

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 12TH DECEMBER,

2000, AT 2:15PM:

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CHAIRMAN: Good afternoon everyone.

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Just by way of preliminary introduction to what is happening today.

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On June 8th, 2000, I made an Order directed to Liam Lawlor to make discovery on oath and to produce to the Tribunal the documents set out in that Order. Mr. Lawlor did not comply with my Order and as a result, on September 21st, 2000, I issued two summonses directed to Mr. Lawlor.

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(A). The first summons required Mr. Lawlor to attend before the Tribunal at 10.30am on the 10th October, 2000, and to there and then produce and hand over to the Tribunal the documents and records mentioned at paragraphs A, B and C of my Order of the 8th June.

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The second summons required Mr. Lawlor to attend at the above time and place to give evidence to the Tribunal in relation to the documents and records contained in my said Order. On October 10th, Mr. Lawlor failed to appear. That afternoon I delivered a ruling which was in the following terms:

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Unfortunately I do not appear to have brought it with me --

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MR. GALLAGHER: It may be at Tab 8, Sir.

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CHAIRMAN: That ruling was in the following terms:

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"On September 21st, 2000, I issued two summonses to Mr.

Liam Lawlor, firstly to attend before me at 10.30am this morning at Dublin Castle to produce certain documents and records referred to in the summonses, and secondly, to attend before me at the same time and venue to give evidence in relation to such documents and records.

These summonses were issued by me in exercise of the statutory powers conferred upon this Tribunal by Section 1 of the Tribunals of Inquiry (Evidence) Act 1921 as amended. They were issued by me in circumstances where I considered that it was necessary for the purpose of my functions to do so, and against a very unsatisfactory background. Despite repeated attempts to do so, I failed to secure any meaningful cooperation from Mr. Lawlor on a voluntary basis in providing the Tribunal with documents and records. In addition, Mr. Lawlor failed to comply with an Order for the discovery and production of documents and records made by me on the 8th June, 2000, which Order to this date has not been complied with.

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The task of the Tribunal - where it is made aware of any acts associated with the planning process which, in its opinion, may amount to corruption or otherwise come within the Tribunal's Terms of Reference - is to inquire into such matters. This may involve asking questions, reviewing documents and reviewing the financial transactions of a citizen or citizens who could be connected with such

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acts.

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Initially the Tribunal seeks the voluntary cooperation of a citizen. Fair procedures requires the Tribunal to furnish the citizen with sufficient information to identify the matters being inquired into.

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If this has been done, and the Tribunal is not satisfied with the response or responses it receives, it is quite within its rights to summons the citizen to be questioned in public before the Sole Member.

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In my view, the correspondence between the Tribunal and solicitors for Mr. Lawlor clearly identifies the matters being investigated by the Tribunal and the reasons for seeking the documents and records which have been sought and which are referred to in my Order of June 8th and the two summonses in question.

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I have considered my arguments which have been made in correspondence by Mr. Lawlor's solicitors, and I am satisfied that the Order for the production and discovery of documents dated the 8th June, 2000, and the summonses dated 21st September, 2000, were validly made. In my view the argument based upon non-compliance with the Rules of the Superior Courts is not sustainable. A citizen cannot decide himself to ignore a summons because, in his opinion, the summons is invalid.

No challenge to the validity of any of these orders has been made by Mr. Lawlor.

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Section 4 of the Tribunal's of Inquiry (Evidence) Acts 1997
provides as follows:-

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'When a person fails or refuses to comply with or disobeys
an Order of a Tribunal, the High Court may, on application
to it in a summary manner, in that behalf by the Tribunal,
order the person to comply with the Order and make such
Order as it considers necessary and just to enable the
Order to have full effect.'

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I direct the Solicitor to the Tribunal to immediately
institute proceedings to invoke the summary procedures
provided for in the above section to enforce all of these
orders.

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I have also decided to refer the fact of Mr. Lawlor's
non-compliance with the Order for the production and
discovery of documents, dated 8th June, 2000, and his
failure this morning to answer to both summonses of the
21st September, 2000, to the Director of Public
Prosecutions for his consideration as to whether an offence
or offences under Section 1 (2) of the Tribunal's of
Inquiry (Evidence) Act 1921 as substituted by Section 3 of
the Tribunal's of Inquiry (Evidence) (Amendment) Act 1979
have been committed by Mr. Lawlor."

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Following the application on my behalf to the High Court
for an Order under Section 4 of the Act of 1997, the Court
ordered Mr. Lawlor to comply with my Order of June 8th,

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2000. I fixed November 2000 as the date for hearing evidence from Mr. Lawlor, but because his Affidavit of Discovery was only received at approximately 7.45pm on the preceding evening and because of an appeal, which I understood was to be taken to the Supreme Court, I adjourned the taking of Mr. Lawlor's evidence.

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Mr. Lawlor attended the public sittings of the Tribunal on November 7th - Day 201 - accompanied by his solicitor and counsel. On that date I directed the Registrar to ask the following question in relation to the orders of Mr. Justice Smyth, dated 24th October, 2000:

"Does Mr. Liam Lawlor confirm that the documents delivered to the Tribunal's office on Monday, 6th November, 2000, at 8:00 p.m., are the total of the documents required to be discovered?" Mr. Delahunt replied "Yes, Sir, they are indeed." Mr. Lawlor echoed, "Delivered as requested. Yes."

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Mr. Delahunt, Barrister at Law, later confirmed in the course of the same hearing that the documents and folders of documents which were produced to the Tribunal on November 6th were produced and handed over to the Tribunal pursuant to paragraph 2 of the Order of Mr. Justice Smyth.

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On the Affidavit of Discovery and the documents produced by Mr. Lawlor, it appeared to me that there were serious deficiencies in the discovery, and I therefore directed on December 5th, 2000, that a letter be written to Mr. Delahunt, solicitor, outlining the deficiencies in the

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Affidavit of Discovery and the documents produced, and pointed out that they fell far short of complying with the Order of the High Court. Arising from that letter, a Supplemental Affidavit of Liam Lawlor, dated 11th December, 2000, was delivered to the offices of the Tribunal this morning. I have not had an opportunity of examining the Supplemental Affidavit in detail or indeed, in examining the additional documents which were furnished by Mr. Lawlor but I intend to hear his evidence. However, before doing so, I would ask Counsel for the Tribunal to read into the record all relevant correspondence and Orders, including the High Court Order which have arisen since the 10th October - Day 185.

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Accordingly, Mr. Gallagher, I invite you to take that course.

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MR. GALLAGHER: Thank you, Sir. I will endeavour to deal with the matters that arose in chronological order.

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On the 11th October, the day following your ruling which you have just read, an application was made to the High Court in proceedings entitled:

"In the matter of the application pursuant to Section 4 of the Tribunal's of Inquiry (Evidence) (Amendment) Act 1997 between the Honourable Mr. Justice Flood, Sole Member of the Tribunal of Inquiry into Certain Planning Matters and Payments - Plaintiff

-v-

Liam Lawlor - Defendant.

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The record number was 533/2000 SP.

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These proceedings, as I say, were commenced on the 11th October, and on the 12th October you referred the papers to the Director of Public Prosecutions, as you had indicated for his consideration pursuant to Section 1 (2) of the Act of 1921, as amended by Section 3 of the Act of 1979, for such action as he considered necessary.

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Receipt of those papers was acknowledged on the 13th November. And the High Court proceedings were heard before Mr. Justice Smyth on the 16th and 17th October, 2000. Affidavits had been filed on your behalf by Mr. Lawlor in reply. And on the 24th October, 2000, Mr. Justice Smyth delivered judgement and his Order of that date is to hand, and I will read it for the purpose of the record. It's to be found on page 44.

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The Order cites as follows: "The Special Summons herein coming on for hearing on the 16th and 17th days of October, 2000, in the presence of Counsel for the Plaintiff and Counsel for the Defendant.

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On reading the said Special Summons the Affidavits (2) of Maire-Anne Howard sworn on the 11th day of October, 2000, and the 16th day of October, the Affidavit of the Plaintiff sworn on the 13th day of October, 2000, the Affidavit of the Defendant sworn on the 13th day of October, 2000, the documents and Affidavits in said Affidavits referred to,

and on hearing said counsel the Court was pleased to reserve judgement.

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And the matter coming into the list for judgement on this day in the presence of said counsel.

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1. IT IS ORDERED that the Defendant to make discovery on oath in accordance with the Order of the Plaintiff made on the 8th day of June, 2000.

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a. For the period beginning on the 16th June, 1977, to date. (The first period.) Discovery to be made within one week of the date hereof.

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b. For the second period beginning 18th June, 1974, to the 17th June, 1977, (Second period.) Discovery to be made within three weeks from the date hereof.

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c. On the Tribunal being satisfied that it is necessary for the fulfillment of its functions to have discovery prior to the 18th June, 1974, it may extend the time of such discovery to begin on the 1st of October, 1964, in which event the Defendant to have four weeks (the third period) or such further time as may be agreed between "The Parties" for compliance - all Affidavits of Discovery to be in the forms prescribed in Form No. 10 of Appendix C of the Rules of the Superior Courts."

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I pause there, Sir, to say that issues have arisen and I think, unfortunately, continue to arise in relation to the

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form of the Affidavits of Discovery that have in fact been delivered.

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The Order of the High Court continues as follows:-

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"This Order is without prejudice to the right or entitlement of the Tribunal to make any further or other Order by way of seeking further and better discovery, whether arising out of the Orders of this court herein before referred to or otherwise.

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2. IT IS ORDERED that the Defendant shall attend before the Tribunal to have with him there and there and then produce and hand over to the Tribunal together all the documents and records mentioned in paragraphs a, b and c of the Order of Discovery in respect of the first period on any day determined by the Tribunal after one week from the date of the delivery of the Affidavit of Discovery.

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- the second period on any day determined by the Tribunal after one week from the date of the delivery of the Affidavit of Discovery.

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- the third period on any day determined by the Tribunal after one week from the date of the delivery of the Affidavit of Discovery.

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3. IT IS ORDERED that the Defendant attend before the Tribunal at a sitting in public to give evidence to the Tribunal in relation to the documents and records mentioned

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in the Order of the Plaintiff made on the 8th day of June, 2000, in respect of the first period, not later than two weeks from this date on notification to the Defendant or his solicitors by the Tribunal as to the exact time and place at least two clear days in advance and thereafter as may be determined by the Tribunal from time to time.

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And IT IS ORDERED that the Plaintiff do recover from the Defendant the costs of this application and Order when taxed and ascertained (including all reserved costs, if any.)

Liberty to apply."

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The Defendant made an application to the Supreme Court, ex parte, on the 27th October in relation to the judgement of Mr. Justice Smyth. And the Order of the Supreme Court in relation to that application is to be found on page 48.

And reads as follows:-

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"Upon Motion of Counsel for the Defendant made ex parte unto the Court this day for a stay on the Judgement and Order of the High Court (Mr. Justice Smyth) given and made on the 24th October, 2000, (whereby the Defendant was inter alia ordered to make a discovery on oath in accordance with the Order of the Plaintiff made on the 8th June, 2000, for the period beginning 16th June, 1977, to date within one week from the date of the said Order, dated 24th October, 2000.) Pending the determination of an appeal by the Defendant from the said judgement and Order (a similar application having been refused by Order of the High Court,

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dated 26th October, 2000.)

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Whereupon and on reading the said Order of the High Court, dated 24th October, 2000, the transcript of the stenographer's not of the judgement in the High Court on the 24th of October, 2000, adopted by the Learned Trial Judge, the agreed note of the hearing and of the extemporary judgement in the High Court on the 26th October, 2000, prepared by the solicitor for the Plaintiff and the draft undated Notice of Appeal and on hearing Counsel for the Defendant and Counsel for the Plaintiff.

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It is ordered that the said Order of the High Court dated the 24th of October, 2000, be varied by the substitution of the words "two weeks" for the words "one week" where they appear at paragraph 1 (a) of the said Order.

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And the Court doth reserve the costs of this motion."

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The effect of that amendment granted by the Supreme Court was to extend to the 7th November, 2000, the period then in which discovery was to be made in accordance with the provisions of paragraph 1 (a) of the Order of Mr. Justice Smyth of the 24th October, 2000.

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On the 2nd November, 2000, Messrs. Delahunt, Solicitors, wrote to the Tribunal in the following terms:

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"Dear Madam, in relation to the Order of Smyth J. Of the 24th October, 2000, and in particular that part thereof

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that relates to the attendance of Mr. Lawlor to give evidence in public before the Sole Member in respect of "the first period" mentioned in the Order "not later than two weeks" from the 24th October, 2000, can you please confirm that in light of the Order of the Supreme Court made herein on the 27th October, 2000, this may be read as and can be taken to mean "not later than three weeks from the 24th October, 2000".

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Your confirmation will obviate the need to mention the matter to the Supreme Court this Friday, 3rd November, 2000."

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On the same date, you instructed Ms. Howard to reply to that letter as follows:-

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"Dear Sir, I refer to your letter of even date received by fax at 10:30 a.m..

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Your letter was considered by the Sole Member at lunch time. He is of the view that he can not amend the Order of the High Court and can see no good reason why he should not proceed in accordance with the terms of paragraph 3 of the Order of Smyth J..

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On the instructions of the Sole Member I hereby give you written notice requiring your client to attend before the Tribunal at a sitting in public at 10.30am in the forenoon on Tuesday next, the 7th November, 2000, at the Print Works, Lower Castle Yard, Dublin Castle, to give evidence

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to the Tribunal as required by paragraph 3 of the Order of Smyth J on the 24th October, 2000.

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The Sole Member will decide at the hearing in public on Tuesday next whether to adjourn hearing all or part of your client's evidence to a later date or dates - much will depend on whether your client has by then made discovery as ordered by the High Court (and as varied by the Supreme Court on the 27th ult.).

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I enclose herewith a copy of the Order of the Supreme Court made on the 27th ult.."

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That was replied to at page 54 by Delahunt Solicitors on the 22nd November.

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"We refer to the above matter and to your fax we received this afternoon.

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In the light of your correspondence under reply we hereby notify you that counsel on behalf of our client shall make application to the Supreme Court tomorrow morning in this matter."

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The position then, Sir, was that an application, having been signalled, the affidavit of Mr. Lawlor of the 6th November, 2000, was delivered to the offices of the Tribunal, together with folders of various documents, and the matter came before you then for hearing on the following day, on the 7th November, and on that occasion,

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you heard that Mr. Lawlor was present in response to the summons and of the Order of the High Court, and both he and Mr. Delahunt confirmed that the documents delivered to the offices of the Tribunal the previous evening were the total of the documents required to be discovered pursuant to the Order of Mr. Justice Smyth. In those circumstances, you deferred the examination of Mr. Lawlor for one week, that is to the 14th November, 2000, recognising that events may occur in that intervening period which might justify the further adjournment of the examination of Mr. Lawlor, and in the event, an appeal was taken to the High Court and it was heard by the Supreme - sorry, it was taken to the Supreme Court and was heard by the Supreme Court on the 24th November, 2000, and the Order of the Supreme Court has just come to hand. And the operative of that appeal was that "IT WAS ORDERED that the appeal would be dismissed and that the judgement and Order of the High Court, including the Order as to costs to stand affirmed accordingly."

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I haven't had an opportunity, Sir, because this matter has only just come by fax, to have it scanned, so I cannot put it up on screen, but it is available. The Supreme Court reference on that is number 278 of 2000.

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On the 10th November, 2000, the Tribunal - page 96 - the Tribunal wrote to Mr. Delahunt, Solicitors, in relation to the Affidavit of Discovery and the letter was in the following terms:-

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"I acknowledge receipt of your client's Affidavit of

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Discovery and box containing leverarch folders and some other files which were delivered to the offices of the Tribunal on Monday evening last.

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As you will appreciate, it was necessary to send the documents to be photocopied before they could be considered in detail. However, from a quick look through your client's affidavit and the documents delivered by him, it appears that he has not fully or properly complied with the terms of the High Court Order of the 24th October, 2000. No doubt a detailed examination of documents will establish whether such is the position.

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The significance of the "Note" at the end of the first schedule First Part is not readily understood. That note, for ease of reference is in the following terms:-

'With regard to items in first schedule, first part, these contain entries relating to Dail salary, expenses, Council expenses, entries relating to an overseas loan guaranteed against my Czech Republic property projects and other assets, insurance claim and electoral contributions and other incomes.'

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The significance/meaning of this note may become apparent on a detailed examination of the documents.

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In the meantime, I confirm that although the Sole Member made an Order adjourning to next Tuesday, the 14th November, 2000, the giving of evidence by your client in relation to the documents and records mentioned in

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paragraphs a, b and c of the Order of the Tribunal dated 8th June - as recited in the High Court Order - he has, in light of the pending Supreme Court appeal, decided that your client will not be required to give such evidence until the 28th November next, at the earliest, that is until after the determination by the Supreme Court appeal of your client's appeal. "

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I should say, Sir, that you did indicate also in the course of that litigation that it was not your present intention to make an Order extending back to the 1st October, 1964, as you were empowered to do by the Order of the High Court, but you reserved your position on that for further consideration, if it should, in the light of events unfolding, become necessary to make such an Order.

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The next letter then, Sir, is on page 98. It's a letter from - sorry, I beg your pardon, the next letter is on page 81. It's a letter from Ms. Howard, dated 5th December, 2000, and it's a detailed letter dealing in a rather comprehensive way with the perceived inadequacies of the Affidavit of Discovery which was delivered on the 6th November.

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"I am directed by the Sole Member to write to you concerning the above matter and your client's failure to make full and proper discovery in accordance with the Order of the Sole Member of 8th June, 2000, as enforced by Order of the High Court on the 24th October, 2000.

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The Orders of the High Court of the 24th, 2000.

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The High Court ordered (inter alia) the enforcement of the Tribunal's Order of the 8th June, 2000, requiring your client to make discovery on oath of and produce:-

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'(a) All documents and records in his possession or power relating to any accounts held in any financial institution, either within or outside the State, in his own name, (either individually or jointly) or for his benefit, or into which he made lodgments of money or into which he caused or procured lodgments of money to be made or which lodgements of money were made for his benefit;

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(b) All documents and records in his possession or power relating to any interest held by Mr. Lawlor in any company, and all documents and records in his possession or power relating to any account held by or on behalf of such companies in any financial institution, either within or outside the State;

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(c) All documents and records in his possession or power relating to the Tax Amnesty and the monies in respect of which such amnesty was availed of, including records relating to the source or sources of such monies and the account or accounts in which they were held.'

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Paragraph 1 of the Order of the High Court, the paragraph concerning discovery, provided that your client make discovery of the above documents as follows:-

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(a) For the documents relating to the period from the 16th June, 1977, to date (the first period) discovery to be made within one week from the date thereof;

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(b) For the documents relating to the period beginning 18th June, 1974 to the 17th June, 1977, (the second period) discovery to be made within three weeks from the date thereof;

.

The High Court ordered that all Affidavits of Discovery be in the form prescribed in Form No. 10 of Appendix C of the Rules of the Superior Courts.

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On the 27th October, 2000, the Supreme Court amended paragraph 1(a) of the Order of the High Court of the 24th October, 2000, so that the reference to "one week" should be replaced with "two weeks". The effect of this was that your client was required to make discovery of the documents and records described in the Order of the 8th June for the period beginning 16th June, 1977, to date on or before Tuesday, 7th November, 2000.

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In summary therefore:-

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(a) Your client was required to make discovery of three distinct categories of documents.

(b) he Was required to make discovery in accordance with the Rules of the Superior Courts.

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On the night of the 6th November, 2000, your client delivered to the Tribunal the Affidavit of Discovery sworn by your client on the 6th of November, 2000, together with a box of documents.

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In that Affidavit of Discovery your client deposed to 'The documents relating to the matters in question referred to in paragraph 1 of the Order of the High Court, dated 24th October, 2000', thus purporting to make full and proper discovery for the entire period from the 18th June, 1974, to date, i.e. "the first period" and "the second period" together.

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On the 7th November, 2000, the following day, at the public sittings of the Tribunal, Mr. Lawlor attended on foot of a summons also enforced by the High Court and your Mr. Delahunt stated that the documents contained in the box delivered to the Tribunal on the previous evening were the documents directed by the Order of Mr. Justice Smyth dated 24th October, 2000, at paragraphs 1(a) and (b). It was thus claimed again that your client was complying fully with the High Court Orders relating to discovery.

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However, your client's Affidavit of Discovery and the documents produced in pursuance thereof fall far short of complying with the Order of the Sole Member of the 8th of June, 2000, and the consequent paragraph 1 of the Order of the High Court of the 24th October, 2000.

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Your requirement to make full and proper discovery.

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(a) Discoverable documents - the scope of the Order.

Your client was required to make full and proper discovery of three clearly identified categories of documents.

There can be no doubt, nor has your client ever expressed any doubt, as to the nature or extent of any of the aforementioned three categories of documents or any part thereof. In contrast to a general requirement to make discovery of all relevant documents, as in a *lis inter partes*, your client has been ordered to make discovery of limited clearly defined documents.

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(b). Form of affidavit.

In accordance with the Rules of the Superior Courts, your client was obliged to set out in each part of the schedule or schedules of the Affidavit of Discovery thus filed with the Tribunal an individual listing of all documents falling within the scope of the Order, indicated by a numeration and described in such a fashion as would convey to the reader of the affidavit the general nature of each document.

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As you are aware, this individual listing of the documents enables the reader of the affidavit to identify documents relevant to particular issues; to distinguish between copy and original documents in the possession or power of the deponent; to establish the date, description, author and recipient (if applicable) of the document and the relevance of all or any of those matters to the issues with which the reader is concerned; and to identify any lacuna in the

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documentation the subject of the inquiry.

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All documents to which the affidavit refers, whether those in the possession or power of the deponent; those to which there is an objection to production on the basis of a privilege claimed; or those which have been but are no longer in the possession or power of the deponent, must be listed as set out above.

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The Third Part of the First Schedule to your client's affidavit of the 6th of November, 2000, contains items discovered in the proper format set out above.

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Therefore, your client's obligations pursuant to the Order of the High Court are clear and unambiguous.

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Your client's Affidavit of Discovery.

First Schedule First Part.

1. Paragraph 1 of the Order of the High Court, dated 24th October, 2000, in regard to paragraph a of the Order of the Sole Member of the 8th June, 2000, required:-

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'All documents and records in his possession or power relating to any accounts held in any financial institution, either within or outside the State, in his own name, (either individually or jointly) or for his benefit, or into which he made lodgements of money or into which he caused or procured lodgements of money to be made or into which lodgements of money were made for his benefit from the 18th June, 1974, to date.

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(i) Your client avers: 'I have in my possession or power the documents relating to the matters in question referred to in paragraph 1 of the Order of the High Court, dated 24th June, 2000, which same refers to paragraph a of the Order of the Sole Member dated 8th June, 2000, set forth and first part of the first schedule hereto.'

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(ii) The First Part of the First Schedule in your client's affidavit is entitled "Schedule of Documents; bank records as listed.'

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This description is unclear. It is assumed that the word "below" has been omitted."

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I should say by way of comment, Sir, that that portion of the affidavit identifies a total of 18 accounts in various financial institutions, and I will return to that matter in due course.

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"(iii) Notwithstanding the scope of the Order, your client has confined the documents discovered to cheques and statements, with the exception of three loan repayment schedules. Not included, but clearly within the remit of the Order are such items as

Correspondence

Memoranda

Withdrawal docketts

Instructions to transfer funds

Cheque stubs

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Bank drafts

Bank requisition forms

Bank draft counterfoils

Account opening documents

Hire purchase agreements.

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There is no explanation for this omission and no separate averment and/or identification of the remaining documents as being documents which are no longer in the possession or power of your client.

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(iv) The references to accounts at Mercantile Credit and Ulster Bank, Palmerstown, and the means by which they are described clearly reveal the existence of further documentation which has not been discovered.

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(v) Information available to the Tribunal suggests that there are at least twelve further bank accounts in existence which fall within the parameters of paragraph a of the Order of the Sole Member of the 8th June, 2000, which your client has failed to identify in any manner whatsoever in his Affidavit of Discovery.

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These include current accounts, savings accounts, term loan, bridging loan and mortgage accounts and intermediary accounts."

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And I'll return to the issue of accounts and the supplemental affidavit of Mr. Lawlor at a later stage.

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"(vi) With the exception of three loan repayment schedules, that list does not individually identify one single document as required by the Rules.

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The final column of the table which purports to describe the items being discovered contains such descriptions as "Cheques and Statements" or "Statements." This is totally unacceptable to the Sole Member. It is impossible to identify any individual statement and/or cheque from this schedule or to identify any lacuna therein.

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(vii) Attached to the First Part of the First Schedule there is a note on the following page of the schedule to your client's affidavit stating:

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'NOTE: With regard to items in the First Schedule First Part, these contain entries relating to Dail salary, expenses, Council expenses, entries relating to an overseas loan guaranteed against my Czech Republic property projects and other assets, insurance claim and electoral contributions and other incomes.'

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This appears to be some form of a narrative statement improperly included in the Affidavit of Discovery for a purpose which is not at all clear. There is, of course, no provision for a statement of this nature in the Discovery Provision Rules of the Superior Courts to which the High Court specifically referred. The sole function of the discovery is to identify documents. The statement does indicate, however, that your client has within his

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possession or power further documentation which should have been discovered on foot of the Order of the High Court.

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The narrative paragraph also suggests that your client, if required by the Tribunal to give evidence relating to transactions recorded in the documents described (improperly) in the preceding three pages, may refer to and/or seek to rely on further documents or records clearly within his procurement and within the scope of the Order.

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Insofar as your client has failed to make discovery of these relevant documents, your client by his own admission in the said note, reveals the existence of further unidentified documentation and thus concedes that he is in breach of the Order of the High Court.

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First Schedule Second Part.

2. Paragraph b of the Order of the Sole Member of the 8th June, 2000, and the Order of the High Court of the 24th October, 2000, required your client to make discovery on oath of and produce all documents and records in his possession or power relating to any interest held by him in any company, together with all documents and records in his possession or power relating to accounts held by or on behalf of such companies in any financial institution, either within or outside the State.

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(i) in response thereto, your client averred in paragraph 3 of his affidavit of the 6th November, 2000, as follows:-

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'I have in my possession or power the documents and records relating to the matters in question referred to in paragraph 1 of the Order of the High Court, dated 24th October, 2000, which same refers to paragraph b of the Order of the Sole Member, dated 8th June, 2000, set forth in the second part of the first schedule hereto.'

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(ii) When one turns to the second part of the First Schedule of the Affidavit of Discovery one finds no list of documents but instead a document entitled 'Recollection of companies I have had an involvement with in executive, shareholding and non-executive roles since the 1960s.'

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This appears to be a briefing document for use in assimilating discovery documents. Its inclusion in the affidavit is inappropriate and unhelpful.

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(iii) Your client in his 'Recollection' document provides the names of nine companies to which list he adds the phrase 'There are a number of companies I have associations with in the Czech Republic.' In respect of neither the individually listed companies nor the Czech companies, has your client furnished an individual listing identifying all documents in his possession or power as required. The requisite documents are clearly described in the Order.

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(iv) Perhaps your client has disposed of his own document relating to the companies. There are many sources of documentation available to your client, including financial institutions, legal and financial advisers, as well as

other third parties to whom he furnished documents.

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(v) Since the filing of the affidavit with the Tribunal over three weeks ago, your client has not reverted to any further documentation of documents and records in his power or procurement relating to this narrative paragraph of the Second Part of the First Schedule or any other section of the said Second Part of the First Schedule. It is thus clear to the Sole Member that your client has knowingly and notwithstanding the Order of the High Court, failed to address in any meaningful way this part of the Order of the 8th June, 2000.

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First Schedule Third Part.

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3. Paragraph c of the Order of 8th June, 2000, as enforced by the High Court requires your client to make discovery on oath of and produce to the Tribunal:-

'All documents and records in his possession or power relating to the Tax Amnesty and the monies in respect of which such amnesty was availed of, including records relating to the source or sources of such monies and the account or accounts in which they are held.'

.

In this regard, in Paragraph 4 of his affidavit your client deposes to the documents listed in the Third Part of the first schedule.

.

(i) The first item in the Third Part is described as

'Briefing note regarding Tax Amnesty.' No date is given. Neither its author nor its recipient are identified. The fax report on the top of the document to which this description relates suggests that it was furnished by fax by a firm of Burke Burns Blake on the 1st November, 2000, to fax number 8241842. If the document purports to be a narrative prepared for the purpose of the Tribunal, this is not stated. Furthermore, whilst the narrative explains the nature of the tax and the amount paid, there is no explanation as to the source or sources of such monies or the account or accounts in which they were held.

(ii) No document has been listed in the Third Part of the First Schedule in relation to the requirement relating to 'The sources of the monies upon which tax was paid' and/or 'The accounts in which they were held' with the exception of limited information contained in the letter dated 29th November, 1993, from FG Blake & Company to Mrs. Hazel Lawlor.

(iii) A perusal of the fifteen documents listed in the Third Part of the First Schedule reveals that there must be or have been in existence the following items which fall within the remit of the Order:-

Documents in the possession of the firm of FG Blake & Co., Accountants.

The documents in the possession of your client for the instruction of FG Blake & Company, Accountants.

Documents in the possession or power of your client,

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including share transfers, banking documentation, legal documentation, company documentation, accounting documentation in relation to the disposal of shares in Modular Cold Store Manufacturers Limited.

Similar documents relating to the disposal of shares in Hazelwood Contracts Limited.

A letter to your client dated 26th January, 1992, from Messrs. FG Blake & Co., Accountants.

A letter from Messrs. FG Blake & Co., Accountants to your client, dated 18th March, 1992.

Documents in the possession or power of your client, including documents held by Lloyds, in respect of the acquisition by your client of the capital asset, the subject of the Capital Gains Tax amnesty payment.

Documents in the possession or power of your client, including documents held by Lloyds, in respect of the disposal by your client of the said capital asset.

A letter from Messrs. FG Blake & Co., Accountants, to your client dated 18th March, 1992.

Documents in the procurement of your client, held by the Revenue Commissioners, in respect of the capital gain on the disposal of Modular Cold Store Manufacturing Limited.

.

Therefore, from a perusal of a small bundle of fifteen documents listed in your client's discovery, omissions are readily apparent. They are representative of the affidavit as a whole as set out above. These omissions were no doubt as clear to your client in preparing his discovery as they are to the Tribunal in assessing it.

.

00030

(iv) This part of the affidavit contrasts with the preceding two parts of the first schedule. In its preparation, it seems some effort was made to comply with the High Court Order regarding the form of affidavit set out in the Rules of the Superior Courts. It lists individually by enumeration fifteen documents which your client claims to be all documents and records in his possession or power relating to paragraph c of the Order of 8th June, 2000. However, even in this list of fifteen documents, many details are omitted including dates, authors, recipients, sufficient documentation descriptions, etc..

.
Second schedule.

4. Your client avers at paragraph 5 of his affidavit that he has had but no longer has in his possession or power, documents set forth in the Second Schedule to the affidavit. That schedule sets out a list of bank accounts and dates prior to which the documents are not available. It is clear from other documents that at least some of these documents are available to your client, although they may not have been available at the time of the swearing of the affidavit of the 6th November, 2000. As you are aware, this is not the purpose of an averment of this nature in an Affidavit of Discovery. It is also clear that the averment stating that these documents are not within your client's possession or power is correct. The correspondence from AIB, for example, in relation to the account of HALL Thermotank Limited states that the Manager of the branch of AIB was going to revert to Mr. Lawlor with

00031

the details of available documents.

.

No application was made on the 7th November, 2000, when the Sole Member was addressed on behalf of your client seeking further time for the making of discovery. It was sought on that day to create a firm impression at the public hearings that your client had fully complied with the Order for Discovery. Indeed, various public reports since that date have been based on this false premise.

.

Conclusion.

In light of the foregoing, it is apparent that no meaningful attempt has been made by your client to furnish discovery as ordered. It is also now apparent that your client did not propose to take any further steps to remedy the situation. He has instead sought to convey an impression that he is in full compliance with the Discovery Order. Therefore, it is impossible for the Tribunal to fully inquire into the matters concerning your client to which the Order for Discovery was directed.

.

Accordingly, the Sole Member has decided that he will on Tuesday, 12th December, 2000, apply to the High Court in accordance with the provisions of the Order of Mr. Justice Smyth to have the matter reentered before the Court for the purpose of seeking an Order for the attachment and committal of your client for breach of the said Order of the High Court, unless your client has made full and proper discovery as ordered by the High Court no later than close of business on Monday, 11th December, 2000.

.

Yours sincerely, Maire-Anne Howard, Solicitor to the Tribunal."

.

That letter was replied to on the 7th December, and I will come to that in just a few moments but in the meantime, I think I should open to you, Sir, for the purpose of the record, the affidavit of Mr. Lawlor, of which he swore on the 6th November, 2000, and which was the subject of the letter I have just referred to. This is on page 57.

.

"I, Liam Lawlor, of Somerton, Lucan, County Dublin, being aged 18 years and upwards do make oath and say as follows:

1. I am the Defendant in the above entitled proceedings and I make this affidavit from facts within my own knowledge, save where otherwise appears and where so appearing I believe the same to be true.

2. I have in my possession or power the documents relating to the matters in question referred to in paragraph 1 of the Order of the High Court, dated 24th of October, 2000, which same refers to paragraph a of the Order of the Sole Member, dated 8th June, 2000, set forth in the First Part of the schedule hereto."

.

You will note that averment, Sir, and indeed the other averments sworn on oath by Mr. Lawlor and you will have to, in due course, consider those averments and consider whether or not they are full and frank and accurate in the light of the Supplemental Affidavit that has been delivered

00033

today to the Tribunal.

.

I now propose to go on to read to you the Schedule of Documents as listed.

.

You will see, Sir, that in this Schedule of Documents, the first schedule, first part contains a Schedule of Documents described as "Bank Records As Listed." This is on page 61. This document, Sir, refers to a total of 18 bank accounts or accounts in financial institutions, and you will recall from the letter that I have just opened, that the Tribunal made it clear that so far as the Tribunal was concerned, there were - the Tribunal was aware of 12 other accounts which had not been identified in this schedule.

I will come back to that at a later stage.

.

The first account identified is an account in the National Irish Bank, Naas.

Account No. 01016237.

From the 22nd September, '95, to the 12/5/99.

And the commentary on is: "Cheques and Statements."

.

(B): AIB current account, Crumlin Road.

Account No. 71457016.

From May 1984 to November 1995.

"Statements."

.

And the second account at AIB is a Term Loan Account, Crumlin Road,

Account No. 71457- 362.

00034

February 1984 to October 1995.

"Statements."

.

3: AIB - Hazel Lawlor, Lucan.

11732056.

From December 1986 to May 1998.

"Statements."

.

I should say, Sir, that the boxes of folders and other documents which accompanied this affidavit were precisely what they say here, statements which, in some cases were complete, in the sense that we had all the statements. In many other cases, some cases they were not complete. But that is essentially all that was furnished in respect of each account.

.

4: AIB - Liam Lawlor - fundraising account.

The address of the branch is in Lucan.

Account No. 10714022.

From September 1998 to September 2000.

"Statements."

.

5: Bank of Ireland, Lucan.

Liam Lawlor - Current Account.

No 6355054.

From August 1983 to March 1989.

"Statements."

.

6: Bank of Ireland, Lucan.

Liam Lawlor - savings account.

00035

No. 57837135.

From July 1984 to March 1994.

"Statements."

.

7: Bank of Ireland, Lucan.

Advanced Protein Limited - Current Account.

No. 73429836.

From July 1987 to November 1982. (SIC)

"Statements."

.

I suspect that is a typographical error.

.

8: Bank of Ireland, Lucan.

Advanced Protein Limited - savings account.

No. 83363543.

September 1987 to March 1994.

"Statements."

.

9: Bank of Ireland, Lucan.

Economic Reports - Current Account.

No. 63551061.

1985? To December 1992.

"Statements."

.

10: Bank of Ireland, Lucan.

Economic Reports - savings account.

The number is 89288812.

February 1989 to the 7/3/1984.

"Statements."

.

00036

11: Bank of Ireland, Lucan.

E Murtagh/L Lawlor - Term Loan.

95356834.

From March 1983 to March 1996.

"Statements."

.

12: Irish Permanent, Lucan.

Hazel Lawlor.

70202353.

From September 1995 to August 1999.

"Statements."

.

13: ACC Bank.

Account No. T 172644.

From the 21/8/1979 to the 31/12/1994.

"Loan repayment schedule."

.

"14: Mercantile Credit (taken over by Woodchester Bank.)

Since then taken over by GE Capital. This was a €20,000 loan facility which was eventually settled. Details we have been provided with by GE Capital Woodchester attached. The date we have recorded from the attached documents are 26/6/88 to the 29/1/93 loan repayment schedule.

.

15: Ulster Bank, Palmerstown.

Account No. 01941073.

This account was held in the name of Mr. John Long who was an associate of mine, and as I was spending a substantial amount of time in Prague, for convenience of discharging

00037

outgoings, the account was in John's name."

.

That was an account from August 1997 to August 1999, and the Tribunal was furnished with statements.

.

"16: Irish Permanent finance car loan.

No. 0800/N/00193025.

Date of agreement: 9/12/1998.

Monthly installments: ú1,208.99.

.

17. Ulster Bank, Lucan.

Liam Lawlor.

Account No. 34662056.

Note: Account dormant for some years and reopened in 1999.

The period was June 1984 to April 2000."

And statements and cheques were furnished. And underneath is a note "Cheques only for time when account was revived after being dormant for some years."

.

18. Bank of Nova Scotia.

Economic Reports.

0000013129.

February 1989 to January 1992.

"Schedule of repayments."

.

As I say, they are the 18 accounts that were disclosed in that affidavit in accordance - pursuant to the Order of, the High Court order and pursuant to your order.

.

There are then on page 64 the following note which has been

00038

read earlier but I will read it as it appears in sequence
in this affidavit.

.

"NOTE: With regard to Items in the First Schedule First
Part these contain entries relating to Dail salary,
expenses, Council expenses, entries relating to an overseas
loan guaranteed expense my Czech Republic property projects
and other assets, insurance claim and electoral
contributions and other incomes."

.

The First Schedule, Second Part, which is to be found on
page 66, then deals as follows, and this, you will recall,
Sir, is the section that was to deal with the companies
which Mr. Lawlor was associated with and which the Order
required that he produce all documents and records in his
possession or power relating to any interest held by
Mr. Lawlor in any company, and all documents and records in
his possession or power relating to any accounts held by or
on behalf of such companies in any financial institution
either within or outside the State.

.

Now, this is the response to that, which clearly is not in
accordance with the requirements of the form set out in the
High Court Order, nor would I submit that it's in
accordance with the Order you made or indeed the Order of
the High Court. I quote from page 66.

.

"Recollection of companies I have had involvement with in
executive shareholding and non-executive roles since the
1960s.

00039

.

1. Irish refrigeration Limited - founded in the early 1960s, merged with HALL Thermotank Limited in the early 1970s. These two companies held an account at Allied Irish Banks, Dolphins Barn. Copy letter from Mr. Maurice Ahern confirming they are checking their archives, whatever records the bank has will be forwarded. No papers, records or any information on the above two companies.

.

2. Irish Air Conditioning Limited - the company was associated with Irish refrigeration Limited.

.

3. Irish Insulations Limited - this company carried out a range of insulation contracting services, cold storage construction. This company eventually merged its activities into Modular Cold Store Manufacturers. That company in cooperation with the IDA set up an insulated panel manufacturing operation in Mohill, County Leitrim, opening in June 1977. I sold out my interest sometime in the 1980s. No records.

.

4. Economic Reports Limited - never actually traded. Bank account details provided.

.

5. Advance Proteins Limited - this company carried out extensive feasibility studies in the added value meat processing areas nationally and internationally. The company was approved for an IDA grant, but never advanced to building its food processing plant and never traded.

.

00040

6. Eastern International - this company was formed to target Eastern Europe and Middle Eastern markets but never traded. VAT information provided.

.

7. Demographic and Strategic Consultants - this is a current consultancy company involved in the electrical/mechanical contracting sector.

.

8. Menolly Homes Limited - this is a housing construction company. I have a 20 percent shareholding in this company which is in dispute before the High Court currently.

.

9. Food Industries plc - it was a public company of which I was not a Non-Executive Director. I have no records or paperwork. My recollection was that it was the late eighties, early nineties.

.

10. There are a number of companies I have had associations with in the Czech Republic." And these are not identified, Sir. I should say - I add that by way of comment.

.

"Summary:

This is to the best of my recollection the companies I have held executive and non-executive and shareholding positions in over the past 30 years."

.

Now, that document appears to be more a briefing document than a properly set out schedule of documents as required by the two orders I have already referred to.

00041

.
The first schedule, third part, is on page 69 in the
schedule of documents.

- .
"1. Briefing note regarding Tax Amnesty.
2. Copy letter from Office of the Revenue Commissioners.
3. Copy letter from the Inspector of Taxes.
4. Copy of waiver document.
5. Declaration document.
6. Letter from FG Blake & Co., Accountants.
7. Copy of letter from FG Blake & Co., Accountants.
8. Waiver document.
9. Declaration document
10. Acknowledgment of the declaration document.
Reference 0203342.
11. FG Blake & Company conference letter.
12. Payment advice document reference 0203342.
13. Certificate document from the Revenue Commissioners.
14. Copy of letter from FG Blake & Company.
15. Form of evidence from the Revenue Commissioners."

.
The Second Schedule then to that affidavit is in the
following terms:

.
"Part (a) bank accounts: Statements (per the First
Schedule First Part.)" And you will recall, Sir, that these
are documents which, the originals of which are not in
Mr. Lawlor's possession but were he believes, in the
possession of persons to whom they were addressed or
otherwise delivered in the normal course.

00042

.
"2. AIB Crumlin: Current account 71457457-016. And the
Term Loan Account 71457-326 - prior to May 1984 and
February 1984 respectively.

.
5. Bank of Ireland, Lucan: Account No. 63555054 - prior
to August 1983.

.
6. Bank of Ireland, Lucan: Account No. 57837135 - prior
to July 1984.

.
9. Bank of Ireland, Lucan: Account No. 63551061 - prior
to 1985.

.
10. Bank of Ireland, Lucan: Account No. 89288812 - prior
to February 1989.

.
18. Bank of Nova Scotia: Account No. 0000013129 - prior
to February 1989.

.
NOTE: With regard to other accounts at Numbers 1, 3, 4, 7,
8 and 11 to 17, the documents furnished are to the best of
my knowledge and such accounts are those which I had to the
best of my knowledge and recollection.

.
Part (b): Companies (per First Schedule Second Part)

(i) Irish refrigeration Limited: Bank account at AIB,
Dolphins Barn: Account in 1960s and 1970s.

.

00043

(ii) HALL Thermotank Limited: (After merger with Irish refrigeration Limited): Account in AIB. Dolphins Barn in 1970s and 1980s. (Copy letter from AIB, dated 1st November, 2000, attached.)

.

(iii) Irish Air Conditioning Limited, Irish Insulations Limited and Modular Cold Store Manufacturers Limited: Accounts at AIB, Dolphins Barn, 1970s and 1980s. (Modular Cold Store Manufacturers Limited also had a bank in Mohill, County Leitrim and loan account from ICC.)

.

And the letter that was attached to that is a letter to Mr. Lawlor from the Manager of AIB in Crumlin of the 1st November, 2000.

.

"Dear Mr. Lawlor, I acknowledge receipt of your letter dated 27th of October at this office today. You will appreciate that it will take sometime to retrieve whatever is held in our archives and I will revert back to you at the earliest possible date with details of what is available."

.

Now, as I have earlier indicated to you, Sir, on the - you took the view that that affidavit was grossly inadequate and you directed that the letter of the 5th December which I have opened should be sent to Messrs. Delahunt, and they replied, as I indicated to you, on the 7th December. A letter was received on the 8th December last and, which was on Friday last, and it's on page 89.

.

00044

It's in the following terms:-

.

"We refer to your letter of the 5th instance.

.

For the avoidance of doubt, it is requested that it be noted that this correspondence is not intended to be construed as argumentative (such being a criticism previously levelled at our correspondence).

Your letter under reply comprises eight numbered pages and it is intended to reply thereto as succinctly as possible.

Initially it is requested that we be furnished with a copy of the stenographer's transcript of the public sittings of the Tribunal on 7th November 2000 to verify the comments to which you refer and the context in which such comments were made.

On a general basis your correspondence appears to relate to the format of the presentation of our client's affidavit of discovery as well as to the substantive content thereof.

Mr. Lawlor's Affidavit contains required averments and we are instructed that any omissions which may have arisen have not been intentional.

Paragraph (v) on page 4 of your correspondence refers to "...at least twelve further bank accounts..." We are instructed that as at the date of swearing of his Affidavit of Discovery (due to the passage of time and supervening events) Mr. Lawlor had no immediate specific recollection thereof.

In order to assist Mr. Lawlor in his recollection (and thereby his cooperation with the Tribunal) it is requested that we be furnished by return with all documentation in the Tribunal's possession relating to his financial affairs whether personal, corporate or otherwise (whether such may have been obtained as a result of the 224 Orders previously made or by any other means). We are instructed that the passage of time and events over many years may have hindered Mr. Lawlor in unintentionally not making reference to items which the Tribunal already has in its possession. Mr. Lawlor has provided the Tribunal with details of 18 accounts and since the date of swearing of his affidavit, we are instructed that Mr. Lawlor has continued with his efforts as has his accountants as it has been his intention to furnish any further documents made available to him to the Tribunal if and when received by him. We are further instructed that all or any documents which Mr. Lawlor may receive shall be furnished by way of Supplemental Affidavit.

We are instructed that Mr. Lawlor has made Discovery as at the date of this Affidavit, with bona fides, to the best of his ability. We are further instructed that Mr. Lawlor has formed the opinion that your expressed intention to bring this matter to the High Court, in attachment and committal proceedings, can only cause him great embarrassment as a Member of Dail Eireann in a manner which may be without precedent. Mr. Lawlor fully understands that the Tribunal has been mandated to carry out its tasks

00046

as set out in the Amended Terms of Reference, however, he can only cooperate to the best of his recollection and ability at any given time.

.

In the light of the foregoing we are instructed to inquire:

.

1. AS a supplemental Affidavit of Discovery may be required what specific substantive form in compliance with the rules of the Superior Courts would be to your satisfaction (and in this regard the request herein for the documentation already in the Tribunal's possession is again made). If it would be of assistance perhaps you might furnish a form of Affidavit which had previously been acceptable to the Tribunal. We are instructed that it is Mr. Lawlor's intention to provide such Supplemental Affidavit, as requested by you, at or before the close of business on Monday 11th December 2000 next.

.

2. Is it still required that Mr. Lawlor attend before the Tribunal on Tuesday, 12th December, 2000 next?

.

We await hearing from you in relation to the foregoing and in this regard it is requested that it be specifically noted that Mr. Lawlor does not intend to cause any delay but that it appears that it is a matter of fact that Orders made by the Tribunal directed at financial institutions, companies or Revenue Commissioners have had greater effect in obtaining replies therefrom than the inquiries made by Mr. Lawlor thereto."

00047

.
That letter was replied to on the 8th by Ms. Howard, page 91. Sorry, Mr. Lawlor wrote on the 8th in response to a telephone call she had received from Mr. Delahunt and she says: "I refer to our telephone conversation this morning.

.
I confirm that the date and time of your client's evidence has not been altered by the Sole Member.

.
If it is necessary to make an application to the High Court on Tuesday 12th December the application will be made at a time when the Tribunal is not sitting. In that regard, the Sole Member proposes that the application will be made at 2pm and that the evidence at the public sittings of the Tribunal shall not be resumed until 2:30pm or thereabouts. AS you are aware, the application to the High Court will be an application to have the matter re-entered and will be brief.

.
I trust this clarifies the situation in respect of Tuesday."

.
A second letter was sent by Ms. Howard on the 8th of December, that was on the same date. This letter was in response to the letter from Delahunt Solicitors which I have just opened. And it's on page 92. It's in the following terms:

.
"I am in receipt of your letter of the 7th instant

00048

received here by fax at 10am today, Friday 8th December.

.

In the first instance I will point out that the Tribunal is not in a position- for reasons of copyright- to furnish copies of the transcript. Copies thereof may readily be obtained from Doyle Court Reporters.

.

The Tribunal's position in relation to your client's Affidavit Discovery is as set out in my letter of 5th instant.

.

AS you can see from that letter, the Tribunal is not at all satisfied that there has been full compliance with the High Court Order.

.

The Sole Member will consider at the public sitting on Tuesday next whether and to what extent your client may not have complied with the High Court Order. Any submissions which you may wish to make can be made on that occasion.

.

The Sole Member has decided to defer consideration as to whether or not it will be necessary to apply to the High Court until after the conclusion of the public sitting on Tuesday and on any subsequent date to which he may adjourn the matter.

.

As I have already indicated in earlier correspondence of even date, the Sole Member requires Mr. Lawlor to attend at 10:30 on Tuesday morning next to give evidence.

.

00049

The question of the Tribunal furnishing documents to your client does not arise.

.

I note that it is your client's intention to file a supplemental Affidavit and I will point out that it should be in accordance with the terms of the Order of the High Court that is in the form set out in the Rules of the Superior Courts."

.

On the afternoon then of the 8th December, there was a handwritten memo, it's on page 94, indicating that Mr. Lawlor had an invitation to meet the President of the United States and asking that he might be facilitated in that respect, and it is in that context, Sir, that you fixed the hearing for today at a quarter past two.

.

You then, on the 11th instant received - sorry, on this morning, Sir, you received a supplemental affidavit of Mr. Liam Lawlor, and I propose to open that affidavit. It's on page 101.

.

I should say, Sir, that this affidavit, as I indicated, arrived to the Tribunal this morning and there has only been an opportunity to have a rather cursory glance at the affidavit. But it is clear that in addition to the 18 bank accounts in financial institutions which were identified in Mr. Lawlor's first affidavit sworn on the 6th November, a further 10 accounts have been identified, and whilst I indicated the Tribunal hasn't had an adequate opportunity to consider the matter in detail, it does not

00050

appear that even at this stage, all accounts known to the Tribunal have been disclosed in the affidavits sworn by Mr. Lawlor, but that's a matter we can deal with in due course.

.

I should say that this supplemental affidavit was accompanied by a box of documents which haven't been examined in the time available.

.

The supplemental affidavit of Mr. Lawlor which was sworn on the 11th instant and which, as I indicated is to be found at page 101 in the following terms:-

.

"I, Liam Lawlor, of Somerton, Lucan, Co. Dublin being aged 18 years and upwards DO MAKE OATH AND SAY as follows:

1. I am the Defendant in the above entitled proceedings and I make this affidavit from facts within my own knowledge save where otherwise appears and where so appearing I believe the same to be true.

. I say that I make this affidavit supplemental to that sworn by me on the 6th November 2000 (here and after referred as my first affidavit)

.

2. I say that since the date of my swearing my affidavit, I now have in my possession or power the documents relating to the matters in question referred to in Paragraph number 1 of the Order of the High Court dated 24th October 2000 which same refers to (a) of the Order of the Sole Member dated 8th June 2000 set forth in the First Part of the Schedule hereto."

00051

The First Part of the First Schedule is to be found commencing at page 104 and continues on the following pages, and at page 105, there is an Account "Hazel Lawlor, Bank of Ireland, Clondalkin.

The account or lease number is 87586824 and the comment: "Account Closed January 1989."

.

The second account is Advanced Protein Limited.

The bank is Woodchester.

Account number: 00011544.

Comment: "Mobile phone."

.

3. Liam Lawlor.

Bank is GE Capital.

Account Number: 01801237.

Comment: "Mercedes IZS 190."

There is a note under it. This relates I think to GE Capital. It's by way of explanation, as I understand it. It's in brackets: (Was Mercantile Credit taken over by Woodchester and finally GE Capital to the best of my recollection)."

.

4. Advance Protein Limited.

Bank: Woodchester.

Account Number: 00011163.

"Photocopier."

.

5. Liam Lawlor.

Cambridge Financial Services.

00052

Account Number: 1010792.

Honda Civic 92 D 1647.

.

6. Advance Protein Limited.

Anglo Irish Bank Corp.

Account No.: 7101112.

Transtel Comexpert Telex.

.

7. Liam Lawlor.

UDT First Southern, later taken over by Woodchester Credit

Lyonnais Bank.

Account Number: 406562001.

ú20,000.

.

8. Patrick Long.

Irish Permanent, Lucan.

Account: 70348459.

Nominee Account.

.

9. Liam Lawlor.

Guinness Mahon.

Account: 11461004.

"This account has not been active for many years. I just found this sole statement when going through files. I trust the Tribunal have been provided with the records from Guinness and Mahon regarding this account."

.

10. Noel Gilson.

Lombard and Ulster.

Account Number: 853-286869- 16.

00053

And the comment is, "Car loan account. Noel Gilson acted as my nominee securing a loan. Original documents included. To the best of my recollection, the loan provided by Lombard and Ulster of ú25,000 cheque was handed directly/posted to Brady's Garage, Castleknock, Dublin 15, who would have lodged the cheque to their garage bank account."

.
At paragraph 3 then of the affidavit Mr. Lawlor deposes as follows:-

.
"I have in my possession or power the documents relating to the matter in question referred to in paragraph number 1 of the Order of the High Court dated 24th October 2000 which refers to paragraph (b) of the Order of the Sole Member dated 8th June 2000 set forth in the Second Part of the First Schedule hereto."

.
The First Schedule Second Part is to be found on page 114, and reads as follows:-

.
"First Schedule Second Part Re Companies:

.
1. Memo from FG Blake & Co. Reference 458/PB/AB dated 29th July 1982 for the attention of Mr. Liam Lawlor and Mr. Patrick Beirne from Mr. Patrick Burns.
Subject: Disposal of shares in Modular Cold Store Manufacturers and Hazelwood Contractors Limited from Liam Lawlor to Pat Beirne. Minute of the meeting details the financial agreement regarding the disposal of shares.

00054

.

2. Letter from Burke Burns Blake dated 7th December 2000.

Item (3) copy of correspondence with the Revenue

Commissioners in relation to Modular/Hazelwood capital
gains tax liability.

.

Item (4) copy of minute of meeting/letter in relation to
the sale of Modular/Hazelwood shares.

.

3. Letter from Davy Stockbrokers dated 6th November 1991
re Gandon Holdings plc 6 percent subordinated loan stock.

.

4. Copy of cheque received from J & E Davy Stockbrokers
for ú991.26.

.

5. Letter to Liam Lawlor from Food Industries plc dated
3rd December 1991 re P45/directors fees to the end of
November 1991.

.

6 & 7. Copy of payments received from Food Industries plc
dated 26th June 1990, 6th November 1989, 23rd May 1989, 4th
November 1988 and 4th November 1988.

.

8. Copy of a letter from Liam Lawlor to FG Blake
Accountants re directors fees and shares allotted (Food
Industries) there is also reference to Advanced Protein
Ltd, VHI and Lloyds underwriting.

.

9. Letter to Liam from Food Industries plc re directors
fee note for period August and September 1991.

00055

.

10. Food Industries- Fee note (referred in No. 9 above).

.

11. Share transfer document re Food Industries plc.

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12. Copy of letter from Food Industries plc re Greencore plc."

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Paragraph 4 of the affidavit on page 102.

.

"I have in my possession or power the documents relating to the matters in question referred to in paragraph number 1 of the Order of the High Court dated 24th October 2000 which same refers to paragraph (c) of the Order of the Sole Member dated 8th June 2000 set forth in the Third Part of the First Schedule hereto." That's to be found on page 117.

.

"First Schedule Third Part Re: Tax Amnesty. SCHEDULE OF DOCUMENTS

.

1. Bland-Welsh Underwriting Ltd- Underwriting information, including underwriting agency agreement regarding a member of Lloyds.

.

2. Three Quays Underwriting Management Limited- Report on accounts as at 31st December 1984- Re Lloyds.

.

3. Merrett Non-Marine Syndicates 799/771/943- Underwriting accounts 1984.

00056

.
4. Pegasus Motor Policies Syndicate No. 330- Underwriting
Accounts 31st December 1984.

.
5. Janson, Green Limited Syndicate No 932/989- Balance
sheet and underwriting accounts 31st December 1984.

.
6. Ernst & Whinney Chartered Accountants- Report of the
Auditors to the Members underwriting through Bland Welch
Underwriting Limited June 18th 1985.

.
7. Underwriting Report at 31/12/84- Report by class of
business written a the Marine Box.

.
8. Personal details Liam A. Lawlor Esq. Provided to Lloyds
of London.

.
9. Aviation Underwriting Report at 31/12/84.

.
10. Memorandum to names on some current matters of
interest from Bland-Welch Underwriting Ltd- dated 2nd
August 1985.

.
11. L.A. Lawlor- The Premium Income Limits of the
Syndicates in which Liam A. Lawlor particiaptes -
1982-1985.

.
12. Lloyds Solvency Test- Members Agent Report dated
1/6/85.

.

00057

13. Memorandum from Bland-Welch Underwriting Ltd to L.A.

Lawlor- Subject Names Records- 9th October 1985.

.

14. L.A. Lawlor personal account summary- 1982

underwriting account- closed 31st December 1984.

.

15. Letter from Bland Welch Underwriting Ltd to Liam A.

Lawlor dated 5th August 1985 re Syndicate Accounts to the

31st December 1984.

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16. Sedgwick Lloyds Underwriting Agencies letter to Liam

A. Lawlor dated 7th March 1986 with cheque enclosed for

ú80.61 re bank interest.

.

17. Letter to Liam A. Lawlor from Burke Burns Blake,

Chartered Accountants, dated 7th December 2000 referring to

(1) Documentation relating to Liam A. Lawlor's business

with Lloyds.

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(2) Copy correspondence relating to the reconciliation of

the Lloyds tax assessment, with actual income.

.

(3) Reference to no (2) which refers to a copy of a

letter dated 5th April 1990 from the Irish Revenue

Authorities setting out the method of Calculation for the

Lloyds Capital Gain. Reference to the underwriting agent

who prepared the annual accounts showing the computations

of the losses and gains and arranged for the agreement of

the figures with the UK and US revenue authorities and

refers to the income and losses divided between Revenue and

00058

Capital.

.
18. Burke Burns Blake file dealing with their records regarding Lloyds and Liam A. Lawlor's period as an underwriter. The file runs from page 1-324."

.
Paragraph 5 of the affidavit, this is back on page 102.

"I have had but have not have now in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto." And the second schedule is to be found at page 120.

.
And they relate to the account in the name of Hazel Lawlor, Bank of Ireland, Clondalkin.

Account number 87586824.

Prior to the 5th January, 1989.

.
2. Advance Protein Limited.

Woodchester Bank.

00011544.

Prior to the 1/4/1988.

.
3. Account of Liam Lawlor with GE Capital. Was Mercantile Credit taken over by Woodchester and finally GE Capital to the best of my recollection.

Account number 01801237.

Prior to the 26th/8/1988.

.
4. Advance Protein Limited.

Woodchester Bank.

00059

00011163.

Prior to the 26/8/86 .

.

5. Liam Lawlor.

Cambridge Financial Services Limited.

Account No. 1010792.

Prior to the 14/7/92.

.

6. Advance Protein Limited.

Anglo Irish Bank Corp..

7101112.

Prior to 1988.

.

7. Liam Lawlor.

UDT First Southern, taken over by Woodchester Credit

Lyonnais.

Account number 406562001.

Prior to the 1/10/1991.

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8. Patrick Long - nominee account.

Irish Permanent, Lucan.

Account No. 70348459.

Prior to the 12/8/97.

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9. Liam Lawlor.

Guinness Mahon.

Account No. 11461004.

Prior to June 1993.

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10. Noel Gilson - nominee account.

00060

Lombard and Ulster.

Account No. 853-286869-16.

Prior to the 16/9/1987.

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Companies:

11. Modular Cold Store Manufacturers/Hazelwood

Contractors.

Prior to 29/7/1982.

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12. Gandon Holdings plc.

Prior to the 6/6/1988.

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13. Food Industries plc. Prior to the 4th November, 1988."

.

I should say that in this supplemental affidavit, two further accounts were disclosed which were described as "nominee accounts", which brings to the total of three, the number of nominee accounts held by Mr. Lawlor in apparently, as I understand it, in the names of other persons, persons who are not members of his family.

.

At paragraph 7 he says: "To the best of my knowledge and belief, the documents, the originals of which are not in my possession, but as set forth in the second schedule hereto are now not in the possession, but were at the date thereof in the possession of the persons to whom they were addressed or otherwise delivered in the normal course.

.

8. According to the best of my knowledge, information and

00061

belief, I have not now, and have never had in my possession, custody or power, or in the possession, custody or power of my solicitor or agents, or in the possession, custody or power of any other person or persons on my behalf and any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document, or any other document whatsoever relating to the matters in question in this suit, or any of them, other than an except the documents set forth in the schedule hereto."

.

I don't want to say too much about the format of this affidavit, but it seems to me that documents which are of importance and which should be in the power or procurement of Mr. Lawlor should be itemised in detail indicating the information that was highlighted in Ms. Howard's letter of the 5th December last. It may be that when the book of - sorry - the box of documents is looked at, that all of this may become somewhat clearer, but I suspect not, because I think that there is an inherent flaw in the format of the Supplemental Affidavit, notwithstanding the letter of the 5th December, but that's a matter that perhaps can be dealt with at a later stage.

.

That, Sir, is the correspondence and the various orders that have passed since you sat on the, I believe, the 10th October last when you directed that the correspondence leading up to the sitting on that date be opened for the record.

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00062

CHAIRMAN: Are you going to call Mr. Lawlor now?

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MR. GALLAGHER: Yes, Sir. Mr. Liam Lawlor please.

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LIAM LAWLOR, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. GALLAGHER:

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MR. GALLAGHER: Sir, before I ask some questions from
Mr. Lawlor, I understand that Mr. Delahunt has an
application to make, Mr. Ray Delahunt BL who appears for
Mr. Lawlor.

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MR. DELAHUNT: At this juncture I'd be seeking
representation on behalf of Mr. Lawlor. At present I am
not led, but it is intended that I shall be led in the near
future. If your Sole Member would bear that particular
aspect in mind?

.
In relation to the correspondence which has been exchanged
between the respective solicitors, Sir, there is one
correspondence which I would like to be opened by
Mr. Gallagher and read into the record, Sir. It's a
correspondence dated yesterday, 11th December, and I would
like that correspondence, Sir, to be read into the record
also please?

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MR. GALLAGHER: I am certainly quite happy to do that. I
thought --

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CHAIRMAN: Just before I do that. Let's not divide our
activities. First of all, I will grant you limited
representation at the moment for one counsel. If and when
that situation changes, I will review the situation.

00064

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MR. DELAHUNT: I am obliged, Sir.

.
CHAIRMAN: Now, you were going to deal with a particular letter, what was --

MR. DELAHUNT: It was a correspondence from my solicitors to Ms. Howard, dated yesterday, 11th December, 2000.

.
MR. GALLAGHER: Sorry, there is a letter, Sir, it's on page 98. I am sorry, it's an inadvertence on my part. I am quite happy to read it, if you permit me to do so? I apologise. It was, as I say, an omission but it is at page 98. It's a letter of the 11th from Messrs. Delahunt to the Tribunal.

.
"We refer to previous correspondence in relation to the above matter.

.
In this regard we note from your telephone message this afternoon, that the Sole Member now requires Mr. Lawlor to be in attendance at 2:15 p.m. tomorrow. Mr. Lawlor has indicated that he is obliged for the Sole Member's understanding as to his commitments at the State function.

.
Initially, as set out in our letter of the 7th inst. it is again requested that it be noted that this present correspondence is not intended to be construed as argumentative.
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00065

Our client's understanding of the present situation is:-

1. The Sole Member requires Mr. Lawlor to be in attendance tomorrow at 2:15 p.m..

Mr. Lawlor has instructed us to confirm that he shall be in attendance.

.

2. The Tribunal has expressed the satisfaction with Mr. Lawlor's Affidavit of Discovery as sworn on the 6th of November, 2000. Mr. Lawlor and his accountants have continued in their efforts as a result of which Mr. Lawlor is in a position to swear a Supplemental Affidavit of Discovery. In your letter of the 5th inst. reference was made to "at least 12 further bank accounts." Mr. Lawlor has instructed us that as a result of the aforementioned efforts, he is in a position to identify ten further accounts (relating inter alia to hire purchase agreements and leasing agreements.)

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In these circumstances, the following situation arises.

.

A. In the event of Mr. Lawlor swearing Supplemental Affidavit of Discovery and not making reference therein to such "12 further bank accounts" the Tribunal shall undoubtedly be dissatisfied and attachment and committal proceedings may issue.

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B. In the event of Mr. Lawlor not swearing a Supplemental Affidavit of Discovery which is not satisfactory to the Tribunal and the Tribunal being aware of "at least 12 further bank accounts" attachment and committal proceedings

may issue.

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3. In our letter of the 7th inst. it was requested that we be furnished with all documentation in the Tribunal's possession relating to Mr. Lawlor's financial affairs, whether personal, corporate or otherwise. In your correspondence on the 8th inst. it was stated that "the question of the Tribunal furnishing documents to your client does not arise." The request contained in our aforementioned correspondence was made so that Mr. Lawlor may be in a position to fully assist the Tribunal. This request was referable only to items which you indicated were in the Tribunal's possession and which the Tribunal indicated were Mr. Lawlor's accounts.

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Notwithstanding our aforementioned request, the Tribunal has not furnished any of the documents requested.

.

Mr. Lawlor now finds himself in a situation that due to his not being in a position to, as at the date hereof, to furnish documents in relation to "12 further bank accounts", he shall be viewed by the Tribunal as not having complied with the Order of the High Court (as varied) herein.

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We are instructed that it is totally unacceptable to Mr. Lawlor that he should find himself in this position when the Tribunal can simply furnish him with the documents which it has stated are available to it, and Mr. Lawlor can review such documents and make any appropriate references

00067

thereto in a Supplemental Affidavit of Discovery.

.

In the light of the foregoing, Mr. Lawlor shall furnish a Supplemental Affidavit of Discovery this evening, however, of necessity it shall be required to be qualified as set out herein.

.

Due to the constraints of time we are further instructed that it may not be possible for the documents presently available to Mr. Lawlor to be collated and delivered to the Tribunal before 5 p.m. today. However, every effort is being made to arrange for such delivery at the earliest possible time this evening.

.

We are instructed to notify you that an application for representation shall be made on Mr. Lawlor's behalf at the sittings of the Tribunal at 2:15 tomorrow. It may be necessary thereafter for further application(s) to be made for ruling(s) of the Sole Member. Counsel's advices are awaited in this regard."

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I understand, Sir, that there was a telephone conversation following the receipt of that fax at sometime after six o'clock yesterday evening, and the Tribunal's position was clarified in the course of that telephone conversation. And of course, Sir, as you well know, the Tribunal takes the view that it does not furnish documents that it receives to persons who are required to swear Affidavits of Discovery or otherwise furnish documents themselves to the Tribunal.

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MR. DELAHUNT: I wonder, Sir, before Mr. Gallagher commences his examination of Mr. Lawlor, I am conscious of Mr. Gallagher's last comment in relation to the furnishing or non-furnishing of documentation. I wonder, Sir, in case of Mr. Lawlor, and in an effort to comply with any rulings which you may make, Sir, that obviously - the Tribunal seems to be in a position whereby it's not going to provide documentation or these particular documentation.

.

Perhaps, Sir, in those circumstances, if I may seek by way of a preliminary ruling from you, Sir, even if we were to be pointed in the direction of the relevant financial institutions, Sir, to obtain the information through our own correspondence, Sir.

.

CHAIRMAN: Mr. Delahunt, that's the most remarkable application I have ever, in fifty years of association with the courts, heard. It's the duty of a person who is the subject matter of an Order of Discovery, to make discovery, and if he doesn't have the documents in his possession, but knows the source, which manifestly he must in this instance, it's his duty to go and collect them from that source.

.

This Tribunal is not a source of giving you sources from which you can put together an affidavit. You are supposed - your client is supposed to be deposing on oath to the truth of what he is saying. And I may say that I

00069

have seldom or ever seen an affidavit or two affidavits to be precise, in such unbelievable chaos. It is unbelievable that anybody could ever produce such a document.

Let me be quite clear of my views on that matter, and I have no intention whatsoever of directing you to be furnished with any documents.

MR. DELAHUNT: Very good Sir.

1 Q. MR. GALLAGHER: Mr. Lawlor, you are a member of the Oireachtas. You have been a TD for many years. I think you were born in 1945?

A. 4 --

2 Q. 19?

A. '44.

3 Q. '44. I think that you have qualifications from the College of Technology in Bolton Street?

A. Correct.

4 Q. Can you tell the Tribunal what those qualifications are please?

A. Refrigeration engineer.

5 Q. I see. How many years did you study to be a refrigeration engineer?

A. Three or four.

6 Q. Sorry?

A. Three or four.

7 Q. Do you have any other qualifications from any third level institutions or from university?

00070

A. As a result of that qualification - as a result of that I was accepted as an Associate Member of the Institute of refrigeration, having completed my studies in the College of Technology.

8 Q. Am I correct in thinking that you were a member of Dail Eireann from the 16th June of 1977 to date, with the exception of two periods?

A. Correct.

9 Q. And the two periods in question I think were the 11th June, 1981, to the 18th February, 1982, and from the 24th November, 1982, to the 17th February, 1987?

A. Correct, yes.

10 Q. Am I correct in thinking that you were an elected member of Dublin County Council from the 7th June, 1979, to the 27th June of 1991?

A. Yes.

11 Q. And were you a Vice-Chairman --

A. I think it was the 16th June, 1991, actually.

12 Q. I won't - were you a Vice-Chairman of the Council for a period of two years during that?

A. I was Vice-Chairman, I can't remember for how long, a couple of years, yeah.

13 Q. Now, can I ask you, were you a full-time member of the Oireachtas during the periods I have mentioned, other than the periods when you were not returned as a Deputy?

A. I think the information you have imparted here would identify that I had other interests during that period, and I was National Organiser for the Fianna Fail Party during one of the periods when I wasn't a member of the Dail.

14 Q. I see. Were you in receipt of any remuneration during

00071

that period as an organiser for the Fianna Fail Party?

A. Yes, the same as the Dail salary.

15 Q. I see. And can you identify the account into which your remuneration during that period was lodged?

A. No, not really, no.

16 Q. Can you identify the account or accounts into which your Dail salary since 1977 was or were lodged?

A. Well, more recently it's on a direct debit to the Irish Permanent Finance Branch in Lucan. Back over the years, there would have been periods where the cheque could have been cashed, bills paid, so - I am sure the Oireachtas should have been able to provide the direct debits.

17 Q. I am sure, but I am asking you, Mr. Lawlor, where did you lodge the --

A. At various accounts or cashed.

18 Q. Can you recall any account in which you lodged --

A. Some of the accounts listed there.

19 Q. I am asking you can you recall?

A. No, I can't recall specifically, no.

20 Q. Now, can you recall what other sources of income you had during the period from 1977 to date, apart from your Dail salary and indeed the remuneration you received when you were an organiser for the Fianna Fail Party during periods when you were not a TD?

A. I have gone to great detail - and you have cataloged here for the last hour or so - to identify any company I had involvement with which would have had various incomes. So I can't give you any more detail than you have already read out here.

21 Q. Well please, would you, for my assistance and for the

00072

assistance of the Tribunal, would you itemise the sources of income that you had during the periods in question?

A. I couldn't possibly, no, other than to refer to the record of the various companies I had involvements with.

22 Q. Perhaps we'll give you a copy of your affidavit or your two affidavits and you can identify those for the record please. (Affidavits handed to witness.)

.

Sorry, there are page numbers on the top right-hand corner of each page which may assist you --

A. It's the list of companies I was looking for.

23 Q. Well, the list of companies, I think that it may be on page 66, if you have that?

A. The first company there, Irish refrigeration, I was the founder of that company. I would have taken a salary, a pretty basic salary at the time while trying to build up the business. I probably had a personal account in Allied Irish Banks where we had a company account. And could I say by reference there, Mr. Maurice Ahern has since confirmed to me by letter, which is in my recent affidavit, that they don't have any records, and I fail to see the criticism of I endeavouring to get records. The bank doesn't have the records, so I don't know how I am supposed to provide them.

.

Irish Air Conditioning was a similar associate company, from which I would have had various incomes.

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Irish Insulations, I was a Non-Executive Director.

24 Q. Perhaps we will take them just one at a time, if you don't

mind. Irish refrigeration - you have described on page
66 --

- A. Chairman, could I ask you, I was elected in June 1977. We are talking about engineering companies in the late sixties and early seventies. Now, it's lost on me what it has to do with the Terms of Reference of this Tribunal as to what income I would have had from engineering companies in the sixties and seventies?

.
CHAIRMAN: Mr. Lawlor, you are here to answer questions, not to ask them. Kindly answer the question you are being asked.

- A. I am here to answer questions, sure, with reference to the Terms of Reference --

.
CHAIRMAN: Kindly answer the questions you are asked and don't argue with me.

- A. I am not arguing with you, I am pointing out to you these questions have nothing to do with your Terms of Reference.

.
CHAIRMAN: I'll make my mind up on that subject. Now, answer the question which you have been asked.

- A. I am entitled to make a point of order.

- .
25 Q. MR. GALLAGHER: Mr. Lawlor, you are entitled to answer questions here. That's your role. Not to make points of order. This is not the Dail or anywhere else. Your function is to answer questions to the best of your ability.

.
Now, if your counsel feels that there is a matter that he
wants to address the Tribunal on, he is free to do so, but
I am asking you in relation to Irish refrigeration
Limited.

.
You say in your sworn affidavit that you had an involvement
with this company in an executive shareholding and
non-executive role, isn't that right?

A. Correct.

26 Q. Were you a director of that company?

A. Yes.

27 Q. Why didn't you say so in your affidavit?

A. If you founded the company, I think you would be a
director.

28 Q. You didn't say --

A. I founded the company.

29 Q. You did not say you founded the company?

A. Founded in the early sixties.

30 Q. You didn't say by whom, Mr. Lawlor. And you did not - you
made it clear that you had an involvement in an executive,
in a shareholder and non-executive role other than a
director's role, isn't that right?

A. I had every role. It was a one man company.

31 Q. Where were the accounts of that company maintained,
Mr. Lawlor?

A. These two companies held an account with Allied Irish
Banks, Dolphins Barn. And it could have held another
account, I don't have any records of it.

32 Q. And did you have a personal account in that bank also?

00075

A. I could have, yes.

33 Q. I think the last annual return for that company was filed on the 31st December, 1982. Do you have a copy of the annual returns for that company?

A. No.

34 Q. Did you keep records for that company?

A. No.

35 Q. Did anybody keep records for that company?

A. I don't know whether FG Blake & Company, Accountants - I don't believe have records that far back. They may have. I don't have them anyway.

36 Q. Have you asked them?

A. No, not for the company accounts.

37 Q. Were they the company's auditors?

A. To the best of my recollection, yes.

38 Q. You are aware that they had, the directors had an obligation to file annual returns in respect of the company?

A. And always did.

39 Q. It always did. Therefore, we can assume that the records are available either with the auditors or --

A. Well, if they have been retained. That company hadn't traded up to '82. That company ceased trading substantial years prior to that because in the earlier - in the mid-seventies that company merged with HALL Thermotank and ceased to trade as an entity.

40 Q. If it ceased to trade, why was it furnishing returns up to the 31st December, 1982?

A. If you have them there I'll authenticate them.

41 Q. The question is why? Why if it ceased to trade was it

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furnishing returns up to 1982?

A. I am not actually aware it was. And I don't see why it would have been, because I merged that company, my own - I personally held 100 percent shareholding, with HALL Thermotank. I think probably about the mid-seventies, so Irish refrigeration was effectively merged with an international company in the mid-seventies. That's my recollection. I mean, if you have information to the contrary, I'd be delighted to confirm it, if I can recollect it.

42 Q. Were you a director of HALL Thermotank Limited?

A. I was Managing Director, yes.

43 Q. And over what period were you a director of that company?

A. I was Managing Director prior to the 1977 election for a number of years, I can't be precise, and after my election to the Dail I moved into a consultancy capacity, and I believe I terminated my involvement with the company about 1981, it could have been '82.

44 Q. Was your address at that stage 25 Castle Park, Clondalkin?

A. Correct, yes.

45 Q. I think that company was incorporated in 1974, and you were a director to the 22nd October, 1981?

A. Well, I just tried to be as specific as I can, and if you have it there in front of you, that's the record.

46 Q. Now, can you tell me where the records of that company is? Its books are? Where its accounts are? Where its cheque stubs are? Where its annual returns or and other documents in relation to that company?

A. No, I can't. And HALL Thermotank International was taken over by APV, and I think APV have been taken over several

00077

times, and the vehicle that was HALL Thermotank International of which HALL Thermotank Ireland was a subsidiary has passed through several ownerships. So, I don't have any records going back that far and I don't believe they are available, but Coopers & Lybrand were the auditors to the company, at the time they were the international auditors to the international group and they audited the Irish company's accounts at the time as well.

47 Q. Now, with a view to assisting the Tribunal, and indeed assisting yourself and your legal advisers in the preparation of the two affidavits you have sworn, did you contact Coopers & Lybrand with a view to seeing whether they had any records or documents that would assist you in assisting the Tribunal in its investigations?

A. I did no such thing because I don't see the relevance to the Terms of Reference of this Tribunal. What my involvement prior to my election or what refrigeration engineering has to do with the Terms of Reference, so I did no such thing.

48 Q. That's a constantly recurring theme in your replies, Mr. Lawlor, because you don't see it relevant to the Terms of Reference?

A. Maybe, Chairman, you could clarify how engineering is applicable prior to my entering public life?

49 Q. You have had orders from the High Court which compelled you to make discovery, and I suggest that this company was listed by you in your affidavit, and yet you have not furnished the information which was sought.

.

You said, I suggest, that this company was relevant to the

00078

Order of the High Court and yet, you failed to make inquiries in relation to the accounts, you failed to furnish any accounts. In fact, you failed to disclose that you were a director at any stage of this company, isn't that correct?

A. That is your interpretation. It's not mine.

50 Q. Isn't it true, Mr. Lawlor?

A. It's not true. What has a refrigeration engineering company got to do with planning in County Dublin? I am not even in public life up to 1977, and we are talking about the sixties and seventies.

51 Q. We are talking also about the eighties, Mr. Lawlor. You have disclosed that you had, what you describe as a "recollection of companies" in which you were involved in as an executive shareholding and non-executive role.

A. I have given you the fullest information that's within my possession. I have turned my office upside down trawling through it to provide this information. You have 224 bank discoveries, Chairman. Why you cannot ask me to authenticate - we are now down to leasing agreements on photocopy machines and mobile phones and their accounts. And only in your last correspondence did you refer to hire purchase agreements. I never knew they were applicable.

52 Q. I see. Did you think it was relevant and necessary to refer to Irish refrigeration Limited and to HALL Thermotank Limited, both companies of which you were a director at various times and yet you failed to disclose in your sworn affidavit that you were in fact a director of those companies, isn't that right?

A. I did no such thing.

00079

53 Q. Would you point out to me where on page 66 or anywhere else in that affidavit you have referred to yourself as a director of either of those companies?

A. If you founded the company, then you must have been everything to do with the company.

54 Q. Where does it say that you founded the company, Mr. Lawlor?

A. On page 66, No. 1. "Irish refrigeration Limited. Founded in the early sixties." I founded it. This is my schedule.

55 Q. That, Mr. Lawlor, is not what you say?

A. You can interpret it that way, Mr. Gallagher.

56 Q. I see. Now, the next company is Irish Air Conditioning that you have referred to there. It's a company associated --

A. It's the very same, so the same arguments arise, if they are arguments. I endeavoured to put these down to be helpful. All it seems to do is lead to argument.

57 Q. MR. GALLAGHER: Mr. O' Neill points out to me that it's now --

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CHAIRMAN: Just after four.

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MR. GALLAGHER: -- ten past four. I don't know whether you wish to sit longer --

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CHAIRMAN: I am prepared to sit until half past four, because we started very late. I am assuming that we can make progress.

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58 Q. MR. GALLAGHER: All right. Mr. Lawlor, weren't you a

00080

director of Irish Air Conditioning Engineers 1974 Limited?

A. I founded that also, so whatever capacity one finds oneself in founding a company - I was whatever capacity being a founder was, director, executive, working 18 hours a day, etc., etc.. Yes. And Irish Insulations, although I had colleagues in that company, Mr. Beirne and Mr. O' Sullivan who are also associate directors, that was an insulation of which was a subsidiary, or an associate company and I made one of my managers a director and he ran that company.

And it was to provide a total package to the food processing sector, and it went on then to found this other company down in Mohill, County Leitrim, and I have spelled it out there, it's an omission on my part not to have specified that I was a director.

I don't believe the accounts are available to me. Maybe they are, I don't believe they are. And I thought by spelling out these companies, I was endeavouring to be of assistance to the Tribunal. I am sorry it doesn't appear that that was adequate, but that was what I was doing there.

59 Q. Are you aware of the statutory obligations imposed on directors of companies by the Companies Acts?

A. I have been a director of my own companies and a public quoted company, so with due respects, I would think that you probably know the answer. The answer is, of course I am aware. So are you trying to suggest that I was inefficient in my directorships?

60 Q. I am not suggesting anything. I am simply asking a question.

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A. You are asking, am I aware of the statutory requirements --

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CHAIRMAN: Mr. Lawlor, answer the question and don't get involved in arguments. Simple answers to the questions asked.

A. I have no intention of getting involved in arguments, Chairman.

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CHAIRMAN: Get on with the job now.

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61 Q. MR. GALLAGHER: You are aware that a company is required under the Companies Acts to keep proper books and records. It must record, for example --

A. I am so aware, yes.

62 Q. And records of sales --

A. I am aware of that, yeah. Very much aware of all that.

63 Q. Income --

A. Income, outgoings.

64 Q. Expenses, outgoings?

A. Audited accounts. Return to the Revenue annually, pay your taxes, all of that, yes.

65 Q. And that must be done on an annual basis?

A. And to the best of my recollection, was.

66 Q. And you are aware that the directors of a company must ensure that the company keeps proper accounts and records?

A. I have answered the question. I am aware of the responsibilities of a company, its ongoing and whatever it has to do.

67 Q. I am asking you about the responsibilities of directors as distinct from the accounts that a company must keep?

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A. I believe I am aware. I believe I have been aware.

68 Q. Now, so you confirm that you were a director of Irish Air Conditioning 1974 Limited?

A. Irish refrigeration, Irish Insulations.

69 Q. Just answer one question, if you would, at a time please, because I don't want you going too fast for me, I am afraid. You confirm that you were a director of Irish Air Conditioning?

A. Yes, whatever it is, yeah.

70 Q. And can you tell me who the directors of that company were in addition to yourself?

A. I think possibly the late Mr. Fred Barbour, my father-in-law, I think so, I couldn't be sure.

71 Q. I see. There is a Mr. Michael Monaghan?

A. I was the Financial Controller, so he - I would have thought he was Company Secretary.

72 Q. Who are the auditors of that company?

A. Irish Air Conditioning?

73 Q. Yes.

A. It would have been FG Blake.

74 Q. Did you ask FG Blake for any records or accounts that they might have in relation to this company before you swore the affidavit?

A. What I did was, when I received the Tribunal's letter, I sent it to Burns, Burke and Ryan who are now the successors to FG Blake, and they responded to the queries that you raised in your correspondence and provided me with the information that arose. I mean, they may have - I can inquire of them, do they have records going back to the seventies and eighties?

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75 Q. Mr. Lawlor, you were obliged by Order of the High Court to complete an Affidavit of Discovery. The sanction that's available to the High Court for non-compliance with its Order is attachment and committal, among others.

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Now, you had the responsibility of swearing the affidavit, compiling the information and furnishing the information, and it is not now a question, I respectfully suggest, to go off at this stage to your lawyers or to your accountants when you had an obligation to furnish the affidavit --

A. Mr. Chairman, I don't have the information you are looking for. And I couldn't have given it to you because I don't have it.

76 Q. Did you make inquiries or arrange to have inquiries made in the Companies Office in relation to the company in question prior to swearing the affidavit?

A. I didn't, because I saw these companies as having nothing to do with this Tribunal, and I did nothing to inquire about these matters. However, if I am given a ruling that these are applicable to the Terms of Reference of this Tribunal, I'll go off and do all that for you.

77 Q. Mr. Lawlor, may I remind you that you are the person who identified those companies as being relevant. You included them in your affidavit.

A. No, I didn't.

78 Q. And you included them in an obscure and less than frank way, I suggest, because you did not disclose that you were a director of those companies.

A. Mr. Chairman, I would not have included these companies other than in an attempt to be as informative to this

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Tribunal as I practically could be. We are talking about matters in the sixties and the seventies. I don't have the information, and the professional advisers are no longer in the same format as they were there and therefore, I have set out the information about these companies. If the Tribunal requires under the High Court Order or otherwise additional information which I don't have, and can endeavour to get for the Tribunal, notwithstanding the fact that they have nothing to do with your Terms of Reference, I will endeavour to secure them for you.

79 Q. Mr. Lawlor, did you make any inquiries - sorry - in the Companies Office, with the companies' auditors, with the companies' solicitor or any archives that you may have in relation to the affairs of any of those companies, or indeed with the Revenue Commissioners in relation to any of those companies?

A. With due respects, you have catalogued what I endeavoured to do for this Tribunal. That's what I did. I have turned my office, my home, upside down digging out any piece of information I have to provide to you and that's what I have done. If it's inadequate and it can be added to, I will be delighted to endeavour to put in another affidavit, but I am telling you, Chairman, I see nothing what the food processing and engineering sector has to do with the Terms of Reference of this Tribunal, and that is going to arise continuously as long as you attempt to pursue - and if the High Court Order - I totally misinterpreted the High Court Order in these matters as you are outlining them to me.

80 Q. Mr. Lawlor, the High Court and the Supreme Court have

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already held that these matters and that this affidavit is relevant - is and are relevant to the Terms of Reference to this Tribunal. So can we proceed on that basis please?

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You have identified these companies, and what I want to know is what you did or did not do in order to endeavour to obtain information to assist the Tribunal? The first thing I want to know is did you cause inquiries to be made in the Companies Office in relation to any one of those companies we have named?

A. I did not, because I didn't see it relevant to your Terms of Reference.

81 Q. Did you --

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CHAIRMAN: Just a moment. The answer to that question is "yes" and "no". Whether you see its relevance or not is not a matter for you. That matter was determined by the Supreme Court of this country, and I am not going to have you tell the Supreme Court what is or is not their business.

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Now, can we get on with this inquiry by a simple answer, "No, I didn't make the inquiries." Or "Yes, I did and the following was the result."

A. I have already said I did not, Chairman.

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CHAIRMAN: Mr. Lawlor, this crossfire must now cease.

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82 Q. MR. GALLAGHER: Mr. Lawlor, the question I want to ask you, and I'd like a simple answer, if possible, is whether you

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personally or through some other person or agent arranged for any search or inquiry to be made in the Companies Office in relation to any one of the companies we have mentioned here in the course of your evidence?

A. No, I did not.

83 Q. Did you make or cause any such inquiries to be made from any one of the companies' auditors before you swore any of the affidavits?

A. No, the auditors --

84 Q. Is the answer "no"?

A. The answer is "no". I don't think they are even available to me. I think they may be deceased.

85 Q. Well, Messrs. Blake are still available?

A. Messrs. Blake was taken over, and one of the practicing partners would have been the accountant during some of this period.

86 Q. And what is his name?

A. Mr. Patrick Burns.

87 Q. Did you make any inquiries from the companies' solicitors in order to assist you in compiling the affidavit and preparing the affidavits?

A. I can't even remember who the solicitors were. HALL Thermotank I think were Matheson Ormsby Prentice, but I don't know what solicitors we used back in the seventies, I don't know who they were.

88 Q. Did you make inquiries from the Revenue Commissioners asking for copies of any accounts or records that might have been furnished that you could in turn pass onto the Tribunal for its assistance?

A. No, I didn't.

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89 Q. Now, the next company is Economic Reports Limited.

A. Correct.

90 Q. Sorry, I beg your pardon, Modular Cold Storage. It's paragraph 3. Modular Cold Store Manufacturers is a company in which you say Irish Insulations merged its activities?

A. Correct, yeah.

91 Q. Were you a director of Modular Cold Store Manufacturers?

A. I believe I was a shareholder, possibly a Non-Executive Director.

92 Q. What do you mean by a "Non-Executive Director"?

A. I wasn't involved in the day-to-day running. I thought that Non-Executive Director is a member of the Board of the company that doesn't hold an executive position.

93 Q. I suggest that you were a director of that company?

A. I have just said I was a Non-Executive Director.

94 Q. Now, can I ask you did you make any inquiries from the auditors from the Companies Office, from the solicitors to that company --

A. Yeah, I made inquiries to the accountants and I have furnished the Tribunal with the disposal of my shareholding and the financial detail of that.

95 Q. When did you do that?

A. We received your letter requiring and requesting that information and I inquired of the accountants.

96 Q. The question is when did you do that, not what you did. When did you do that?

A. I don't know when I did it, but I got it on the 7th December and I furnished it to the Tribunal last evening or this morning.

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97 Q. Did you swear on this affidavit that you swore on the 6th December that you had no records?

A. Well, I didn't.

98 Q. Isn't that what you swore?

A. Yes. The accountants had the records.

99 Q. What inquiries or attempts to discover documents had you made prior to swearing that affidavit?

A. I trawled through my office.

100 Q. I see. And what records would you have in your office?

A. I don't know whether I had any, but I got the details from the accountant and I have submitted it to you.

101 Q. Mr. Lawlor, you swore in this document that you had no records. Now, forget about what happened after you swore this affidavit. You swore to this Tribunal, in this affidavit, that you had no records relating to Modular Cold Store Manufacturers, and I am asking you what efforts you made to get documents relating to that company before you swore that affidavit?

A. I trawled the office.

102 Q. You trawled the office?

A. Turned it upside down, yeah.

103 Q. Did you inquire from your auditors before you swore that affidavit?

A. No.

104 Q. I see. Did you go to the Companies Office?

A. No, I didn't. Excuse me, what would I go to the Companies Office for?

105 Q. Why did you not disclose that you were a director of the company?

A. No specific reason. No problem in declaring it at all.

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And again I founded that company.

106 Q. Economic Reports Limited, the next company, what can you tell me about that company?

A. I think we just registered the name of the company with the intention of it trading, but it never actually traded. It did have a bank account and I have given you the details of it. And that's as much as I can recollect about it.

107 Q. Can you say who registered the name of the company with the intention of trading?

A. I think it might have been a solicitor in Clondalkin, the late Frank O'Mahony, possibly, I am not sure.

108 Q. You said, "We just registered the name of the company." I take that you and somebody else, you personally or otherwise?

A. Normally one of these shelf companies, you know, either a legal practice or one of these --

109 Q. What I am interested in establishing is who, along with yourself, established this company?

A. I can't recall, I don't have the record.

110 Q. You can't recall?

A. No.

111 Q. What was the purpose for which it was established?

A. The purpose was to do consultancy work but never actually did. I registered the name, intending to use it, and to the best of my recollection, it never traded.

112 Q. Who were the other directors of the company?

A. I can't recall. I think it might have been my wife. I am not sure.

113 Q. Who opened the accounts of the company, the bank accounts of the company?

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A. I would have done that.

114 Q. Can you remember where the accounts were?

A. No, but it's on the list here somewhere I think. An account in the Bank of Nova Scotia, we got a facility from that and I think it was Lucan, Bank of Ireland. I mean that information has been provided to you.

115 Q. Sorry, just so I am clear on this. Are you saying these are the accounts - have you got page 62?

A. Yeah, I have, yes.

116 Q. That's the Economic Reports, Bank of Ireland, Lucan --

A. It says No. 9 there. No. 10.

117 Q. 63551061 and No. 10, savings account, 8928812. And these accounts were opened between 1985 and 1992 respectively and February 1989 --

A. I don't see "savings account" there. I just see "Bank of Ireland, Lucan. Economic Reports. Current account and Bank of Ireland", yeah, "savings account" and then there was a Bank of Nova Scotia I think, which was in the name of that company also.

118 Q. I just don't understand what you intended to convey when you said that this company did not trade. It never traded?

A. It never completed trading or returned accounts or whatever because it never actually traded. It got a loan facility, I recall, from the Bank of Nova Scotia which it eventually repaid.

119 Q. Mr. Lawlor, I just had a look at those accounts which you furnished with your affidavit of the 6th November. You furnished a box of documents, including accounts, and according to those accounts, the first account, this is

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account number 63551061, had lodgments totalling ú161,870?

A. Yeah, it could be, if it's there, it was lodged.

120 Q. How can you say that a company wasn't trading in circumstances where it had a through-put on that account of more than ú161,000?

A. Well, I think part of that would have been probably a loan, a substantial part of it.

121 Q. These are lodgments. Where did the loan come from?

A. The loan is detailed in your information I think, from the Bank of Nova Scotia, ú50,000. I am nearly sure that was in Economic Reports.

122 Q. You see, it appears from the accounts that in 1985 ú12,340 was lodged to that account?

A. Yeah.

123 Q. In 1988 ú18,846 was lodged, and in 1989 ú130,683 was lodged. Now, I wonder do you have any documents relating to any of those lodgments that would assist the Tribunal in establishing the source of the monies or the reason in --

A. No, we wrote to all the banks and asked them.

124 Q. I am not interested in the banks for the moment, Mr. Lawlor. I am wondering if you had somebody in control of this company which was not trading, have available to you any bank accounts - sorry - any accounts or records showing the income of the company, showing how this money was earned or in what circumstances and for what reason it was received?

A. I don't have the records, but my recollection is that probably ú50,000 of it was a loan and the balance of it could have been transferred from Advance Proteins.

That's - you know, I am only --

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125 Q. This is the non-trading company that you refer to?

A. Yeah, it would have been used to discharge accounts and debts and so forth, and I think funds came into Advance Proteins and they may have been transferred to Economic Reports.

126 Q. Did I understand you to say - I may have to go back on the transcript to check this - did I understand you to say that no audit annual returns were filed in respect of this company?

A. That's my recollection.

127 Q. Wasn't there an obligation to return annual returns in respect --

A. No, I don't believe there was.

128 Q. Did you make any inquiries as to whether or not such obligation existed?

A. I would have been aware.

129 Q. I suggest to you that there is an obligation to return all income of whatever kind, whether the company is actually trading or not, that trading is only one source of or potential source of income. One may have rental income, if it's not trading. One may have dividend income which is not a trading income.

A. All of those accounts have been disclosed to the Revenue Commissioners.

130 Q. Well, I take it that you'd have no difficulty then with the Tribunal making inquiries from the Revenue Commissioners in relation to those particular accounts?

A. Well, I see them of no relevance to the Terms of Reference.

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CHAIRMAN: That's not the question you were asked.

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131 Q. MR. GALLAGHER: Would you have any difficulty with the Tribunal having access to those accounts from the Revenue Commissioners?

A. I will give you whatever information I have and they can do likewise. I have no problem whatsoever.

132 Q. Is the answer that, you have no problem about the Tribunal having access to the accounts of this company, Economic Reports Limited, such records as the Revenue Commissioners may have?

A. I will discuss that with my accountants and I will refer to you.

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CHAIRMAN: I thought you said you had no problem?

A. I considered it and I will refer to it tomorrow.

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CHAIRMAN: I thought you said to me that you had no problem. Why are you changing your answer?

A. I am telling you, Chairman --

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CHAIRMAN: Why are you changing your answer?

A. I have no reason to be changing my answer. I just want to reflect on the matter and revert and give you whatever information I can.

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CHAIRMAN: Haven't you also stated in your affidavit, sworn to the fact that this company never traded?

A. And I stand over that view.

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CHAIRMAN: It's unusual to find a company that has never traded which appears to have had some form of income in the form of something over ú180,000.

A. Well, if it borrowed money, do you term that as "trading"?

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CHAIRMAN: You didn't - you suggest that you borrowed ú50,000?

A. Correct.

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CHAIRMAN: But you appear to have obtained or acquired, in the name of that company, something in excess of 180,000.

A. There could have been an inter-transfer from another account, which I haven't established because I don't have the records. So it doesn't necessarily mean it's income.

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133 Q. MR. GALLAGHER: Mr. Lawlor, I have given you details of what appears from the documents that you furnished to this Tribunal --

A. Correct.

134 Q. -- relating to the particular account in question in the name of Economic Reports Limited. Can I just refer you to what the savings account of the same company in Bank of Ireland, Lucan, account number 89288812 discloses, and this was an account which was opened, according to what you have told us, in the period, or between the period 10th February, 1989, and the 7th March, 1994. Our analysis of that account suggests that a total of ú60,077 approximately was lodged to that account which, just slightly in excess

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of ú60,000 was lodged in 1989?

A. I don't have a record of the detail of it. I have provided what I could to the Tribunal.

135 Q. Can you assist the Tribunal in indicating what documents or invoices or receipts or acknowledgements --

A. I don't have any.

136 Q. You don't have any?

A. No, if I had I would have given them to the Tribunal.

137 Q. Can you assist the Tribunal in indicating where that money came? I should tell you, Mr. Lawlor, that the figures I am giving are net figures. They exclude inter-account transfers.

A. I am not so aware.

138 Q. Well, I am telling that you this is the analysis, and if you wish to have somebody else analyse it, you are perfectly free to do so.

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As a matter of interest, have you had these accounts which you have furnished to us analysed - not accounts, but the copy statements analysed?

A. Yes.

139 Q. And what did your analysis show?

A. The analysis was to establish the totality of any lodgments into any account that I ever had.

140 Q. And who prepared that analysis?

A. We secured all the bank statements and the accountants have compiled all of that.

141 Q. Who is the accountants?

A. Burke, Burns and Ryan.

142 Q. Did you mention, in the course of correspondence, that you

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were arranging for your accountants to have a full analysis done, and that it was your intention to facilitate the Tribunal by furnishing this information to the Tribunal?

A. It wasn't for the purpose of the Tribunal.

143 Q. It wasn't for the purpose of the Tribunal?

A. No.

144 Q. Does it follow that you are not willing to make this information available to the Tribunal?

A. I will revert to the Tribunal when I discuss the matter with the accountants.

145 Q. I see. Now, you were summonsed here by the Tribunal and ordered by the High Court to come here to answer questions in relation to the documents which you were producing and documents which were relevant to the material which was referred to and the matters that were referred to in the orders of the Tribunal. It seems to me that you are not in a position to answer many of those questions.

A. I came here in the clear knowledge that a lot of these matters that you are raising are not within your Terms of Reference.

146 Q. Mr. Lawlor, that's a tune that you have played on many, many occasions, and the Sole Member has already told you that he is not going to attempt to second-guess the highest court in this land. The Supreme Court, and the High Court before it, has directed that this is relevant and whether you think it's relevant or not relevant, that's all that matters.

A. With due respects, Chairman, Judge Nicholas Kearns found differently than in the Supreme Court. Five unanimous --

147 Q. That's a different district --

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A. You found that your Terms of Reference, that you were exceeding them then.

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CHAIRMAN: Mr. Lawlor, there are two orders, one of the High Court and one of the Supreme Court, both of which are in front of me, which certainly declare that the queries we are making now are relevant. Now, I don't want any further questions raised by you challenging the Supreme Court.

A. I am not doing any such thing, Chairman.

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CHAIRMAN: I now further require you to obey the Supreme Court Order and answer the questions.

A. I believe I am.

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148 Q. MR. GALLAGHER: Mr. Lawlor, do you have any records or accounts, invoices, receipts, documents, notes, memoranda of any description in relation to Economic Reports Limited?

A. Chairman, with due respect, if I had them, the Tribunal would have them.

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CHAIRMAN: That's not the answer. It's either "yes" or "no".

A. No, I do not. Because I was under discovery to provide them and if I had them you would have got them.

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149 Q. MR. GALLAGHER: You, Sir, have already provided copies of statements in relation to Economic Reports Limited.

A. Which I secured from the banks. I didn't have them.

150 Q. Is it the position, Mr. Lawlor, that in the majority of

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cases in relation to the accounts and statements which you furnished to the Tribunal, you in fact asked the bank concerned to give you copies of the documents they had already furnished to the Tribunal and you in turn furnished the copies that you got from the bank onto the Tribunal?

A. That is absolutely correct. And can I just say

Chairman - Mr. Chairman --

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CHAIRMAN: Mr. Lawlor, I do not want a discussion with you.

A. I am entitled to a point of order, Chairman.

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CHAIRMAN: Mr. Lawlor, this is not a place where you can raise points of order. You answer questions and only answer questions. Now, let's get on with this inquiry in that form. I will not tolerate any further interruptions by you of this kind.

A. Regarding these bank accounts, is there some problem with the Tribunal having the information and providing it to me so that I can authenticate it for you and save all this time wasting? And when Mr. Hardiman, Supreme Court judge now, was in front of the Tribunal in private session, a lot of this information was sought and was promised. Now, if you provided bank information --

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151 Q. MR. GALLAGHER: Would you please confine yourself to answering questions?

A. No, I won't. I will make points of order.

152 Q. It is not a point of order. It is not appropriate or necessary.

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CHAIRMAN: Mr. Lawlor, may I once again tell you firmly and finally, that I will not tolerate interruptions by you on what you claim to be "points of order". I am directing you, as the High Court directed you, and as the Supreme Court directed you, to come here and answer questions in relation to those accounts. That's what you are here for and that's what you are going to do.

A. And under discovery, Chairman, I have given you what information I have. So why waste time and the taxpayers' money here?

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CHAIRMAN: Because we are entitled to inquire into the information you have given us, to inquire whether it is valid and complete.

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Now, this is an end to this discussion. From now on, you don't interrupt proceedings of the Tribunal and you answer the questions in the first instance "yes" or "no", and if you want to add an explanation, of course you are entitled to. Now, let me be quite clear about this.

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153 Q. MR. GALLAGHER: Mr. Lawlor, there is one further account in relation to Economic Reports Limited, the company which never traded in respect of which you furnished bank statements that I wish to put to you, and that is the account of that company in Nova Scotia Bank in Stephen's Green. Current account number 13129. Which appears to have operated from the 1/2/89 to the 7/3/1994. In 1989 there was a sum of ú4,200 odd lodged. Have you any

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documents or records in relation to that amount?

A. No.

154 Q. In 1990 there was a sum in excess of ú55,000 lodged to that account. Have you any records or documents in relation to that?

A. No, I don't.

155 Q. In 1991 there was a sum in excess of ú18,000 lodged. Have you any documents or records - can you assist the Tribunal in any way in relation to those figures?

A. I have sought from the bank and sent everything I have to you.

156 Q. You sought copies of statements --

A. And if the bank have any further details then, you know, I don't have it, maybe the bank does.

157 Q. Mr. Lawlor, what you were required to do, if I can remind you again. The summons which has been upheld by the High Court and the Supreme Court requires you to give evidence to the Tribunal in relation to the documents and records mentioned in paragraphs A --

A. I am well aware of that.

158 Q. I want to remind you.

A. You don't need to.

159 Q. I want to remind you.

A. You don't need to.

160 Q. "...To give evidence in relation to the document mentioned in paragraphs A, B and C in the orders of the Tribunal served upon you."

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What I am asking you is to give evidence in relation to any documents which you may have in relation to any of the

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amounts which I have referred you to and which relate to the account in question. You have told me you have no documents in relation to the sum in excess of ú55,000 lodged in 1990. Do you have any documents in relation to the sum of ú18,000 plus lodged in 1991?

A. I have just said "no" earlier on.

161 Q. Do you have any documents or records or can you provide the Tribunal with any further evidence or information in relation to the sum of ú3,400 approximately lodged in 1992?

A. No, I can't provide you with any information.

162 Q. Do you have any information or do you have any records or can you provide any assistance to the Tribunal in relation to the sum of ú12,000 plus lodged --

A. No, no, I can't. If I had it I would have given it to you. I don't have it.

163 Q. -- lodged in 1993? I take it the answer is "no"?

A. No.

164 Q. And do I take it that the answer is "no" to the same question in respect of the sum of more than ú6,000 lodged in 1994?

A. That's correct, yes. I don't have the information.

165 Q. Now, I am asking you about documents not only that are in your possession but are in your power and procurement. In other words, documents that you can get from your accountants, from your bank, from your solicitors, from your auditors, from the Revenue Commissioners, or from anybody else. Are you saying --

A. That's my recollection. I wrote and asked the Bank of Nova Scotia to provide me with any information I had regarding these accounts so I could forward them to you,

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and what I have received I have forwarded. I am also aware that you put a discovery on the said bank and maybe they have given you more information than they gave me, because one bank paid me the courtesy of sending me a copy of everything the Tribunal got, and other banks didn't.

166 Q. What bank was that?

A. National Irish Bank. I requested from the banks, copies of the information that they were giving to the Tribunal to ensure that I could endeavour to be as informative as possible.

167 Q. So that you could assist the Tribunal by forwarding onto the Tribunal copies of what they had already received from NIB, is that correct?

A. That is exactly what you are asking me to do, time wasting in my office for the last month and you have the information, and it sounds like it's a sort of entrapment process here, that you have been receiving information from banks and you are not prepared - and it's to do with my account and you won't let me - and you end up looking for hire purchase agreements and mobile phone leases, wasting time.

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It is unreal, Chairman, that this bank situation should be treated the way it is. If you have information about my bank accounts, let me have it and I'll be delighted to confirm to you, Chairman, that it was my account and I will explain any information I can to you. I can do no more than that.

168 Q. Mr. Lawlor, that again is a constantly recurring theme from you. You ask to be confronted or to be provided with the

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documentation or the material or the evidence --

A. I am not confronted - what's confronting me? Why are you attempting to confront me with my own paperwork from my own bank accounts? If I don't have it I can't give it to you. But if you have it and if you let me have it and I will stamp it and sign or affidavit it or whatever else you wish me to do for you. Is there some problem with that, Chairman?

169 Q. Mr. Lawlor, I find it very difficult to understand how you say that you have no records whatever in your possession or power or procurement. In other words, that you can't obtain by asking, in respect of a company which you say, which you have sworn never actually traded and which, on the basis of the statements from the three banks that you have furnished to us had a through-put in lodgments in excess of approximately ú320,000?

A. Yeah, and it was 15, 16, 17 years ago and I don't have the information.

170 Q. It's not 15 --

A. 1985, Economic Reports. 1989 --

171 Q. It started then, but from 1989 onwards there were significant lodgments, including in '88, for example, 212,000 into one account.

A. What date was that?

172 Q. That was in 1988.

A. I don't have the information. It's about ten or twelve years ago.

173 Q. I am sorry, I misled you, I am sorry. ú130,000 in 1989.

A. I don't have that information going back that far.

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CHAIRMAN: Mr. Lawlor, do you always forget sums of
ú130,000 when you receive it?

A. No, I don't.

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CHAIRMAN: I see.

A. But I don't have the records of that period of time.

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CHAIRMAN: Do you require records just to refresh your
memory for this sort of money?

A. I mean, I don't have the information.

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CHAIRMAN: Can you tell me what your Dail salary was in
1986 or 1994?

A. I can't remember what it was. It was probably - 16,000
when I was first elected so it was, whatever it was.

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CHAIRMAN: So 130,000 was a substantial sum money worthy of
some degree of regard by you, isn't that so?

A. Oh yes it was, yeah.

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CHAIRMAN: And do you recall what type of business yielded
this sort of product?

A. No.

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CHAIRMAN: Who was the client? Who was the source of this
sort of money?

A. I don't have the details. I just don't have the
details. I can't provide you with what I don't have.

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CHAIRMAN: And you don't have any recollection at all, is

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that what you are telling me?

A. That's correct, yes.

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CHAIRMAN: And is that going to be the evidence you are going to give right up to the present date in relation to the accounts which are before the Tribunal at this moment?

A. You will have to await that evidence, Chairman.

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CHAIRMAN: I see. Perhaps you will go home tonight and think about how you are going to assist and cooperate and generally speaking, help with the inquiries of this Tribunal in a civil manner. And I will adjourn the proceedings until tomorrow morning at half past ten.

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THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
WEDNESDAY, 13TH DECEMBER, 2000, AT 10.30AM.

