined the meeting for a little while.
- 28 Q. 800 If Mr. Dunlop is even partially correct in his recollection in relation to
- 29 that meeting the subject matter of Mr. Dunlop's concern was the absense of
- 14:49:13 30 any Shefran invoices in his hand, do you agree he didn't have the

- 14:49:16 1 invoices?
- 2 A. No he didn't, I gave copies of the invoices and Frank Dunlop invoices, he
3 got a lot of stuff from us.
- 4 Q. 801 Insofar as the Shefran invoices are concerned, Mr. O'Callaghan, do you
14:49:26 5 agree that one of the matters that you discussed with Mr. Dunlop in Cork
6 in March of 1999 were the Shefran invoices?
- 7 A. Together with everything, it was one of the subjects, yes.
- 8 Q. 802 And the Shefran invoices were something that Mr. Dunlop had disclosed to
9 the Revenue Commissioners, isn't that right?
- 14:49:45 10 A. Yes.
- 11 Q. 803 -- the previous October when he was making disclosure to the revenue?
- 12 A. I'm not sure about that.
- 13 Q. 804 I think I have shown you the document this morning where he listed out
14 175,000 pounds paid to Shefran, isn't that right?
- 14:49:58 15 A. Yes.
- 16 Q. 805 It would follow from that, that Mr. Dunlop was able to advise his
17 accountant at the very least of the full and accurate amount that had been
18 paid by Shefran in October and November 1998, isn't that right?
- 19 A. Yes.
- 14:50:13 20 Q. 806 And therefore he, certainly insofar as the calculation of the amounts was
21 concerned, he didn't need to go to Cork to find out how much money had
22 been paid to Shefran because he was able to tell his auditor that or the
23 accountant the previous October, isn't that right?
- 24 A. Yes, okay.
- 14:50:29 25 Q. 807 Isn't that the position?
- 26 A. If you say so.
- 27 Q. 808 I don't say so, I have shown you the document provided to the Revenue
28 Commissioners together with the cheque for 243,000 pounds in October of
29 1998 which details the six Shefran payments totalling 175,000 pounds?
- 14:50:49 30 A. Okay.

- 14:51:02 1 Q. 809 I just want to show you this, Mr. O'Callaghan, because, 25316, this
2 document is provided by Mr. Dunlop's auditors Coyle & Coyle, Mr. Hugh
3 McGowan in particular, to the revenue on the 8th October 1998 as part of
4 his explanation to the revenue for the unpaid income tax, you understand
14:51:38 5 that?
- 6 A. Yes.
- 7 Q. 810 You agree that there is there detailed the six Shefran payments, isn't
8 that right?
- 9 A. Yes.
- 14:51:47 10 Q. 811 And the dates are right, isn't that right?
- 11 A. Yes.
- 12 Q. 812 Right. And therefore from somewhere, where ever it was, Mr. Dunlop was
13 able to provide that information to his accountant, isn't that right?
- 14 A. Yes.
- 14:51:59 15 Q. 813 Did you at that stage, Mr. O'Callaghan, which is October 1998 provide that
16 information to Mr. Dunlop?
- 17 A. I probably did, yes.
- 18 Q. 814 So you would have given Mr. Dunlop the information in relation to the
19 Shefran payments in October 1998 to enable him provide that information to
14:52:18 20 the revenue?
- 21 A. I gave him that together with everything else, I gave a load of
22 information. In fact more than likely gave the Shefran stuff as well, you
23 have a thing about Shefran, Shefran made nothing are, just some of the
24 invoices together with other invoices.
- 14:52:34 25 Q. 815 I don't I don't want to mislead you, Mr. O'Callaghan, I don't want you to
26 think that this document on screen was generated after March 1999 when Mr.
27 Dunlop went to Cork to get documentation from you?
- 28 A. It was generated then was it?
- 29 Q. 816 What I can tell you Mr. Dunlop, sorry Mr. O'Callaghan, that the Revenue
14:52:51 30 Commissioners were given this document in October of 1998?

14:52:55 1 A. Yes.

2 Q. 817 It follows from that that Mr. Dunlop must have been able in October 1998

3 to collate the list of the monies paid to Shefran by your companies, isn't

4 that right?

14:53:06 5 A. Yes.

6 Q. 818 Is it likely that he got that information from you to enable him prepare

7 that list in October 1998?

8 A. I am pretty sure he did.

9 Q. 819 That he did?

14:53:15 10 A. Yeah, I can't say for definite but I am pretty sure he did. He got a load

11 of stuff from us, he had nothing when he came to us.

12 Q. 820 It would follow from that if that's correct, Mr. O'Callaghan, that in

13 October 1998, Mr. Dunlop went to you looking for information in relation

14 to the Shefran payments to make disclosure to the revenue and you provided

14:53:35 15 the information to him?

16 A. Mr. Dunlop came to Cork looking for copy invoices for Frank Dunlop &

17 Associates mainly, because they were the ones he was mainly missing, I

18 don't know what he did with his accounting system, at the time he came to

19 Cork in 1998, I don't think he had anybody handling his accounts in his

14:53:52 20 office. I think he had just himself and a secretary strictly and he

21 couldn't locate anything, it was mainly Frank Dunlop stuff he was looking

22 for, that's what we gave him. We possibly gave him that as well because I

23 am sure he didn't have that either --

24 Q. 821 Mr. Dunlop dates that meeting in Cork to March 1999?

14:54:10 25 A. We whenever it was, '99 yeah, sorry.

26 Q. 822 This information on screen was provided to the revenue in October 1998, if

27 that is information?

28 A. Sorry '98.

29 Q. 823 Yes, I think that's why I didn't want to confuse you, Mr. O'Callaghan?

14:54:25 30 A. Sorry.

- 14:54:26 1 Q. 824 That's what I am asking you. Did Mr. Dunlop go to you in October 1998
2 seeking a list of the payments that had been made to his company from
3 Barkhill or Riga?
- 4 A. Sorry that is wrong. He did not. He came to Cork whenever he came to
14:54:43 5 Cork whether it was '98 or '99, I think it's '99, he came to Cork
6 especially to get copy invoices from us and that was the only time, that
7 was the only time we gave himing in like an invoice to supplement his
8 invoices. That was in, if it was '99 he game down and it was mainly Frank
9 Dunlop invoices he wanted we possibly gave him Shefran as well if he was
10 missing them, but we gave him nothing at any other stage.
- 11 Q. 825 Mr. Dunlop has told the Tribunal he didn't keep a copy of the Shefran
12 invoices, that he never had a copy of the Shefran invoices, isn't that
13 right?
- 14 A. That makes sense.
- 14:55:17 15 Q. 826 We know from nearly everybody else that has given evidence, that it's
16 unlikely anybody saw a copy of the Shefran invoices except yourself and
17 possibly Mr. Lucey, isn't that right?
- 18 A. Mr. Lucey, yes.
- 19 Q. 827 And Ms. Cowhig, if she saw them?
- 14:55:31 20 A. Yes.
- 21 Q. 828 That would mean the invoices were in Cork and not anywhere else, isn't
22 that right?
- 23 A. That's right.
- 24 Q. 829 Insofar as the information contained in the invoices was concerned, in
14:55:46 25 order for Mr. Dunlop to provide this information to the revenue in October
26 1998 which he did, he had to have the information available to him?
- 27 A. That means he must have had it for himself.
- 28 Q. 830 Right. He didn't get it from you, is that the position?
- 29 A. No.
- 14:55:54 30 Q. 831 If he had sought the information from you in October 1998 you would

- 14:55:57 1 remember him seeking it, isn't that the position?
- 2 A. He did not. The only time he ever looked for anything was when we
- 3 actually came to Cork. I remember he had so much stuff to look for he
- 4 rang me about it I asked him to come down and sit down in our office and
- 14:56:11 5 we would can give him whatever we could give him, that happened on only
- 6 one occasion, I'm not sure if it was '98 or '99, I think you are saying it
- 7 was '99.
- 8 Q. 832 I am saying Mr. Dunlop says it was 1999, Mr. O'Callaghan.
- 9 A. I think there was a record somewhere.
- 14:56:25 10 Q. 833 Ms. Cowhig says it was 1999. I think in her evidence she agreed with Mr.
- 11 Dunlop that meeting took place?
- 12 A. That was the only time that ever happened. Frank Dunlop had a habit of
- 13 not being able to look after his accounts.
- 14 Q. 834 It would follow from that then that Mr. Dunlop must have had reasonably
- 14:56:39 15 accurate records in October 1998 if he was in a position to provide that
- 16 information to the revenue?
- 17 A. Obviously.
- 18 Q. 835 That would be contrary to your understanding of Mr. Dunlop's position,
- 19 isn't that right?
- 14:56:50 20 A. His accounting system.
- 21 Q. 836 And his accounting system?
- 22 A. Yes, it would be.
- 23 Q. 837 Mr. O'Callaghan, there are a number of generalised allegations that
- 24 Mr. Gilmartin has made in relation to payments to politicians. I can take
- 14:57:30 25 you through them specifically, but rather than do that, maybe the may the
- 26 Tribunal take it that it's your position that you never made a payment to
- 27 a senior politician for a corrupt or improper purpose?
- 28 A. Never in my life.
- 29 Q. 838 All right. Insofar as I think in an early letter to the Tribunal you told
- 14:57:48 30 the Tribunal you never made a payment to a senior politician, I will get.

- 14:57:53 1 The document for you, do you want to qualify in a by acknowledging you did
2 in fact make a payment to Mr. Lawlor in connection to Quarryvale?
- 3 A. Not a corrupt payment.
- 4 Q. 839 I am not suggesting a corrupt payment, I think the letter says you never
14:58:08 5 made any payment to a politician in connection with Quarryvale?
- 6 A. Never made a payment, what does it say?
- 7 Q. 840 I will get the document for you in a second, Mr. O'Callaghan, but you
8 agree first of all it's your position you never made a corrupt payment,
9 ever?
- 14:58:22 10 A. Never in my life.
- 11 Q. 841 All right. Insofar as there is any suggestion that you did so, you reject
12 that absolutely?
- 13 A. Totally and completely.
- 14 Q. 842 Is that the position?
- 14:58:31 15 A. Absolutely.
- 16 Q. 843 In general would it be fair to say insofar as Mr. Gilmartin's allegations
17 are concerned, that you reject them?
- 18 A. Everything that man said I reject.
- 19 Q. 844 Everything he said?
- 14:58:41 20 A. He is not capable of telling the truth, I don't want to say anything more
21 about it.
- 22 Q. 845 You reject what Mr. Gilmartin says?
- 23 A. Yes, I do.
- 24 Q. 846 In his totality, insofar as he dealt with any matter concerning you?
- 14:58:52 25 A. Every thing he has said.
- 26 Q. 847 Yes. Do you confine that rejection to the matters that Mr. Gilmartin has
27 addressed to the Tribunal that concern you or do you apply that to
28 everything Mr. Gilmartin has told the Tribunal?
- 29 A. Everything I would say.
- 14:59:05 30 Q. 848 Everything.

- 14:59:06 1 A. Yes.
- 2 Q. 849 And it's your position in relation to Mr. Gilmartin that he is a fantasist
3 and a liar?
- 4 A. Notorious liar, yes.
- 14:59:14 5 Q. 850 Notwithstanding, I think, your inability to explain how he was able to
6 point the finger so accurately at Mr. Dunlop?
- 7 A. Because he has been used by one or two journalists here in town, that's
8 the only reason that he was able to do that and you know who they are.
- 9 Q. 851 That is your view, is it, Mr. O'Callaghan?
- 14:59:34 10 A. That is my view.
- 11 Q. 852 Yes. There is one matter that I just want to find for you in that
12 statement, Mr. O'Callaghan, if I may.
13
14 Yes, 3104, this was a letter from your solicitors in reply, effectively to
15:00:23 15 a request for discovery and a statement in which I think further
16 clarification is sought, but there is one matter in particular I want to
17 give you an opportunity to deal with, Mr. O'Callaghan, in the second
18 paragraph you say in the fourth line your solicitors say "We should say
19 however that there is no substance, foundation or truth to the allegations
15:00:45 20 that Mr. O'Callaghan made substantial payments to senior politicians in
21 1989 or at any other time, in connection with the Quarryvale development".
22 Isn't that right?
- 23 A. Yes.
- 24 Q. 853 Do you agree with me, Mr. O'Callaghan, that your evidence to the Tribunal
15:00:59 25 has been that insofar as certain payments were made to Mr. Liam Lawlor
26 they arose out of his connection with the Quarryvale development?
- 27 A. Yes.
- 28 Q. 854 Insofar as some payments were made by you to councillors such as
29 Councillor Gilbride and Councillor McGrath, those payments were attributed
15:01:18 30 to the Quarryvale development and were in recognition in part of their

15:01:21 1 support for the Quarryvale endeavour?

2 A. Yes.

3 Q. 855 Right.

4

15:01:28 5 CHAIRMAN: Well I suppose just in fairness to, Mr. O'Callaghan, that has
6 to be read in the context of the remaining part of the paragraph.

7 Q. 856 MS. DILLON: Yes I will put that to, Mr. O'Callaghan. The second part of
8 that paragraph reads "This will be clearly apparent from the discovery
9 documentation. Our client is then left in a position having put to bed
10 the allegations or rumours insofar as the Tribunal is concerned, that the
11 rumours which have circulated of which the Tribunal is most definitely
12 aware, are still extant and in the absence of any details of the
13 allegations our client is unable to deal with or respond to those rumours,
14 safe to say, in very general term that is he made no such payments".

15:02:09 15 Isn't that right?

16 A. Yes.

17 Q. 857 In the following page it refers again to your adamant denial in relation
18 to matters. And what I was anxious to deal with, Mr. O'Callaghan, was to
19 give you an opportunity to clarify that statement in the light of your
20 evidence to the Tribunal?

21 A. Yes.

22 Q. 858 Do you understand? And are you happy that has now been done?

23 A. Yes.

24 Q. 859 Now there are probably matters that Mr. Lucey feels I should have
15:02:37 25 addressed with you, Mr. O'Callaghan, and if there are any such matters I
26 would be happy if Mr. Lucey will bring them to my attention and I can deal
27 with them at a later stage. But leaving that aside, that concludes your
28 direct evidence to the Tribunal, subject to any questions that anybody
29 else may have for you. But there will be no such questions, I think,
15:02:56 30 today.

15:02:57 1
2 CHAIRMAN: All right. Mr. Lucey?
3
4 MR. LUCEY: I think it's proposed that Mr. Sreenan will re examine
15:03:05 5 Mr. O'Callaghan on Wednesday, sir.
6
7 CHAIRMAN: Sorry, who will?
8
9 MR. LUCEY: Mr. Sreenan will commence re-examination on Wednesday.
15:03:11 10
11 MS. DILLON: I understand there is no questioning of Mr. O'Callaghan
12 today. And at 2 o'clock on Tuesday there are four parties who will cross
13 examine Mr. O'Callaghan, it is hoped. That is counsel for Mrs. Mary
14 O'Rourke; counsel for Mr. Albert Reynolds subject to confirmation; counsel
15:03:30 15 for Councillor Tom Hand (deceased) and councillor John O'Halloran on his
16 own behalf.
17
18 CHAIRMAN: Then Mr. Sreenan on Wednesday morning.
19
20 15:03:42 MS. DILLON: Though it's possible counsel for Mr. Reynolds will be on
21 Wednesday morning.
22 MR RYAN: Judge, as well, on behalf of Mr. Gilmartin, just to say to the
23 Tribunal that it's clear that there is very stark conflicts between
24 Mr. Gilmartin's evidence and Mr. O'Callaghan's evidence. But, however we
15:03:59 25 feel that the matter has been well ventilated in the Tribunal and as such
26 we don't think there is any need to prolong the Tribunal, since the
27 matters have been well ventilated. We don't propose, therefore, to cross
28 examine Mr. O'Callaghan.
29
30 15:04:14 CHAIRMAN: All right, that's fine. Thank you Mr. O'Callaghan. So we'll

15:04:17 1 see Mr. O'Callaghan on Tuesday?

2

3 MS. DILLON: At 2 o'clock, as I understand it.

4

15:04:22 5 CHAIRMAN: For what hopefully might be his last week.

6 A. Thank you, sir.

7

8 MS. DILLON: I can't anticipate that Tuesday will be very long.

9

15:04:32 10 CHAIRMAN: It will be the final week, we hope, anyway for

11 Mr. O'Callaghan.

12 A. Thank you.

13

14 **THE TRIBUNAL THEN ADJOURNED TO TUESDAY 21ST OCTOBER 2008 AT 2 PM.**

15:04:55 15

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