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1 THE HEARING RESUMED ON THE 1ST DECEMBER, 1999, AS FOLLOWS:

2 .

3 CHAIRMAN: Good morning everyone.

4 .

5 JOSEPH MURPHY JUNIOR, HAVING BEEN ALREADY SWORN, CONTINUED

6 TO BE EXAMINED BY MS. DILLON AS FOLLOWS:

7 .

8 MS. DILLON: Good morning.

9 .

10 CHAIRPERSON: Morning.

11 .

12 1 Q. MS. DILLON: Good morning Sir. Morning Mr. Murphy, do

13 you have the books of documents with you?

14 A. I do Ms. Dillon, yes.

15 2 Q. The first matter I want to put to you - that's not in any

16 of those books, it is in relation to a bank account?

17 A. Yeah.

18 3 Q. This was something that we had discussed two days ago I

19 think?

20 A. That's correct.

21 4 Q. And this is, as I understand it, it is a bank at Leeson

22 Street?

23 A. Correct.

24 5 Q. And the bank account number is 53540916 and in the name of

25 Joseph Murphy/Wilton?

26 A. Correct.

27 6 Q. And I think that we are putting the bank number on the

28 screen, and the document hasn't been circulated, and I

29 would just like you to confirm that this was the account

30 that you were operating when you were a student?

31 A. Correct.

32 7 Q. And that you did not operate any other bank account at that

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1 time?

2 A. Correct.

3 8 Q. In Ireland?

4 A. Correct.

5 9 Q. Presumably did you have bank accounts in England or did you

6 have?

7 A. I did of course, yes.

8 10 Q. But insofar as Irish bank accounts were concerned, this is

9 the only account you had operational at that time?

10 A. Correct.

11 11 Q. The affidavit that you swore in relation to the bank

12 accounts shows that this was the only account that was

13 operational also in 1989?

14 A. Personal account, yes.

15 12 Q. Yes. So that you didn't have any other, there may have

16 been accounts before and after, but insofar as 1989 is

17 concerned, this was the only operational bank account that

18 you had?

19 A. That I had personally, yes.

20 13 Q. In Ireland?

21 A. Yes.

22 14 Q. That's all I wanted to ask you in relation to that, Mr.

23 Murphy. Thank you.

24 A. Okay.

25 15 Q. Yesterday evening, if we could go back to the second

26 document that I wanted to put to you, Mr. Murphy, which is

27 a document headed "Replacement Car Rentals"?

28 A. Yeah, I can help you actually, I don't want to interrupt

29 you, Ms. Dillon, but I did make a phone call to London

30 yesterday and I can actually help you more on the Tara

31 Travel invoice, and I have actually brought the original

32 with me and the original of the second one on the 9th of

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1 June, and I can explain the numbers to you, if you want?

2 16 Q. That's fine. If you go back to the Tara Travel invoice

3 which we were looking at yesterday which was H3787?

4 A. Yes.

5 17 Q. Now, you were going to explain something about that

6 invoice?

7 A. Yeah. As I said I made a phone call to London yesterday.

8 And the Tara 01, I am not too sure what that is, that is on

9 all - I think if you look at the other one on the 9th of

10 June, that 01 is some sort of a code, I don't know what

11 for.

12 .

13 The stamp 105034 is a filing number, an internal Murphy

14 filing number.

15 .

16 The 8001103 number is a cost code to travel, and again an

17 internal Murphy number.

18 .

19 And I think that the bottom No., 326281260, is a Tara

20 Travel, some sort of a Tara Travel file or whatever

21 number. Okay?

22 18 Q. Yes, thank you very much, Mr. Murphy.

23 A. You are welcome.

24 19 Q. That's helpful. If we could just go back up to that print

25 order stamped number in the centre, 105034, which you say

26 is an internal filing number?

27 A. Yeah.

28 20 Q. Do these invoices go in sequence?

29 A. I would presume so, yes.

30 21 Q. So the, and this file I think you told us relates --

31 A. No, I checked all that yesterday with Ms. Reilly because

32 she, I think when I was looking for these documents, a

1 couple of years ago, she had to go into the archives, they
2 weren't actually on file they were so far back. I think
3 after 3, 4, 5 years, there are thousands of documents in
4 the company, they had to go in the archives. It wasn't a
5 special Tara Travel one, but I think there is 30 or 40
6 leverarch files of invoices in total, and they would go
7 month by month, January to December, for a specific year,
8 so they would have to go through - if I was looking for a
9 specific month, they may have to go through in the archives
10 30 or 40 leverarch files to actually recover this.

11 22 Q. I see.

12 A. That's what she did at the time and I have asked her, as
13 well to try and be helpful to this Tribunal, Ms. Dillon, to
14 go back and see if she can get the ones in the earlier part
15 of '89, but this as you can well imagine, the archives
16 going back to '89, a lot of these documents are loose,
17 could take a week or two, but certainly if we find any of
18 those other travel documents, I have a few more with me
19 here today and I can give them to you, one which doesn't
20 relate to me, we will certainly give them to you.

21 23 Q. Thank you. The question that I was asking you, Mr.
22 Murphy, from your inquiries yesterday that particular
23 number, 105034, was an internal Murphy filing number?

24 A. An internal file number, yeah.

25 24 Q. So the numbers, I was asking you do they go in sequence in
26 relation to the invoices? Would the next invoice that's on
27 your file bear the number 105035?

28 A. Maybe not in reference to Tara Travel, but in sequence to
29 invoices in general.

30 25 Q. So this, insofar as this is an invoice number, it relates
31 to invoices in general and not Tara Travel, in specific?

32 A. Sorry, Ms. Dillon, it is not an invoice number, it is a

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1 file number.

2 26 Q. File number. I beg your pardon. Insofar as this is a

3 file number, not a file number peculiar to Tara Travel?

4 A. No, I think that it would be a file number peculiar to the

5 total invoices, yes.

6 27 Q. And these would be expenses invoices in general, is that --

7 A. There would be invoices for suppliers, hundreds of them

8 coming every week, you know.

9 28 Q. So that there is --

10 .

11 CHAIRMAN: Sorry, may I just intervene? Do I understand,

12 Mr. Murphy, I want to be clear about this, the 105034 is a

13 file number upon which all expenses, be it your's, your

14 father's, whoever else, expenses or is it a file which

15 bears all invoices or statements or otherwise of your

16 expenses?

17 A. No, Sir. Mr. Chairman, it is a file number for company

18 invoices, all invoices for suppliers --

19 .

20 CHAIRMAN: On the 1st of June, 2nd of June, they all got

21 filed in sequence?

22 A. But they don't relate specifically to me or my father.

23 .

24 CHAIRMAN: They are company invoices?

25 A. This is an invoice, not an expense form or whatever.

26 .

27 CHAIRMAN: It is an invoice. As each is received it is

28 duly stamped and duly put on that or a file of sequence?

29 A. Yeah, and then there is a special file, Sir, for each month

30 of each particular year, January, and then that would be

31 closed and a February one opened and so on, so forth. And

32 maybe after about 6 or 7 years as we all know in the --

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1 .

2 CHAIRMAN: So you then have, if you are going to look for
3 your travel expenses invoices to relate to your expenses,
4 you have to trawl through the year's documents to find out
5 whether there were any more than these?

6 A. You are using the word "expenses".

7 .

8 CHAIRMAN: I am using the word "invoice" relating to
9 travel for --

10 A. Correct, Sir.

11 .

12 CHAIRMAN: You have to go through --

13 A. Maybe 30.

14 .

15 CHAIRMAN: -- each month, certainly if you knew the month
16 you could go through the month?

17 A. Yes, Sir, but after a certain period of time, they build
18 up, and I think maybe after 7 or 8 years we put them in the
19 archives which is next to a garage, they are all dusty and
20 everything else.

21 .

22 CHAIRMAN: I follow.

23 A. When I was recovering these, I think two people spent a
24 couple of days down in the dust and dirt to recover these
25 documents, Sir.

26 .

27 CHAIRMAN: Thank you very much.

28 A. You are welcome, you are quite welcome.

29 .

30 CHAIRMAN: Sorry, Ms. Dillon, I just wanted to be clear on
31 what I was dealing with.

32 .

1 29 Q. MS. DILLON: Not at all. So as I now understand, while
2 the Tara Travel file is a separate file, I think you said
3 yesterday?

4 A. Yes, I was incorrect in that. I checked with Ms. Reilly
5 yesterday, she told me that she keeps a separate Tara file
6 for specific travel arrangements that she makes on behalf
7 of people, but that file is empty now, as I say, after
8 three or four years, as I explained to the Chairman there,
9 they are put in the archives in a bundle of invoices for a
10 particular month. I think I checked actually again this
11 morning with somebody there and he said that there are
12 probably 40 leverarch files maybe in every month or
13 whatever for the invoices. So, I have asked them to look
14 back for, say January, February, March of '89 but this
15 isn't something that can be done very quickly, but I have
16 an actual invoice for April and for when I returned to
17 Ireland in November of '89. I have also another Tara
18 Travel that another director travelled in, just to show you
19 the actual, you know, that this wasn't a made-up document
20 so to speak.

21 30 Q. I haven't been suggesting at all in anyway that this is a
22 made-up document. But if we go back to the sequence,
23 numbering sequence on that document, which is what we were
24 talking about, insofar as you said yesterday there is a
25 separate Tara Travel file and you had looked in this and --

26 A. No, I didn't look, Mary Reilly checked for me. When I
27 checked yesterday evening she told me she had to go to the
28 archives to get this information for me a couple of years
29 ago.

30 31 Q. So when you were discussing the leverarch folders and
31 invoices contained in the leverarch folder these are
32 invoices in general?

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1 A. Yes.

2 32 Q. And these, therefore the sequential date, 105034, would
3 simply move on with every new invoice that comes into the
4 company?

5 A. Yeah, because I think if you go onto the other Tara Travel
6 document, the 106546, so that invoice for June is, you
7 know, that's the way it looks, yes.

8 33 Q. That's the system you have in operation?

9 A. Yeah.

10 34 Q. So when you were conducting your inquiry and you were
11 looking for these documents, Mr. Murphy, you were
12 responding, and I think your affidavit that you - sorry, I
13 beg your pardon - not your affidavit, the statement that
14 you furnished to the Tribunal was a statement in response
15 to certain allegations that had been made by Mr. Gogarty;
16 isn't that correct?

17 A. Sorry, my statement to the Tribunal, yes, was in response
18 to the allegations made by Mr. Gogarty, yes.

19 35 Q. And this - for reasons that entirely escape me I seem to
20 have temporarily mislaid your statement.

21 A. Please find it, it is very important.

22 36 Q. Very important. Your second statement.

23 A. The supplemental one.

24 37 Q. Yes.

25 A. Yeah, I wonder, Ms. Howard, if you could give me the black
26 folder, that's in the black folder, isn't it?

27 38 Q. Are you looking for the statement, Mr. Murphy?

28 A. I thought that's what you wanted me to do.

29 39 Q. I am looking for it myself but I have it here somewhere,
30 thank you very much, I hope. It would be very serious if I
31 didn't. There it is. (Document handed to witness)

32 .

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1 This statement was prepared in response to the evidence, I
2 think, that was given by Mr. Gogarty. And you furnished
3 the statement on the 16th of April of 1999?

4 A. I did.

5 40 Q. Yes, and at that stage I think, Mr. Gogarty had concluded
6 his direct evidence; isn't that correct?

7 A. He had.

8 41 Q. And at that stage you were aware, for example, that Mr.
9 Gogarty was suggesting that you had attended a number of
10 meetings with, I think, it was two meetings, with Mr.
11 Bailey prior to the letter of the 8th of June of 1989?

12 A. I was aware he suggested that, yes, that was his evidence.

13 42 Q. So in relation to the examination of the invoices that you
14 conducted at that time, did you limit your examination of
15 the invoices in respect of the two trips that you had taken
16 in relation to the funeral and the wedding respectively or
17 was it a wider examination?

18 A. No, I think that I asked the girl in the office, in or
19 around June '89, "can you go into the", you know, "in the
20 files or whatever and have a look at my travel documents?"

21 Yes.

22 43 Q. Yes. And these files are closed on a monthly basis?

23 A. Yes.

24 44 Q. And so that they are, in relation to 1989 there will be 12
25 leverarch files; is that right?

26 A. Sorry?

27 45 Q. You said the files are closed, these expense, these
28 invoices files are closed off on a monthly basis?

29 A. Yeah, but there would be more - I am just after giving
30 evidence that there could be 40 leverarch files for every
31 month.

32 46 Q. For every month, but the period in which you were looking

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1 at was a limited period; isn't that right?

2 A. Of course. I mean, you know, up until I think it was in
3 the middle of this year when I was requested to, asked for
4 my movements between May and September, I was purely
5 looking in the June period, the time, around the time of
6 the meeting with Ray Burke, that's what I was confining my
7 investigations to at the time.

8 47 Q. Yes. And also 1988 I think, in relation to an allegation
9 that you had attended a meeting in the offices of Dublin
10 County Council with Mr. George Redmond?

11 A. Well, yeah.

12 48 Q. And you dealt also with that, I think?

13 A. Yes.

14 49 Q. Yes. Now, the second document that I wanted to deal with
15 you yesterday is a document that you also furnished to the
16 Tribunal with your statement in April of this year, and
17 this is in respect of a car hire. Do you have that
18 document, Mr. Murphy?

19 A. Is it in this file?

20 50 Q. It is attached to your statement, your second statement?

21 A. Yes, of course it is, yes.

22 51 Q. And this invoice is dated, if I can find it, it is page
23 number, invoice number 29251?

24 A. Yes.

25 52 Q. And this invoice is headed up "Replacement Car and Van
26 Rentals"?

27 A. Correct.

28 53 Q. Was that an invoice that you obtained in your offices in
29 England or your offices in Ireland?

30 A. In Santry.

31 54 Q. And in the normal course of - Mr. Murphy, when you come to
32 Ireland is it your normal practice to hire a car?

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1 A. Normally, yes.

2 55 Q. And at that time was this the firm that you dealt with or
3 your offices dealt with in Santry?

4 A. Yeah, I think that we dealt with two firms, we dealt with
5 another firm, Murrays, and RCR, and then I think this
6 company then no longer supplied cars to the airport so we
7 changed then. They weren't actually, you know the way you
8 walk out in the airport and there would be, Murrays, Avis
9 and all the rest, they weren't actually one of those, they
10 were around a corner sort of thing. There was a
11 representative there for various small car hire companies.

12 56 Q. Yes. Now, you will see a stamp at the top of that,
13 "Received 12th of June, 1989 - JMSE Limited". That, I
14 presume, is an internal JMSE stamp?

15 .

16 MR. COONEY: Forgive me just interrupting for a moment.
17 Perhaps just in general terms Ms. Dillon might describe
18 what this document is?

19 .

20 CHAIRMAN: I thought she gave the number of it, 29251.

21 .

22 MR. COONEY: Yes. She hasn't yet told you, Mr. Chairman,
23 what it is in respect of, that it is, in respect of hire of
24 a motor car on a particular date, showing the date of
25 collection and showing the date of return, etc.. I think a
26 general description of the document should be given first.

27 .

28 CHAIRMAN: No problem.

29 .

30 MS. DILLON: I don't see it as my function to give
31 evidence to you, it is for this witness to tell me what
32 this document is. It is manifestly --

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1 .

2 CHAIRMAN: I have the document in front of me for a
3 start. He has it in front of him and so have you.

4 .

5 MR. COONEY: Of course, Mr. Chairman. I am not
6 suggesting, it is ludicrous to suggest, to say I am asking
7 Ms. Dillon to give evidence, all I am asking her to do is
8 introduce details of the question by saying generally what
9 the document is, what its function is and what it
10 describes? General terms, and then Ms. Dillon can then ask
11 detailed questions or questions about the detail of the
12 document itself. It seems to me to be a natural and normal
13 way to do this sort of thing.

14 .

15 CHAIRMAN: Ms. Dillon, would you take your own course.

16 .

17 MS. DILLON: I am about to take you back to line 17 I
18 think, on the transcript, line 20.

19 .

20 MR. COONEY: This is --

21 .

22 57 Q. MS. DILLON: Just so that we can be accurate about it,
23 Sir, I think it is important that we try and be accurate
24 about it. Now, the question I put is: "Now, the second
25 document I wanted to deal with you yesterday is a document
26 which you also furnished to the Tribunal with your
27 statement in April of this year, and this is in respect of
28 car hire. Do you have that document, Mr. Murphy?"

29 A. Yeah, I do. It is here.

30 .

31 MS. DILLON: I don't see how much further I could have put
32 the matter to the witness, Sir.

1 .

2 MR. COONEY: Sorry, what date is the period of hire?
3 Where was the car hired? When was it returned? These are
4 ordinary facts.

5 .

6 CHAIRMAN: Excuse me, Mr. Cooney, I have every wish to
7 give you every latitude possible, but Ms. Dillon has as far
8 as I remember, I certainly looked at the number 29251, is
9 on the document. It is a document for car hire. It is
10 circulated to you, it is circulated to the witness, it is
11 circulated to me, how much more information do you want?

12 .

13 MR. COONEY: Mr. Chairman, I want it on the transcript of
14 the dates of hire of the car.

15 .

16 CHAIRMAN: She is going on to that. Just wait for it.

17 .

18 MR. COONEY: Hang on for a second, just a moment,
19 Mr. Chairman, it seems to me as a part of normal efficacy
20 when you are introducing or questioning about a document
21 you first of all describe in general terms, say what it is
22 about; in the case of a car hire document, over what period
23 of the car was hired. Not only would you do that as a
24 matter of general advocacy but in the specific context of
25 this evidence would be done, because this is one of the
26 documents which we have produced to corroborate Mr.
27 Murphy's account of where he was at this particular time.
28 It seems to me before questions should be asked about that,
29 a fundamental fact would be to establish the period of time
30 to which this document relates.

31 .

32 MS. DILLON: If I hadn't been interrupted by Mr. Cooney, I

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1 was about to deal with the dates and matters of that sort.

2 There will be no part of this document that I will not ask

3 Mr. Murphy Jnr. about. If there is a suggestion emanating

4 from Mr. Cooney that I was not going to deal with the date,

5 I reject that suggestion.

6 .

7 CHAIRPERSON: We will just go on to deal with it. Mr.

8 Cooney made his point.

9 .

10 58 Q. MS. DILLON: I, in my own time, will come to deal with the

11 date.

12 .

13 Now, what I had been asking you, Mr. Murphy, was that, to

14 confirm to me that the stamp received "12th June, 1989 -

15 JMSE Limited" is an internal JMSE stamp?

16 A. Yes.

17 59 Q. And that the document is not a document that was made or

18 prepared in JMSE, in other words it came in from

19 Replacement Car and Van Rentals?

20 A. Correct.

21 60 Q. And that in the normal course, and you can correct me if I

22 am wrong, they would furnish an invoice, it would be

23 processed through your books and paid in the fullness of

24 time?

25 A. Correct.

26 61 Q. And the document will describe the type of vehicle that was

27 hired?

28 A. Correct.

29 62 Q. It also details the period of hire; isn't that correct?

30 A. Correct.

31 63 Q. And the amount or the rate that is to be applied to the

32 particular hiring period?

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1 A. Correct.

2 64 Q. And in this particular case, the renting office is

3 described as Dublin?

4 A. Yeah, correct.

5 65 Q. And did you pick up the vehicle in Dublin Airport?

6 A. Dublin Airport.

7 66 Q. Yes, and beside that then a rental number and that number

8 emanated from rent-a-car and not JMSE; is that correct?

9 A. Correct.

10 67 Q. And beneath that, "Driver: Mr. Joseph Murphy". That is

11 yourself?

12 A. Correct.

13 68 Q. And it then refers to from and to, so presumably they are

14 referring to the hire period dates within which the car was

15 hired?

16 A. Correct.

17 69 Q. So the car from this document was hired on the 31st of May,

18 1989, until the 6th of June, 1989?

19 A. Correct.

20 70 Q. And the fee in relation to that, including VAT, came to a -

21 sorry 168 plus 13.50, I don't have the total there. There

22 doesn't appear to be a total on the document, but that is

23 the fee that was charged by RCR Car Rentals in relation to

24 the hire of the car?

25 A. 181.62.

26 71 Q. Excellent, well done. Written in handwriting in the

27 centre of the page and surrounded by a circle, there is a

28 calculation at 181.67, and on top of that, there is a word

29 - can you tell me, do you have any idea what that word is?

30 A. It looks "Bike", "Book". The one with the circle around

31 it?

32 72 Q. Yes, there appears to be something in handwriting at the

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1 top that to me looks like "Beak", but I could be entirely

2 wrong?

3 A. Maybe it is Mr. O'Shea's canary, is it?

4 73 Q. I don't know. Is it "Book"?

5 A. I am not sure, it looks like "Book".

6 74 Q. Do you know whose handwriting that is?

7 A. I don't. It could be an accounts clerk in JMSE.

8 75 Q. And in the centre of the page in a square box there, at the

9 top of the document there is "travelling expenses" and

10 beneath that some typed words, the first of which is "JMSE,

11 VCHR"?

12 A. Yes.

13 76 Q. And can you explain what that is?

14 A. That's "JMSE - Vehicle Hire".

15 77 Q. Right. And then beneath that there is some other typed

16 words, and I think the second word is abbreviation for

17 checked?

18 A. Looks like that.

19 78 Q. And it is signed by Frank Reynolds I think?

20 A. Correct.

21 79 Q. An order was checked, I think, and then the date beneath

22 that could be either the 18th or 28th of the 9th?

23 A. Yeah, one of those dates.

24 80 Q. 1989. Is that --

25 A. Correct, yes.

26 81 Q. And then "Allocation Re: JM Jnr."?

27 A. Yes.

28 82 Q. That is you. And then it is entered purchases costing,

29 and there is another signature beneath that, do you know

30 who the signature is, the last signature?

31 A. Jim Mitchell.

32 83 Q. Who was Mr. Mitchell?

1 A. Accounts clerk he was at the time in JMSE.

2 84 Q. Is he still with JMSE?

3 A. No, he is retired.

4 85 Q. All right. Is this the standard way all of these car hire

5 documents are treated in JMSE?

6 A. I think so, yes. I wouldn't have actually seen this.

7 Once Frank Reynolds would have seen my name on it he would

8 have approved it and signed it.

9 86 Q. Again when you were preparing your second statement

10 furnished to the Tribunal, did you make a request of

11 someone in JMSE to conduct a search to see whether there

12 was any document?

13 A. I had these documents before I made a, a good time before I

14 made my second statement.

15 87 Q. Right. And they were retrieved without any difficulty,

16 were they?

17 A. Without any difficulty, yeah.

18 88 Q. So, is it correct to say then that in JMSE you have a file

19 going back to 1989 in Dublin in respect of car hire?

20 A. Yes.

21 89 Q. Right. And all car hire matters are detailed there, and

22 presumably for 1988 and matters of that sort?

23 A. Oh yeah.

24 90 Q. Now, the second document, probably we will come to it in

25 sequence. Can you tell me the purpose for which you were

26 coming to Ireland on the 31st of May of 1989?

27 A. A close friend's wedding.

28 91 Q. And this was the wedding --

29 A. Maybe an extended break.

30 92 Q. And this was the wedding in Waterford?

31 A. Correct.

32 93 Q. And I think that - can you tell me what, can you recollect

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1 what flight you came in on that day?

2 A. Ten years ago, Ms. Dillon, I didn't keep the flight dates

3 at that stage. I have actually started keeping flight

4 tickets now since this Tribunal started, but the actual

5 time of the flight, it could have been sometime in the

6 afternoon, I am not sure.

7 94 Q. Could it have been in the morning?

8 A. I don't know what time it was, Ms. Dillon. It is 1989,

9 ten years ago. I don't think it was in the morning, no.

10 I am not actually sure, it could have been lunchtime,

11 around lunchtime or that, you know. You are asking me to

12 remember when I caught - I catch so many flights, Ms.

13 Dillon, specially this year, and last year. It is very

14 difficult to remember a specific flight ten years ago. I

15 think that - but I flew in that day, the car hire shows

16 that I picked up the car hire and I drove straight to

17 Waterford.

18 95 Q. And you checked into the hotel, is that correct?

19 A. I did.

20 96 Q. And I think that you had arranged to meet Mr. Denis Flynn

21 and his wife there on that occasion?

22 A. I did.

23 97 Q. But I think they had to cancel; is that correct?

24 A. They did.

25 98 Q. And he telephoned you in the hotel that evening?

26 A. He did.

27 99 Q. And he has furnished a statement to the Tribunal to say

28 that he telephoned you in the hotel?

29 A. He has.

3 100 Q. Yes. And Mr. Denis Flynn, is he a cousin of yours?

31 A. He is.

3 101 Q. Yes. And is he one of the persons, sorry, who is related

1 to the lady who died also?

2 A. Yeah, he would be her grandson, her blood grandson.

102 Q. Her blood grandson. And you were going down for the
4 wedding of Mr. Michael Feeley whom, I think, has also
5 furnished a statement to the Tribunal and he was a friend
6 of yours?

7 A. He was.

103 Q. And he was also a friend of Mr. Flynn's; is that correct,
9 and Mr. Flynn was also going to the same wedding?

10 A. Correct.

1 104 Q. Right. Now, I think that you did spend - can you
12 recollect what you did on the evening of the 31st of May of
13 1989?

14 A. I think I had a couple of pints.

1 105 Q. On your own or with somebody else?

16 A. On my own, because as I say the, I knew the groom's side of
17 the wedding, and the purpose of travelling on that day was
18 just purely to meet Denis Flynn who I am very close to. It
19 was actually his mother who brought me up. He couldn't
20 make it. I am not exactly sure, it may have been one of
21 his children was sick or child was sick or something. I
22 remember I was on my own in Waterford that evening, I had a
23 couple of drinks and went to bed.

2 106 Q. Yes. Now, the following morning, or presumably following
25 day, the 1st of June, 1989, was a Thursday?

26 A. That's correct.

2 107 Q. And I think the wedding was on the Saturday?

28 A. The wedding was on the Saturday that's right, yeah.

2 108 Q. Can you tell me what you recollect that you did on the
30 Thursday?

31 A. I waited for the groom's wedding party to arrive and Denis
32 Flynn to arrive, and various people were arriving

1 throughout the day.

109 Q. Yes. When did Mr. Flynn arrive can you recollect?

3 A. He arrived the next day.

110 Q. In the morning?

5 A. I don't know, no specific time, it, could have been

6 lunchtime or the afternoon, Ms. Dillon. Again you are

7 asking me something ten years ago. I don't think it was

8 in the morning, I think it was lunchtime maybe, in the

9 afternoon probably.

1 111 Q. Right. So it would be fair to say, I think from a perusal

11 of the statements that have been furnished by persons in

12 support of you, that insofar as the morning of that

13 particular Thursday is concerned, I think Mr. Flynn says

14 that, you say in your own statement that most of the party

15 arrived the next afternoon or the 1st of June?

16 A. Probably the next afternoon, yeah.

1 112 Q. Yes. And then I think on the following day, which was the

18 Friday, you stayed in the hotel that night; is that

19 correct?

20 A. Stayed in the hotel for the whole time.

2 113 Q. For the whole time that you were there. And on, whose

22 company were you in, can you recollect, on the evening of

23 Thursday, the 1st of June?

24 A. All the groom's invitees, all the people that were coming

25 to the wedding, himself, Denis Flynn, his father, his

26 uncles, his friends.

2 114 Q. And on the following day, which was Friday, the day before

28 the wedding, on the 2nd of June, 1989, you again stayed in

29 the hotel, and can you recollect who you met, what happened

30 in the course of that day?

31 A. All the people in the wedding party, Ms. Dillon.

3 115 Q. In the morning who did you meet?

00021

1 A. I would have met all the people in the wedding party. I
2 didn't meet anybody outside the wedding party. I mean, I
3 don't know how many people were there but --

116 Q. When you say --

5 A. Are you asking me specifically who did I meet on the Friday
6 before the wedding?

117 Q. Yes.

8 A. Well, I met Michael Feeley.

118 Q. What time?

10 A. I met - I could have met him at breakfast time, Miss
11 Dillon, I could have met him at lunchtime, Miss Dillon, in
12 the afternoon, it all depends on who got up at what time, I
13 don't know what time in the morning these people got up,
14 Miss Dillon, some might have got up at 11 o'clock, some
15 later, some earlier, I don't know which of the guests I met
16 at a particular time. I think it is very unfair of you to
17 try and pinpoint me.

18 .

19 CHAIRMAN: Ms. Dillon, perhaps we might move on a little
20 bit. You may have a purpose, perhaps you will come up to
21 it please.

22 .

2 119 Q. MS. DILLON: Yes, Sir. Of course. The purpose of this
24 is that this witness has furnished a supplemental statement
25 which provides an alibi over certain dates, and certain
26 documents were furnished on foot of it. It is simply my
27 duty to inquire into that matter, and to see in view of the
28 fact that these specific matters have been brought to the
29 attention of the Tribunal in support of Mr. Murphy's
30 contention that he was not at any meetings, and since they
31 have been raised by Mr. Murphy and in fairness to him they
32 should be thoroughly inquired into. I will do nothing

1 further than that, if you want me to move on I will do so?

2 A. I can assure you, Ms. Dillon, I stayed in Waterford for
3 that period. I did not leave Waterford.

120 Q. As far as I understand on Friday the 2nd of June you cannot
5 recollect who you met?

6 A. I think Thursday night was a very, very late flight for
7 everybody concerned, and I think it is quite possible that
8 we all didn't meet up until lunchtime, certainly didn't
9 meet up at 7 or 8 in the morning, quite possible that it
10 was nearer to lunchtime.

1 121 Q. If I just repeat the question, Mr. Murphy; am I correct in
12 understanding that you can not recollect who it was you met
13 on the morning of Friday the 2nd of June of 1989?

14 A. No, you are incorrect.

1 122 Q. Well then, will you tell me the names of persons whom you
16 specifically recollect meeting on that occasion?

17 A. Denis Flynn.

1 123 Q. On the morning of Friday the 2nd of June?

19 A. It may not have been the morning, Ms. Dillon, it, might
20 have been closer to 12 o'clock. I think we had all a very,
21 very late night on the Thursday night, or early-morning,
22 which ever way you want to put it. So I don't think that
23 we actually met in the morning.

2 124 Q. Yes?

25 A. I think maybe closer to lunchtime.

2 125 Q. So am I correct in understanding then that you didn't meet
27 anybody on the morning of Friday the 2nd of June, but did
28 you meet people at around lunchtime on Friday the 2nd of
29 June, 1989?

30 A. It may have been 11 o'clock, it may have been 12 o'clock,
31 it may have been 1 o'clock.

3 126 Q. Right. Thank you, Mr. Murphy. And did you stay with

1 those persons whom you met throughout the afternoon of

2 Friday the 2nd of June of 1989?

3 A. Yes.

127 Q. And did you stay in their company throughout the evening?

5 A. I did.

128 Q. Of Friday the 2nd of June?

7 A. I did.

129 Q. And in the relation the wedding on the 3rd of June, 1989,

9 you attended the wedding which took place at what time?

10 A. I don't know if the wedding was in the morning time, I

11 think maybe it was 11 o'clock or some time, again you are

12 asking me to be precise about the time of the wedding, I am

13 not sure what time the wedding was at, it could have been

14 11.

1 130 Q. You see, Mr. Murphy, I am not the person who introduced the

16 wedding into this Tribunal?

17 A. Yes.

1 131 Q. So you are the person who was at the wedding; isn't that

19 correct?

20 A. Yes, but, Ms. Dillon --

2 132 Q. So I am asking you, Mr. Murphy, if you could tell me the

22 time the wedding took place?

23 A. I can't be exactly precise, Ms. Dillon, I mean the things

24 that I have been precise about were in or around the time

25 of the Ray Burke meeting. I can be very precise about

26 that, this is going back previous to that, and what time

27 the actual wedding was at, you are asking me to be

28 specific, I am telling you it could have been 11, it could

29 have been 12, it could have been 1 o'clock, I am not sure

30 of the exact time of the wedding, but the wedding took

31 place on the Saturday.

3 133 Q. You have said that you can be very precise where you were

1 in or around the time of the Ray Burke meeting?

2 A. This is why we are all sitting here today.

134 Q. Yes, and that meeting was sometime in the week following

4 the 8th of June apparently; isn't that correct?

5 A. Sometime in the week following the 8th of June.

135 Q. As I understood?

7 A. Well, Mr. Gogarty changed the date on three different

8 occasions. I presume we will get on to that pretty soon.

136 Q. I think Mr. Burke was unable to give us the date of the

10 meeting and Mr. Bailey was unable?

11 A. Yes, I think if you looked at Inspector Harrington's notes,

12 he said it was on the 8th of June.

1 137 Q. What I am concerned about is how you can have precision in

14 relation to that and you can't remember what time the

15 wedding was at?

16 A. Ms. Dillon, if the wedding was on the 8th of June I can

17 tell you I would have researched exactly what time the

18 wedding was at, the significance of the 8th of June, it is

19 more significant to me than the actual date of the wedding

20 or the actual time of the wedding.

2 138 Q. Now, I think on the day following the wedding, you left,

22 you checked out of the hotel. Can you remember what time

23 you checked out of the hotel?

24 A. Incorrect.

2 139 Q. I think you left on the 5th of June, did you, Mr. Murphy?

26 A. Correct.

2 140 Q. So that was the day following the wedding you checked out?

28 A. No, the wedding was on the Saturday, Ms. Dillon.

2 141 Q. Sorry, I missed the 4th. You are quite right, I

30 apologise. So on the 4th of June, which was a Sunday,

31 were you present in the hotel at all times?

32 A. Yes.

142 Q. Were you in the company of Mr. Michael Feeley?

2 A. I was.

143 Q. Was there any stage in the course of that day you were not

4 in the company of Mr. Michael Feeley?

5 A. There may well have been, yes.

144 Q. On the 5th June you left, you checked out I think?

7 A. I checked out on the afternoon of the 5th, the Monday, yes.

145 Q. And you returned to Dublin?

9 A. Correct.

1 146 Q. Did you return to Dublin with anybody?

11 A. No, I returned on my own.

1 147 Q. Did you stay, did you return to London that night?

13 A. No.

1 148 Q. Where did you stay on the night of the 5th of June, 1989?

15 A. In the house in Dublin here.

1 149 Q. In Wilton Lodge?

17 A. Yes.

1 150 Q. In the course of that, did you return to London the

19 following morning?

20 A. Following morning, yes.

2 151 Q. In the course of your entire, of the entire time that you

22 were present in Ireland between the 31st of May and the 6th

23 of June, did you contact anybody in Santry?

24 A. No.

2 152 Q. Did you keep in contact with any of the English operations

26 during that period?

27 A. No.

2 153 Q. You didn't have any occasion to call into the offices at

29 Santry or did you?

30 A. Ms. Dillon, I drove down to Waterford on the Wednesday the

31 31st of May, I returned to Dublin on the, at about 5 or 6

32 o'clock on the 5th of June, in between that period I stayed

1 in Waterford, I did not leave Waterford, I returned to

2 London the next morning.

154 Q. You returned to London on the morning of the 6th of June;

4 is that correct?

5 A. Correct.

155 Q. And what job were you going back to work on in London at

7 that time?

8 A. There was a job going on at that time, I referred to it as

9 Wansworth Bridge. I think it was cables were being laid

10 between Wimbledon Grid and Wansworth Bridge, it was a job

11 that I had particular interest in at the time.

1 156 Q. Why was that, Mr. Murphy?

13 A. It was a very awkward job, it was a big deep shaft to be

14 dug close to the river in Wansworth Bridge which caused a

15 lot of problems because a lot of water was coming in

16 obviously near the river and we were inundated with pumps

17 and pumping it out, it was a very difficult job and I was

18 still learning in the company at the time. So this would

19 have been something I was very interested in, and also, I

20 was working closely at that time with the site engineer,

21 Peter Mycroft.

2 157 Q. Who has also furnished a statement to the Tribunal; isn't

23 that correct?

24 A. That's correct.

2 158 Q. Can I ask you, what precisely was your function in the

26 course of this job?

27 A. Mr. Mycroft I think, that if we go back to, you know, I

28 will come back to this in a minute.

2 159 Q. I would like you to answer the question, it is a simple

30 question. What was your function in the job?

31 A. I would be helping Peter Mycroft, you can call it help or

32 learning, I was still learning the measurements and he was

1 a very, very good engineer, so I would have been helping
2 him out generally.

160 Q. And were you continuously --

4 A. In general terms.

161 Q. In general terms. Is that the only business that you
6 attended to during that period of time?

7 A. For the rest of that week, trying to piece it together to
8 be helpful to this Tribunal, I think I spent a lot of time
9 on that particular job, but I probably would have been in
10 and out to the office.

1 162 Q. Yes, and would you be in a position to say that you spent
12 nearly all of the working days with Mr. Mycroft on that
13 job?

14 A. I spent a lot of time, certainly was on that job every day
15 or the rest of that week up and, I think you see the actual
16 cables were being pulled on the 6th of June, right? Which
17 is the morning, the afternoon I arrived on the job, and
18 that is the purpose of all the shaftings and all these
19 digs, is the actual pull of the cables. These were big
20 heavy high voltage cables, this is something again of a
21 specific interest to me. I was very close to the
22 Operations Manager at the time and he would have been in
23 charge of this job. So, certainly the cables I think were
24 pulled in on the 6th and some peripheral work then, there
25 would have been sanded and slabbed, maybe 7th and 8th of
26 June, the main work would have been completed, as far as I
27 am concerned there would have still been stone
28 reinstatement and all of that, but that is not something
29 that I would have been particularly interested in, so the
30 actual, what was actually going on, on the 6th, 7th and say
31 8th, maybe 6th up to the 10th of June was of interest to
32 me, yes.

163 Q. So the question I put to you was would you be in a position
2 to say that you spent nearly all of your working time with
3 Mr. Mycroft on that job during that period?

4 A. I spent a lot of it.

164 Q. When we are talking about a lot, are we talking about 90
6 percent of the working day?

7 A. If you are trying to pin me to hours and minutes?

165 Q. Yes, Mr. Murphy.

9 A. I would have spent more time on that job than I would
10 anywhere else, put it that way.

1 166 Q. Any particular period when you might have been absent from
12 that job for a period of four or five hours during that
13 time?

14 A. I may have been in the office, yes.

1 167 Q. So that insofar as the week ending the 8th of June of 1989
16 is concerned, while your main endeavor was in relation to
17 Wansworth, there were periods when, of more than a couple
18 of hours when you were absent from that job?

19 A. No, Ms. Dillon, I would have been in the office or on other
20 jobs. If you are trying to say that I had an hour or two
21 to fly to Ireland and back, that's not true, I would have
22 been in the office or I may have visited other jobs, I was
23 in London all of that time.

2 168 Q. Yes, but insofar as the job at Wansworth is concerned?

25 A. I would have spent a lot of time on that job in that
26 particular period.

2 169 Q. But you are not in a position to assist the Tribunal other
28 than to say that there might have been a couple of, an
29 occasion or more than one occasion during that period when
30 you might not have been at that job, you were on other
31 business?

32 A. Ms. Dillon, I'm assisting the Tribunal and I have come here

1 to tell the truth to the best of my recollection. And I'm
2 assisting the Tribunal, but what I can say is that most, a
3 lot of my time was spent on that particular job. Would you
4 be able to tell me what you were doing in June '89, what
5 particular period you spent in a particular job?

170 Q. I'm afraid you are not allowed to ask me questions, Mr.
7 Murphy.

8 A. I apologise.

171 Q. Now, insofar as the second portion of your statement of the
10 16th of April of 1999 is concerned, and Mr. Mycroft as you
11 know, has furnished a statement to the Tribunal, detailing
12 his recollections of you attending in relation to the job
13 in Wansworth and matters of that sort, and Mr. Mycroft, I
14 think, will be giving evidence shortly to the Tribunal in
15 relation to that. Can I ask you then, I think you have
16 told us that on the 8th of June you were working with Mr.
17 Mycroft or you were involved in the Wansworth Construction
18 Project, and you were contacted by Mr. Denis Flynn to tell
19 you that Mary Elizabeth Flynn, who is the person you
20 regarded as your grandmother, was not well?

21 A. Correct.

2 172 Q. And I think that telephone call, the first indication you
23 had that that was so was on the 7th or the 8th of June?

24 A. Yeah, I think I had left Denis Flynn I think on the 5th, I
25 think we had lunch together in Waterford, he had rung me a
26 couple of days later to say that she was very, very ill and
27 I think that he then on the day actually before she died,
28 which was the 8th, was it, Ms. Dillon? I think he rung me
29 on a couple of occasions to say "listen", you know, "I
30 think that Granny Flynn is on the way out".

3 173 Q. Yes, so I think that her death occurred on the 9th of June,
32 a Friday?

1 A. Yes.

174 Q. And in the two day period immediately prior to that, Mr.

3 Flynn had been in contact with you by telephone?

4 A. He had.

175 Q. Yes. Did he ring you at home in relation to that?

6 A. I think he may have rung me in the office and --

176 Q. Which office?

8 A. The office in Tottenham.

177 Q. Tottenham?

10 A. I think he would have rung me there and probably would have

11 had a conversation that night at home as well maybe about

12 it, you know?

1 178 Q. In any event, when you heard the news, you decided to

14 return to Ireland for the funeral; is that correct?

15 A. Correct.

1 179 Q. And I think in that she, Mrs. Mary Elizabeth Flynn died on

17 Friday the 9th of June and was pronounced dead at

18 approximately 1 pm and you were informed of that?

19 A. Correct.

2 180 Q. And you made arrangements to come over to Dublin as soon as

21 you could?

22 A. I did.

2 181 Q. Yes. Can you tell us when you flew in, when you came to

24 Dublin?

25 A. Well, I would have straightaway when I heard the news that

26 day, I would have rung Tara Travel, I would have arranged a

27 ticket, I would have gone down on June the 9th to pick up

28 the ticket from Tara Travel and I flew to Ireland on the

29 10th.

3 182 Q. And I think the Tara Travel invoice you referred to is the

31 second invoice you have submitted with your statement, and

32 that is an invoice dated the 9th of June, '89, and it

1 refers to transport?

2 A. Yeah, the 9th of June was the date I picked it up.

183 Q. Yes, we don't have the tickets, this is just the invoice in

4 respect of the tickets; isn't that corrects?

5 A. Yeah, but the date, it doesn't correspond with them all,

6 but the date that, from Tara Travel, from inquiries with

7 Mary Reilly she told me that that date is the date that the

8 ticket was picked up.

184 Q. Yes. And you travelled to Dublin on the following day?

10 A. Yeah, I think that if you look, again it mightn't be on

11 every invoice because Tara Travel are busy, but I think if

12 you look at 100689, I think that is an internal code for

13 the date of travel for Tara Travel, if you leave out the

14 middle 0, the 10th of the 6th, '89, do you know what I am

15 saying?

1 185 Q. I understand the point you make. Can you recollect what

17 airline you flew with on that occasion?

18 A. I mostly flew with Aer Lingus.

1 186 Q. In the normal course that would have been your preferred

20 airline?

21 A. It was my preferred, at times sometimes I flew British

22 Midland, sometimes they had an earlier or later flight,

23 whatever suited me. The majority of time I flew with Aer

24 Lingus.

2 187 Q. So this invoice is in respect of that flight, I think that

26 you also had arranged, had you, the hire of a car at Dublin

27 Airport?

28 A. I did.

2 188 Q. From the same company you had hired the car in relation to

30 attending the wedding?

31 A. Correct.

3 189 Q. And the invoice refers to an invoice number 29301, the

00032

1 invoice date is 13/6/'89, it is similar in layout to the
2 previous invoice and it refers to Mr. J. Murphy Jnr. as the
3 driver. Its operational date is 10/6/'89 to 12/6/'89,
4 and the number of days is three?

5 A. Yeah, from the 10th to the 12th. Yeah.

190 Q. Inclusive. And then it is referred to as travelling
7 expenses in the internal memorandum from JMSE, I think this
8 is, and it is reference: "J Murphy Jnr."?

9 A. Correct.

1 191 Q. Yes, and then beneath that there it is signed by F
11 Reynolds, I think, 12/9th, I think it might be, '89. I am
12 not sure of the month, and it is unclear, and some
13 handwriting beneath that that's obliterated; is that
14 correct?

15 A. Yes.

1 192 Q. And it would be your normal practice when you hired a car
17 at Dublin Airport to send those invoices, would that be
18 organised?

19 A. No, no, they would be sent directly to JMSE and Frank
20 Reynolds would sign them off as my name was on it. So I
21 wouldn't actually see them at that time.

2 193 Q. They would go directly into JMSE, you would simply arrive
23 and pick up the car and proceed about your business?

24 A. Correct.

2 194 Q. And on that occasion, I think that you waited at the
26 airport until approximately 12 o'clock to pick up somebody
27 else who was arriving in on a later flight?

28 A. Derek Green who had been a neighbour of Mary Elizabeth
29 Flynn's, the woman that died, had contacted me in London to
30 say he was flying home for the funeral and we arranged to
31 meet up at Heathrow the next morning, and he couldn't get
32 on the same flight as me and he got the next flight.

195 Q. And you waited for him, picked him up and drove down to
2 Arigna?

3 A. Drove straight down to Arigna, yes.

196 Q. Did you have any contact with anybody in JMSE even while
5 you were waiting for the arrival of Mr. Green?

6 A. No.

197 Q. And you attended the removal on the following, on the
8 Saturday?

9 A. I think the removal was that, was the removal that day, Ms.
10 Dillon?

1 198 Q. On a Saturday?

12 A. The 10th. I think the removal was on the 10th, that
13 evening.

1 199 Q. That's correct, according to your statement and the
15 statement --

16 A. That's right, the removal was on the 10th.

1 200 Q. And that is in the afternoon and evening I think of the
18 10th?

19 A. The removal would have been the evening time.

2 201 Q. And the funeral mass was the following morning on the 11th
21 of June of 1989?

22 A. Correct.

2 202 Q. And I think you stayed with relatives on the night of the
24 10th of June?

25 A. Yes.

2 203 Q. In Arigna?

27 A. No, no, not in Arigna.

2 204 Q. Sorry, you stayed with Mr. Flynn's, Mr. Denis Flynn's --

29 A. Mother, yes.

3 205 Q. Yes. On the following day, the 1st of June of 1989, you
31 went to the funeral and you were going back to Dublin I
32 think, sorry back to London on the day following that?

00034

1 A. The 12th.

206 Q. The 12th. And did you return to London on the 12th?

3 A. I did.

207 Q. And did Mr. Green accompany you back to London?

5 A. He did.

208 Q. Was he able to get on the same flight back with you?

7 A. He was.

209 Q. And he stayed with you, I think, until you arrived in

9 Heathrow?

10 A. That's correct.

1 210 Q. And then you parted company and you returned to the job

12 with Mr. Mycroft in Wansworth?

13 A. Correct.

1 211 Q. And I think following that you have furnished a letter to

15 the Tribunal of the 14th of June of 1989, I don't know

16 whether you have that letter, Mr. Murphy?

17 A. I think, it is in the red book, isn't it?

1 212 Q. It should be in the red book, yes. Its page 89?

19 A. Thank you. In the red book?

2 213 Q. It should be the red book, Mr. Murphy. Sorry, it may not

21 be page 89, sorry?

22 A. This is the Duffy Mangan Butler letter?

2 214 Q. Sorry, we will give you a copy of the letter please.

24 .

25 CHAIRMAN: Page 94, I understand.

26 .

27 MS. DILLON: Sorry judge.

28 .

29 CHAIRMAN: Page 94 of the red book.

30 A. That's correct, thank you.

3 215 Q. MR. DILLON: And this, Mr. Murphy, is a letter, I shall

32 read it into the record first and then I shall ask you a

00035

1 few questions about it. It is headed up "Murphy Limited
2 Cable Contracts and Civil Engineers". It is addressed to,
3 with no address but it is addressed to P Mycroft, dated the
4 14th of June of 1989. It bears the reference JGM, MTR.

5 .
6 "Dear Peter, further to our ongoing discussions I confirm
7 that I had a meeting with Moss yesterday afternoon in
8 Tottenham, and he told me there would be no adverse
9 reaction from the longer term engineers to your proposed
10 appointment of Chief Engineer.

11 .
12 The following points are already agreed with you:

- 13 .
14 (1) Salary £25,000 per annum to be reviewed annually.
15 (2) You will be based in London, but we will have to sort
16 out the accommodation issue.
17 (3) You will be invited to join company pension scheme.

18 .
19 I agree that no immediate announcement will be made in the
20 company for the reasons we have discussed. We will need
21 to formalise it by the end of next month. Moss asked that
22 I put it down in writing so you can discuss it with your
23 wife. Hope to see you later on, on the day. Yours
24 sincerely J Murphy".

25 .
26 Now, this is a letter dated the 14th of June of 1989, Mr.
27 Murphy, and in - it refers to a meeting you had with Moss
28 yesterday, the 13th of June?

29 A. Correct.

3 216 Q. And who is Moss?

31 A. He was the Operations Director of Murphy Limited at the
32 time.

00036

217 Q. What is his full name?

2 A. Moss O'Reardan.

218 Q. Moss O'Reardan, is he still working with --

4 A. No, he is retired.

219 Q. He is retired. Can you recollect or tell us, having

6 looked at this and refreshed your memory, when you say you

7 met him in Tottenham, is that at the offices of Murphy that

8 you met him?

9 A. Correct, that's the Head Office, yes.

1 220 Q. And can you recollect how long you spent talking on the

11 13th June of 1989 with Mr., I have forgotten his second

12 name?

13 A. O'Reardan.

1 221 Q. Mr. O'Reardan, about the appointment of Mr. Mycroft as

15 Chief Engineer?

16 A. We would have discussed it, maybe an hour, maybe - I mean,

17 maybe we wouldn't discuss that specific issue for an hour,

18 we would have been discussing issues in general. He was

19 the Operations Director, he travelled throughout the

20 country and we may well have been discussing things for an

21 hour, an hour and a half or two hours with him, of which

22 this was one.

2 222 Q. Following which, did you on the same day dictate that

24 letter, following your discussions with Mr. O'Reardan?

25 A. He was insistent that I put it down in writing so Mr.

26 Mycroft could discuss it with his wife.

2 223 Q. Did you dictate that letter that day, do you recollect?

28 A. On the 14th of June.

2 224 Q. Or the 13th, the meeting you had with Mr. O'Reardan on the

30 13th?

31 A. The meeting I had was on the 13th of June and I wrote the

32 letter on the 14th of June.

00037

225 Q. On the 14th of June?

2 A. Correct, yeah.

226 Q. Were you in the offices in Tottenham, was that where your

4 secretarial assistant was?

5 A. That's where the head office is, yes.

227 Q. So on the 14th of June you went in and dealt with other

7 business, including which you sent, prepared this letter or

8 had prepared for you this letter for Mr. Mycroft which was

9 then going on to obviously be sent to Mr. Mycroft?

10 A. I think we brought down, one of the drivers may have

11 brought down to him - Mr. O'Reardan was anxious something

12 be put in writing so Mr. Mycroft could discuss it with his

13 wife, yes.

1 228 Q. That was obviously something Mr. Mycroft was interested in

15 also?

16 A. Of course, it was promotion for him, yes.

1 229 Q. Right. So that certainly insofar as the 13th of June of

18 1989 is concerned and the 14th of June of 1989 is

19 concerned?

20 A. I was in London.

2 230 Q. You were in London?

22 A. Correct.

2 231 Q. If you weren't in London you were working in the Wansworth

24 job with Mr. Mycroft?

25 A. That's correct. I was in negotiations with him at the

26 time, but again, Ms. Dillon, I may have visited other jobs.

2 232 Q. Yes. It was not a situation where you were in one place at

28 one particular time for all of the time?

29 A. Correct, yeah.

3 233 Q. You were floating around and dealing with the company

31 business?

32 A. Correct, yes.

234 Q. As it turned up and as and where you were needed throughout

2 that entire period?

3 A. Correct.

4 .

5 CHAIRMAN: Would you like to break there for just ten

6 minutes, at that point?

7 .

8 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AS

9 FOLLOWS:

10 .

11 CHAIRMAN: Before we resume the Tribunal here this

12 morning, I just want to flag that I will not be sitting in

13 the Tribunal on Friday next, the 3rd of December, because I

14 am sitting in the Central Criminal court, and that's

15 virtually a full day of various activities in that court, I

16 am dealing with a number of matters which are outstanding

17 and which have to be dealt with.

18 .

19 So we won't be sitting here on that date, and I have been

20 asked to interpose a witness tomorrow at 2 o'clock which, I

21 take it to be quite a short witness.

22 .

23 MR. COONEY: Yes, he is.

24 .

25 CHAIRMAN: I take it 20 minutes or thereabouts of that

26 order anyway. And I will certainly do so. It is a matter

27 of convenience and those two, I just want to flag those two

28 matters.

29 .

30 MR. CALLANAN: Can I just inquire, Sir, who is the witness

31 who is being interposed tomorrow?

32

1 CHAIRMAN: Father Rigney.

2 .

3 MR. CALLANAN: Thank you, Sir.

4 .

5 CHAIRPERSON: And we will sit on, we will be sitting on
6 Monday and onwards through the week. I am very sorry that
7 the day has to be taken off the Tribunal, but I just don't
8 have a choice. Very good. Ms. Dillon, when you are
9 ready?

10 .

1 235 Q. MS. DILLON: Yes, Sir.

12 .

13 Mr. Murphy, yesterday we had discussed the meeting that
14 took place on the 26th of May of 1989 with your father and
15 yourself and Mr. Gogarty in London, isn't that right, in
16 the Bonnington Hotel?

17 A. Correct.

1 236 Q. And following that there was a letter from Mr. Gogarty's
19 then solicitor Messrs. McCann Fitzgerald, to Christopher
20 Oakley of Pickering Kenyon whom I think were solicitors
21 acting on behalf of the Murphy Group, page 86 in the red
22 book,. For completeness in relation, following that
23 meeting in London, I shall put that letter to you and we
24 can move on after that, and see does that accord with your
25 recollection of matters.

26 .

27 Now, the Tribunal reference is JG 515 and page 86 in the
28 red book. There was a great deal of correspondence, Mr.
29 Murphy, and I should indicate so people understand where I
30 am going, that has been open to the Tribunal in relation to
31 this correspondence from this date to the 3rd of October of
32 1989, culminating in Mr. Gogarty's signed agreement with

00040

1 Lajos Holdings. I do not intend, unless Mr. Cooney requires
2 me to do so, to put that in sequence as it has been read
3 into the record, I am simply dealing with that letter as
4 you were present at the meeting and there is the letter
5 that follows immediately on it,. However, if Mr. Cooney
6 wishes me to put the series of correspondence I am happy to
7 do so.

8 .

9 MR. COONEY: It has already been put in.

10 .

11 CHAIRMAN: What I do think, is the two letters, they form
12 a unit, as it were, one sets out a series of statements and
13 the other set is three out of the four or four out of the
14 five, I can't remember, I don't have it actually in front
15 of me, I think those two should go together. And I don't
16 think it is necessary to read through the contents. If the
17 witness reads the statements, sorry the text of the letter
18 and the text of the reply which I think puts it in context,
19 because the correspondence there afterwards proceeds on the
20 basis of those two documents. That's my understanding.

21 Mr. Cooney, is it yours?

22 .

23 MR. COONEY: Yes I agree, Mr. Chairman.

24 .

2 237 Q. MS. DILLON: Yes, I think the following two documents were

26 telephone attendances between Mr. Christopher Oakley and

27 Mr. Sheedy. The - do you have the letter, Mr. Murphy?

28 A. I do, Ms. Dillon.

2 238 Q. This is a copy of the letter dated 26th of May --

30 A. Is there just one page?

3 239 Q. I beg your pardon --

32 A. No, I go on then to -

00041

1 .

2 CHAIRMAN: My copy is also wrong.

3 .

240 Q. MS. DILLON: There should be an 86A behind it. If you
5 give us one moment, we will give you the second page?

6 A. No problem. Thank you. (Document handed to witness and
7 judge.)

241 Q. It is: "Dear Mr. Oakley, I understand Mr. Murphy and Mr.
9 Gogarty had an amicable and constructive discussion in
10 London on Monday last which resulted in the resolution of
11 a number of issues between them and agreement being reached
12 that other matters would be discussed further at a later
13 date.

14 .

15 The effect of the meeting has then to bring about a
16 significant improvement in the relationship between Mr.
17 Murphy and Mr. Gogarty, hopefully this will lead to the
18 restoration of the mutual trust and understanding which had
19 existed for many years.

20 .

21 In order to avoid any possible misunderstandings and in an
22 endeavor to build on the successful outcome of the meeting
23 between our respective clients perhaps you would have your
24 client confirm the following heads of agreement:

25 .

26 (1) A sum of £300,000 will made available by JMSE Limited
27 for the purchase of a pension in Ireland for Mr. Gogarty
28 and his wife.

29 (2) Mr. Gogarty will retire as a director from his
30 executive position with JMSE Limited and AGSE Limited.

31 Mr. Gogarty will be retained as a consultant by each of
32 these companies for a period of five years at his current

00042

1 salary and on terms which will include the provision of a
2 company car and payment of Mr. Gogarty's telephone charges
3 and vouched expenses.

4 (3) Mr. Gogarty will negotiate on behalf of JMSE with the
5 ESB for the payment by the ESB of monies due to JMSE in
6 connection with goods and services supplied in relation to
7 the Moneypoint Generating Station Project. By way of
8 commission, 50 percent of the amounts recovered from the
9 ESB by Mr. Gogarty will be paid to him. Any expenses so
10 incurred by Mr. Gogarty in this connection will be
11 undertaken by JMSE Limited.

12 .

13 4. A sum of £70,000 will be paid to Mr. Gogarty. This sum
14 represents undrawn bonuses and salary increases due to Mr.
15 Gogarty and a sum for compensation in relation to the
16 "Sutton site" .

17 .

18 I am sure you will agree with me that the present spirit of
19 goodwill and cooperation which our clients' meeting has
20 engendered, should be consolidated as quickly as possible
21 by way of confirmation of these heads of agreement.

22 Accordingly, I look forward to hearing from you when you
23 have received your clients' instructions, and if possible,
24 by the end of next week. Due to the postal difficulties
25 which we are experiencing in Dublin, I suggest the
26 correspondence between us should be communicated by fax.

27 Yours sincerely Gerard B. Sheedy, of McCann Fitzgerald".

28 .

29 Does that letter or the content of it accord with your
30 recollection of the meeting that took place on the 22nd of
31 May of 1989?

32 A. Some of it does, some of it doesn't.

00043

242 Q. If you identify for me first the parts of it that does

2 accord with your understanding of what happened?

3 A. I think that the sum of £300,000 may have been mentioned

4 and agreed. Again as I said to you before, the finality of

5 this was agreed between my father and Mr. Gogarty, would be

6 left to Roger Copsey. I certainly would agree maybe with

7 Point 1.

243 Q. Yes.

9 A. And Point 2. I have no recollection of the ESB payment

10 being brought up at all. So I'm agreeable about Point 1

11 and 2, and I have no recollection of the ESB thing being

12 discussed at all or this £70,000 or whatever. I don't

13 think it went into in that great detail, certainly I would

14 agree the £300,000 may have been discussed and even agreed.

1 244 Q. Yes, and that there was mention that Mr. Gogarty would

16 retire?

17 A. Retire, I think and maybe, you know, I think the thing of a

18 consultancy might have come up as well, again I am going on

19 memory.

2 245 Q. Yes. From your memory was it amicable and constructive as

21 described there by Mr. Sheedy?

22 A. The agreement or the meeting was amicable between my father

23 and Mr. Gogarty? Yes.

2 246 Q. Would you regard it was a constructive meeting?

25 A. The meeting went on for a long time and Mr. Gogarty was

26 expressing his venom towards a lot of people, so I would

27 say part of that meeting was not constructive and part of

28 it was.

2 247 Q. And insofar as yourself and your father were concerned, Mr.

30 Gogarty was not directing any of this venom in your

31 direction?

32 A. Not at this particular meeting.

248 Q. And they were discussing this particular meeting in the

2 final paragraph, he says, I beg your pardon, Mr. Sheedy,

3 "that you will agree with me the present spirit of

4 goodwill and cooperation which our clients meeting has

5 engendered, should be consolidated as quickly as

6 possible". Mr. Sheedy certainly seemed to be of the view

7 it was a positive meeting, and at this stage there was a

8 spirit of goodwill and cooperation apparently on both

9 sides?

10 A. What Mr. Gogarty was telling him obviously, yes.

1 249 Q. Does that accord with your recollection of how the meeting

12 concluded?

13 A. Yeah, I mean, as I said it was an amicable meeting at that

14 time between us, yes.

1 250 Q. Yes. And you have no recollection of the ESB monies being

16 discussed at that meeting, but you do recollect the mention

17 and the resignation matter being discussed?

18 A. I do - yes, I recollect the sum of £300,000, and I

19 recollect retirement and consultancy was discussed as well,

20 yes.

2 251 Q. Now, the next document, there are two faxed attendances

22 from Mr. Sheedy on Mr. Oakley, who was your solicitor,

23 following receipt by Mr. Oakley of the letter that I have

24 just opened and this was Mr. Oakley's response, and

25 presumably Mr. Oakley was acting on your father's

26 instructions?

27 A. Correct, yes.

2 252 Q. Right. So the first document on the screen is Document

29 857 and that's a short attendance if, I think you may have

30 to look at it from the screen?

31 A. I don't have it in, in the red book.

3 253 Q. Don't worry, it is on the screen. Can you read that?

00045

1 A. I can.

254 Q. Yes, and the reference is JG 4857. It is an attendance re:

3 Jim Gogarty. Dated 25th of the 5th, '89.

4 .

5 "Mr. Oakley telephoned in response to my fax. He has

6 discussed the contents of my letter with Mr. Murphy and

7 Points 1, 2, and 3 are agreed. With regard to Point 2,

8 the salary is agreed at £23,000 per annum.

9 .

10 Mr. Murphy is annoyed with Point 4 because this point was

11 not even discussed with Mr. Gogarty. The financial package

12 which is offered in Points 1, 2 and 3 discussed in Point 1,

13 2, 3 is the final offer from Mr. Murphy and there are no

14 other financial rewards to pass to Mr. Gogarty.

15 .

16 He asked me to obtain Mr. Gogarty's instructions and

17 telephone him before we writes to me to confirm our

18 agreement"?

19 A. Fine.

2 255 Q. That would appear to suggest - first of all I should have

21 asked, the Mr. Murphy referred to there on the second line

22 is Mr. Murphy Snr.?

23 A. Correct.

2 256 Q. That would appear to suggest insofar as Mr. Oakley was

25 concerned he was in agreement with Point 1, 2 and 3 of the

26 letter of Mr. Sheedy, which includes the ESB agreement, but

27 not in agreement with Point 4?

28 A. That's correct, yes.

2 257 Q. So it would appear on that date at least that Mr. Oakley's

30 instructions were there had been agreement in that matter.

31 And the second document is the Document 858, the Tribunal

32 reference is JG.Disc.4.858. It will come up on the screen

00046

1 in front of you. "Re: Jim - as follows", if I pause
2 there. The Mr. Murphy there, is that Mr. Murphy Snr.?

3 A. Correct.

258 Q. Right. "Paragraphs numbered in my letter". This referred
5 to Mr. Sheedy's original letter to Mr. Oakley?

6 A. Of the 26th.

259 Q. Of the 26th?

8 A. Yes.

260 Q. It says: "No. 1 agreed. No. 2 agreed subject to the
10 current salary being mentioned specifically at £23,000
11 .
12 The company is not going to provide and maintain a car for
13 Mr. Gogarty, it will transfer his present car to him free
14 of cost and he will pay the cost of maintenance.

15 No. 3 agreed.

16 4, this subject was not even discussed between Mr. Murphy
17 and Mr. Gogarty on Monday last and is not agreed.

18 Mr. Murphy is prepared to offer Point 1, 2 and 3 as a final
19 offer to Mr. Gogarty and is not prepared to negotiate.

20 .

21 I telephoned Mr. Gogarty who said that his salary is
22 £23,500 per annum.

23 .

24 He was annoyed with the provision about the car, and I
25 pointed out to him that petrol costs could be included
26 under vouched expenses. He accepted the provision about
27 the car.

28 .

29 He mentioned that the consultancy is to be with Lajos
30 Holdings Limited and not with JMSE or AGSE.

31 .

32 He insisted that paragraph 4 was discussed but I persuaded

00047

1 him that there was no point in falling out over that sum at
2 this point.

3 .

4 After some discussion he agreed the terms with the
5 intention of negotiating further with Mr. Murphy when these
6 terms had been incorporated into a signed agreement.

7 .

8 I telephoned Mr. Oakley who said that he will take
9 instructions concerning the consultancy with Lajos Holdings
10 Limited but did not expect any difficulty.

11 .

12 I told him that Mr. Gogarty insisted that Point No. 4 had
13 been discussed with Mr. Murphy and agreed with him, but
14 that we were not insisting on this being included in the
15 agreement".

16 .

17 So in relation to that, it would appear that in that
18 conversation with Mr. Oakley and Mr. Sheedy, that Mr.
19 Oakley had disputed Point No. 4 with Mr. Sheedy, Mr. Sheedy
20 had taken instructions from Mr. Gogarty and even though Mr.
21 Gogarty was of the view it had been included he was
22 prepared to waive it in order to obtain the agreement.

23 Would you agree with that interpretation of that?

24 A. Yeah.

2 261 Q. Matters progressed then, Mr. Murphy, with correspondence
26 passing between Pickering Kenyon, your solicitor and
27 Messrs. McCann Fitzgerald on Mr. Gogarty, which culminated
28 on the agreement of the 3rd of October of 1989?

29 A. Correct.

3 262 Q. Were you aware at that time of October of 1989 that the
31 agreement was going to be signed?

32 A. I may well have been. My involvement was very little. I

00048

1 think that Mr. Oakley might have been informing me in
2 London at the time. I had no direct negotiations with
3 Roger Copsey or Brian Strahan who was negotiating here, but
4 I may well have been aware of the final agreement, yes.

263 Q. Brian Strahan is solicitor with Gerard B Scallan O'Brien,
6 and they were the solicitors who acted on behalf of the
7 JMSE at that time?

8 A. Correct.

264 Q. If I take you back to deal with the matter raised by Mr.
10 Gogarty, and it is in relation to something that you have
11 already said did not occur, but I suppose in sequence and
12 for completeness we should deal with it, and this is the
13 reference to a meeting in the Clontarf Castle, Clontarf
14 Castle, sometime between the meeting in Mr. Burke's house
15 and the end of June, as I understand it, of 1989, that Mr.
16 Gogarty alleges a meeting took place?

17 A. Was he specific on the date?

1 265 Q. I don't think, I cannot give you any more precise dates
19 than sometime after the meeting in Mr. Burke's house and
20 prior to the end of June of 1989, Mr. Gogarty saying you
21 attended at a meeting in the Clontarf Castle at which a sum
22 of money was paid to Mr. George Redmond. Did you attend
23 any such meeting?

24 A. Sorry, what sum of money did he say was paid?

2 266 Q. My recollection is that it was £15,000?

26 A. Yes. No, I was in England at the times, from my
27 recollection. As I said in my evidence yesterday, I had
28 never met George Redmond before the start of this Tribunal,
29 I never heard his name mentioned until I read Mr. Gogarty's
30 affidavit, and I have never been in the Clontarf Castle up
31 to this present day.

3 267 Q. So you have never attended that particular meeting we are

00049

1 just discussing at the moment, this meeting that is alleged
2 to have taken place with Mr. Redmond at which it is alleged
3 you handed him money? That meeting, you did not attend and
4 did not take place?

5 A. That meeting did not take place.

268 Q. Right. Now, if I, I think in following the - to deal
7 briefly with the letter of the 8th of June of 1989, and
8 this is the letter from Mr. Michael Bailey addressed to Mr.
9 James Gogarty which is attached to the Terms of
10 Reference. Did you ever see that letter in June of 1989?

11 A. This is the letter now, the 50/50 thing in it?

1 269 Q. This is the letter that contains two proposals?

13 A. No, I didn't see that letter, no.

1 270 Q. When was the first time that you became aware of the
15 existence of that letter?

16 A. When it appeared in the media.

1 271 Q. That would have been when it was published in Magill
18 Magazine?

19 A. I don't think I saw it in Magill. I think some paper
20 repeated it in, within days. I think I saw it on the
21 actual paper.

2 272 Q. Up to that time you were unaware of the existence of such a
23 letter?

24 A. I was, yes.

2 273 Q. Did your father ever discuss with you during this period in
26 June or July of 1989 the proposal to sell the lands at all?

27 A. No.

2 274 Q. If you had been approached at that time by anybody for your
29 opinion as to whether the lands should be sold or not, can
30 you tell us what your view might have been?

31 A. Fine, I would have, as I say - well, it was mentioned to me
32 earlier, I said fine, I wouldn't have - I had no dealings

00050

1 with the land owning companies to be honest at the time,
2 Ms. Dillon. I wouldn't have known the price of land and
3 such like things, so fine, it was no problem with me.

275 Q. So you would have had no difficulty with the sale of these
5 lots of lands?

6 A. Not at all. My father told me that Jim Gogarty told him
7 that the agricultural prices were high at the time, and we
8 would have taken Jim Gogarty's - that it was the right time
9 to sell and I would have accepted that.

1 276 Q. When did your father tell you that the agricultural prices
11 were high and he had been told --

12 A. I gave it in my evidence yesterday, he told me around
13 April, May time.

1 277 Q. So you were aware in or around April or May of 1989 that
15 there were moves afoot to sell those lands?

16 A. Correct.

1 278 Q. Did you make it your business as the heir apparent, I
18 suppose, of the entire organisation, to keep abreast of
19 these dealings or meetings or proposals in relation to the
20 sale of the lands?

21 A. No, they were left entirely in Mr. Gogarty's hands, my work
22 was in the core business in Murphy Limited in London.

2 279 Q. But the company was in some little, not a great deal, some
24 little financial trouble at around that time, I think we
25 saw from the correspondence yesterday, is that right? And
26 I think you agreed with me that an injection of 2.3 would
27 have been welcome whatever the source of it was?

28 A. Correct.

2 280 Q. Yes. In the light of the fact that the lands were being
30 sold and the company had a slightly precarious financial
31 situation ongoing throughout 1989, were you not concerned
32 to get them sold as soon as possible and get the money into

00051

1 the company?

2 A. No, because the money could have been sourced from else
3 where.

281 Q. Sorry, you didn't tell me that yesterday now, Mr. Murphy.

5 You had said, I had understood yesterday that you had said
6 that if money - we had looked at some documents, and that
7 there was some financial difficulty at that time following
8 on the take back of the company, and you had agreed that an
9 injection of money would have been welcome to the company
10 at any time?

11 A. Of course, but it didn't necessarily have to be sourced out
12 of the lands, it could have been sourced from the London
13 companies or elsewhere.

1 282 Q. Yes, but in the light of the fact that you were aware in
15 April or May that a decision had been taken by your father
16 to sell the lands for a good agricultural price, were you
17 not interested to see the funds would be brought into the
18 companies as soon as possible?

19 A. No, as I say the core of my work involved the UK companies,
20 I had gone back to England, the structure were in place,
21 new directors were in place, Frank Reynolds, Gay Grehan,
22 Roger Copsey, at that time a new Chief Executive was
23 appointed, the structure was in place. I went back to my
24 business, I had no involvement with the lands whatsoever
25 and absolutely no dispute with anyone about their sale.

2 283 Q. Yes, I am not suggesting for a moment that you had, I am
27 just inquiring as to whether in the light of the fact that
28 you knew in April, May of 1989 that a decision had been
29 taken to sell the lands, and in conjunction with that, that
30 there was, as we saw yesterday, a somewhat even slightly
31 precarious financial position in the companies, that it
32 would have been a concern to you as a director to get the

1 funds in as soon as possible and get the money into the
2 company?

3 A. As a non-executive director, Ms. Dillon, Roger Copesey was
4 appointed Financial Director, maybe you can ask him on
5 those matters, we had the structure in place to follow-up
6 all that.

284 Q. So you are saying that you had no concern in relation to
8 these lands in conjunction with the financial situation in
9 the company?

10 A. I had no concern, no involvement in the lands, Ms. Dillon.

1 285 Q. Did you speak to Mr. Frank Reynolds at all about this
12 proposed sale of lands?

13 A. Never discussed the sale of the lands with Frank Reynolds.

1 286 Q. At any stage?

15 A. In 1989, we discussed it in 1990 in or around the time the
16 property got burned which led to the arbitration in 1989.

17 I had no discussions with --

1 287 Q. Did you have any discussion with Denis McArdle in relation
19 to the sale of the lands?

20 A. No, I think I didn't meet Denis McArdle, I met him briefly
21 in the turmoil in 1988. My father brought me in and
22 introduced me to him. My involvement with Denis really
23 started in 1990. I had no discussions whatsoever with
24 Denis McArdle in 1989.

2 288 Q. Did you have any discussions with Mr. Roger Copesey in 1989
26 about the proposed sale of these lands?

27 A. No.

2 289 Q. So am I correct in my understanding, that the only person
29 that you discussed the proposed sale of this asset of the
30 companies in Ireland was with your father?

31 A. Correct.

3 290 Q. Did you ever discuss it with Mr. Jim Gogarty?

1 A. No.

291 Q. You were aware at the meeting on the 26th of May of 1989

3 that your father had already told you, I think was your

4 evidence, prior to the meeting of the 26th of May, that

5 these lands were going to be sold for a good agricultural

6 price and you had no difficulty with that?

7 A. No difficulty whatsoever.

292 Q. Then you meet Mr. James Gogarty in charge of the selling,

9 of the negotiations of these lands on the 26th of May of

10 1989, and did you mention in anyway, even in passing to Mr.

11 Gogarty, "how were those negotiations going?"?

12 A. No.

1 293 Q. Would you not have thought that would be the most normal

14 thing in the world, "how much are we going to get for the

15 land?"?

16 A. That wasn't the purpose of the meeting.

1 294 Q. I accept it wasn't the purpose. Are you saying you had

18 such little interest in the sale of this 2.4 million asset

19 of the company that you didn't even mention it to the

20 person who was negotiating the sale at the time?

21 .

22 MR. COONEY: This sounds like cross-examination.

23 .

2 295 Q. MS. DILLON: Were you aware that Mr. Gogarty was the

25 person negotiating the sale on instruction from your

26 father?

27 A. Of course, my father had told me that Jim Gogarty had been

28 hounding him to sell the lands, "now the time is right", he

29 said he could get a good agricultural price for it. It was

30 left in Jim Gogarty's hands, it was not discussed in the

31 meeting in London. As you can see it was about Jim

32 Gogarty's pension and maybe a replying affidavit to Mr.

00054

1 Conroy, the lands were not discussed at this meeting.

296 Q. In your presence?

3 A. In my presence, obviously yes.

297 Q. Because there were some conversations between your father

5 and Mr. Gogarty at which you were not present; isn't that

6 right?

7 A. Correct.

298 Q. Yes. So when did you first become aware that the lands

9 had been sold and the price that had been obtained for

10 them?

11 A. It may have been in or around the time of late 1989 when

12 they were sold, I forget now, is it November, December time

13 I may have been informed about it?

1 299 Q. Are you saying that you --

15 A. I can't put a precise date, somebody said "okay the lands

16 are sold, there is a buyer there", whatever. I mean, my

17 recollection of events is that when the property was burned

18 it led to the arbitration in 1990, that's when my real

19 involvement took place. It may have been mentioned to me,

20 "okay, the sale is going through" or whatever.

2 300 Q. Did you ever see any correspondence passing between Mr.

22 Gogarty and your father in relation to the sale of the

23 lands?

24 A. None whatsoever.

2 301 Q. And you are clear in your recollection in relation to that?

26 A. Yes.

2 302 Q. Including any correspondence that may have been sent to 44

28 A Bedford Court?

29 A. Correct.

3 303 Q. Right. But your first recollection of knowing that the

31 lands were sold was sometime towards the end of 1989?

32 A. That - yes.

00055

304 Q. Yes. I understand, Mr. Murphy, that you have, or your
2 companies in Ireland have purchased some lands recently?

3 A. Correct.

305 Q. Yes. Can you tell me how much lands your companies have
5 purchased?

6 A. In acres?

306 Q. Yes.

8 A. I think roughly 200.

307 Q. And can you tell me where they are?

10 A. They are in, I think three of them - Frank Reynolds could
11 probably deal with that better than me, three in County
12 Meath.

1 308 Q. In County Meath. Are these being run as farms?

14 A. Rented.

1 309 Q. On a commercial basis?

16 A. Correct.

1 310 Q. And what kind of farms are they, Mr. Murphy?

18 A. They are rented out to various different farmers.

1 311 Q. On what sort of a basis are they rented out?

20 A. Rented out on so much an acre, Frank Reynolds deals with
21 that.

2 312 Q. I am sure we will come on to talk to Mr. Reynolds in the
23 fullness of time, but is it a Conacre type agreement, is
24 that the type of arrangement that they have?

25 A. It could well be.

2 313 Q. Are you saying that, are you - I am just inquiring, are
27 these dairy farms, for example? Do you own cows, Mr.
28 Murphy?

29 A. We are not running those farms at all, they are actually
30 all rented out to various different people. I think one
31 person might have two of them, we don't actually run these
32 at all.

00056

314 Q. You are not running them as a commercial farm as part of
2 the enterprise?

3 A. Not at all.

315 Q. So what is here is these lands have been purchased and they
5 are being rented out on a Conacre or similar type
6 arrangement?

7 A. Correct, yes.

316 Q. Can you tell me when these farms of land were purchased?

9 A. Purchased from I think, '93 up to maybe '98, maybe '99.

1 317 Q. And what is the purpose of the purchase of these farms?

11 A. They were bought as an investment.

1 318 Q. An investment, in what sense?

13 A. There is no long-term plan, we decided to buy the lands, we
14 have apartments, we have three or four apartments, we have
15 houses, and we have them rented out as an investment. As I
16 say, we have no long-term plan for them at the moment, they
17 are being rented out.

1 319 Q. So they are providing an income insofar as there is rental
19 income coming from them?

20 A. Of course, yes.

2 320 Q. A significant rental income - I am not asking you to deal
22 in detail with that matter, but is it a significant rental
23 income?

24 A. Yes, yes.

2 321 Q. And that's, the long-term plan is to leave them there to be
26 rented out?

27 A. As I said there is no long-term plan, there is nothing
28 wrong with investing in land and flats and apartments at
29 the moment, Ms. Dillon. There is no long-term plan.
30 That's what is being done at the moment.

3 322 Q. Yes, I am not suggesting that there is anything wrong, I am
32 trying to establish that fact, that these farms have been

00057

1 purchased?

2 A. And they are generating an income, yes.

323 Q. Yes. Now, if we could, I don't propose to deal with any

4 of the correspondence as I said, leading up to the - there

5 is one other letter I should of course put to you, is there

6 is a second letter from Mr. Michael Bailey, dated the 10th

7 of July, 1989, which is in the book of documents?

8 A. Right.

324 Q. And that's at page 95 of the red book, Mr. Murphy?

10 A. Thank you.

1 325 Q. Now, this is a letter of the 10th of July of 1989 which is

12 the second letter from Mr. Michael Bailey, and it offers a

13 purchase price of 2,000 --

14 A. Sorry, what page again?

1 326 Q. Sorry, page 95 on the red book.

16 A. Yes, I was at 95A. I have it now, thanks.

1 327 Q. We will go back to 95A in a second. That's the second

18 letter from Mr. Bailey which is a letter of the 10th of

19 July addressed to Mr. Gogarty and signed by Michael Bailey,

20 and offers the sum of £2,356,000 in respect of various lots

21 of lands as set out at paragraph 7, including a house at

22 Baggot Street; is that correct?

23 A. Correct.

2 328 Q. And that house at Baggot Street was ultimately not sold to

25 Mr. Bailey?

26 A. Correct.

2 329 Q. Did you see that letter?

28 A. No.

2 330 Q. Right. Were you aware of the existence of that letter in

30 or around July 1989 or at any time thereafter?

31 A. No.

3 331 Q. When did you first become aware of the existence of that

00058

1 letter?

2 A. Maybe, I may have seen this letter in or around the time of
3 the arbitration, say the '91, '92 period but I can't be
4 definite on that. But I think I obviously saw this then
5 in discovery, I would have, or when the Tribunal started
6 off. But I may well have seen this in the arbitration,
7 but I am not 100 percent sure.

332 Q. Yes, and the letter that precedes it then is 94A, which is
9 a letter from Mr. James Gogarty CC to R J Copsey, and
10 agrees to - "Dear Mr. Murphy", I presume that's your father
11 and not yourself? If you just go back a page to 94A?

12 A. Yeah.

1 333 Q. 94A.

14 A. Yes.

1 334 Q. Yes. And that encloses a copy of a letter received by
16 hand from Mr. Michael Bailey.
17 .
18 "I explained to him that I was no longer a director of the
19 vending companies, but I am continuing pro tem as an
20 executive employee of JMSE and that I would pass his letter
21 on to you, and also DMB and Mr. Copsey. He again asked me
22 to hold on a copy to DMB. I await your instructions, or
23 perhaps you would clarify the position with him direct". I
24 think it says?

25 A. Correct.

2 335 Q. And that was CC to Mr. Copsey. Did you see that letter?

27 A. No.

2 336 Q. And were you aware of the contents of either of those
29 letters?

30 A. No.

3 337 Q. Were you aware of the offer, second letter of offer from
32 Mr. Bailey of the 12th of July of 1989?

1 A. No.

338 Q. All right. Now, I think the next document I want to show

3 you is a letter of the 1st of August of 1989, which is a

4 letter that's sent, Document 96. Do you --

5 A. I have that, yes.

339 Q. That is a letter from Mr. Roger Copesey of the 1st of August

7 of 1989. It is addressed to Mr. Joseph Murphy, is that

8 you?

9 A. No.

1 340 Q. At 44A Bedford Court Mansions, London WC 1, Re: Wexburn.

11 That was the name of a company that owned the premises at

12 23 Lower Baggot Street?

13 A. Correct.

1 341 Q. That was a company which you were a director?

15 A. Correct.

1 342 Q. "Dear Joe, you will aware that the Gaiety School of Acting

17 is vacating the premises in or around the end of July. This

18 will leave the premises vacant which from a security

19 viewpoint is dangerous.

20 .

21 Jim has suggested that Tony Early should caretake, and I

22 think this is sensible. However, the property ought to be

23 put on the market, and subject to your agreement I will

24 make contact with an estate agent and arrange for an

25 auction. It may be best for the auction to be held during

26 September, as August is a very quiet month with holidays.

27 I will be guided by an estate agent in this respect. Please

28 contact me in the matter".

29 .

30 Did you remember seeing that letter?

31 A. I have no recollection of seeing it, I may well have.

3 343 Q. That seems to indicate certainly insofar as the premises at

00060

1 23 Lower Baggot Street were concerned, Mr. Copsey was

2 dealing with the matter?

3 A. I think he was obviously dealing with the matter, yes. I

4 think Mr. Gogarty was involved as well.

344 Q. Yes. And did anyone ever discuss with you the proposal to

6 sell 23 Lower Baggot Street?

7 A. No.

345 Q. Did Mr. Copsey ever discuss with you or seek advice or

9 instructions from you in relation to the sale of 23 Lower

10 Baggot Street?

11 A. I think maybe one time he mentioned something about it,

12 that he may have been interested in it himself or whatever,

13 but then it went to auction, I think he may have mentioned

14 that to me, yes.

1 346 Q. Before the property was sold Mr. Copsey may have mentioned

16 to you the fact that he, Mr. Copsey, had an interest in

17 acquiring --

18 A. He had shown an interest in acquiring it himself, yes. He

19 mentioned it to me, but I don't think it came of anything,

20 well it obviously didn't.

2 347 Q. But you have no recollection of seeing that letter?

22 A. I have no recollection of seeing it, Ms. Dillon, but I may

23 well have.

2 348 Q. I think the agreement was signed on the 3rd of October of

25 1989 in relation to Mr. Gogarty and Mr. Murphy, I don't

26 intend to put that to you, unless anybody thinks that I

27 should, but were you in a general sense aware of the fact

28 that matters had at that stage between Mr. Gogarty and

29 Lajos Holdings been finalised?

30 A. Sorry, could you just repeat the beginning of the

31 question?

3 349 Q. The agreement that was signed on the 3rd of October of 1989

00061

1 was an agreement between Mr. Gogarty and Lajos Holdings?

2 A. Correct, yes.

350 Q. Were you aware in a general way around that time that the

4 agreement was being signed?

5 A. I was.

351 Q. And that was coming to a conclusion. Who discussed it with

7 you?

8 A. Chris Oakley.

352 Q. Did Mr. Copsey discuss it with you?

10 A. No.

1 353 Q. Did Mr. Reynolds discuss it with you?

12 A. No, Mr. Reynolds had no involvement in Mr. Gogarty's

13 pension arrangements.

1 354 Q. And what discussion did you have with Mr. Oakley about it?

15 A. Well Mr. Oakley, you know, in the course of a normal events

16 would have said "this is the final document", or whatever.

17 My father might have been around, you know, "this has been

18 agreed", or whatever. I would have read it and said "fine,

19 yeah".

2 355 Q. And did you acquaint yourself with the contents or did Mr.

21 Oakley explain to you a general way what was in it?

22 A. Well, I think if you read the contents of the agreement it

23 is fairly self explanatory.

2 356 Q. Yes. So you were familiar with the contents of the

25 agreement in October of 1989?

26 A. I would have read the document, yes.

2 357 Q. Right. Now, I think subsequently on the 11th of October,

28 1989, an invoice was sent to the Electricity Supply Board

29 in respect of the Moneypoint monies?

30 A. What page is that?

3 358 Q. The invoice itself is at page 105. Sorry, before I go on

32 to deal with that, Mr. Murphy, Mr. Gallagher draws my

00062

1 attention to the fact that there was one other matter,
2 there is a letter dated the 29th of September of 1989 which
3 is at page 103 of the book?

4 A. Yes.

359 Q. And that's a letter that's dated the 29th of September of
6 1988, with the stroke out through the 8 and a 9 written
7 in. Do you see that?

8 A. I have, yes.

360 Q. That's a letter addressed "Dear Joe". That was a letter
10 addressed to you?

11 A. No.

1 361 Q. "Further to our telephone conversation on Tuesday last, the
13 26th inst., I confirm as follows:

14 .

15 (1) Baggot Street auction is set for the 20th of October
16 next with reserve of £350,000. There are so far 19
17 inquiries but no firm bid, apart from one for £300,000
18 which I advised you of before you decided go to auction.

19 (2) Duffy had an offer of 2.3 million for all the lands,
20 excluding Abbeycarton and if he gets a good deposit he
21 should sell.

22 (3) You are to contact McDowell to see if he has interest
23 in Abbeycarton and you will let me know how you get on.

24 Regards Jim".

25 .

26 That would appear to be a letter from Mr. James Gogarty to
27 Mr. Joseph Murphy Snr.?

28 A. Yes.

2 362 Q. Do you have any recollection of having seen that letter?

30 A. No.

3 363 Q. At or around that time?

32 A. No.

00063

364 Q. And then if, there is a copy of that letter on the

2 preceding page at page 102 of the book, that contains a

3 fax, at the top of it. Do you see that?

4 A. Yes.

365 Q. And that appears to be a fax to J Murphy from Mr. F

6 Reynolds, and the date is unclear, do you see that?

7 A. '97?

366 Q. Yes. Can you help us at all with the date of that, I think

9 this issue arose?

10 A. I think that that's the 15th of the 7th of '97.

1 367 Q. And that would appear to suggest that - sorry, first of all

12 to confirm the Mr. J Murphy there is Mr. Joseph Murphy

13 Jnr., yourself?

14 A. Correct.

1 368 Q. And the fax number which is fairly unclear to me, does that

16 appear to you to be your fax number?

17 A. Correct.

1 369 Q. And then that's from Mr. Frank Reynolds?

19 A. Correct.

2 370 Q. And the date you think is the 15th of the 7th?

21 A. '97.

2 371 Q. And the number of pages are four and it is "Re: Lands"?

23 A. Correct.

2 372 Q. That's right. The 15th of the 7th of 1989 this was faxed

25 to you - 1997, did I say '87. I am sorry, this was faxed

26 to you in London?

27 A. Correct.

2 373 Q. Why?

29 A. Because at this time the whole Ray Burke issue had blown up

30 and I think I was asking Frank Reynolds to look for any

31 documents in Santry that may relate to lands or whatever.

3 374 Q. That's the 15th of July?

00064

1 A. That's the 15th of July, yeah.

375 Q. 1997?

3 A. Yeah. It looks like that, yeah.

376 Q. You were raising a query with Mr. Reynolds about the sale
5 of the lands?

6 A. I think the whole issue had blown up at the time about Mr.

7 Burke, and obviously he was asked, Mr. Reynolds, to see if

8 there was any correspondence, any files or whatever about

9 these lands in Santry at the time and he would have faxed

10 me.

1 377 Q. So can you remember what other documents he faxed you at

12 the same time, can you remember?

13 A. I can't remember now, but I discovered all these earlier on

14 in the Tribunal. I think I was asked for all the

15 correspondence, documents that I may have in relation to

16 the lands and they were all discovered to the Tribunal.

1 378 Q. And is this part of the, was this a file that you had or

18 were putting together in relation to the lands?

19 A. No, I wasn't putting a file together in relation to the

20 lands. As I said, this whole issue with Mr. Burke had

21 blown up at the time and I had asked Frank Reynolds if

22 there was any documentation or any correspondence there in

23 Santry and fax it to me.

2 379 Q. Were you keeping all those documents?

25 A. I think I had a file, a small file on James Gogarty, with

26 the various other issues, so I probably would have put that

27 into that. As I say, I discovered all this earlier on.

2 380 Q. That's the file that you brought - is it the file that you

29 brought to the Dermot Ahern meeting?

30 A. Well, you know, I think I gave a list of various documents,

31 from memory that file I brought back to Ireland and I gave

32 it to my solicitors, I didn't even copy it, I gave it

1 straight to them, they copied it and discovered it, when
2 you asked us to identify the various documents within that
3 file, it was to the best of my memory.

381 Q. Yes, and they are the documents I think you discovered to
5 the Tribunal after Mr. Ahern had given his evidence?

6 A. That, that was the case I think, yes, was it?

382 Q. The next letter is at page 97, Mr. Murphy, and it is on
8 JMSE notepaper, and it is addressed to "Dear Joe, Re:
9 Lands". The 9th of August of 1989. A handwritten
10 letter.

11 .

12 MR. COONEY: What page is that?

13 .

14 MS. DILLON: Sorry, 97.

15 A. Yeah, the Abbeycarton lands one, yeah.

1 383 Q. MS. DILLON: "Dear Joe", was that a reference to you or
17 your father?

18 A. My father.

1 384 Q. "With reference to our previous telephone conversation, I
20 now enclose Messrs. Quinn's report and valuation in the
21 above.

22 .

23 I also have spoken subsequently to Mr. Quinn, as you
24 suggested, and he stated that in considering an early sale
25 without regard to any potential the price would in his
26 opinion need to be documented down to between 2,000, 20,000
27 and - sorry - discounted down to between 20,000 and
28 £25,000, and I confirmed your advice that he proceed on
29 this basis. Regards Jim".

30 .

31 Have you ever seen that letter?

32 A. No, I wouldn't have seen that letter at the time. As I

00066

1 say it may have been discovered but I wouldn't have seen it

2 at the time. It is not addressed to me.

385 Q. Were you aware of the fact that lands were owned in

4 Abbeycarton?

5 A. I think I was, yeah.

386 Q. Were you aware that there were plans to dispose of those

7 lands also?

8 A. No, I wouldn't have discussed that. I think that my father

9 and Mr. Gogarty would have dealt with that, that he

10 instructed Mr. Gogarty to deal with it, although he

11 probably would have been kept informed by Mr. Gogarty about

12 those lands. I had no dealings whatsoever, I think there

13 was only a few acres.

1 387 Q. I am asking simply were you aware of the existence of them

15 and the fact --

16 A. I would have been aware of the existence, yeah, that there

17 was land there at some stage.

1 388 Q. When you were discussing the lands with your father in

19 April, May?

20 A. These land were mentioned.

2 389 Q. That's - weren't, it was the North Dublin mentioned?

22 A. Correct.

2 390 Q. Were the premises at 23 Baggot Street mentioned?

24 A. No.

2 391 Q. Now, subsequent to the agreement being signed on the 3rd of

26 October, Messrs. McCann Fitzgerald furnished an invoice to

27 the ESB in relation to the monies that Mr. Gogarty had

28 negotiated on behalf of the JMSE?

29 A. Indeed they did, Ms. Dillon.

3 392 Q. Right, and this is a matter which again has been opened in

31 full to the Tribunal and all of the documentation has been

32 put through the Tribunal in the course of Mr. Gogarty's

1 evidence, but briefly I want to outline to you what I
2 understand the sequence of events to be, and if you
3 disagree with me we can stop and have a look at the
4 matter. As I understand it on the 11th of October --

5 A. Sorry, what page are you on now?

393 Q. The first document is page 104. On the 11th of October

7 Messrs. McCann Fitzgerald furnished an invoice to the ESB,
8 enclosed an invoice from JMSE in the sum of £700,000?

9 A. Page 104?

1 394 Q. Do you see the letter at page 104 of the red book?

11 A. Yes.

1 395 Q. And that's enclosing an invoice which is at page 105?

13 A. Yes.

1 396 Q. And these funds were in or around the 23rd or the 22nd of

15 October paid by the ESB to Messrs. McCann Fitzgerald?

16 A. They were indeed.

1 397 Q. And thereafter there was correspondence between Mr. Copsey

18 and Mr. Sheedy, and ultimately High Court proceedings were

19 instituted in December of 1989 and indeed cross

20 proceedings?

21 A. That's right, Mr. Sheedy took that cheque and he had no

22 authority to do so.

2 398 Q. Well, we have already heard the evidence of Mr. Sheedy in

24 relation to that. So far as we are establishing --

25 .

26 MR. COONEY: There is no reason why Mr. Murphy can't give

27 his views in evidence.

28 .

29 CHAIRMAN: That's of course if Mr. Murphy has any input,

30 but that is the state of play at the time, moment.

31 .

3 399 Q. MS. DILLON: Were you made aware of these monies being

1 paid to Messrs. McCann Fitzgerald in October of 1989?

2 A. Yes.

400 Q. Who told you?

4 A. Yes. Mr. Oakley.

401 Q. Who told Mr. Oakley do you know?

6 A. I presume he was liaising with Mr. Copsey.

402 Q. Yes. This was a matter drawn to your attention as being a

8 matter of, worthy of you being informed about it?

9 A. Of course.

1 403 Q. Yes. That this had happened, that these funds that should

11 have been coming into the company --

12 A. These funds should have come into JMSE, they were

13 fraudulently diverted into Mr. Sheedy's account and he

14 opened an account in, I think maybe it might have been

15 McCann Fitzgerald, JMSE, certainly a joint account and we

16 had no control over that account. This cheque was taken

17 fraudulently.

1 404 Q. And obviously you had a great interest in seeing that these

19 funds would come into the company?

20 A. Yes, of course.

2 405 Q. Yes. And you had no interest in the 2.4 million in

22 respect of the sale of the lands, as I understood earlier

23 evidence?

24 A. Don't be trying to twist my evidence, I said I had no

25 involvement in the sale of those lands.

2 406 Q. I am not making any suggestion, Mr. Murphy, I am trying to

27 establish why when you had, you say that you had no

28 interest or involvement because that was what I --

29 .

30 MR. COONEY: "Involvement" was the word, Mr. Chairman -

31 sorry, I beg your pardon. The word Mr. Murphy used was not

32 "interest", "involvement" was the word he used.

1 .

2 CHAIRMAN: I appreciate that, I heard that. And it is on
3 the screen.

4 A. Because the first transaction, Ms. Dillon, was a
5 straightforward sale. The second one I got involved with,
6 as far as I was concerned it was pure fraud.

7 .

407 Q. MS. DILLON: Right. But at this stage in November, when
9 this occurred in October of 1989; isn't that right?

10 A. Yes.

1 408 Q. Yes, and this sum of money was a matter in which you had an
12 interest, an immediate interest?

13 A. I was informed by Mr. Oakley, we would have been having
14 ongoing discussions with Mr. Oakley about various different
15 issues and he would have informed me of this, yes, actually
16 he gave us advice on it later on which we didn't act on,
17 pity we didn't.

1 409 Q. There were injunctions and threats of injunctions and
19 correspondence passing?

20 A. Various correspondence passing too and forth, yeah.

2 410 Q. This was all against the background I think, that has been
22 the evidence, of Mr. Gogarty being unhappy with the speed
23 with which his pension agreement was being implemented?

24 A. That's correct, I think from the correspondence - and Roger
25 Copsey is probably a better man than me to give evidence,
26 that we had no control over the speed, specially of the
27 £300,000 money, that had to be Revenue approved, even
28 though Mr. Gogarty wanted it abroad, as I said yesterday,
29 this had to be Revenue approved. Mr. Copsey was in
30 negotiations with the Revenue, it couldn't be paid over to
31 him until the Revenue approved it. There was no doubt
32 that he was, I mean this was signed, sealed and delivered,

00070

1 but it still had to get Revenue approval before it could be
2 paid over.

411 Q. Yes. Are you saying that Mr. Gogarty wanted the monies to
4 be paid for his pension on foot of the agreement of the 3rd
5 of October of 1989 to be paid abroad?

6 A. At a subsequent meeting that's what he informed me. He
7 said he wanted it put into offshore accounts or he said he
8 used other family members accounts, this was one of his
9 grievances, he didn't want to pay tax on that £300,000.

1 412 Q. Are you referring to the meeting in the Burlington Hotel in
11 February of 1992?

12 A. I am referring to the meeting in the Berkley Court in 1992.

1 413 Q. At those meetings you say - we will come on to deal - Mr.
14 Gogarty said he wanted the money paid offshore?

15 A. He didn't say he wanted it paid, this had already been
16 finalised, he said this was one of the things, there was
17 other issues.

1 414 Q. If you just stick with the allegation about the offshore
19 accounts, Mr. Murphy, and that particular thing. What
20 precisely --

21 .

22 MR. COONEY: Sorry, with respect, Mr. Chairman, the
23 witness was embarking upon an answer and he was interrupted
24 by Ms. Dillon. He should be allowed to finish. She should
25 not cut him off when she hears something she doesn't want
26 to hear.

27 .

28 CHAIRMAN: Let's - he said there was one of the things -
29 sorry, offshore accounts, Mr. Murphy, and what precisely -
30 she did interrupt him, you are quite correct, but in the
31 sense that she wanted an answer to a particular question
32 which he was advancing, an additional matter.

00071

1 .

2 MR. COONEY: I respectfully agree but I think Mr. Murphy's

3 intention was to refer to the context in which this arose,

4 I think he is entitled to do so.

5 .

415 Q. MS. DILLON: Yes, Mr. Murphy raised this issue himself

7 this morning and has referred to this without being

8 questioned in anyway by me, having raised it, and the

9 matter he referred to was the allegation about offshore

10 accounts at a particular meeting with Mr. Gogarty. While I

11 intend to come on to deal with the meeting in the Berkley

12 Court in its logical sequence, Mr. Murphy having raised the

13 issue of the offshore accounts today, having raised them

14 yesterday is obviously anxious to deal with them, and I am

15 anxious to facilitate him in relation to that particular

16 matter

17 .

18 At this time I wish to ask him questions about solely what

19 was said in relation to offshore accounts and what

20 information Mr. Gogarty gave to him at these meeting about

21 offshore accounts, that's all.

22 .

23 If I could ask you, Mr. Murphy, I will be dealing in full

24 with the Berkley Court meetings and I, you will be able to

25 say anything you like, give all the information you like in

26 its proper time, having raised this we will deal now with

27 the allegation of offshore accounts?

28 A. Thank you.

2 416 Q. You met Mr. Gogarty in the Berkley Court, and one of the

30 matters that was raised was a complaint, I think as I

31 understand you, about the monies, the pension not being

32 paid into an offshore account?

1 A. Correct, he said that that could have been organised abroad
2 for him, could have been paid into an offshore account or
3 accounts of other family members which he used from time to
4 time, in other words he didn't want to pay the tax on the
5 £300,000. It was said in a general sense, he wasn't
6 specific, "I have this account here", "this account there",
7 it was said in a general sense and there was so many things
8 said at both those meetings, but that was the way, that
9 that particular issue was dealt with, a general sense, he
10 wasn't specific.

1 417 Q. Yes, but he did say to you that the money could have been
12 paid into offshore accounts or into accounts of other
13 family members which "I use from time to time"?

14 A. Yeah, he didn't want tax, he was very annoyed that he had
15 to pay tax on that £300,000.

1 418 Q. Did Mr. Gogarty indicate to you at that meeting that he had
17 offshore accounts or that members of his family had
18 offshore accounts, was that your understanding?

19 A. No, he wasn't - yeah, I don't know - he certainly indicated
20 that he had an offshore account. But I don't know whether
21 he said other family members may have had offshore
22 accounts. He said he used other family members accounts
23 from time to time, he wasn't specific that they were
24 offshore.

2 419 Q. You said "into an offshore account or accounts from other
26 family members I use from time to time"?

27 A. Correct.

2 420 Q. That would seem to suggest that your understanding was not
29 alone had Mr. Gogarty an offshore account but other members
30 of his family offshore accounts?

31 A. No, that's totally incorrect, no.

32 .

00073

1 CHAIRMAN: At that point I think we will just rise for
2 lunch as just to calm the appetite.

3 .

4 THE HEARING THEN ADJOURNED FOR LUNCH.

5 .

6 .

7 .

8 .

9 .

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25 .

26

27 THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

28 .

29 JOSEPH MURPHY JNR. RETURNED TO THE WITNESS-BOX AND

30 CONTINUED TO BE EXAMINED BY MS. DILLON AS FOLLOWS:

31 .

32 MR. O'NEILL: Good afternoon Sir, I wonder if I might

1 interpose between the resumption of the evidence of Mr.
2 Murphy, an application for discovery which has been
3 adjourned from Monday of this week, and which formed the
4 subject of correspondence which was passed between the
5 Tribunal and the solicitors for Mr. Murphy Snr.?

6 .

7 The Tribunal has indicated to the representatives of Mr.
8 Murphy Snr. that you are considering making an Order for
9 Discovery directed towards all financial institutions in
10 the State, requiring them to make discovery on oath and to
11 produce to the Tribunal all documents and records,
12 whatsoever, including electronic records within the power
13 or possession or procurement of the institutions, in the
14 names or held for the benefit of Joseph Murphy, Una Murphy
15 and any combination of persons, including either Joseph
16 and/or Joseph and Una Murphy, within the State from the 1st
17 of January of 1976 to date.

18 .

19 This order is being contemplated, Sir, on the basis of the
20 history to date, which is that Mr. Murphy Snr. provided to
21 the Tribunal a sworn affidavit on the 24th of May, of 1999,
22 in which he deposed to the fact that he had no accounts in
23 his name, either solely or with any other person, or held
24 in trust to which he was beneficially entitled, in any bank
25 or financial institution in the Republic of Ireland from
26 1976 to date.

27 .

28 You will recall, that in addition, he gave evidence in
29 Guernsey before you, as Commissioner, where he indicated
30 that he did not have an account with either Allied Irish
31 Finances Company Limited, nor with Commercial Bank in
32 Dublin. These were two financial institutions which were

1 referred to, specifically, in an affidavit which had been
2 sworn by Liam Conroy in proceedings which were current in
3 the United Kingdom in 1989.

4 .

5 In the course of his evidence he gave consent to the
6 Tribunal to make inquiry of these financial institutions to
7 see whether or not any accounts were held by Joseph Murphy
8 or Una Murphy in those financial institutions from 1976.

9 .

10 Acting on those consents, the Tribunal contacted the
11 financial institutions concerned and has been provided with
12 certain information from those institutions which, in turn,
13 has been passed to the solicitors for Mr. Murphy Snr.,
14 which would appear to indicate that, in the case of Allied
15 Irish Finance, there was a bank account in existence for a
16 number of years in the 1980's involving persons named as
17 Joseph Murphy and Una Murphy; and in respect of the second
18 of the financial institutions, there are accounts held,
19 jointly, by Joseph Murphy and another person, and by Una
20 Murphy and another person, between the years 1983 and
21 1985.

22 .

23 It would appear, on the basis of this, Sir, that prima
24 facie appears to be a disparity between the sworn testimony
25 of Mr. Murphy Snr. in relation to his financial accounts in
26 Ireland from 1976 onwards, and in my respectful submission,
27 in view of the findings which the Tribunal has reached at
28 present, on the basis of the information provided by the
29 banks, it is necessary for the Tribunal to inquire further
30 into the question of the existence, or otherwise, of bank
31 accounts in Ireland, in the name of either Joseph Murphy or
32 Joseph and Una Murphy or any combination of those persons

1 and others.

2 .

3 The letter of the 23rd of November sought the views of Mr.
4 Murphy's solicitors on this issue and the response, as I
5 understand it at present, is that the intended Order is too
6 wide in it's terms.

7 .

8 If I might say in relation to that Sir, the original
9 affidavits covered precisely this period; that is the
10 original affidavit sworn by Mr. Murphy. And certainly, if
11 one had to make any decision as to the credibility of Mr.
12 Murphy stemming from inconsistent testimony given by him,
13 in fairness, it would be necessary to cover the entire
14 period during which he had alleged that he did not have an
15 account in order to reach any determination on that issue.

16 .

17 On that basis alone, I say that it is relevant. It equally
18 could be relevant insofar as there may well be financial
19 institutions existing in the State in 1989 from which
20 certain payments may or may not have been made, but
21 certainly it must be, on inquiry now, as to whether or not
22 there are such accounts, and if so what the financial
23 transactions involving those accounts may be.

24 .

25 So I say that the application, firstly, is in respect of
26 information which is material to the Tribunal, and that it
27 is not unnecessarily broad in it's range, but it is
28 necessary to deal with the issues which are presented by
29 the evidence.

30 .

31 CHAIRMAN: Mr. Cush?

32 .

1 MR. CUSH: Thank you, Mr. Chairman. I just have a couple
2 of observations in relation to the order Mr. Chairman. I
3 will just be perhaps five maybe stretching to ten minutes.

4 .

5 CHAIRMAN: Certainly.

6 .

7 MR. CUSH: The first is simply to draw attention to the
8 breath of the order, Sir. As you see it stretches from the
9 1st of January of 1976 to date. That is almost 24 years.
10 And it relates to: "Every financial institution, which
11 according to the definition in the letter, includes every
12 bank, building society, stockbroker, investment broker,
13 insurance company, providing the Financial Services within
14 the State". So in terms of the person to whom it is
15 directed, it is a wide order, a proposed order, and in
16 terms of the period in which it relates, it is an extremely
17 wide order. That is just the first point, I would ask to
18 draw to your attention, Mr. Chairman.

19 .

20 The second thing is this, Sir, it is and I want to approach
21 this from a matter of principle. It is invidious for any
22 person to be the subject of a search within a financial
23 institution in relation to any bank account whatsoever. It
24 cannot do the credit worthiness, or the reputation of that
25 gentleman any good within that institution, to be the
26 subject of such an order. And that is a relevant factor,
27 in my respectful submission.

28 .

29 The third thing I want to go on to identify, Sir, is the
30 true source of this request for discovery. It goes back of
31 course, to Mr. Conroy's affidavit, and just to be precise
32 about that, it stems most immediately from the questioning

1 of Mr. Murphy Snr. in Guernsey by Mr. O'Neill. But that
2 questioning in turn was based upon the affidavit sworn by
3 Mr. Conroy in which he made certain allegations against Mr.
4 Murphy.

5 .

6 Now, you know Sir, that the very admissibility of that
7 affidavit, which founded that that questioning was
8 something which we contested both here and elsewhere, and
9 we are unsuccessful in that contest. And the affidavit was
10 admitted. But it is, in my respectful submission,
11 important Sir, to recall that it was admitted in
12 circumstances where the application for its admission came
13 from Mr. Callanan on behalf of Mr. Gogarty, and in the
14 course of the submissions made by the parties, Mr. O'Neill
15 on behalf of the Tribunal said that it was a matter between
16 the parties and didn't advance any arguments in support of
17 the affidavit's admission.

18 .

19 You will recall, Sir, that in the course of argument
20 between Mr. Callanan and myself on this issue, Mr. Callanan
21 was careful and indeed adamant, to say that he did not seek
22 the admission of the Conroy affidavit for purposes going to
23 credit; and just to be precise Sir. I am sorry Sir, I have
24 lost the transcript reference. I will come back to that in
25 a moment, if I may?

26 .

27 But he was clear that he didn't seek the admission of the
28 Conroy affidavit for the purposes of going to Mr. Murphy's
29 credit, and in particular what he said was that it had a
30 relevance within the context, the story that Mr. Gogarty
31 was telling. Its particular and primary relevance was the
32 background to the sale of the lands. But he said it had a

1 secondary relevance in relation to loyalty shown by Mr.
2 Gogarty, generally, to the Murphys. But nothing, according
3 to Mr. Callanan, to do with credibility on tax affairs.

4 .

5 And the particular reference Sir, that is on Day 30, page
6 23. And it is actually repeated by Mr. Callanan at the
7 foot of page 25 in the same transcript.

8 .

9 Now, that was the application which you acceded to, the
10 admission of the Conroy affidavit for the purposes of the
11 Tribunal, with no argument being made that it went to the
12 credit of Mr. Murphy. Of course Mr. Callanan made that
13 argument, because he knew that if he was to suggest
14 otherwise I would be in a stronger position in arguing
15 against him, because I would say: "How can I question the
16 credit of a man who is how deceased?". He was careful on
17 that front.

18 .

19 We then get to Guernsey where Mr. Murphy Snr. is giving his
20 evidence, and he is being cross-examined about the Conroy
21 allegations, or examined I should say, and in response to
22 questions about those, and in particular in response to a
23 question about his Guernsey residence, and whether or not
24 his residency status was in anyway affected by accounts
25 held in Ireland, he said, pretty much as Mr. O'Neill has
26 said, that he had no such accounts.

27 .

28 And then Mr. O'Neill asked him straightaway, "well, do you
29 have any objection to us seeking confirmation from two
30 particular banks" and Mr. Murphy said "no, I don't". And
31 now information has come to hand from those two particular
32 banks and the Tribunal has that information and we will be

1 addressing that in due course.

2 .

3 But that is the source of the request that is now made, and
4 when we asked what was the purpose of seeking 24 years of
5 financial information from every financial institution in
6 the State, which we did by letter of the 29th of November,
7 I just want to read very quickly that letter to you, Sir,
8 if I may. It is a short two paragraph letter. And if I
9 may just read it to you. It says:

10 .

11 "Dear Miss Howard, we refer to your letter of the 23rd of
12 November 1999 in relation to our client Mr. Joseph Murphy
13 Snr.. We note in particular your request that Mr. Murphy
14 Snr. consent to the ruling of an order of the terms
15 outlined on the second page of that letter.

16 .

17 We are minded to consent to the making of such an order,
18 subject however to being satisfied that any documentation
19 discovered on foot thereof would be relevant to the
20 Tribunal's workings. Bearing in mind in particular that
21 your request relates to documentation stretching back as
22 far as 1976 we would be grateful if you could identify for
23 us, how the documentation sought relates to the Tribunal's
24 Terms of Reference.

25 .

26 Finally, we should apologise for any delay in dealing with
27 your initial request. On receipt of a response to this
28 letter will deal with your response promptly thereafter".

29 .

30 We then got a response from the Tribunal of the same day.
31 If I may read that to you because this is then the
32 justification, at least in documentary form, for the

1 request that is now being made to you, Sir.

2 .

3 It is addressed to Mr. Fitzsimons, and it comes from Ms.

4 Howard. It says:

5 .

6 "Dear Mr. Fitzsimons, I am in receipt of your faxed letter
7 of the 29th inst. I note that your client is minded to
8 consent to the taking of an Order for Discovery. The Sole
9 Member of the Tribunal has already determined that the
10 matters contained in the affidavit sworn by Liam Conroy
11 are material to his Terms of Reference insofar as Joseph
12 Murphy Snr.'s residence status and the Revenue implications
13 arising there from may have a bearing on his decision to
14 sell the lands, the subject matter of this inquiry.

15 .

16 Your client's evidence has been that he acquired Guernsey
17 residence status in 1976 and consequently any income
18 generated outside Guernsey may be a matter of relevance to
19 the Guernsey authorities. Your client has already sworn an
20 affidavit expressly denying that he has had any bank
21 account in Ireland since 1976 and his sworn testimony to
22 the Tribunal is to the same effect.

23 .

24 Any evidence to indicate that your client maintained bank
25 accounts in Ireland from 1976 may go to his credibility
26 given his testimony to date.

27 .

28 I would be grateful if you could now confirm" etc..

29 .

30 So this is the position we have now reached. It stems from
31 Mr. Conroy's affidavit and we are now at a stage where the
32 Tribunal want 24 years of search in every financial

1 institution with a view to questioning Mr. Murphy's
2 credibility, and it is credibility on an issue in relation
3 to his Guernsey residence.

4 .

5 Now, that is the position we have reached. And in my
6 respectful submission, in the first place discovery ought
7 never to be ordered in any circumstances as a matter of
8 principle when it goes only to credit. And Mr. O'Neill has
9 been absolutely straight that that is the purpose for which
10 he seeks it.

11 .

12 And secondly, I say, even on the particular issue of
13 credit, the Guernsey residence of Mr. Murphy, that is what
14 this is about. Does it somehow infringe his Guernsey
15 residence by having a bank account elsewhere? But Sir,
16 with respect, between 1976 and to date, those are matters
17 that must go outside your Terms of Reference.

18 .

19 If I could just address you on the first matter, that
20 discovery shouldn't be made as to credit, and draw your
21 attention to Matthews and Mallick on discovery. It is a
22 Sweet Maxwell publication and I think I am reading from the
23 first edition, Sir. It is a 1992 edition. And at page 100
24 at paragraph 4.26 there is a heading "Credit".

25 .

26 It is a subparagraph H and it comes immediately after
27 subparagraph G which is headed "Fishing".

28 .

29 And it reads, Sir: "Discovery will not be ordered of
30 material which will be used solely for cross examination of
31 a witness as to credit, since it would be oppressive if a
32 party was obliged to disclose any document which might

1 provide material for cross-examination as to his
2 credibility as a witness. Interrogatories would be refused
3 on the same ground. Hence discovery was refused to
4 documents relating to similar" -- it goes on to give
5 examples. The basic proposition is there stated, Sir.

6 .

7 Of course, the strange thing about this is that whilst it
8 stems from Mr. Conroy's affidavit, this discovery wasn't
9 sought as I understand it, prior to Mr. Murphy giving his
10 evidence, but in any event that is only a matter of
11 detail.

12 .

13 I do say, Sir that it is far too broad, it puts Mr. Murphy
14 Snr. in an invidious position. It is openly stated to be
15 for the purposes of credit. That is never a ground for
16 making discovery. And it is, in any event, a credit issue
17 which is not central or anywhere close to being central to
18 the real issues before this Tribunal, and if I could just
19 finish then, Sir, by saying, we don't object Sir to you
20 making some sort of an order.

21 .

22 We just would, respectfully, request that you, Sir, as
23 Chairman of the Tribunal, with a view to bringing about an
24 orderly finish to this module of the Tribunal, a speedy and
25 efficient finish, that you would put some sensible limit on
26 what is now being sought, and that we would move on, Sir,
27 as quickly as is possible. I am obliged Sir.

28 .

29 CHAIRMAN: Mr. O'Neill, do you want to say anything in
30 reply?

31 .

32 MR. O'NEILL: No, I have nothing further to say save that

1 this is not an application limited solely to the credit
2 issue. There are obviously, if there are accounts which
3 have been in existence in Ireland since 1976 and current at
4 the present time, the expenditure of funds out of those
5 accounts may well be material to the payments that are
6 being investigated by the Tribunal.

7 .

8 CHAIRMAN: I think I will reserve my decision on this
9 matter until tomorrow morning. I want to, I made a ruling
10 on this matter some time ago as to the parameters and
11 circumstances under which a order for discovery should be
12 made.

13 .

14 It involves, and my recollection is citing the Ernst and
15 Whinney judgement, the Peruvian Guano case, and I don't
16 want to go on record as getting the Statement of Evidence
17 by those distinguished courts wrong. I just want to
18 actually re -- to get the actual Statement of Evidence,
19 because they appear to me to be germane to what you have
20 said, and you have presented your case and I think, with
21 respect to you, I should consider it and I should consider
22 it in the light of the decisions which I have recited. You
23 are aware of the decision that I made and it is a detailed
24 decision. It sets out, as far as I know the principles of
25 law underlying this matter.

26 .

27 MR. CUSH: May it please you.

28 .

29 CHAIRMAN: I think it more appropriate to deal with it
30 tomorrow morning. I will do it quickly and won't hold it
31 up. Thursday morning, yes, I will be here tomorrow
32 morning. Thank you.

00085

1 .

2 MR. O'NEILL: Thank you Sir.

421 Q. MS. DILLON: Good afternoon Mr. Murphy?

4 A. Afternoon.

422 Q. We were talking before lunch about a conversation that you

6 had in February of 1992 because you had raised the subject

7 of offshore accounts at that point in time?

8 A. Correct.

423 Q. And am I correct in understanding that it was your

10 understanding at that meeting in February of 1992 that Mr.

11 Gogarty was complaining because his money had not been paid

12 offshore?

13 A. Correct. He wanted the sum of money paid tax free.

1 424 Q. Is this sum of money that Mr. Gogarty was complaining about

15 a sum of money in addition to his pension or was it

16 referring back to his pension?

17 A. Referring back to his pension.

1 425 Q. So that what Mr. --?

19 A. This is in the first of the two meetings. It was the

20 300,000 part of his pension.

2 426 Q. Yes?

22 A. That he was taxed on.

2 427 Q. Yes. And he had indicated to you at that meeting that he

24 had wanted that money paid offshore?

25 A. That was one of the issues, yes.

2 428 Q. Yes. But we will come back to deal in sequence with the

27 entire of the matter?

28 A. Offshore, or as I said before, he said that he used other

29 family member's accounts.

3 429 Q. Other family member's accounts?

31 A. Um.

3 430 Q. Was it your understanding in relation to the reference to

00086

1 other family member accounts that they were accounts within
2 this jurisdiction or outside the jurisdiction?

3 A. Either. I mean he wasn't specific.

431 Q. Yes. Was it your understanding of the context, in the
5 context of him saying that he had wanted that money paid
6 offshore and then mentioning other family accounts, that he
7 was talking about other family accounts offshore?

8 A. He wanted that money paid tax free. He said that he had
9 offshore accounts, and he said that sometimes he used other
10 family members accounts. He wasn't specific whether these
11 other family members accounts were offshore or within the
12 State, he wasn't specific.

1 432 Q. All right. Now, I think that we were discussing your
14 reaction when you discovered, before we went to talk about
15 the offshore accounts, which you raised, you were
16 discussing your reaction to the fact that the £700,000
17 payment from the ESB had been diverted?

18 A. Correct, yeah.

1 433 Q. And can you tell us what your reaction was when you were
20 informed of that, sorry I suppose first of all I should ask
21 you when do you recollect being first informed about that?

22 A. I think, it would have been late '89, I think that there
23 was two issues at the time. One was the fact that it had
24 been fraudulently diverted, and I think that the second
25 issue was that we found out soon afterwards that Mr.
26 Gogarty had actually negotiated a higher sum than he
27 actually disclosed.

2 434 Q. Yes. But if we deal first of all with the fund. I think
29 that the fund was received in or around the 23rd of October
30 of 1990?

31 A. Which fund?

3 435 Q. The £700,000 from the ESB was paid in or around the 23rd,

00087

1 1989 - the 23rd of October 1989?

2 A. Was it, yeah?

436 Q. And sometimes after that, some short few days later, I

4 think JMSE were informed of that fact?

5 A. Correct, I think, yes.

437 Q. So you said that you were told of this by Mr. Edgar Wadley?

7 A. I didn't, no. I said I was told by Mr. Oakley.

438 Q. Sorry, Mr. Oakley, and can you recollect when you had that

9 conversation with Mr. Oakley?

10 A. No, there was so many consultations going on at the time.

11 I can't be specific. I think that the two issues were

12 together. (1) The fact that he hadn't disclosed the higher

13 figure and, (2) That himself and Mr. Sheedy had

14 fraudulently diverted the money.

1 439 Q. Yes?

16 A. And he admitted this in conversation in the Berkley Court

17 by the way as well.

1 440 Q. We will come on to deal with the conversation in the

19 Berkley Court in it's appropriate place. Would it be

20 correct to say that by the end of October of 1989 you were

21 aware of the fact that this money had been received by

22 Messrs. McCann Fitzgerald?

23 A. Late '89 or '90, yeah, I would accept that.

2 441 Q. We will try and be a little bit more specific about it.

25 The money was received, I think, on the 23rd of October by

26 Messrs. McCann Fitzgerald?

27 A. Right, I will accept that.

2 442 Q. And within a week of that, JMSE had been told that the

29 money had been received by Messrs. McCann Fitzgerald?

30 A. I accept that, yes.

3 443 Q. So would it be fair to say that by early November of 1989

32 you would have been told that these funds had been

00088

1 diverted?

2 A. That would be fair, yes.

444 Q. Right. So that you would have known at that stage that Mr.

4 Gogarty had, in some manner, diverted the funds that were

5 properly due to JMSE?

6 A. Correct. He diverted the funds to hold us to ransom for

7 his pension scheme.

445 Q. For his pension scheme?

9 A. Um.

1 446 Q. And the agreement had been signed on the 3rd of October of

11 1989?

12 A. Correct.

1 447 Q. Right. Would you regard this conduct as untrustworthy

14 conduct on the part of Mr. Gogarty?

15 A. Fraud.

1 448 Q. And was it your opinion, in early November of 1989, that

17 Mr. Gogarty's conduct was fraudulent?

18 A. It was.

1 449 Q. Why didn't you terminate Mr. Gogarty's employment with your

20 company at that stage?

21 A. There was ongoing legal discussions at that time. I think

22 with Mr. Oakley, and Mr. Copsey, Mr. Strahan. It certainly

23 was brought up in conversations with Mr. Oakley, and these

24 discussions I think lasted some months into 1990, and my

25 father was of the opinion; right, he has pulled a stroke,

26 we will leave it. We didn't go after him for it, but I

27 certainly was of the view, a stronger view maybe at the

28 time.

2 450 Q. Yes. Was it your view then that despite this, having held

30 that view of the conduct of Mr. Gogarty, you had no

31 difficult difficulty in proceeding to allow him to

32 negotiate to a conclusion the deal with Mr. Bailey in

00089

1 relation to the North Dublin lands?

2 A. No, I had no involvement in the negotiations with Mr.

3 Bailey in the North Dublin lands.

451 Q. You were aware that Mr. Gogarty was negotiating in relation

5 to the North Dublin lands?

6 A. I didn't know when they were being sold or what or

7 whatever. It was either late '89 or 1990 that I had, that

8 I had been informed that the lands were sold.

452 Q. Yes?

10 A. Subsequent to that, obviously there was a problem, that is

11 when I got involved.

1 453 Q. You have already told us that once you became aware of the

13 fact that Mr. Gogarty had behaved in this fashion, you had

14 formed a view in relation to Mr. Gogarty's conduct?

15 A. I had.

1 454 Q. Yes; and that view was at it's best that Mr. Gogarty was an

17 untrustworthy person?

18 A. At best.

1 455 Q. Yes, was this a view that you, that you discussed with Mr.

20 Copsey?

21 A. Not at that period, no. Mr. Oakley.

2 456 Q. With Mr. Oakley. Do you know whether Mr. Oakley discussed

23 that view with Mr. Copsey?

24 A. He probably -- he did, I think he did, yes.

2 457 Q. And was it Mr. Copsey's view at this time, do you know,

26 that Mr. Gogarty's behavior had been untrustworthy?

27 A. It would have been, yes.

2 458 Q. And would it have been Mr. Oakley's view that Mr. Gogarty's

29 behavior was untrustworthy?

30 A. It would have been, yes.

3 459 Q. And Mr. Copsey would have known at this time that Mr.

32 Gogarty was negotiating in relation to the sale of the

00090

1 lands?

2 A. Yes.

460 Q. Yes. Why then did nobody in JMSE see fit to remove from

4 Mr. Gogarty, this untrustworthy person, the responsibility

5 of negotiating the sale of the North Dublin lands to Mr.

6 Bailey?

7 A. Because my father made the decision, Ms. Dillon. I think

8 that he described it as: "Listen, he has pulled a stroke,

9 leave it", whatever else, because we actually kept him on

10 on a consultancy basis in 1990, but the trust had been,

11 especially with me anyway, had gone at that stage.

1 461 Q. Yes; and did you discuss this untrustworthy behavior with

13 your father?

14 A. I did.

1 462 Q. Were you incensed by what had happened?

16 A. I was annoyed with the fraud that had taken place, yes.

1 463 Q. But despite the fact that you brought to your father's

18 attention your views in respect of Mr. Gogarty's conduct,

19 your father directed that Mr. Gogarty was to continue with

20 the negotiations; am I correct?

21 A. I don't know whether he specifically directed him to

22 continue with the negotiations, but certainly Mr. Gogarty

23 and as we can see from the documentation, concluded the

24 negotiations.

2 464 Q. Yes; and he concluded those negotiations at a time in which

26 the view among the major players, as it were in JMSE, were

27 that he was an untrustworthy person?

28 A. Correct.

2 465 Q. I see.

30 A. I mean it must be understood that I was back in the UK and

31 England at this time. I was purely dealing with Mr.

32 Oakley.

466 Q. Yes.

2 A. But that's correct, yes.

467 Q. So, that it was never, was it never suggested by anybody

4 that it might be wiser, in view of what you knew about Mr.

5 Gogarty, to bring in a firm of auctioneers to conclude the

6 negotiations?

7 A. I had no hand, act or part in the negotiations, they were

8 completed. I only got involved in the arbitration in 1990,

9 Ms. Dillon.

1 468 Q. I am not asking you whether you formed that view. I am

11 asking you whether, in the company, was a view not taken

12 that it might be wiser, in the light of what you now knew

13 of Mr. Gogarty's conduct, to bring in a firm of auctioneers

14 to deal with the completion of this sale?

15 A. I can't remember that ever being mentioned. As I said, I

16 had no dealings with those lands and I have no knowledge of

17 that ever being brought up.

1 469 Q. Yes. Do you have any recollection of Mr. Copsey, for

19 example, recommending that the negotiations for the sale be

20 taken away from Mr. Gogarty and given to a firm of

21 auctioneers?

22 A. I never had any discussions with Mr. Copsey about the sale

23 of the lands.

2 470 Q. Yes, or who was handling them?

25 A. Correct.

2 471 Q. Prior to the transfer of the £700,000 what was your view of

27 Mr. Gogarty?

28 A. Prior to that, I think that during that period leading up

29 to that he had become a very aggressive; vicious might be a

30 stronger word; but that viciousness and aggressiveness

31 generally in the main was towards the previous employers,

32 but he was starting to direct it at us at this particular

1 time. I think that Mr. Copsey, I think, informed Mr.
2 Oakley, who informed me or he may have informed me direct,
3 that he went to a meeting, it could have been, I might be
4 getting these dates wrong; he disrupted a meeting in the
5 AGSE offices in the UK, a critical meeting with the
6 bankers, and Mr. Copsey had to bring him out of the room
7 and he said he would "F-ing destroy the Murphys. F-ing do
8 that and that and if I don't get my F-ing pension"; so I
9 think that the threats to us had started at this early
10 stage.

1 472 Q. Yes. The question that I asked you was for your view of
12 Mr. Gogarty, prior to this transfer of the funds and you
13 have told me?

14 A. I was sceptical of him.

1 473 Q. You told me Mr. Copsey?

16 A. I was sceptical of him.

1 474 Q. Since when were you sceptical of him?

18 A. Maybe even before the agreement was signed, his behavior?
19 I thought that, I mean, I think it has been discussed at
20 this Tribunal, that on one side of the turmoil may have
21 been the Murphys; myself, my father and Mr. Gogarty and on
22 the other side there was Mr. Conroy. But I am certainly of
23 the view that Mr. Gogarty opened up a third side, and that
24 he jumped in and took advantage of the turmoil for his own
25 personal benefit.

2 475 Q. So was that a view you formed of Mr. Gogarty in 1988 when
27 the turmoil started?

28 A. No.

2 476 Q. So can you pinpoint for us when you first formed this view
30 of Mr. Gogarty?

31 A. Well, it would have been affirmed when he, the fraud took
32 place in '89.

477 Q. Yes. I am asking you to pinpoint, I beg your pardon I

2 interrupted you.

3 A. Sorry.

478 Q. The question I asked you was to pinpoint for us when you

5 first formed this view of Mr. Gogarty and you said that it

6 would have been affirmed when the fraud?

7 A. I would have been sceptical up to the point of the

8 agreement. Sceptical but certainly when I was informed of

9 what he did, yes, things would have become a bit more

10 hostile with him then, yes.

1 479 Q. But up to that point would you describe your relationship

12 with Mr. Gogarty as amicable?

13 A. I was sceptical of him I think, you know.

1 480 Q. Did that scepticism have its root in what happened during

15 the turmoil in late 1987 and throughout 1988?

16 A. Yes.

1 481 Q. So the first --.

18 A. As I say he opened a third strand. He, it has been said

19 here that he was on the Murphy side so-to-speak in the

20 Conroy proceedings but I am of the firm opinion that he

21 opened up a third side to take advantage himself.

2 482 Q. From the start of the turmoil?

23 A. Yes.

2 483 Q. Yes?

25 A. Well, he caused the turmoil.

2 484 Q. That's your view, in respect --.

27 A. He caused a lot of the turmoil. But yes, I mean he was

28 correct in his allegations about the pricing, but in other

29 vicious allegations he was false, you know?

3 485 Q. Slightly, probably an unusual question; do you have any

31 idea of what Mr. Gogarty thought of you?

32 A. I don't.

486 Q. No?

2 A. I certainly know what he thinks of me now.

487 Q. That may be, but during that period of time do you have any

4 idea of what Mr. Gogarty's view of you was?

5 A. No, he never expressed his, he never expressed any views to

6 me.

488 Q. To you. So you would say that, or am I correct in thinking

8 certainly that as and from October of 1989 you had a

9 certain view of Mr. Gogarty in the similar, similar to the

10 lines that you have outlined here?

11 A. Yeah.

1 489 Q. Yes. The agreement with Mr. Gogarty -- sorry, one matter

13 was raised actually in the course of Mr. Gogarty's

14 evidence.

15 Sir, if I could address you in relation to this and it was

16 a matter on which Mr. Cooney sought to be allowed respond

17 in relation to this witness, as it were, to put this

18 witness' side on an exceptional basis, and it is not a

19 matter that I think needs to be dealt with in any great

20 detail, but nonetheless it is a matter that was raised by

21 Mr. Gogarty and it was also a matter in which Mr. Cooney

22 felt it sufficiently important that he would, as it were,

23 put the record straight.

24 .

25 I am referring to the incident in the Berkley Court, which

26 happened, subject to anything Mr. Cooney has to say, in

27 relation to the matter, it wasn't my intention to deal in

28 any great detail with this matter. There are some

29 documents such as they are that have been circulated, I

30 don't see anything great turns on it, save to say that he

31 was there at the time. Unless Mr. Cooney has a view that

32 he wishes me to deal with?

1 .

2 MR. COONEY: It is a matter that effects Mr. Murphy, I
3 think he is quite capable of dealing with the matter, if he
4 is given an opportunity.

5 .

6 CHAIRMAN: If you want to deal with it.

7 .

8 MR. COONEY: Pardon?

9 .

10 CHAIRMAN: If you want to deal with it in that way; I
11 personally do not see the need --

12 .

13 MR. COONEY: It is really a matter which reflects on Mr.
14 Murphy. If he wants to deal with it, Mr. Chairman. All I
15 pointed out in earlier occasions, on three occasions Mr.
16 Gogarty was allowed to make these false accusations without
17 any --

18 .

19 CHAIRMAN: Mr. Cooney, you are welcome, I was simply
20 trying to avoid any embarrassment to your client. Nothing
21 more, nothing less. You are at liberty to consent on his
22 behalf.

23 .

24 MR. COONEY: There was an allegation which was reported
25 very widely at the time and proved most embarrassing.

26 .

27 CHAIRMAN: He is entitled to go into it again. It is a
28 matter for him now. You have made your point clear and I
29 have made my position clear.

3 490 Q. MS. DILLON: Mr. Murphy, reference was made here in the
31 course of Mr. Gogarty's evidence to an incident that
32 occurred in the Berkley Court Hotel in November 1989. Do

1 you wish to say anything about that, because I am quite

2 happy to pass on from that matter?

3 A. I think that that has been dealt with. I think that

4 obviously this was a highly embarrassing thing to be

5 brought up. It was a prank after a rugby international. I

6 let off a fire extinguisher. It wet a woman's fur coat

7 that was hanging behind a chair and I think that I was

8 charged with damaging this coat, but it was actually thrown

9 out of court. I think the judge at the time actually made

10 a joke about it and said "well, sure she could afford a fur

11 coat, she can afford to get it cleaned" and it was

12 dismissed to the poor box, that is all I have to say on

13 that matter. What Mr. Gogarty said about that incident was

14 complete and utter lies.

1 491 Q. Now, I think the date of that incident, insofar as it is

16 relevant was the 18th of November of 1989; and on the 20th

17 of November, 1989, I think you had your appearance in the

18 District Court in respect of the matter?

19 A. Correct.

2 492 Q. On the 27th of November, 1989, there was a meeting with Mr.

21 Bailey and Mr. Gogarty in the offices of Duffy Mangan

22 Butler. Do you know anything about that?

23 A. I didn't attend that meeting.

2 493 Q. I didn't ask you Mr. Murphy; I didn't - I will rephrase the

25 question clearly enough for you. I asked you did you know

26 anything about that meeting?

27 A. No.

2 494 Q. Were you aware at this stage that matters were approaching

29 a conclusion in relation to the sale of the North Dublin

30 lands?

31 A. No.

3 495 Q. Had anybody discussed this with you at all, towards the end

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1 of November of 1989?

2 A. No.

496 Q. Did you have occasion to visit the offices in Santry on

4 that occasion when you were in Ireland?

5 A. No, not on that date, no.

497 Q. Were you in Ireland during November 1989, can you

7 recollect, apart from the incident to which we have just

8 referred?

9 A. No, I can't recollect that I was, no.

1 498 Q. Right. Was there regular communication between Mr. Copsey

11 and Mr. Wadley?

12 A. There probably was, yes. Mr. Copsey and Mr. Wadley and Mr.

13 Oakley at that time, yes.

1 499 Q. And would there have been regular communication between Mr.

15 Copsey and your father?

16 A. There would have, yes.

1 500 Q. Yes. Were you in communication at all during that period,

18 can you recollect, with Mr. Reynolds?

19 A. Not very much.

2 501 Q. Insofar as you were not in contact with him very much, you

21 were in contact with him to some degree?

22 A. Yes, I would have been, yes.

2 502 Q. What was the nature of your contact with Mr. Reynolds

24 during that period?

25 A. It would have been to discuss business matters.

2 503 Q. What kind of business matters?

27 A. JMSE matters or whatever. I think you know, at that time

28 Mr. Gogarty, I think, was on the lookout on our behalf for

29 a new Chief Executive. I think this was a being discussed

30 at that time. I think a new Chief Executive, Tim Parker,

31 was appointed sometime later in 1990. You know the fact

32 details of phone calls on what issue in JMSE, it is

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1 actually hard to remember, but certainly never discussed
2 the land issue with Frank Reynolds until the middle of
3 1990.

504 Q. So you are clear in your recollection that in or around
5 November of 1989 you did have some conversations with Mr.
6 Reynolds. On no occasion did they include any reference to
7 the North Dublin lands?

8 A. Correct.

505 Q. Did you discuss with Mr. Reynolds, Mr. Gogarty's conduct in
10 relation to the £700,000?

11 A. Not in that period, I don't think, no. Because I was in
12 the UK, I think. I think that this would have come out,
13 been discussed with Mr. Reynolds later. I may have Ms.
14 Dillon, you know, but my recollection is that we discussed
15 this later.

1 506 Q. Yes. I think the contracts for the sale of the lands were
17 signed on the 19th of December, 1989?

18 A. Correct.

1 507 Q. And I think the purchase price or the agreed contract
20 price, I know I kept saying 2.4 it wasn't 2.4 it was 2.3
21 million pounds?

22 A. That's right, the other 100,000 went to Mr. Gogarty or more
23 maybe.

2 508 Q. Yes. Well, insofar as the contract price is concerned, I
25 think that what I was saying to you was that the contract
26 price was 2.3 million pounds?

27 A. Correct.

2 509 Q. And this was a significant amount of money, it was a
29 significant deal for the company?

30 A. It was.

3 510 Q. Yes; and what were your views of the amount when you -
32 first of all, may I ask you when did you find out the

1 amount that was achieved for the North Dublin lands?

2 A. I mean the financial affairs, the money coming in or
3 whatever, I think Denis McArdle was the solicitor at the
4 time dealing with it, and Roger Copsey was the man dealing
5 with the finances or somebody would have said, you know,
6 "2.3 lands sold" or whatever, I can't be specific. It
7 mightn't have been until 1990 when it was mentioned to me.

511 Q. Yes, but you would have known?

9 A. I would have known that the lands were being sold.

1 512 Q. And would have had an approximate idea of the amount?

11 A. Yeah, perhaps, yeah.

1 513 Q. And do you have a view on the figure of 2.3 million?

13 A. Ms. Dillon, at the time I wouldn't have known whether 1.8
14 or 2.8 or 3 million was a good figure. I was totally
15 dependant on other people's advice for that.

1 514 Q. So --.

17 A. If the auctioneer and Mr. Gogarty thought that 2.3 was a
18 good price, that's fine, that would have been fine.

1 515 Q. You had no other view on it, other than that it was a good
20 price?

21 A. I didn't know whether it was a good price or not, I
22 depended on other people.

2 516 Q. Yes. You mentioned there a few minutes ago something, Mr.

24 Murphy, in that at this time you were talking to Frank
25 Reynolds about business matters and Mr. Gogarty was looking
26 for a new Chief Executive?

27 A. Mr. Gogarty was helping in the look out for a new chief
28 executive. He was one of a number of people that, Mr.
29 Copsey, Mr. Wadley might have been involved in that, but
30 certainly I think indirectly Mr. Gogarty came eventually up
31 with Mr. Parker through another person whose name escapes
32 me at the moment, that Mr. Gogarty had dealings with. I

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1 think he owned his own drafting company in the UK. His
2 name escapes me. He recommended Mr. Parker.

517 Q. Yes; and I think in fact that you told us yesterday, that
4 Mr. Gogarty found Mr. Parker for the company?

5 A. Yes.

518 Q. Yes; and the company were happy to accept Mr. Gogarty's
7 recommendation?

8 A. They were, yes.

519 Q. Despite the view that had been formed in October of 1989 as
10 to his fraudulent and untrustworthy nature?

11 A. Correct.

1 520 Q. Of Mr. Gogarty?

13 A. Yeah.

1 521 Q. Do you not find that a little strange Mr. Murphy?

15 A. Well, at that time we had a specific contract as I say,
16 with Sizewell, that has been mentioned here before. We
17 hadn't a great level of experience at the top level of
18 management. We were specifically worried about this
19 contract, so like it or lump it we were still dependant, in
20 certain ways, with Mr. Gogarty.

2 522 Q. Um. This is a man whom you have described at it's best as
22 being untrustworthy and certainly fraudulent and that was
23 your view of Mr. Gogarty I think, in November of 1989?

24 A. It certainly was, yes.

2 523 Q. Despite this view having been formed by yourself and Mr.
26 Copsey, Mr. Wadley and Mr. Oakley, you proceeded to allow
27 Mr. Gogarty to negotiate to a conclusion, the sale of the
28 North Dublin lands?

29 A. We did and sure we continued with him much after that too.

3 524 Q. And you proceeded to allow him to find for you a Chief
31 Executive whom you subsequently hired?

32 A. Correct, yes, and we were totally dependant on him for the

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1 continuation of the steel companies, yes. He was the man
2 with the experience in the companies and we depended on
3 him, yes, it may sound strange, but that is the case, yes.

525 Q. Were you dependant upon Mr. Gogarty to find you a new Chief
5 Executive?

6 A. No, I think that Mr. Wadley, Mr. Oakley I think - maybe an
7 add had gone out or headhunters or whatever else. I think
8 that the emphasis on Mr. Gogarty to find a particular
9 person, I think it was more broad than that. I think there
10 were other people as well on the lookout, but eventually he
11 came up with Mr. Parker, yes.

1 526 Q. And would you not have thought, I mean as a matter of
13 reason, that if you found somebody utterly untrustworthy
14 there might have been a great reluctance on the part of the
15 company to hire the person that was recommended by this
16 person. Do you not find that a little strange?

17 A. Mr. Parker was interviewed by various different people and
18 he was taken on.

1 527 Q. With no difficulty. The company were happy to accept Mr.
20 Gogarty's recommendation?

21 A. Yes, but as I say he was interviewed by various other
22 people as well. Yeah, as I say with the lack of experience
23 and the contracts that we had at the time we were depending
24 on Mr. Gogarty, yes, even though I had that opinion of him.

2 528 Q. And the company were happy to accept Mr. Gogarty's
26 recommendation in December of 1989 and November of 1989
27 that the North Dublin lands be sold for 2.3 million?

28 A. Well, Mr. Gogarty had been negotiating that for quite
29 sometime. He concluded the negotiations then in
30 conjunction with Duffy Mangan Butler.

3 529 Q. Yes. The question was, the company were happy to accept
32 Mr. Gogarty's recommendation in December of 1989 and

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1 November of 1989 that the North Dublin lands be sold by for
2 2.3 million. Was the company --
3 .

4 MR. COONEY: With respect Mr. Chairman, Ms. Dillon is
5 fully aware of the attendances that Mr. McArdle took on Mr.
6 Joseph Murphy Snr. in or about that time in which he
7 queried the size of the sum. He thought it was small.
8 .

9 CHAIRMAN: That is not what she is putting to him. She is
10 putting to him, whether or not she is satisfied, to put it
11 in blunt terms, whether they relied on him, relied on a man
12 who they regarded as dishonest; that is what they are
13 putting.
14 .

15 MR. COONEY: Hang on a second. She can not put this thing
16 partially. She is referring to the reaction of the
17 company, she must also in fairness to the witness refer to
18 the specific reaction of the leading member of the company
19 at that time, Mr. Joseph Murphy Snr., which was recorded by
20 Mr. McArdle that this was a small sum.
21 .

22 Now, this is a very partial "cross-examination", I say, in
23 inverted commas, if she is going to deal with this topic in
24 fairness to the witness, she must put all the facts.
25 .

26 CHAIRMAN: That evidence is on the record. This witness
27 is giving evidence that he considered this man, and I am
28 using an omnibus phrase, dishonest, fraudulent call it what
29 you will. He is saying yes, the company took him, took his
30 advice,
31 .

32 MR. COONEY: May I also point out, Mr. Chairman. Again

1 Ms. Dillon seems to ignore this. That is a view which was
2 stated by the company solicitors Messrs. Frederick Kenyon
3 of a letter of the 10th of January of 1990. Now, I think
4 with respect, Mr. Chairman, it is unfair to a witness to
5 cross-examine him on this line, without putting all of the
6 evidence in front of him. It is partial, it is
7 misleading.

8 .

9 MS. DILLON: It is not my intention to be either
10 misleading or partial in anyway to this witness. I am not
11 cross-examining this witness. It is a Tribunal of inquiry
12 into facts. It's purpose is to establish the fact. The
13 present inquiry is conducted in the light of the evidence
14 this witness has given of his opinion of Mr. Gogarty's
15 conduct, as to why the company continued to trust
16 apparently and rely upon Mr. Gogarty to deal with two very
17 significant and important matters. That is the inquiry I
18 am presently conducting.

19 .

20 Such documents, as I fail, in Mr. Cooney's opinion, to put
21 to the witness will of course be put to him, I presume, by
22 Mr. Cooney to clear up any ambiguities. I intend to
23 proceed in this fashion as I see fit.

24 .

25 MR. COONEY: I think Ms. Dillon fails to see the ambiguity
26 of what she just said. She says this is as Tribunal of
27 inquiry, that presumes the putting of all matters fairly to
28 witness and in the next breathe she says it is up to me to
29 clear up any ambiguities that occur in her examination.
30 That is unreconcilable.

31 .

3 530 Q. MS. DILLON: Thank you Mr. Murphy, if we can go back to

1 deal with the question which was why, in effect was the
2 company happy to allow Mr. Gogarty - or sorry the question
3 in fact was - was the company happy to allow Mr. Gogarty to
4 proceed to deal with the sale of the North Dublin lands,
5 and the finding of a new Chief Executive in the light of
6 the opinion that had been formed by various members of the
7 companies about Mr. Gogarty?

8 A. Yes, I think my father would have been happy because of the
9 negotiations that Mr. Gogarty was doing at the time to
10 conclude them. My role was very limited at that time. I
11 was a non-executive director and my role was very limited.
12 So my father was happy, yes, must have been happy to
13 conclude the negotiations. I mean he was negotiating for
14 quite sometime.

1 531 Q. Yes; and in relation to the appointment of the Chief
16 Executive, Mr. Parker, who was introduced to the company by
17 Mr. Gogarty, the company were happy to accept Mr. Gogarty's
18 recommendation, subject to an interview of Mr. Parker?

19 A. They must have been. I hadn't a lot got to do with that at
20 all.

2 532 Q. Did you interview Mr. Parker?

22 A. I did not.

2 533 Q. Can you recollect who did. Who was involved in the
24 process?

25 A. Well, Mr. Gogarty would definitely have been. I don't know
26 who else was involved, but I know there were other people,
27 but actually to specifically state, I am not sure.

2 534 Q. It is a matter that Mr. Copsy might be able to help us
29 with?

30 A. He may well be, yes.

3 535 Q. Now, I think that ultimately the difficulties in relation
32 to the ESB payment were resolved towards the middle of the

1 following year, which was June of 1990?

2 A. That may well be the case, yes.

536 Q. And I think there has been evidence in relation to that. I

4 think in May of 1990 your companies in England entered into

5 a detailed agreement with Mr. Liam Conroy and his

6 companies, quite a long complicated legal document?

7 A. Oh, the agreement with him in the end? Yes.

537 Q. Yes. That was the 17th of May I think was the date of that

9 agreement?

10 A. Okay, yes.

1 538 Q. I can show you the document?

12 A. No, no, I know the document, yeah.

1 539 Q. It was quite complex?

14 A. Yeah, yeah.

1 540 Q. And that was the final Settlement Agreement with Mr.

16 Conroy?

17 A. Correct.

1 541 Q. And that resolved all issues that were then outstanding

19 between the Murphy Group of companies and Mr. Conroy and

20 his group of companies?

21 A. Correct.

2 542 Q. And it included I think, resolution of matters that may

23 have arisen in Guernsey or the Isle of Man?

24 A. Correct.

2 543 Q. Everything was being sorted?

26 A. Everything was sorted, yes.

2 544 Q. I think then, subsequently, I said on the 17th of June the

28 agreement was with Mr. Gogarty. In fact it was the 7th of

29 June. My mistake. An agreement was entered into in a form

30 of discharge of settlement of the High Court proceedings

31 with Mr. Gogarty?

32 A. The receipt and discharge, yes.

545 Q. That was the 7th of June though it had been finalised some
2 short time before that?

3 A. I think that the delay to that day was actually waiting for
4 the Revenue approval of the pension part --

546 Q. Generally towards the end of May of 1990, the official form
6 was the 7th of June, the receipt and discharge matters had
7 been resolved between Mr. Gogarty and Lajos Holdings
8 Limited?

9 A. Yes.

1 547 Q. Insofar as the litigation was concerned about the £700,000?

11 A. Correct, yeah. My father didn't want to press ahead with
12 any proceedings over this issue.

1 548 Q. Now, throughout the early part of 1990 there was one other
14 event that took place and that was on the 17th of March of
15 1990, there was a fire at Poppintree House?

16 A. Correct.

1 549 Q. And the effect of that fire and, you can disagree with me,
18 in effect was that the Bailey's, who were the proposed
19 purchasers, Bovale Developments Limited, of the land,
20 created difficulties about the fire and the matter
21 subsequently went to arbitration?

22 A. Correct.

2 550 Q. Right. Now, we will come on to deal with the arbitration
24 in the fullness of time, but because of the fact I think
25 the original contract may have been due to close in April
26 of 1990, but it didn't in any event close because the fire
27 occurred in Poppintree?

28 A. Yeah, yeah.

2 551 Q. Now, in June of -- did you become more involved in 1990 in
30 relation to the sale subsequent to the fire at Poppintree?

31 A. I think that two events, including the one you talked
32 about, coincided at the same time of me maybe becoming more

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1 involved in the Irish companies. One, and I am not sure of
2 the exact date, I think it was in or around the same time
3 of the fire, Mr. Parker left the company and Mr. Reynolds
4 then was appointed Managing Director. I think that
5 coincided then with the fire in Poppintree, yes.

552 Q. And would that have been the same time that you became
7 Chief Executive, sorry Chairman?

8 A. In or around that period, yes.

553 Q. So that in March, insofar as you can fix a date, for
10 yourself, Mr. Frank Reynolds was appointed Managing
11 Director and you were appointed Chairman and there was a
12 fire at Poppintree House?

13 A. In or around that period, yes.

1 554 Q. In or around that period. And did you become more involved
15 from that stage with the Irish operations?

16 A. I would have become more involved with the Irish operations
17 at that stage. I mean I had a lot to do with the
18 arbitration proceedings with Mr. Denis McArdle, but as
19 regards the operations of the JMSE companies, I would say I
20 was limited to maybe once every two months or whatever.
21 There were certain issues. I left the day-to-day running
22 to Frank Reynolds, but certainly would speak to him
23 everyday, every two days.

2 555 Q. Yes.

25 A. But I wouldn't have been there actually in the JMSE
26 premises every week.

2 556 Q. Were you happy with the contract with Bovale Developments,
28 the Bailey's?

29 A. Was I happy with it?

3 557 Q. Yes?

31 A. With the actual sale?

3 558 Q. Yes?

1 A. I have no opinion of the sale. The sale was completed. We
2 took advice that it was a good price. Fine, done and
3 dusted, there was no problem.

559 Q. Did you try and get out of it, subsequently?

5 A. I think this was after the fire happened, Ms. Dillon. I
6 think that in my own way I thought that when the Bovale
7 came in and they wanted a huge discount, I think that I may
8 have put something like 300 of a discount on these four
9 acres of land, that the house was damaged, but I think the
10 figure was probably close to £600,000 which to me anyway
11 was absolutely totally ridiculous. I mean you wouldn't
12 have to be an expert to realise that lands that had been
13 bought for £65,000, four acres, I think that we heard
14 evidence here and the man that actually owned them, Mr.
15 O'Shea, and the Bailey's wanted 600,000 of a discount.
16 .
17 I thought - can we break this contract, issue a new
18 contract to them and get the full sale price? I thought it
19 was absolutely ridiculous the discount that they were
20 looking for. So I think I put it to Mr. McArdle, can we
21 break this contract, issue a new contract, and get the full
22 sale value? I think something like that to Mr. McArdle,
23 but he came back and said you couldn't do things like that.

2 560 Q. Did you instruct a solicitor to act on your behalf in
25 respect of the matter, independently of Mr. McArdle?

26 A. Oh yeah, I sought advice as well. I didn't know Mr.
27 McArdle very well at the time. As I say I met him on one
28 previous occasion, I had met him on one previous occasion.
29 I was rarely at the time with the solicitor Paddy Farry.
30 He came along to a few of the meetings. Eventually myself
31 and Denis McArdle who was a fine, decent, honest man, built
32 up a good rapport and he dealt with it right up to the time

1 of the arbitration. But initially I think I involved Paddy
2 Farry with it, yes.

561 Q. Was that for the purpose of seeking an opinion to see if
4 you could get out of the contract?

5 A. No. I was of the opinion to see how we get out of this
6 huge discount that the Bailey's were looking for. It was
7 an absolute ridiculous discount. It was a suggestion of
8 mine maybe we break the contract, issue a new contract,
9 that we could probably get out without any discount at all;
10 but I think that obviously that was explained legally to me
11 that you cannot do that.

1 562 Q. Um hum. I think in relation to this there is a document
13 that I would like to put to you, it is JMSE 1.10?

14 A. In the red book?

1 563 Q. It is in the red book. I will find you the page reference
16 now. This is a handwritten attendance, page 140. And this
17 is a hand written attendance of Mr. McArdle and it is dated
18 the 29th of June of 1990. And it says J Murphy (Jnr) and
19 there are two telephone numbers. And it says "Met last
20 night - £250 within a year - wants deposit back. Wants
21 copy of contract. Paddy Farry, 134 Phibsborough Road" and
22 a fax number?

23 A. Yes.

2 564 Q. Did you, on the 29th of June of 1990, speak to Mr. McArdle?

25 A. I must have, yes, if he has - because Denis McArdle was a
26 very meticulous, honest man, if he has it in his notes, I
27 would accept it.

2 565 Q. And it says there "wants deposit back"?

29 A. I had put to him can we send the deposit back issue a break
30 the contract and issue a new contract and that would be a
31 way around this £600,000 discount that I thought was
32 absolutely ridiculous. I think that the 250 referred to

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1 here, I think was probably rounded off, there was 2
2 million, which would have been left to be paid, and I think
3 that that must have been £250,000 rather than £250. The
4 interest that we would have been losing on the delay of the
5 sale.

566 Q. And "met last night" is that a reference to the fact that
7 the writer of this document had met you last night or that
8 you had met Mr. Farry last night; can you recollect?

9 A. I don't know. I am not sure what Mr. McArdle said about
10 this, but I would look upon it, maybe that I met Mr.
11 McArdle, but I am not sure. I am not sure, these are his
12 notes.

1 567 Q. Yes. Could you have, did you meet Mr. Michael Bailey or
14 Mr. Tom Bailey the night before?

15 A. An absolutely ridiculous suggestion. I never met Mr. Tom
16 Bailey until the start of these proceedings and I have
17 consistently given evidence at this Tribunal that I never
18 met Michael Bailey until the 19th of October of 1992 at the
19 start of the arbitration proceedings.

2 568 Q. Yes. So that is not a reference to having met last night,
21 it is not a reference to having met Mr. Michael Bailey or
22 Mr. Tom Bailey?

23 A. Who - I mean, who is making that suggestion? I never met
24 the Bailey's at that time.

2 569 Q. I am just making an inquiry.

26 A. You are making a suggestion, Ms. Dillon. As I said before
27 I have never met the Bailey's, Michael Bailey until October
28 of 1992 and this is a note by Denis McArdle "met last
29 night, Joseph Murphy Jnr.". So more than likely that I
30 would have met with Denis McArdle and regardless of what
31 spin you want to try and put on it, it is either that I met
32 either Denis McArdle which is the highly likely scenario,

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1 or either I met Paddy Farry; the suggestion that I met any
2 of the Baileys is absolutely ridiculous.

570 Q. In the first place, Mr. Murphy, I am not suggesting
4 anything. I am asking you a question. In the second place
5 it is not my job to put a spin on anything?

6 A. You suggested --.

571 Q. If you just allow me to finish Mr. Murphy, right? It is
8 not my job to put a spin on anything. It is my job to try
9 and elicit the facts, right?

10 A. Why did you suggest then that it might have been Michael
11 Bailey? If his name isn't on the note?
12 .

13 CHAIRMAN: You may not enter into a debate with Counsel,
14 please.

1 572 Q. MS. DILLON: Now the --.

16 A. Sorry Mr. Chairman.

1 573 Q. The document that we are looking at on the screen, which
18 you read out, you read it out as "met last night. J Murphy
19 Jnr." in fact the document is headed "J Murphy Jnr." and
20 beneath that "met last night"; isn't that correct?

21 A. Correct.

2 574 Q. Thank you. If we can move on from that document and we can
23 deal with a meeting that is alleged to have taken place at
24 the Swiss Cottage in or around July or August of 1990.

25 A. Correct.

2 575 Q. And Mr. Gogarty has said that a meeting took place
27 involving the Bailey's, Mr. Frank Reynolds, himself and he
28 says that you were also there. Were you at any such
29 meeting?

30 A. I wasn't at any such meeting, no.

3 576 Q. Mr. Bailey has said that Mr. Frank Reynolds was at the
32 meeting?

1 A. That's correct.

577 Q. And have you spoken to Mr. Reynolds about that meeting?

3 A. I have.

578 Q. Yes; and at that meeting there is a suggestion that the

5 Murphy interests were interested in buying back a half

6 share in the North Dublin lands and a figure of 16 million

7 was mentioned to this Tribunal by Mr. Michael Bailey, who

8 was at the meeting?

9 A. Such a suggestion is absolutely ridiculous. I mean to sell

10 lands for 2.3 million and buy 50 percent of them back for

11 16 million. If I was doing that you wouldn't be in

12 business very long, would you?

1 579 Q. Did Mr. Reynolds ever give you an account of what he says

14 happened at that meeting?

15 A. He would have, yes, but if Mr. Reynolds had come and told

16 me that Mr. Bailey was suggesting that we buy half of the

17 lands back for 16 million, we would have had a laugh at it

18 and just dismissed that.

19 .

20 CHAIRMAN: Let's correct that; as I understand the

21 evidence, he quoted the value of the lands at 16 million

22 and offered to sell half of it back?

23 .

24 MS. DILLON: That is what I was saying here.

25 .

26 MR. COONEY: Who is being quoted, Mr. Bailey or Mr.

27 Gogarty?

28 .

29 CHAIRMAN: Sorry, Mr. Bailey, I beg your pardon. That is

30 my recollection of the evidence, now I stand subject to

31 correction.

32 .

580 Q. MS. DILLON: That's right. Now, did you know that Mr.

2 Reynolds was going to that meeting?

3 A. He may have informed me, yes. I have no recollection of

4 Mr. Reynolds actually telling me, but he would have told me

5 and I have no recollection of him telling me afterwards,

6 you know, that - it came out again in later discussions

7 that what was said at that meeting, but I will accept fully

8 that Mr. Reynolds would have conveyed the contents of that

9 meeting to me shortly afterwards.

1 581 Q. Right. Do you have any idea or can you help us at all as

11 to the purpose of the meeting?

12 A. I think the purpose of the meeting may well have been to

13 see if we could solve the issue of the house being burned

14 and whatever, because there was, I think there was talk of

15 arbitration or dispute.

16 .

17 I mean this was, if we went to arbitration the legal advice

18 that we got at the time was this could be a lengthy process

19 and I think that it would hold up the balance of the

20 monies, the 2 million, we would lose the interest and all

21 that. I think the purpose of the meeting was to see if the

22 differences could be resolved amicably.

2 582 Q. And Mr. Bailey seemed to suggest in his evidence that the

24 suggestion about buying back 50 percent of the lands

25 emanated from what I will describe as "the Murphy side" at

26 that meeting?

27 A. Oh no, not at all, absolutely ridiculous. I mean the

28 suggestion that we would actually sell lands for 2.3

29 million and turn around five or six months later and buy

30 half of them back for 8 million, 16 million, is absolutely

31 ridiculous.

3 583 Q. Yes?

1 A. I mean Frank Reynolds may well have told me that, he
2 probably did, I will accept it, and the two of us would
3 have had a laugh about it and dismissed it. It is a
4 ridiculous suggestion. That did not emanate from us.

584 Q. Yes. Mr. Bailey gave evidence in relation to the matter
6 and was not, as far as I can establish, subject to
7 correction, cross-examined in relation to this?

8 A. I think that Mr. Bailey's evidence may have been that he
9 suggested it.

1 585 Q. Yes. If we can find you the actual passage. Day 74, Mr.
11 Murphy. The first question is question 315. Question 315
12 on Day 74 and question 315: "Then how can you say that
13 this had any realistic bearing on your meeting, why was it
14 raised at all?

15 Answer: It was - I believe it was raised as a means of
16 settling the dispute regarding the reinstatement of
17 Poppintree House and buildings.

18 Question: Now, at the first discussion which you had in
19 June of 1989 you were conducting your negotiations solely
20 with Mr. Gogarty. In this instance in the Swiss Cottage
21 Mr. Reynolds was also there. Did Mr. Reynolds play any
22 part in the suggestion that these lands might be acquired
23 or did he express any interest in acquiring 50 percent of
24 the lands on behalf of the Murphy companies?

25 Answer: I don't recall him partaking in the conversation
26 at all.

27 Question: I see. Did you expect a response to your
28 suggestion that you might sell a half share in the property
29 to the Murphys interests?

30 Answer: I believe I was asked the question and I was
31 asked what I would take for a share and it was up to them
32 to come back to me or not but I didn't expect them to come

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1 back to me to be quite honest.

2 Question: Why not?

3 Answer: Because I knew that it was such an outrageous
4 suggestion.

5 Question: I take it you are not in the habit of making
6 outrageous suggestions to Mr. Bailey?

7 Answer: Well, if you don't want to sell something, you
8 can put a price on it, everything has its price. If I get
9 the price that you would think would be outrageous I don't
10 believe that I would refuse it".

11 .

12 And then at, also earlier at question 309:

13 "Well if that is so, why did you propose it?"

14 Answer: I think I was asked what would I take for the 50
15 percent interest in the lands" and in answer to question
16 326 Mr. Bailey said, the question is:

17 "I see. Now, did you contact Mr. Gogarty after sometime
18 to see whether or not this sprat you had trawled was having
19 any reaction. Do you remember doing so?"

20 Answer: I don't recall doing so, no, because I wasn't
21 interested in selling my lands".

22 Mr. Bailey seems to be suggesting, and I put it no higher
23 than that in the transcript --

24 .

25 MR. COONEY: Has Ms. Dillon ceased reading from the
26 transcript and is she now interpreting the answers which
27 Mr. Bailey gave?

28 .

29 MS. DILLON: No, I am not.

30 .

31 CHAIRMAN: Let Ms. Dillon complete what she was saying.

32 .

1 MS. DILLON: I was asked to put the actual portions of the
2 transcript, I have put the actual portions. I am saying
3 that my understanding was that Mr. Bailey suggested that
4 the question about buying back 50 percent of the lands at
5 that meeting at which Mr. Reynolds attended in July or
6 August of 1990 emanated from the Murphy side?

7 A. An absolutely ridiculous suggestion. I mean Frank Reynolds
8 will be giving evidence, he was the one at the meeting
9 there and may be you can ask him. Certainly from my
10 recollection if, and as I said I accept that Mr. Reynolds
11 would have relayed the conversation to me. If such a
12 suggestion was put to me, we would have laughed and
13 dismissed it. You wouldn't be long in business, Ms.
14 Dillon, if you were selling something for 2.3 million and
15 buying it back for 8 million nine months later, would you?

1 586 Q. I don't know. I think you have been directed by the Sole
17 Member not to ask me anymore questions.

18 A. Oh I apologise, I apologise.

1 587 Q. Now Mr. Murphy, do you have an actual recollection of Mr.
20 Reynolds coming back to you after that meeting and
21 discussing anything to you about such a proposal with you?

22 A. That sort of proposal was ridiculous. We never discussed
23 it. He probably would have mentioned that Mr. Bailey
24 brought it up and we would have laughed about it dismissed
25 it. As I say the purpose of that meeting, as far as I was
26 concerned, was to see if we could come to an amicable
27 agreement in the dispute, in the dispute over the burning
28 of the house. Any other suggestion about buying back the
29 lands, it was never discussed. Mr. Reynolds would have
30 mentioned it to me, we would have laughed about it and it
31 would have been dismissed out of hand.

3 588 Q. You do have a recollection then, do you Mr. Murphy, of Mr.

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1 Reynolds coming back to you following that meeting?

2 A. I don't have a recollection. I mean I talked with him
3 afterwards and when this Tribunal was set up I asked him
4 about it more, but I don't have a firm recollection. I
5 fully accept that he would have told me the content of that
6 meeting, but I don't have a recollection of it, but I
7 accept he would have told me, yes.

589 Q. Was the figure of 8 million pounds mentioned as being the
9 value of the 50 percent?

10 A. It may well have been, yes. I mean there was outrageous
11 figures. As I said, I discussed it with Frank Reynolds
12 afterwards, but this proposal certainly never emanated from
13 me or Frank Reynolds or whatever else, and the suggestion
14 is absolutely ridiculous.

1 590 Q. Yes. You are saying that the suggestion that the proposal
16 might have emanated from Frank Reynolds is absolutely
17 ridiculous?

18 A. The suggestion that the proposal emanated from anybody in
19 the Murphy Group is absolutely ridiculous. As I say the
20 purpose of the meeting was to see if we could come to an
21 amicable arrangement over the dispute that was in place.
22 If that was suggested, I suggest that it was, it may have
23 been suggested by Mr. Bailey.

2 591 Q. Um. But you weren't at the meeting?

25 A. I was not at that meeting, no.

2 592 Q. Yes; and the person who reported to you in respect of that
27 meeting was Mr. Reynolds?

28 A. He would have, yes.

2 593 Q. Yes; and do you know whether Mr. Reynolds entered into any
30 correspondence with anybody following that meeting?

31 A. No, the correspondence in the dispute with Mr. Bailey was
32 between Mr. McArdle and Mr. Smith, our respective

1 solicitors.

594 Q. Well, did for example Mr. Reynolds, write to you in London
3 to tell you what had transpired at the meeting?

4 A. I just said, Ms. Dillon, to you five minutes ago and I will
5 repeat it again, I have no recollection of Mr. Reynolds -
6 he probably would have telephoned me, but I have no
7 recollection of it. I have discussed it with him since and
8 he has recounted the events since, but I have no
9 recollection of it. I do accept he would have phoned me,
10 he would have telephoned me; and I do accept he would have
11 told me the content of the meeting.

1 595 Q. Yes?

13 A. But he didn't write to me or anything like that.

1 596 Q. That is the answer to the question that you were asked, Mr.
15 Murphy, it was whether or not Mr. Reynolds had written to
16 you or not?

17 A. For the second time --

18 .

19 CHAIRMAN: I think we will break for ten minutes, because
20 I am going to sit until half past four.

21 .

22 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

23 AGAIN AS FOLLOWS:

24 .

2 597 Q. MS. DILLON: After that meeting in the Swiss Cottage had
26 relationships with Mr. Gogarty deteriorated?

27 A. After that meeting in the Swiss Cottage relations with Mr.
28 Gogarty were deteriorating more.

2 598 Q. When you say "relations with Mr. Gogarty were deteriorating
30 more" are you talking about your own relationship with Mr.
31 Gogarty or Mr. Gogarty's relationship with other persons in
32 JMSE, do you think?

00119

1 A. I think everybody in JMSE generally, yes.

599 Q. At that stage Mr. Frank Reynolds was the Managing Director

3 and what other; was Mr. Copsey still there at that time?

4 A. I think Mr. Copsey remained there until sometime in mid

5 1990 and we appointed John Maher as the Financial

6 Controller.

600 Q. Yes; and I think was Mr. Grehan there also at this time?

8 A. He was.

601 Q. Yes; and was it your understanding then that Mr. Gogarty's

10 relationship with all of these persons had deteriorated?

11 A. Maybe not, certainly it deteriorated with me and Mr.

12 Copsey, maybe not as much with Mr. Reynolds and Mr. Grehan;

13 but I think that maybe not with those two.

1 602 Q. He may have had a reasonable relationship with them?

15 A. Yeah, I would accept that.

1 603 Q. Now, I want to put some documents to you. Mainly these

17 documents to outline in general, dealing with the

18 arbitration; I think before we go through the documents,

19 Mr. Murphy, we should establish that, I think you told us

20 earlier on that you were much more involved during the

21 arbitration than you had been before?

22 A. Yes.

2 604 Q. Yes; and that you built up a relationship of trust with Mr.

24 McArdle, whom you hadn't really met before the arbitration?

25 A. I did. Mr. McArdle was a fine, decent, honest man, yes.

2 605 Q. You developed a working relationship with him and he dealt

27 with you, I think primarily in the course of the

28 arbitration?

29 A. With the arbitration, yes.

3 606 Q. In dealing with the arbitration witnesses, documents, all

31 of that?

32 A. Correct.

607 Q. Just to relieve you a little bit, I don't intend to deal
2 with any of the legal documentation or with any of the
3 inter visitors correspondence, which is voluminous. I
4 don't think we need to go into any of that. I am going to
5 concentrate on Mr. McArdle's contact with you and your
6 contact with him in relation to the arbitration and the
7 ultimate resolution of the arbitration. If we can deal
8 with it in that fashion? Again, if there are any
9 documents, solicitors documents, that that should be put.
10 I don't see that they are that particularly relevant in
11 relation to the matter?

12 A. Okay.

1 608 Q. I think probably the first document is a document dated, it
14 is page 141. It has the Tribunal reference JMSE 1.10-177.

15 We are operating out of the red book?

16 A. What page again?

1 609 Q. It is page 141, at the top of that Mr. Murphy?

18 A. 141, okay.

1 610 Q. I just want you to clarify something for me here. This is
20 a handwritten note and it is, I think it is a document that
21 emanated in Mr. McArdle's office, and it is dated the 17th
22 of the 8th, 1990, which is the 17th of August of 1990. It
23 is headed: "J Murphy. Go ahead with Helmdale. 28 day
24 notice. Happy with this" underlined. "Joe Jnr. and Paddy
25 Farry with call at 2:30 with completion notice".
26 Do I take it from that, that the reference to J Murphy at
27 the top is a reference to J Murphy Snr.

28 A. No, it is a reference to me.

2 611 Q. It is simply my mistake. I presumed because it said Joe
30 Murphy Jnr. down at the bottom, that the reference at the
31 top was a reference to a telephone conversation with Mr.
32 Murphy Snr.

1 A. I think that that all dealings about this, at that time
2 were done by me. It may well be the case, but I think that
3 would be the, it may have been my father. It may have
4 been, but as I say all the dealings with the arbitration
5 were done by me.

612 Q. Yes; and did you call on that date, can you recollect, with
7 Mr. Paddy Farry with the completion notice? This would be
8 in or about the middle of August of 1990?

9 A. I think this that if Mr. McArdle has it in his notes I
10 obviously did, yes.

1 613 Q. You said "you will call" but nothing turns on that?

12 A. I may, I probably did, yes.

1 614 Q. And at that stage you were still instructing Mr. Farry in
14 relation to the matter?

15 A. He wasn't instructed, I think that Denis McArdle was
16 instructed in the matter and Mr. Farry was in it at a early
17 stage, then he dropped out and I built up a rapport with
18 Mr. McArdle.

1 615 Q. In as far as this is a record of mid August 1990?

20 A. Correct, yes.

2 616 Q. You were coming in with Mr. Farry into Mr. McArdle's office
22 with a completion notice?

23 A. Yes.

2 617 Q. And Mr. Farry dropped out of the picture subsequently, but
25 at this stage you were retaining him to advise you in
26 relation to the matter?

27 A. Yes. He was on some sort of, yes. Yes, that would be
28 fair.

2 618 Q. Now, I think subsequently in October of 1990 and I suppose
30 this document deals with a different issue, but it is in
31 sequence. You wrote a letter to Mr. Gogarty telling him
32 that he was to incur no further expenses, and I think that

1 is probably, sorry just one second, Sir, I am slightly lost
2 in the documents. Sorry.

3 .

4 CHAIRMAN: It is page 142. Sorry, I beg your pardon, it
5 is not.

619 Q. MS. DILLON: I will come back to that document, Sir. I
7 will come back to it. It is not important. I think on the
8 16th of October, which is the next document; page 142, Mr.
9 McArdle wrote to Mr. George Brady, Senior Counsel, in
10 relation to a consultation for the 22nd of October, 1990
11 and Mr. Farry had been notified and it was presumed that he
12 would attend. "I am also advising my client's son that he
13 should travel from London"?

14 A. Correct.

1 620 Q. So this is Mr. McArdle setting up?

16 A. Consultation.

1 621 Q. A consultation, yes, in relation to the arbitration?

18 A. Correct.

1 622 Q. And Mr. Farry was going to come with you?

20 A. Correct.

2 623 Q. And that meeting was set up for the 22nd of October. The
22 next letter that I wish to refer to you is page 143 of the
23 documents, page 143? And it is a Tribunal reference JMSE
24 1.10-193 and it is dated the 17th of October. This is a
25 letter to Mr. Brian McCracken, Senior Counsel, from Mr.
26 Denis McArdle, again it is in relation to the arbitration:
27 .
28 "I refer to our recent telephone conversation and confirm
29 the appointment at my office on Monday next 22nd inst. at
30 4.30 pm.

31 .

32 To refresh your memory I enclose copy of the letter I wrote

1 to you on 7th May last together with two contracts for sale
2 and also your opinion.

3 .

4 A lot has happened since you wrote to me, I sent your
5 opinion to my client (who does not live in Ireland) and he
6 instructed me to take your advice and refer the matter to
7 arbitration. Almost immediately, however, he telephoned to
8 say that his son, whom I had met very briefly only once
9 previously, had interested himself in the matter and wished
10 to try and break the contract. The son (who also lives
11 abroad) is represented in Ireland by Mr. Patrick Farry,
12 Solicitor, and I was requested by my client to cooperate
13 with Mr. Farry and send him the papers to ascertain if the
14 contract could be broken.

15 .

16 This I duly did and Mr. Farry subsequently sent me a
17 completion notice which I understood had been drafted by
18 Mr. James Salafia with a request that it be served
19 immediately on the other side. The completion notice was
20 served without delay and I enclose a copy of it. My letter
21 dated the 10th of August of 1990, the purchaser's
22 solicitors wrote to me rejecting the completion notice on
23 the grounds that it was not valid (copy of their letter
24 attached).

25

26 Mr. Farry then requested me to attend a consultation at the
27 law library and I did so, expecting to meet Mr. Salafia.
28 He was not present however but may have been on holiday,
29 and the consultation was attended by Mr. George Brady and
30 also by Mr. James Connolly.

31 At this consultation I informed Mr. Brady that I had
32 already consulted you about the matter.

1 .
2 Mr. Brady's advice was that the completion notice, which
3 had been served was not in order and it should be withdrawn
4 immediately. This has been done.

5 .
6 It is critical that a valid completion notice be served";
7 and it goes on to talk about interest rates and that -
8 sorry, "the interest rate payable on the contract was 18%
9 per annum, and on a purchase price of 2.3 million could
10 cause the purchaser very serious problems in the event of
11 litigation and the matter ending up in the Supreme Court.
12 This would take about three years and would add a further
13 million pounds to the purchase price.

14 .
15 The present strategy is that we should seek arbitration and
16 offer to lodge the sum of £500,000 in joint names of the
17 Arbitrator and President of the Law Society. This sum
18 should more than cover any abatement on the purchase
19 price. Having done this, we would then call upon the
20 purchaser to close immediately and serve a completion
21 notice which obviously must be valid and would because of
22 the interest rate cause the purchaser serious problems
23 should he decline to close.

24 .
25 My client accepts that the contract cannot be broken. He
26 is anxious to close as soon as possible because he is
27 currently spending about 2,000 a week in providing
28 security. Clearly the purchaser will do nothing and the
29 onus is on us to do the running. The purpose of the
30 consultation next Monday is to agree on the format of the
31 completion notice so that it can be served without delay.
32 George Brady is drafting the notice and if you wish to

1 have a word with him in advance of the meeting, please do
2 so. He is aware that I want you to be present at the
3 consultation and I have asked my client's son to travel
4 from London. I have also informed Mr. Farry and it is
5 possible that he may also attend"

6 .

7 Now, if I could just take you back, Mr. Murphy, briefly to
8 the third paragraph on page 1 of that letter?

9 A. Yes.

1 624 Q. Which says that his client telephoned him to say his son
11 was - so presumably Mr. Murphy Snr. had rung to say that
12 you had interested yourself in the matter and that you
13 wished to try and break the contract?

14 A. As I explained earlier, yes, I came up with my own idea, if
15 the contract could be broken and a new one issued to him
16 that this might be a simple way out of it; but I think that
17 in, after legal advice from Denis and the Senior Counsel,
18 they said that this couldn't be done, that the best way to
19 expedite would be to serve a completion notice.

2 625 Q. Yes. Did you obtain the opinion of a second senior
21 counsel?

22 A. No, this was something that I thought up.

2 626 Q. Yes; and you were anxious to break the contract and issue a
24 new contract to Bovale; is that correct?

25 A. That's correct, yes.

2 627 Q. For the same price?

27 A. For the same price, yes.

2 628 Q. And did you ever give instructions that that offer should
29 be made in writing to the other side?

30 A. No, obviously the legal, I mean the legal advice I think is
31 there that the contract couldn't be broken, so we can to
32 serve a completion notice. This was the legal advice at

1 the time.

629 Q. But you did instruct, or did you instruct Mr. McArdle that

3 what you wished to do was to break the contract and issue a

4 new contract to Messrs. Bailey/Bovale?

5 A. I inquired whether that could be done. As I said I thought

6 that the initial sum that Bovale or the Bailey's were

7 requiring as a discount was far too much and did not

8 represent the true value of the damage done on that

9 particular property. I thought -- I thought if the

10 contract could be broken and a new one issued it might be a

11 way round it from our point of view. The legal advice was

12 that there couldn't be, and we had to serve a completion

13 notice and that was what was done. I think there was

14 various different completion notices served in the end.

1 630 Q. And they were signed by you, I think?

16 A. Were they?

1 631 Q. Yes?

18 A. I think --.

1 632 Q. I think some of them may have been?

20 A. Some of them may well have been, yes.

2 633 Q. Mr. Gogarty was the person who negotiated the sale of these

22 lands?

23 A. He did.

2 634 Q. Did you want him involved in anyway in the arbitration?

25 A. I think that Mr. McArdle may have tried to get him

26 involved, but at this stage of negotiations, or the

27 relations with Mr. Gogarty had absolutely broken down

28 completely as a result of an invoice that he sent to the

29 AGSE companies. Another totally fraudulent claim by him.

30 I think that because he got away with the ESB money it was

31 another try on or stroke on his part and at that stage

32 negotiations had completely, or relations had completely

1 broken down with him.

635 Q. But as the person who negotiated for the sale of the lands,
3 was he involved in anyway in the arbitration?

4 A. I think that Mr. McArdle may have met him. I think that
5 the meeting, that he may have met him close to the actual
6 time of the arbitration which was October '92. And he may
7 well have met him before that. Oh, I think that he may
8 have got, Mr. McArdle may have got some documents from Mr.
9 Gogarty. He may have gone out to his house to get some
10 documents in relation to those lands. So Mr. McArdle, I
11 think that, had a previous relationship with Mr. Gogarty,
12 so any contacts would have been made by him. I think there
13 may have been two, maybe two contacts between Mr. McArdle
14 and Mr. Gogarty.

1 636 Q. And at this stage was it your view that all matters should
16 be dealt with through either Mr. Frank Reynolds or yourself
17 or Mr. Maher in relation to; for example, I think you wrote
18 a number of letters that I don't particularly want to go
19 into; you wrote a letter to Duffy Mangan and Butler saying
20 that all further communications were to be --.

21 A. Correct, the relationship with Mr. Gogarty as I say, had
22 broken down completely with the invoice for £50,000. Which
23 was, we considered to be within his Consultancy Agreement,
24 another stroke he tried to pull on us.

2 637 Q. And Mr. Gogarty had a different view in relation to that
26 particular invoice or the work he had done for AGSE?

27 A. He did indeed.

2 638 Q. But following on that, did you write to Messrs. Duffy
29 Mangan and Butler saying that all contact should be
30 directed to yourself? The letter is at page 144 of the red
31 book. DMB 1594. That it should be to yourself or Frank
32 Reynolds or John Maher?

1 A. Correct.

639 Q. Do you know whether there was in fact any contact going on
3 at that time between Mr. Gogarty and Messrs. Duffy Mangan
4 and Butler?

5 A. I wouldn't know. I didn't meet Mr. Duffy until
6 consultations, I think close to the arbitration, so I
7 wouldn't know if there was any discussions between the two
8 of them.

640 Q. Yes; and I think that you wrote to Mr. Gogarty on the 19th
10 of October of 1990. It is on page 146 of the red book, it
11 is reference JG 6-238. In relation to the JG matter and in
12 relation to expenses and then correspondence was entered
13 into between yourself and Mr. Gogarty and this was the
14 beginning or thereabouts of that correspondence?

15 A. Correct.

1 641 Q. I am looking for the letter to which this is a response,
17 Mr. Murphy. Don't think I am not going to put that, it is
18 just that I am in a slight difficulty finding it at the
19 moment. The letter?

20 A. No problem.

2 642 Q. The letter that you are responding to is a letter from Mr.
22 Gogarty dated the 17th of October of 1990. I do intend,
23 once I locate it to deal with it. You wrote on the 19th of
24 October to Mr. Gogarty.

25 .

26 "I thank you for your letter dated 17th of October 1990 and
27 I apologise for not dating my previous letter. A dated
28 copy of this letter has since been presented to you
29 accompanied by a letter from Mr. F. Reynolds dated the 16th
30 of October of 1990". I think that was a reference saying
31 all expenses had to be cleared in advance with you or with
32 Mr. Reynolds?

1 A. Yes, I think so, yes.

643 Q. That is what that is a reference to. Then "in regard to
3 the matter of your fees in respect of work undertaken on
4 behalf of AGSE, you seem to have misunderstood your
5 agreement dated the 3rd of October 1989. The agreement is
6 clearly between yourself and Lajos Holdings Limited,
7 subsidiary companies or holding company, associate company,
8 group companies JMSE Limited and AGSE Limited. Therefore
9 the work undertaken on behalf of AGSE Limited is within
10 your Consultancy Agreement and no extra fees will be paid.

11 .

12 There are no references to an hourly rate of £30 for work
13 carried out for AGSE or a business mileage rate of 60p per
14 mile with Lajos Holdings. Therefore, these accounts will
15 not be paid to you. I understand you have already been
16 paid one expense claim in this respect. This I can inform
17 you was overpaid and was made without my authority however,
18 I will not seek to recover this over payment.

19 .

20 Any telephone expenses you wish to recover will have to be
21 documented properly i.e. to whom the call was made and in
22 what respect. In addition, the only travel expenses that
23 will be paid are those that are properly vouched and have
24 my advance approval and are incurred by you in the
25 performance of your services as a consultant.

26 .

27 I do not understand your concern with regards to the P60's
28 as these have been sent to your solicitors and the relevant
29 payments made to the revenue"

30 .

31 And this is the next document which is the document I
32 should have had before you is at page 92A 142A of the book,

1 142A of the book. It is the previous letter from Mr.
2 Gogarty and he says:
3 .
4 "Dear Mr. Murphy, I have received your letter (undated).
5 I remember also received the letter from Frank Reynolds to
6 inform me that he will require your prior approval in order
7 to let me have his prior approval for expenses which I
8 might otherwise incur on behalf of Lajos Holdings Limited,
9 there are a number of points which I would like to make
10 arising from your letter and the letter from Frank
11 Reynolds.
12 .
13 My agreement with Lajos Holdings to act as consultant with
14 that company and any other company with in the Lajos
15 Group. It does not include my acting as consultant for any
16 of the Murphy Group companies to which you refer in your
17 letter. If I accept instructions to accept work on behalf
18 of a company other than a company within the Lajos Group I
19 will charge appropriate fees for such work.
20 .
21 As I am not provided with an office or with secretarial,
22 telephone and other services, any work which I understand
23 must necessarily be carried out from my home. Should it be
24 necessary for me to undertake any travelling or make any
25 telephone calls this will involve me in expenditure. The
26 effect of your letter is that I must not make any journeys
27 or make any telephone calls without your prior approval. I
28 am at a loss to understand how this arrangement will work.
29 In effect I will be unable to make contact with any third
30 party whether by telephone or by correspondence or by
31 visiting them personally without your prior approval.
32 .

1 Furthermore, I will not be able to initiate a telephone
2 call to you to require your approval as this would require
3 the use of my private telephone for business purposes.
4 Thus incurring an expense on behalf of a company within the
5 Lajos Holdings Group.

6 .

7 I am of course prepared to abide by your instructions and
8 will continue to do so. However my concern is that I will
9 not be able to exercise my function as a consultant in a
10 proper manner if I am to be subject to the constraint which
11 is contained in your letter.

12 .

13 I have submitted an account to Lajos Holdings Limited in
14 respect of expenses which I have incurred in the course of
15 my work as a consultant for the Lajos Holdings Group. I
16 have also submitted a statement of fees due to me in
17 respect of work which I have undertaken on behalf of AGSE
18 which is not within the Lajos Group. I have not yet
19 received reimbursement for those expenses or payment of the
20 fees which are properly due to me. I would request that
21 you arrange for the immediate payment to me of the amounts
22 due.

23 .

24 I am particularly concerned that I have not been able to
25 obtain a P60 in respect of the payment which I received
26 from Lajos Holdings Limited in May last in connection with
27 the ESB Moneypoint contract. I must submit my income tax
28 return for this year not later than the 1st November and
29 must include that payment on my return. The P60 which I
30 have previously requested will form an essential part of my
31 return and I would request that you will arrange a P60 to
32 be issued to me without further delay in respect of that

1 payment. In the event that the form is not made available
2 to me so that I can submit my income tax return in due time
3 I will hold Lajos Holdings Limited responsible for any loss
4 I may suffer, particularly interest that may be charged by
5 the Revenue authorities".

6 .

7 Now, you got that letter Mr. Murphy and then you replied to
8 it, by the previous letter that I have referred to the
9 letter of the 19th of October?

10 A. Correct. Correct.

1 644 Q. And this was an indication in the final paragraph of that
12 letter of the 17th of October, that Mr. Gogarty had a
13 concern about his P60's?

14 A. Correct.

1 645 Q. And that subsequently became the subject matter of
16 litigation; isn't that right?

17 A. Correct.

1 646 Q. And this litigation was finished, I think it started in May
19 of 1991 and concluded in March of 1994?

20 .

21 CHAIRMAN: Pardon me, might I intervene here? As I
22 understand it that litigation was brought to an end by a
23 judgement of the late Mr. Justice Spain which was appealed
24 and the appeal was withdrawn. It seems to me that that
25 litigation terminates the whole matter and I will have no
26 function in it whatsoever.

27 .

28 MS. DILLON: I am not intending to deal in any way with
29 those documents. I am simply seeking to establish from the
30 witness that the proceedings were instituted on a certain
31 date and that they terminated on a further date. It wasn't
32 my intention to revisit any of the matters in relation --

00133

1 save to say that this correspondence was the start and that

2 it ultimately concluded at a certain date.

3 .

4 CHAIRMAN: Very good.

5 .

647 Q. MS. DILLON: No more than that. This was the first

7 indication in this correspondence with Mr. Gogarty that he

8 wanted his P60's in a particular way; is that correct?

9 A. Correct, yes.

1 648 Q. And subsequently a dispute arose between your companies and

11 Mr. Gogarty about this issue and proceedings were issued?

12 A. Correct.

1 649 Q. And these proceedings concluded on the 8th of March of

14 1994?

15 A. Could well have, yes.

1 650 Q. Did you attend the Circuit Court hearing, Mr. Murphy, do

17 you recollect?

18 A. Yes, I did, yes.

1 651 Q. You were there?

20 A. Um.

2 652 Q. Did you give evidence?

22 A. I think so, I did, yes.

2 653 Q. And I think an Order was made by the late Mr. Justice Spain

24 as the Chairman has referred, and an order was made

25 directing that P60's of be paid from a particular company?

26 A. Yes, correct.

2 654 Q. Yes; and I think a notice of appeal then was subsequently

28 lodged in March of 1994 but that was later withdrawn?

29 A. Correct.

3 655 Q. That was the sequence in relation to those proceedings.

31 But the start of that issue, was the correspondence that

32 commenced in October or November of 1990?

00134

1 A. Correct, yes.

656 Q. And there was then correspondence passing between Mr.

3 Gogarty and your companies or Mr. Gogarty and yourself over

4 the following number of months and then the solicitors

5 became involved?

6 A. Correct.

657 Q. Now, in the course of the arbitration proceedings, I think

8 -- sorry, there is one other matter that I should deal

9 with and it is, in it's logical fashion and this is that in

10 January of 1991 the death occurred of Mrs. Murphy in

11 Dublin; is that correct?

12 A. Yes.

1 658 Q. And evidence has been given at this Tribunal of a

14 conversation that is suppose to have taken place between

15 Mr. Gogarty and Mr. Murphy Snr. at that funeral?

16 A. Yes. That was probably one of the worse things that Mr.

17 Gogarty --

18 .

19 CHAIRMAN: First of all, before you go into that, were you

20 present at the conversation?

21 A. There was no conversation that took place, Sir.

22 .

23 CHAIRMAN: Were you present at the exchange, if I may use

24 that phrase? It may not have been a conversation because

25 if you weren't, I don't want to hear your evidence on the

26 matter. Either you heard it or you didn't?

27 A. No Sir.

28 .

29 CHAIRMAN: Right.

3 659 Q. MS. DILLON: I don't intend to deal with that matter any

31 further.

32 A. But could I just expand slightly on it, please?

1 .

2 CHAIRMAN: No, I don't want the matter - I think it is an
3 extremely unfortunate incident. I noted it, I have the
4 evidence on it. Unless the witness can add to the evidence
5 which I already have I don't want to go into it again.

6 .

7 MR. COONEY: It is a matter which was introduced by the
8 Tribunal, not by the witness, Mr. Chairman, once it is
9 introduced I think in fairness to him he should be allowed
10 to say what he wants to say, within reason.

11 .

12 MS. DILLON: I have no difficulty, Sir, if Mr. Murphy
13 wishes to deal with it.

14 .

15 CHAIRMAN: Right.

16 .

17 MS. DILLON: You have ruled it out, Sir, I propose to move
18 on from it.

19 .

20 CHAIRMAN: I am ruling it out.

21 .

22 MR. COONEY: Perhaps the only relevant evidence would be,
23 was he in a position to hear such a conversation if it took
24 place as Mr. Gogarty alleges.

25 .

26 CHAIRMAN: He either heard it or he didn't hear it. One
27 or the other.

28 .

29 MR. COONEY: Was he at the front of the church with the
30 rest of the mourners at the time that Mr. Gogarty says this
31 conversation took place, and if so it is a matter of
32 recollection, a point of issue; a point of recollection.

1 It is an issue of fact between Mr. Gogarty's recollection
2 and the recollection of Mr. Murphy Snr. and this witness,
3 that is the only relevance.

4 .

5 CHAIRMAN: All right, if you want to insist on it, let's
6 hear what you know about it.

7 .

8 MR. COONEY: Please, Mr. Chairman, don't put on the basis
9 that I want to insist on it, I am merely asking you to
10 admit on the basis that it is relevant.

11 .

12 CHAIRMAN: Mr. Cooney, I have already indicated that I do
13 not consider it appropriate. You are insisting on or
14 seeking to insist; rather than have you unhappy and feel
15 that your clients were not treated fairly, I am allowing
16 the witness to deal with it in as brief a fashion as he
17 can?

18 A. I will deal with it very brief, thank you Sir.

1 660 Q. MS. DILLON: If I could ask you, Mr. Murphy, your mother
20 died and the funeral took place in January of 1991 in
21 Dublin?

22 A. Correct.

2 661 Q. And did Mr. Gogarty attend the removal; first of all, I
24 should ask you there was a removal in the normal fashion?

25 A. There was, yes.

2 662 Q. Did Mr. Gogarty attend the removal?

27 A. He did.

2 663 Q. Did you speak to Mr. Murphy; did you speak so Mr. Gogarty
29 yourself in the course of that?

30 A. No, I was sitting beside my father and my sister in the
31 front pew of the church and like most funerals, at the end
32 of the service people come up and shook our hands. Mr.

1 Gogarty arrived with I think his wife was there, and shook
2 our hands in the normal fashion like everybody else did.
3 And went to the back of the church immediately following
4 that event, my father as you can well imagine was very
5 upset as were we all; we walked straight out the door,
6 straight into the car and home. There was no conversations
7 with Mr. Gogarty or anybody else; and I think close family
8 relatives and friends came back to the house afterwards.
9 There was no conversation with Mr. Gogarty.

1 664 Q. And at the funeral the following day did Mr. Gogarty attend
11 the funeral?

12 A. I don't think so.

1 665 Q. Do you know for certain whether he was there or not?

14 A. I don't know for certain because obviously with the
15 funeral, she was actually buried in Roscommon, I know he
16 didn't come down to the burial in Roscommon, whether he was
17 behind me in the church, I don't know.

1 666 Q. Yes. Thank you very much Mr. Murphy, in relation to that.

19 I am moving on to something else, Sir, I don't know whether
20 this is an appropriate time?

21 .

22 CHAIRMAN: How long do you think you would be? Some
23 time?

24 .

25 MS. DILLON: Well, yes Sir. Probably sometime in relation
26 to - there are a number of documents, I might be able to
27 speed the matter up considerably.

28 .

29 CHAIRMAN: I think we will adjourn then.

30 .

31 MS. DILLON: If I had another may be five or ten minutes,
32 Sir, I might complete the arbitration, there is really only

1 one or two relevant documents that I want to put.

2 .

3 CHAIRMAN: I have no objection. I want to get the matter
4 moved on as fast as possible.

5 .

667 Q. MS. DILLON: I think, Mr. Murphy, if I summarise what I
7 think happened in relation to the arbitration and you can
8 tell me whether you agree or disagree and there is really
9 only one document that I want to put to you, that seems to
10 be relevant in relation to Mr. Gogarty. The arbitration
11 proceeded with various - an Arbitrator was appointed and
12 there was various legal documents passed between the
13 parties and various strategies were being worked out, as I
14 can see from the correspondence in relation to the matter?

15 A. That's correct. The actual sale had been closed sometime
16 in 1991 and the amount, I think was £600,000, what the
17 Bailey's wanted was put into an account, so the actual sale
18 was closed.

1 668 Q. On the 12th of September of 1991 the sale closed without
20 prejudice to the arbitration?

21 A. Yes, and the arbitration then was a separate issue.

2 669 Q. And the matter proceeded to an arbitration and in the
23 course of that, getting ready for the, in getting ready for
24 the arbitration there was consultations, I think, sorry if
25 I could just find the reference because we are skipping
26 forward a little bit. Sorry. There was a meeting in the
27 offices of Denis McArdle in preparation for the actual
28 arbitration hearing. The meeting was the 17th of August of
29 1992 and the document reference is the meeting is the 17th
30 of August 1992. I suspect the document is, I suspect the
31 document, it is the document reference is JMSE 14197 or
32 14197. I will just find the page reference for you and I

1 will -- yes, it is page 194 of the book you have.

2 .

3 Now, if you would like to take an opportunity if you found

4 that, have you found that document?

5 A. I have, yes.

670 Q. This is, are the minutes of a consultations that was held

7 on the 17th of August of 1992 and present were: "Mr.

8 McArdle, Mr. Fred Duffy, Mr. Kevin Duffy, George Brady,

9 Joseph Murphy Jnr., Frank Reynolds, Bartholomew O'Shea" and

10 this was some two days before the arbitration hearing was

11 due to be heard; isn't that right?

12 A. Correct.

1 671 Q. And the first two pages of that document are dealing with

14 Mr. Duffy and Mr. O'Shea and how Poppintree was purchased

15 and the value of it and matters of that sort; isn't that

16 right?

17 A. Correct.

1 672 Q. And on page, what is the Tribunal page 197 and I think that

19 Mr. Brady had formed the view, as is set out in the

20 attendance, that Mr. Gogarty was a person whose evidence

21 might be of assistance because he was the person who had

22 negotiated the sale of the contract to the Bailey's; isn't

23 that right?

24 A. Correct, yes.

2 673 Q. Are you all right?

26 A. Yeah, could you just, the beginning of the minutes of that

27 meeting. The first two or three lines there please.

2 674 Q. Do you not have them?

29 A. I do, I wonder could they be read in?

3 675 Q. Oh, yes, of course. There is no difficulty about that.

31 "Mr. Brady saw Fred Duffy and Kevin Duffy separately. Mr.

32 Murphy was present for most of the discussion. Fred Duffy

00140

1 said that most of the negotiations were conducted by Mr.

2 Gogarty and it was he who decided the price"?

3 A. Mr. Gogarty.

676 Q. "Mr. Duffy had put in a valuation in the month of March 1989

5 in which he had valued the property at Poppintree

6 comprising roughly 82 acres in the sum of £413,000. This

7 valuation did not include Poppintree House the four acres

8 surrounding because the company did not own that property

9 in March 1989. In his valuation that month he had included

10 property at Jamestown comprising 13 acres at a value of

11 £65,000" - that is referring back to the fact that the four

12 acres in question which were the subject matter of this

13 arbitration had previously been owned by O'Shea and

14 Shanahan Limited and had been originally owned by Grafton

15 Construction, sold to O'Shea & Shanahan, sold to them in

16 the early sixties and subsequently resold back to Grafton

17 Construction by O'Shea and Shanahan in 1989 for £65,000?

18 A. Yes. That's correct and Mr. Fred Duffy also pointed out

19 that most of the negotiations were conducted by Mr. Gogarty

20 and it was he, Mr. Gogarty, who decided the price.

2 677 Q. Why are you anxious to emphasise that Mr. Murphy. I don't

22 really understand, I have already, what ever point you wish

23 to make, make it, Mr. Murphy, it might be easier?

24 A. I just wanted it read into the record.

2 678 Q. We have already read it into the record and dealing with

26 what the paragraph is referring to?

27 A. Okay.

2 679 Q. I don't think there is any issue that that is what the

29 document says. Why do you want it emphasised, Mr. Murphy?

30 A. I think it is very important that what Mr. Duffy has said

31 there in conjunction with some of Mr. Bailey's evidence,

32 that he actually paid Mr. Gogarty, what was it, 50 whatever

00141

1 thousand pounds for the sale of the lands.

680 Q. 162,000?

3 A. Was it 162,000 well sorry about that. I think it is very

4 important.

681 Q. Why?

6 A. Very important.

682 Q. Why?

8 A. If he had control of the price maybe the lands were worth

9 more. Maybe the lands were worth more than 2.3 million.

10 He had control of the price, lowered the value of the lands

11 to get his backhand from Mr. Bailey.

1 683 Q. Yes, I had understood you to say earlier in your evidence,

13 and maybe I am misrecollecting it again, that your father

14 had told you in April or May of 1989 that he was going to

15 sell the lands?

16 A. He did, yes.

1 684 Q. Yes?

18 A. But I mean this is subsequent and looking back to the

19 documentation.

2 685 Q. Yes.

21 A. I thought this was a very important point.

2 686 Q. Yes; and I think that you had also told us that in November

23 and December of 1989, while certain views about Mr. Gogarty

24 were held within the company, which would not have been

25 views that were advantageous to Mr. Gogarty that

26 notwithstanding that Mr. Murphy Snr. directed that the sale

27 was to proceed and come to a conclusion?

28 A. Yes, yes. Yes.

2 687 Q. And the emphasis, therefore, I think that you are trying

30 to, that you are putting in relation to that Fred Duffy

31 said that most of the negotiations were conducted by Mr.

32 Gogarty and it was he that decided the price. I think that

00142

1 --.

2 A. Well, there has been figures of 2.4 mentioned in some sort
3 of documents, so what --.

688 Q. I mentioned that by accident.

5 A. What could have happened there that 2.4 could have been
6 agreed?

7 .

8 CHAIRMAN: I think that speculation has just gone on far
9 enough, I am now going to stop it.

1 689 Q. Thank you Sir. What I had wanted to ask you about, Mr.
11 Murphy, was on page 4 of that document which is Tribunal
12 reference page 197.

13 .

14 "A general discussion subsequently ensued and Mr. Brady
15 said that an approach should be made to made to Mr. Gogarty
16 to assert in the circumstances under which the offer of 1.7
17 million was made. Mr. Murphy disagreed with this and said
18 that Mr. Gogarty would be no help at all. Mr. Brady said
19 that the mere fact that the allegation had been made by the
20 other side was sufficient to cause us problems. And he
21 felt that Mr. Gogarty should be approached". Mr. Gogarty.

22 A. Sorry, I am actually lost.

2 690 Q. It is Tribunal reference page 197?

24 A. Sorry.

25 .

26 CHAIRMAN: The fourth paragraph of that page.

2 691 Q. The fourth paragraph of that page. I will start again: "A
28 general discussion subsequently ensued and Mr. Brady said
29 that an approach should be made to Mr. Gogarty to assert in
30 the circumstances under which the offer of 1.7 million was
31 made. Mr. Murphy disagreed with this and said that Mr.
32 Gogarty would be no help at all. Mr. Brady said that the

1 mere fact that the allegation had been made by the other
2 side was sufficient to cause us problems and he felt that
3 Mr. Gogarty should be approached. Mr. Murphy was adamant
4 that no such approach should be made". Now, is that a
5 correct record or an accurate record of what your
6 recollection of that meeting is?

7 A. An approach made to Mr. Gogarty in the circumstances under
8 which the offer -- I am not sure now. I would agree that
9 it is an accurate account, but I can't fix it in my head
10 what this circumstance under which an offer of 1.7 million
11 was made.

1 692 Q. I think that was the suggestion, Mr. Murphy, by the
13 Bailey's that they had offered 1.7 million but that they
14 increased their offer to 2.3 because they were getting
15 Poppintree House and it was a joinery, and it was of great
16 assistance?

17 A. That's correct, yes.

1 693 Q. Isn't that correct?

19 A. That's correct, yes.

2 694 Q. And they had raised this in their defence?

21 A. That's right, yes.

2 695 Q. In the arbitration proceedings?

23 A. Yes.

2 696 Q. And Mr. Brady, your senior counsel, would be concerned that
25 there would be evidence to offer to the Arbitrator as to
26 what significance or otherwise might have been attached to
27 the four acres at Poppintree?

28 A. Yes. Sorry I apologise, you are correct, yes.

2 697 Q. Does that bear out --

30 A. Yes.

3 698 Q. In relation to, that your senior counsel had advised you
32 that an approach should be made to Mr. Gogarty?

00144

1 A. Yes.

699 Q. Because he was the person who had been doing the
3 negotiations?

4 A. Correct.

700 Q. You vetoed that?

6 A. I didn't think that Mr. Gogarty would be any help at all.

701 Q. "Mr. Murphy was adamant that no such approach should be
8 made"?

9 A. Yeah. I was of the opinion that if we approached him he
10 would probably hinder us at the time, yes, I was fairly
11 adamant that no such approach be made to him.

1 702 Q. And did you, did anybody in fact, approach Mr. Gogarty?

13 A. I think that Mr. McArdle did, yes.

1 703 Q. And did Mr. Gogarty intend to give evidence, attend to give
15 evidence?

16 A. He didn't give evidence at the arbitration, no.

1 704 Q. Did he attend?

18 A. Did Mr. Gogarty attend?

1 705 Q. Yes?

20 A. No, he didn't.

2 706 Q. Was it at that arbitration on the 17th of August 1992 that
22 you met Mr. Michael Bailey?

23 A. Yeah. I know it was a general mistake. 17th of, 19th of
24 October.

2 707 Q. 19th of October 1992. Yes, 19th of October 1992. Who
26 introduced you?

27 A. I think I wasn't introduced to him until the next day until
28 things were sorted out. He was there, I think he gave
29 evidence. The next day, I think there was a discussion
30 between the various legal teams to see if the matter could
31 be sorted out. And I think that we had got involved, I
32 think Frank Reynolds, at the time had known a valuer, his

00145

1 name escapes me; I think I only met him once or twice. I
2 was standing in the corridor talking to him and Michael
3 Bailey passed and said "hello" Tony something was his name,
4 Tony, Tony - Tony. Toole McKay was the name of the firm.
5 I think it was Tony Toole.

708 Q. Tony Toole?

7 A. And we were standing at the corridor talking to him,
8 Michael Bailey came along he said "this is" well obviously
9 I had given evidence, Michael Bailey knew who I was.

1 709 Q. Excuse me Mr. Murphy.

11 A. And I shook his hand and he said: "Let's hope that the
12 legal teams can sort this matter out".

1 710 Q. And was the first time you had met him?

14 A. I had seen him the day before but I hadn't actually spoken
15 to him. I think that was the first time I spoke to him,
16 yes.

1 711 Q. Yes. Did your instructions in relation to Mr. Gogarty's
18 attendance at that arbitration change at all?

19 A. No. We never instructed Mr. Gogarty to attend that
20 arbitration and I think that obviously the legal people
21 were of the opinion that it would be a help, but my opinion
22 at the time was that he would be a hindrance. I think he
23 may have well, somebody may well have tried to subpoena
24 him. I am not sure.

2 712 Q. Do you recollect whether that might have been Mr. McArdle
26 who tried to subpoena him or Messrs. Smith Foy who were
27 acting on behalf of Bailey's?

28 A. I think it may have been Smith Foy.

2 713 Q. All right. It is 20 past.

30 .

31 CHAIRMAN: I think we will close, because the next
32 document on my file may well be controversial.

00146

1 .

2 MS. DILLON: Yes Sir.

3 .

4 CHAIRMAN: We will close until half past ten tomorrow

5 morning.

6 .

7 THE HEARING THEN ADJOURNED UNTIL 10.30 AM ON THE 2ND

8 DECEMBER 1999.

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