

1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY.**

2 **9TH JULY 2008, AT 10:30 AM:**

3

4 MS. DILLON: Mr. O'Callaghan, please.

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

7 **MS. DILLON AS FOLLOWS:**

8

9 CHAIRMAN: Now, Mr. O'Callaghan.

10

11 MS. DILLON: Mr. O'Callaghan, please.

12

13 CHAIRMAN: Good morning, Mr. O'Callaghan.

14 A. Good morning, Chairman. May I say just a word, Chairman, please. I

15 apologise for not being here last week.

16

17 CHAIRMAN: No, these things happen.

18 A. I had the flu. Thank you.

19

20 Q. 1 MS. DILLON: On the last occasion on which you were here, Mr. O'Callaghan,

21 you had been giving evidence to the Tribunal about your first meeting with

22 Mr. Dunlop attended by Mr. Gilmartin and Mr. Lawlor, isn't that correct?

23 A. Yes.

24 Q. 2 Before that I should have put to you in summary form, the evidence of Mr.

25 Gilbride and Mr. Colm McGrath in relation to the motion that was lodged in

26 February of 1991, and that both Mr. McGrath and Mr. Gilbride told the

27 Tribunal that they were not put under any pressure by either yourself or

28 the bank in connection with not lodging the motion in sufficient time and

29 that would be in accordance with your own evidence, isn't that right?

30 A. That's correct.

1 Q. 3 Now, if I can just ask you to tell the Tribunal what you remember of the
2 meeting, what you say happened at the first meeting that took place between
3 yourself, Mr. Dunlop, Mr. Lawlor and Mr. Gilmartin?

4 A. That meeting took place shortly after I ended up in the lobby of the Dail
5 with Tom Gilmartin and both of us, we were to meet, Tom was to meet
6 somebody who did not turn up. And both of us waiting for a while we bumped
7 into Liam Lawlor who asked us what our problem was and we explained it to
8 him. I also introduced him to Tom Gilmartin, not knowing that he actually
9 knew Tom Gilmartin at the time. And both of us, he suggested that we
10 should do something because the vote would be coming up pretty soon and we
11 were going nowhere. And I asked him what should we do and he suggested
12 that we should meet somebody that would help us to reorganise our vote and
13 get the vote organised etc. for the Development Plan.

14
15 And he said that the right person to do that and the best person in his
16 opinion to do that was Frank Dunlop and I said that would be a good idea
17 and we went back to his -- I asked him could he introduce us and he did
18 that that same morning.

19
20 So the three of us both Tom Gilmartin, Liam Lawlor and myself went back to
21 meet Frank Dunlop in his office and at that meeting Tom Gilmartin outlined
22 his plans for Quarryvale and outlined where he expected to go and the site
23 was developed etc. And seemed very confident that he could get it going
24 himself, that he was capable of getting that development off the ground
25 himself and that he had mentioned quite a lot of, well that he had contacts
26 at senior political level, he didn't outline any of them to us but he said
27 that he had them. And he was confident that his project would get going.
28 And he gave the distinction impression that he didn't really want any help
29 from any of us. The conversation more or less went like that, lasted
30 probably an hour. Tom was adamant that he didn't want Frank involved,

1 Frank Dunlop involved. And passed some nice pleasantries and then we left.

2 Q. 4 And was this your first meeting with Mr. Dunlop, Mr. O'Callaghan?

3 A. Yes, it's my first time meeting him.

4 Q. 5 And Mr. Dunlop was recommended to you by Mr. Lawlor, is that correct?

5 A. Yes. That's correct.

6 Q. 6 And your meeting with Mr. Lawlor outside the Dail was an accidental meeting
7 and not in any way arranged, is that correct?

8 A. That was an accidental meeting in the lobby of the Dail to the best of my
9 knowledge. I was there with Tom Gilmartin and Liam Lawlor simply bumped
10 into us.

11 Q. 7 Yes. And Mr. Lawlor then brought yourself and Mr. Gilmartin to meet with
12 Mr. Dunlop on a non-arranged basis, in other words, the meeting with Mr.
13 Dunlop hadn't been prearranged, isn't that correct?

14 A. That is correct, yes.

15 Q. 8 So you knew nothing about Mr. Dunlop prior to Mr. Lawlor making a
16 recommendation to you that you should meet with Mr. Dunlop and that he was
17 the person who helped you achieve your aims, is that right?

18 A. That's correct.

19 Q. 9 Right. So you, at your first meeting with Mr. Dunlop it became clear to
20 you that Mr. Gilmartin wouldn't entertain Mr. Dunlop, is that correct?

21 A. That's correct, yes.

22 Q. 10 Now, can you just expand on that for the Tribunal. How did Mr. Gilmartin
23 express his dissatisfaction with Mr. Dunlop?

24 A. Well he wasn't explicit. He just said that he did not need any help that
25 he would be -- he felt that he was capable himself of getting Quarryvale
26 rezoned and he didn't need any help from anybody else. That he was
27 speaking to people at senior political level and that's all he wanted and
28 he didn't want anybody else to get involved. He didn't elaborate and he
29 was extremely polite and he spent the rest of his time telling us about his
30 achievements in the UK prior to this.

- 1 Q. 11 Did Mr. Gilmartin subsequently tell you that he didn't want Mr. Dunlop
2 involved?
- 3 A. When we left the building that day, we walked out together the two of us
4 out on to the street. And incidentally there were no cars or anything like
5 that involved I can assure you.
- 6 Q. 12 Uh-huh.
- 7 A. He just said to me that he would prefer to not to get involved with Frank
8 Dunlop and left it at that.
- 9 Q. 13 Did Mr. Gilmartin ever say to you that he didn't want Mr. Dunlop involved
10 because Mr. Dunlop was a bag man for politicians?
- 11 A. Not at all.
- 12 Q. 14 Did Mr. Gilmartin ever say to you that he didn't want Mr. Dunlop involved
13 because of Mr. Dunlop's association with the late Mr. Liam Lawlor?
- 14 A. No, not at all.
- 15 Q. 15 So you disagree then with Mr. Dunlop's evidence to the Tribunal that you
16 told him that the reason why Mr. Gilmartin didn't want Mr. Dunlop involved
17 is because of Mr. Lawlor's association with Mr. Dunlop?
- 18 A. Yes, I do, yes.
- 19 Q. 16 All right. So other than Mr. Gilmartin's belief that he could progress the
20 matter without Mr. Dunlop, there was nothing else said by Mr. Gilmartin
21 about Mr. Dunlop, is that right?
- 22 A. That's correct, that's what happened at the time, yes.
- 23 Q. 17 Right. You yourself knew nothing about Mr. Dunlop to the point in time
24 which you first met him, is that correct?
- 25 A. I just heard of his name that's all.
- 26 Q. 18 But you had never met him?
- 27 A. Never met him.
- 28 Q. 19 And you went to meet him on the basis of a recommendation from Mr. Lawlor?
- 29 A. With Mr. Lawlor, yes.
- 30 Q. 20 Right. Now, at the meeting Mr. Dunlop has told the Tribunal at the first

1 meeting was mainly taken up with Mr. Gilmartin outlining what I think Mr.
2 Dunlop described as Mr. Gilmartin's grandiose plans for Westpark, and do
3 you agree with that?

4 A. Yes. Correct.

5 Q. 21 What contribution did Mr. Dunlop make to the meeting?

6 A. Very little actually.

7 Q. 22 Right.

8 A. Very little.

9 Q. 23 Right. And was there any discussion for example about how one would go
10 about achieving a rezoning or a switch of the town centre zoning from
11 Neilstown to Quarryvale?

12 A. We didn't even get to that actually.

13 Q. 24 All right. So, what did you do then after you left the meeting and Mr.
14 Gilmartin expressed his view to you that he didn't want Mr. Dunlop
15 involved, what step did you take next in relation to Mr. Dunlop?

16 A. Well approximately two days later I went back to Mr. Dunlop myself.

17 Q. 25 Yes. And how did you arrange that, Mr. O'Callaghan?

18 A. I rang him that morning and popped in to see him.

19 Q. 26 Right. And why did you want to do that?

20 A. Well, quite simply, that evening when I left, when I left Frank Dunlop's
21 office with Tom Gilmartin, that evening well I think the two of us went as
22 far as Buswells Hotel as far as I know, that's where he was staying. And I
23 had briefly met on that particular afternoon or evening, I met him with
24 him, Councillor McGrath and Gilbride. And Tom introduced them to me and
25 didn't want me to get involved any more with them than that. So the
26 conversation lasted a few minutes and I left and went off about my own
27 business. I'm not sure what I did, I went back to Cork or stayed in Dublin
28 that night, I can't remember. But the following day it was arranged that
29 Tom Gilmartin and myself would meet some people in a particular pub in
30 Clondalkin. And we went to do that and we had that meeting actually the

1 two of us. And it wasn't very successful. And when we came back after
2 that meeting I, Tom went back to Luton, he had other problems on his mind I
3 think at that stage and I decided I was left on my own in Dublin and so I
4 decided I better do something about this, I thought it would be better for
5 us to get anything moving with regard to Quarryvale. I was now very much
6 involved, that I better go back to Frank Dunlop and see if we could get our
7 lobbying system going. And that's exactly what I did.

8 Q. 27 You were basing your decision to take on Mr. Dunlop on what actually, Mr.
9 O'Callaghan?

10 A. On the basis that Frank Dunlop would be, from what Liam Lawlor had told me,
11 would be in a position to introduce me to the local councillors, county
12 councillors.

13 Q. 28 In other words, rather than anything that Mr. Dunlop had said to you at the
14 first meeting, you were basing your decision to employ Mr. Dunlop on the
15 recommendation of Mr. Lawlor, is that fair?

16 A. That is correct, yes.

17 Q. 29 Right. Now, if I can just take you back there to something that you just
18 mentioned that Mr. Gilmartin, you said, had problems of his own at the
19 time. Are you referring there to Mr. Gilmartin's problems with the Revenue
20 Commissioners?

21 A. Yes.

22 Q. 30 Right. I'll come back to deal with that shortly, Mr. O'Callaghan. And can
23 I take you back now to one other matter you mentioned which was a visit to
24 a pub in Clondalkin. Isn't that right?

25 A. That's right.

26 Q. 31 Can you just tell the Tribunal what you're talking about there, Mr.
27 O'Callaghan?

28 A. Well there was probably around the first week few days in March 1991. And
29 a meeting had been arranged for us to meet six or seven ladies in a public
30 house in Clondalkin. This meeting was arranged by Liam Lawlor, I think

1 these would have been people that he would have known in his constituency
2 there. But he asked me would I go and meet them together with Tom
3 Gilmartin and a time was fixed. And the day after our first meeting, the
4 first meeting we had in Frank Dunlop's office with Tom Gilmartin, Liam
5 Lawlor Frank and myself. That the following day it was arranged that we
6 would meet them and both Tom and myself travelled to meet the ladies in
7 this particular pub in Clondalkin, a pub called Finch's Pub.

8

9 And all these people were interested really to know what was happening with
10 this alleged Quarryvale project and when it would start and would there be
11 employment there for their husbands and boyfriends and partners and sons
12 and daughters and themselves even. Tom best spent the best part of the
13 hour we were there telling them about his achievements in the UK etc. what
14 have you. It didn't work out too well and by the time the hour was up I'm
15 afraid we were just talking to ourselves. The ladies just walked away and
16 left us there.

17

18 So we left the pub and we had to walk quite a distance to get a taxi to get
19 back to town. I remember saying to him at the time that we were trying to
20 get local support and I didn't want him to be telling the various people
21 about his exploits in the UK and try to stick to the local -- stick to what
22 we were trying to do. And that's what actually happened at that particular
23 meeting.

24 Q. 32 And what was it about that meeting that so concerned you, Mr. O'Callaghan,
25 that you felt you should return and get the assistance of Mr. Dunlop?

26 A. Well I felt I wasn't going anywhere with Tom Gilmartin actually. He was
27 just kind of wondering around the place really. I did not know anybody. I
28 was completely on my own. I knew one politician, that was Liam Lawlor. So
29 I decided if something was to happen because the vote I believed could have
30 come up any time at that stage, the Development Plan vote. So I had to go

1 and see somebody and do something about it. I went straight back to Frank
2 Dunlop to see what we could do about this and see could if we could get our
3 plan going.

4 Q. 33 When Mr. Lawlor recommended to you to take on Mr. Dunlop, what did
5 Mr. Lawlor tell you about Mr. Dunlop?

6 A. He told me that he was the one person that would have known most of the
7 County Councillors.

8 Q. 34 Would you have --

9 A. And that he could introduce me to sorry.

10 Q. 35 Mr. Lawlor could of course himself have introduced you to every single
11 councillor because he worked with them and was then a member of the
12 Council, isn't that right, Mr. O'Callaghan?

13 A. That's right, yes.

14 Q. 36 Would you have had any difficulty in Mr. Lawlor carrying out that function
15 or role for you and introducing you to other councillors?

16 A. Well that wouldn't really have worked.

17 Q. 37 I beg your pardon?

18 A. That wouldn't have really worked.

19 Q. 38 Why was that?

20 A. Well, you want cross party support to be successful.

21 Q. 39 I beg your pardon.

22 A. You would want cross party support for our vote to be successful.

23 Q. 40 Well, in 1991 as you know, Mr. O'Callaghan, it was a Fianna Fail majority
24 council, isn't that right?

25 A. Yes.

26 Q. 41 And if one had all of the Fianna Fail Councillors voting for one, any
27 rezoning would be passed, isn't that right?

28 A. Yes, that's right.

29 Q. 42 And I assume that the late Mr. Liam Lawlor would have told you or indeed
30 Mr. McGrath when you met him, that in fact this was a Fianna Fail

1 controlled County Council, isn't that right?

2 A. Well, I wasn't sure of that at the time actually. And the only person I
3 would have met at that particular time would have been the late Liam
4 Lawlor.

5 Q. 43 Yes.

6 A. And to answer your question again, I don't think he would have support of
7 the full Fianna Fail Party in the County Council.

8 Q. 44 Yes but insofar as your political information was concerned, Mr.
9 O'Callaghan, is it your evidence to the Tribunal that you were unaware or
10 did not know that the 1991 Council of Dublin County Council was a Fianna
11 Fail dominated council?

12 A. That is my evidence. I did not know that.

13 Q. 45 Right. When did you first become aware of the fact that Fianna Fail had a
14 majority on the 1991 Dublin County Council?

15 A. Oh, I would say two or three weeks after starting our lobbying, that would
16 middle to end of March of that year.

17 Q. 46 And it would follow from that, that if you had all of the support of the
18 Fianna Fail Councillors and they were all voting, that you would succeed in
19 passing your motion?

20 A. That's right, yes.

21 Q. 47 You yourself were and were known to be, as I understand your evidence, a
22 Fianna Fail supporter, isn't that right?

23 A. Yes.

24 Q. 48 Did you know that Mr. Dunlop had Fianna Fail connections?

25 A. Oh, yes oh, yes.

26 Q. 49 Did you retain Mr. Dunlop because of his perceived Fianna Fail connections?

27 A. Possibly, yes.

28 Q. 50 And would you have known from your conversations with Mr. Lawlor that Mr.
29 Dunlop was well known in Fianna Fail circles and had very good Fianna Fail
30 connections?

- 1 A. Yes.
- 2 Q. 51 Right. Now, if I can just take you back to this meeting with these women
3 in the pub in Finch's pub in Clondalkin, Mr. O'Callaghan. You tell the
4 Tribunal that was arranged by Mr. Lawlor, is that right?
- 5 A. To the best of my knowledge. It could only have been arranged by him
6 because I didn't know anybody else.
- 7 Q. 52 Yes. Did Mr. Lawlor write to but that?
- 8 A. Oh, no no.
- 9 Q. 53 We have seen that earlier in February following on the lodging of the
10 motion on the Friday the 15th of February, that within a number of days he
11 had sent faxes with detailed information to your office, isn't that right?
- 12 A. Yes, that's right.
- 13 Q. 54 And you will know that Mr. Lawlor made extensive discovery to the Tribunal
14 in relation to Quarryvale prior to his death and that he hasn't discovered
15 any documentation that shows him arranging meetings anywhere for you in or
16 around the period March, April?
- 17 A. Yeah.
- 18 Q. 55 And you agree with that?
- 19 A. Yes.
- 20 Q. 56 And do you have any documentation, Mr. O'Callaghan, detailing any of the
21 meetings or contacts such the as the one you've just described to the
22 Tribunal?
- 23 A. No.
- 24 Q. 57 Right. How did you, how did you get out to Finch's pub, Mr. O'Callaghan?
- 25 A. First of all I'm assuming that it was Liam Lawlor made that arrangement
26 because I didn't know anybody else and I don't know of any anybody else at
27 that particular time who could have made that appointment because I did not
28 know, did not know Councillor McGrath at that time.
- 29 Q. 58 Yes. You are aware of Mr. McGrath's evidence to the Tribunal that he
30 believes he met with you and with Mr. Gilmartin on a number of occasions in

1 early 1991?

2 A. As I've told you, I did the end of February first few days of March I met
3 him for the first time in Buswells Hotel.

4 Q. 59 But prior to that you hadn't met him?

5 A. I didn't know of him. So nobody else could have made that arrangement
6 except Liam Lawlor. I don't know of anybody else who could have done that,
7 it must have been him. Unless Tom Gilmartin did it and I doubt that very
8 much. To answer your question we got to this pub by taxi.

9 Q. 60 And can I ask you, Mr. O'Callaghan, why it was you were meeting with, I
10 suppose a lobbying group or a focus group of women in Clondalkin at a time
11 when there had not been any public announcement about the fact that you had
12 not joined forces with Mr. Gilmartin?

13 A. That's right. Well I think, that's why I'm pretty sure it was Liam Lawlor
14 did that because he would have known that.

15 Q. 61 Yes. But I've asked you -- If I you just answer the question about why it
16 is that you are presenting a joint front with Mr. Gilmartin to these women
17 in Clondalkin, at a time when you have not yet made any announcement about
18 the fact that yourself and Mr. Gilmartin had joined forces, isn't that
19 right?

20 A. Yes.

21 Q. 62 Yes. So why was that?

22 A. There wasn't any need to make any announcement. I'm assuming that Liam
23 Lawlor asked me to meet these people. They wanted to know what was
24 happening. I was hoping at that stage trying at that stage to try getting
25 support for Quarryvale from ground level up. This was at least a start.

26 Q. 63 So at this stage then, this is early March, late February, is that correct
27 1991?

28 A. Yes.

29 Q. 64 You were already engaged in a joint promotion exercise with Mr. Gilmartin,
30 is that correct?

- 1 A. Correct. Yes.
- 2 Q. 65 Was this the only focus group or lobbying group that you met?
- 3 A. At that particular time, yes.
- 4 Q. 66 What was the next focus group or lobby group that you met, Mr. O'Callaghan?
- 5 A. Possibly, I'm not quite sure whether we met a group in between or not. But
- 6 I do know that we met representative of the Quarryvale Residents
- 7 Association towards the end of April of '91.
- 8 Q. 67 And you wrote to them thanking them for meeting you, isn't that right?
- 9 A. I can't remember.
- 10 Q. 68 I'll show you the letter shortly, I think it's the 29th of April 1991?
- 11 A. Yes, okay.
- 12 Q. 69 Did you write to the women in Clondalkin, Mr. O'Callaghan, thanking them
- 13 for meeting you?
- 14 A. No, I did not.
- 15 Q. 70 Right. Why didn't you ask Mr. Gilmartin why he didn't want Mr. Dunlop on
- 16 board?
- 17 A. I don't know, I didn't ask him.
- 18 Q. 71 Wasn't it the obvious question?
- 19 A. It would have been, yeah.
- 20 Q. 72 You subsequently met with Mr. Dunlop, isn't that right, on your own?
- 21 A. Yes, probably two days later. Yes.
- 22 Q. 73 But prior to that I think in February of 1991, at 4646, you had signed the
- 23 Heads Of Agreement, isn't that right?
- 24 A. At what date 15th of February, was it?
- 25 Q. 74 Yes. We dealt with that on the last occasion which you were here. 4646,
- 26 please.
- 27
- 28 Now, if I can just draw your attention to paragraph seven of that in the
- 29 context of your second meeting with Mr. Dunlop, so that you are aware of
- 30 this before we deal with the second meeting, Mr. O'Callaghan. And

1 paragraph seven of the Heads Of Agreement that you signed on the 15th of
2 February 1991, provide "boards of directors to comprise of Tom Gilmartin,
3 Owen O'Callaghan and two representatives of the bank. Subject to the
4 bank's position not being prejudiced, all decisions must be by unanimous
5 consent of Tom Gilmartin and OCP" do you see that?

6 A. Yes.

7 Q. 75 Do you understand from that, that there was therefore a requirement that
8 any decision that was to be taken in connection Barkhill was to be by
9 unanimous agreement of yourself and Mr. Gilmartin?

10 A. Yes.

11 Q. 76 And you would have known from the date of signing of that document on the
12 15th of February 1991, that any decision such as the retention of Mr.
13 Dunlop, that was involved Barkhill, was to be by the agreement of Mr.
14 Gilmartin, isn't that right?

15 A. Yes.

16 Q. 77 Right. Now, did you obtain Mr. Gilmartin's agreement to the retention of
17 Mr. Dunlop?

18 A. No.

19 Q. 78 All right. Can you tell the Tribunal about your second meeting with Mr.
20 Gilmartin with Mr. Dunlop and what was agreed?

21 A. On other second meeting I asked Frank Dunlop if he would take our case and
22 if he would perform lobbying duties for me and introduced me to the various
23 councillors with a view to getting them on side. And he said that he would
24 but that he would in fact he expected me, he assumed I had an office in
25 Dublin.

26

27 He expected me to be in Dublin full-time to carry out this function and to
28 use our offices in Dublin and that yes, he would work with me and because
29 the vote could come up the at any stage, I think at the time it was
30 probably expected to come around April, the middle of April, that we would,

1 that we better get moving immediately. My problem with that was very
2 simple. I did not have an office in Dublin. I did not have any staff in
3 Dublin. All I had was a briefcase and a telephone just like Tom Gilmartin.
4 So he asked me to get an office, provide an office for this function, so we
5 couldn't do that. It would take too long to do that actually. We didn't
6 have the time. This was the first few days in March and the vote could
7 have been six weeks later in the middle of April.

8
9 So I asked him if he would make his office available to me and the staff
10 and telephone etc. And after some discussion he agreed that he would.
11 Basically his office became my Dublin office because that's the only office
12 we had. He agreed to spend well at least four days a week involved in this
13 with me. On the basis that I would spend four day as week in Dublin with
14 him as well. So that was our agreement. I was asking a lot actually but I
15 didn't have any choice. As I said to you the vote was probably six weeks
16 away. We were absolutely going nowhere. Tom Gilmartin had gone back to
17 the UK and any efforts he had made to do any lobbying hadn't actually
18 happened. Anybody we'd arranged to meet he hadn't turned up. And all his
19 conversations or his contacts seemed to be about senior politicians which
20 as far as I'm concerned would not be of any benefit to us.

21
22 So I agreed to go ahead with Frank, I was glad that Frank Dunlop accepted
23 my request and we agreed to proceed.

24 Q. 79 Is the Tribunal to understand from that, Mr. O'Callaghan, that your focus
25 at this stage was on local politicians and their importance as opposed to
26 Mr. Gilmartin's focus which was on senior politicians?

27 A. Yes.

28 Q. 80 And that you would have appreciated the importance of getting the local
29 politicians on side and that in fact your employment of Mr. Dunlop was
30 predicated upon your desire to seek the rezoning of Quarryvale through the

1 councillors, is that right?

2 A. Yes.

3 Q. 81 And you would have known at this stage of the necessity for a majority vote
4 in Dublin County Council to secure the rezoning of the Quarryvale lands?

5 A. At this stage I would have known that, yes.

6 Q. 82 Yes. And that you hired Mr. Dunlop then to carry out the rezoning or the
7 lobbying exercise necessary to achieve the rezoning of the Quarryvale
8 lands?

9 A. I hired Mr. Dunlop introduce me to as many as he possibly could of the 78
10 County Councillors, let me make my case to them.

11 Q. 83 Now, that would have necessitated you being in Dublin and you meeting with
12 Mr. Dunlop, the 78 Councillors, is that right?

13 A. That is correct.

14 Q. 84 And it would follow from that then, that there would be a significant
15 number of meetings recorded, Mr. O'Callaghan, between yourself and Mr.
16 Dunlop and various members of Dublin County Council between the date that
17 you retained Mr. Dunlop, which was early March 1991, and the date of the
18 vote on the 16th of May 1991, is that right?

19 A. I think so, yeah.

20 Q. 85 And it would follow from that then, that you would have been in Dublin,
21 isn't that right?

22 A. I would have been base in the Frank Dunlop's office.

23 Q. 86 But you would have had to come from Cork to Dublin?

24 A. Oh, yes.

25 Q. 87 Right. And you would be in Dublin, according to what you've told the
26 Tribunal, four days a week?

27 A. Approximately four day a week, yes.

28 Q. 88 Yes. And you would have had hotel expenses for example?

29 A. Um.

30 Q. 89 Isn't that right?

- 1 A. I would have hotel expenses.
- 2 Q. 90 Well let's deal with those now, Mr. O'Callaghan.
- 3 A. Yes.
- 4 Q. 91 Where did you stay between the 1st of March 1991 and the 16th of May 1991?
- 5 A. I'm not quite sure. I would spend some of that time in, I would have
6 stayed in Ambrose Kelly's office as well, architect's office. Sorry
7 architects' house.
- 8 Q. 92 Yes.
- 9 A. I would come up and down quite a lot. I would leave Cork on the first
10 flight that morning and come back down late that night, ten o'clock flight
11 and back up again.
- 12 Q. 93 Between the 1st of March, Mr. O'Callaghan, and the 16th of May 1991, do you
13 have any receipt or documentation from any hotel in Dublin showing that you
14 spent a night in Dublin?
- 15 A. No I haven't. And to try and finish your question. The hotel I would have
16 stayed in if I had have been staying in would have been Jurys Hotel in
17 Ballsbridge.
- 18 Q. 94 You have not produced, as you are aware, any documentation or receipts
19 suggesting that you stayed at any stage throughout this period in any hotel
20 in Dublin, isn't that right?
- 21 A. I have no receipts. No I have not. That's right.
- 22 Q. 95 There is nothing in the records or expenses or the documentation of Riga
23 that's been provided to the Tribunal that indicate you incurred
24 out-of-pocket expenses such as hotel or food bills such as that sort in
25 that period, isn't that right, Mr. O'Callaghan?
- 26 A. That's right.
- 27 Q. 96 How could that be, Mr. O'Callaghan if you are meeting the 78 Councillors
28 between let us say the 2nd of March 1991 and the 16th of May 1991, that
29 there exists no scrap of paper that shows you stayed in an hotel or that
30 you ate a biscuit in Dublin that a that period?

1 A. I never kept any receipts.

2 Q. 97 I see.

3 A. In fact I would not ask for receipts. If I had them I wouldn't keep them
4 with me and I wouldn't procure them, I didn't use receipts. I know I
5 should have but I never had receipts.

6 Q. 98 Mr. Dunlop has told the Tribunal --

7 A. Never kept receipts.

8 Q. 99 -- that he incurred expenses all with be it at later stage in connection
9 with meeting councillors which he reimbursed you by agreement, do you agree
10 with that?

11 A. Yes.

12 Q. 100 Do you agree insofar as Mr. Dunlop has provided documentation to the
13 Tribunal, there is no out-of-pocket expenses incurred by Mr. Dunlop between
14 the 1st of March 1991 and the 16th of May 1991, which he recouped from you
15 or from Riga or from Barkhill?

16 A. Yes.

17 Q. 101 Right. And it would follow from that, that you must agree that Mr. Dunlop
18 only starts to charge out-of-pocket expenses after the 16th of May 1991?

19 A. Well there is very simple reason for that.

20 Q. 102 Do you agree with that first of all, Mr. O'Callaghan?

21 A. I think so. Well, I'm not sure what, yes, I can't disagree let me put it
22 that way.

23 Q. 103 Yes. Now, if we just stay with the question then of what you did between
24 the 1st of May, the 1st of March 1991 and the 16th of May 1991, can you
25 tell the Tribunal when and where you met the councillors and if we start
26 let's say for example with Betty Coffey. When did you first meet
27 Mrs. Coffee?

28 A. I can't be specific about that.

29 Q. 104 Well, if I just take you through the list then of the 78 Councillors, Mr.
30 O'Callaghan, whom you say you met between the 1st of?

- 1 A. No, sorry can I correct that please. Like you're putting words into my
2 mouth and that's not fair really. I said I asked Frank Dunlop to introduce
3 me to the 78 County Councillors. I did not say I met the 78 County
4 Councillors as far as I know.
- 5 Q. 105 Very good.
- 6 A. From the 1st of May -- from the 1st of March until the 16th of May.
- 7 Q. 106 Approximately how many councillors did you meet?
- 8 A. I would say probably 40 or 50 was what I would have met. From, let's just
9 get this clear please.
- 10 Q. 107 Yes.
- 11 A. From the 1st of March to the 16th of May, I probably met between 40 and 50
12 County Councillors.
- 13 Q. 108 And if I show you, it might assist you in recalling this, Mr. O'Callaghan,
14 a list of the councillors.
- 15 Yes. If we could have 924, please. Now, this is a list of the councillors
16 who voted on the 1st of May 1991. And if I just take you the through the
17 councillors and what we are looking from you here, Mr. O'callaghan, is
18 detail from you about where and when and with whom, you met any of these
19 councillors between the 1st of March 1991 and the 16th of May 1991.
- 20 A. That's not going to be too easy.
- 21 Q. 109 Why not, Mr. O'Callaghan?
- 22 A. That's 20 years ago.
- 23 Q. 110 Right. What I'm looking for first of all is as to whether you have any
24 documentation surrounding any of these meetings?
- 25 A. No, I have no documentation. If there is any documentation, Frank Dunlop
26 has it. I would not have any.
- 27 Q. 111 Well you would have seen from Mr. Dunlop's diaries for example, Mr.
28 O'Callaghan, that the first recorded entry involving yourself in Mr.
29 Dunlop's diary is April of 1991. I think the 25th of April 1991, isn't
30 that right?

- 1 A. That is correct I believe but that is because I was continuously in Frank
2 Dunlop's office. I was resident there.
- 3 Q. 112 And you will have noted that there is no record in Mr. Dunlop's diary of
4 Mr. Dunlop picking you up from the airport or delivering you to the
5 airport, isn't that right, in that period?
- 6 A. Yes.
- 7 Q. 113 But you will have seen that subsequent to the 16th of May 1991, Mr.
8 Dunlop's diaries are replete with entries for yourself from Mr. Ambrose
9 Kelly and indeed for picking you up from the airport and delivering you to
10 the airport, isn't that right?
- 11 A. Yes.
- 12 Q. 114 And you will also have seen that Mr. Dunlop's diaries post its 16th of May
13 1991, record meetings between yourself and councillors, isn't that right?
- 14 A. Yes.
- 15 Q. 115 Can you assist the Tribunal at all as to why it is there are no recorded
16 meetings between yourself and any councillor prior to May, the 16th of May
17 1991?
- 18 A. Recorded in --
- 19 Q. 116 Mr. Dunlop's diary?
- 20 A. Because I can't explain that. But I was full-time in his office four days
21 a week. I just can't explain that.
- 22 Q. 117 Yes.
- 23 A. His diary is not complete obviously.
- 24 Q. 118 Yes.
- 25 A. I will also say to that you on the 16th of May, the day of the vote, there
26 isn't even reference made to me.
- 27 Q. 119 Yes.
- 28 A. I must have been in Dublin that day.
- 29 Q. 120 Yes. Mr. O'Callaghan, but what you are we're looking at now is your
30 evidence is, is that Mr. Dunlop was to organise meetings for councillors

1 with you, isn't that right?

2 A. Yes.

3 Q. 121 Whatever about you not being recorded meeting Mr. Dunlop and in Mr.
4 Dunlop's office. Mr. Dunlop would have had to make arrangements with the
5 councillors to meet with you, isn't that right?

6 A. That's correct, yes.

7 Q. 122 And those meetings would have of necessity not all have taken place in Mr.
8 Dunlop's office in Mount Street, isn't that right?

9 A. Oh, no, no, no.

10 Q. 123 You would have had to facilitate the councillors, who all or most of them
11 held full time jobs other than as a local representative, isn't that right?

12 A. That's correct, yes.

13 Q. 124 And therefore there would in order for the proper administration of this
14 exercise have to be a record somewhere of who was meeting who and at what
15 time. You'd expect that, isn't that right?

16 A. That's if Frank Dunlop kept a proper diary, yes you would. I certainly did
17 not.

18 Q. 125 Yes. Can you think of any reason why as to Mr. Dunlop would not during
19 this period, have kept a proper diary as you describe it or kept an entry
20 or entries in relation to your meetings with councillors?

21 A. I don't know. All I can say to you is that Mr. Dunlop's diary is not
22 complete on most occasions as I've discovered. He probably was not keeping
23 a diary then.

24 Q. 126 Mr. Dunlop's evidence is that he was keeping a diary. Indeed I'll take you
25 through the diaries entries, Mr. O'Callaghan. You will see that there are
26 entries in relation to many meetings included meetings with politicians and
27 including meetings with Mr. Flynn but there are no entries in this period
28 up to the end of April for yourself, isn't that right?

29 A. I can't explain that.

30 Q. 127 You can't explain that. Is it possible that for some reason that Mr.

1 Dunlop was keeping all records of his meetings with you out of his diary
2 and thereby not keeping a paper record of them. Would there have been any
3 reason for that?

4 A. That's quite possible but I don't know of any reason for it.

5 Q. 128 You don't know of any reason. Did you have any discussion with Mr. Dunlop
6 at your second meeting with him about keeping the arrangement between
7 yourself and Mr. Dunlop a secret?

8 A. Oh, away from Tom Gilmartin, yes, absolutely.

9 Q. 129 Yes. Now, why would you be concerned to keep your arrangement with Mr.
10 Dunlop away from Mr. Gilmartin?

11 A. Because I was as I said again timing between then and the actual vote in
12 the middle of May at that time we expected the middle of April was very,
13 very short. And I was hoping that Tom Gilmartin might have had some few
14 councillor contacts that would be on side. And in Tom Gilmartin discovered
15 that I was using Frank Dunlop against his wishes, he might withdraw that
16 council support from me, I felt he was that type of a person. So I didn't
17 want him to know that I was using Frank Dunlop in case I would lose the few
18 councillors that he might have had. I discovered afterwards that he only
19 had two councillors on side, that was McGrath and Gilbride, so it didn't
20 make any great difference.

21 Q. 130 Did you at any stage tell Mr. Gilmartin that you had retained Mr. Dunlop?

22 A. Yeah, I didn't have any reason not to tell him because very simply, there
23 is this whole thing about not telling Tom Gilmartin about Frank Dunlop was
24 a bit of a fallacy on our part. Because the minute I spoke to any
25 councillor with Frank Dunlop it would go straight back to Tom Gilmartin
26 because Gilbride and McGrath were in continuous contact with Gilmartin and
27 were for months afterwards. So the minute when I met Gilbride and McGrath,
28 Frank Dunlop knew them, they knew each other. So word would have been back
29 with Tom Gilmartin in two or three weeks. So he would have known that
30 before the end of March '91 and I told him myself before the end of March

- 1 '91.
- 2 Q. 131 And would also Allied Irish Bank have been told of Mr. Dunlop's retention?
- 3 A. No, no, no, I didn't tell them. No.
- 4 Q. 132 You didn't tell them?
- 5 A. No.
- 6 Q. 133 Why not?
- 7 A. I don't think the opportunity arose actually. I didn't tell them until
- 8 sometime in April.
- 9 Q. 134 I think the first recorded entry, Mr. O'Callaghan, of where the bank appear
- 10 to be informed is at 4977, which is the 26th of April 1991, which was a day
- 11 the motion was in fact listed for hearing before the council and the first
- 12 record is in the second third paragraph there where it's a meeting between
- 13 yourself and Mr. Deane where you ring the bank and in the second paragraph
- 14 "they have brought in Frank Dunlop former government press officer to
- 15 advise on media issues" isn't that right?
- 16 A. I haven't seen that. Where is that oh, sorry I have it, yes.
- 17 Q. 135 Yes can that be ...?
- 18 A. I have it, yes.
- 19 Q. 136 That is the first recorded entry in the bank documentation of the bank
- 20 being informed of Mr. Dunlop's retention?
- 21 A. That's possible, yeah.
- 22 Q. 137 And do you agree that that is likely to be the occasion on which you
- 23 informed the bank that you had retained Mr. Dunlop?
- 24 A. I can't remember. I can't remember but that is possibly correct. But I
- 25 cannot remember -- there was no reason for me not to tell the bank about
- 26 Frank Dunlop -- about Tom Gilmartin.
- 27 Q. 138 What arrangement did you make with Mr. Dunlop about fees?
- 28 A. The arrangement with Frank Dunlop because I was now using his office, using
- 29 his staff, using his car, using his telephones, in fact using everything,
- 30 plus himself more or less on a full-time basis, was that if the vote took

1 place in April of '91 he would charge a fee, an all in fee, that was his
2 own fee included his office expenses his staff, his outlay, the whole lot
3 of 80,000 pounds. If the vote went beyond April of '91, the fee could go
4 to 100,000 pounds inclusive, including everything, expenses, outlay,
5 office, staff, phones, everything.

6 Q. 139 Is this the first time that you've told the Tribunal, Mr. O'Callaghan, that
7 the arrangement between yourself and Mr. Dunlop was for 80,000 pounds up to
8 the end of April 1991?

9 A. It probably is because the arrangement has been, the figure that's been
10 mentioned always is 100,000 pounds because the vote went up until May,
11 middle of May '91 and that would have been correct, that would have been
12 the figure.

13 Q. 140 Yes.

14 A. But if the vote took place in April of '91, it would have been 80,000
15 pounds. And I never discussed that or disclosed that to anybody because
16 there wasn't any great need to do that.

17 Q. 141 When Mr. Dunlop gave evidence to the Tribunal his evidence to the Tribunal,
18 which was not in any way challenged by you, Mr. O'Callaghan, was to the
19 effect and indeed it was contained in his statements to the Tribunal that
20 his arrangement with you was for 100,000 pounds for 1991, isn't that right?

21 A. That's correct.

22 Q. 142 Right. Now, that is not what you say was agreed at that meeting, is that
23 right?

24 A. That's correct. Because it was never --

25 Q. 143 Can I just stop you there Mr. O'Callaghan and ask you this question --

26

27 MR. LUCEY: Perhaps, he should be allowed to finish if he has more --

28

29 MS. DILLON: I want to ask Mr -- I want to --

30

- 1 Q. 144 MS. DILLON: Mr. O'Callaghan, will be given everybody opportunity. I want
2 to ask you why it is you have waited until this moment in time to tell the
3 Tribunal for the first time that your arrangement with Mr. Dunlop was for
4 80,000 pounds to the end of April 1991?
- 5 A. Because I didn't think it was important. Maybe I'm wrong, but I didn't
6 think it was important because it was irrelevant because the date
7 automatically moved on to May of '91 and his fee would of course
8 automatically have been 100,000 pounds. It would only have caused confuse
9 in my opinion.
- 10 Q. 145 Yes. You are aware of course that the Tribunal is inquiring into the round
11 figure sums that you paid to Mr. Dunlop in early 1991, isn't that right?
- 12 A. That's right.
- 13 Q. 146 And you are aware of Mr. Gilmartin's allegations that his belief is that
14 some of that money was used to pay bribes to politicians, isn't that right?
- 15 A. That's right, yes.
- 16 Q. 147 And your evidence to the Tribunal has been that up until the time Mr.
17 Dunlop gave evidence in April 2000, you were know aware of the fact that
18 Mr. Dunlop was making improper or corrupt payments to councillors, isn't
19 that right?
- 20 A. That's correct yes.
- 21 Q. 148 So you would have known from the commencement of its correspondence between
22 yourself and the Tribunal that the focus of the Tribunal's inquiry centred
23 on payments that had been made by you and your companies to Mr. Dunlop. Do
24 you agree with that?
- 25 A. Yes.
- 26 Q. 149 How can you say then, Mr. O'Callaghan, that the issue of a payment of
27 80,000 pounds being revealed to the Tribunal for the first day, first time
28 today by you, is a matter of no importance or not significant?
- 29 A. Well maybe I'm wrong but it didn't arise quite simply because, quite simply
30 because it never came up as an issue because the vote did not take place

1 until May. So the figure of 100,000 pounds -- the figure was 80,000 pounds
2 if the vote took place in April and 100,000 pounds if the vote took after
3 that date. And the vote took place after that date so the whole thing is
4 irrelevant.

5 Q. 150 Mr. Deane his evidence to the Tribunal, your partner, did not appraise the
6 Tribunal of his understanding of any such agreement between yourself and
7 Mr. Dunlop. Do you agree with that?

8 A. Yes and everybody has conveniently forgotten about this. This was the
9 agreement I had with Frank Dunlop. He has forgotten about it, John Deane.
10 I don't know was he aware of it. Everybody has conveniently forgotten
11 about it. I have I am just telling you what the situation was.

12 Q. 151 You haven't forgotten about it?

13 A. No I haven't, no.

14 Q. 152 And can I ask you this then, why didn't instruct your counsel or legal team
15 to put it to Mr. Dunlop when you knew the Tribunal didn't know it, that in
16 fact Mr. Dunlop's understanding of his agreement or contract with you was
17 wrong?

18 A. I don't know if he remembers it actually.

19 Q. 153 Do you understand my question, Mr. O'Callaghan? Being the only person who
20 is aware of this important fact. Can I ask you why it was that you didn't
21 instruct your legal team to put it to Mr. Dunlop that his recollection of
22 the agreement made between you and he was wrong?

23 A. Because I didn't classify it as an important fact.

24 Q. 154 Right. Do you say then that you don't classify the payments that you made
25 to Mr. Dunlop as important?

26 A. Oh, yes.

27 Q. 155 Is that --

28 A. This is the irrelevant. The figure was 100,000 pounds.

29 Q. 156 The amount of the figure and the nature of the payments are central to the
30 inquiry in this module, Mr. O'Callaghan, isn't that right?

1 A. Yes but 80,000 pounds never arose.

2 Q. 157 And you have been aware since you first disclosed to the Tribunal the
3 payment of 80,000 pounds to Mr. Dunlop, that that was a central feature of
4 the inquiry in this module, isn't that right?

5 A. Yes. Yes.

6 Q. 158 And that in the first correspondence, that the Tribunal sent to you in
7 1998, you were asked to disclose payments that you had made through one
8 form or another, to Mr. Dunlop, isn't that right?

9 A. Yes.

10 Q. 159 And you are not suggesting to the Tribunal that you would have been
11 innocent or unaware of the fact that the payments you had made to Mr.
12 Dunlop were central to the inquiry?

13 A. Yes.

14 Q. 160 Right. So can I ask I ask you then again then why it is, Mr. O'Callaghan,
15 that you have waited until today to tell the Tribunal of a fundamental term
16 in the contract that you say was entered into between yourself and Mr.
17 Dunlop, namely, that he was to get 80,000 pounds up to the end of April
18 1991 and 100,000 pounds if it went over April 1991?

19 A. Because I didn't think it was important and as it's turned out, it was
20 completely irrelevant.

21 Q. 161 Or are you providing an excuse Mr. O'Callaghan, for the reason as to why
22 80,000 pounds only was paid to Mr. Dunlop?

23 A. Not really.

24 Q. 162 Is that what you're doing?

25 A. Not really, no.

26 Q. 163 All right. Can I ask you then, you -- did you tell Mr. Gilmartin of your
27 arrangement to pay either 80,000 pounds or 100,000 pounds to Mr. Dunlop?

28 A. No, I did not.

29 Q. 164 How did you arrange to make this payment to Mr. Dunlop?

30 A. We had paid -- those fees were paid from our own company from Riga and Riga

1 was reimbursed by Barkhill.

2 Q. 165 And who did you pay them to?

3 A. Who did we pay the Riga to, the fees to.

4 Q. 166 The payments?

5 A. A company called Shefran.

6 Q. 167 Who was Shefran?

7 A. Shefran was a company that Frank Dunlop had and when I, when both of us in
8 our discussion, when I suggested I was concerned that if Tom Gilmartin was
9 aware that Frank Dunlop was involved in the lobbying with me, which as I
10 said to you was a fallacy but that's the way we discussed it at the time.
11 Frank suggested that he could use another company, a company by the name of
12 Shefran. And he used that to invoice me.

13 Q. 168 Mr. Dunlop told the Tribunal that you presented him with a problem at the
14 second meeting, which was the keeping secret from Mr. Gilmartin that he had
15 been retained. Do you agree with his evidence in that?

16 A. Yes.

17 Q. 169 Yes and do you agree that Mr. Dunlop put forward a solution to the problem
18 which was that he offered you Shefran as a mechanism whereby he could be
19 paid, is that fair?

20 A. Same thing, yes.

21 Q. 170 And is the purpose of that exercise keeping from Mr. Gilmartin and indeed
22 the bank, the payments that were being made to Mr. Dunlop?

23 A. The purpose of that exercise was to keep from Mr. Gilmartin the fact that I
24 was using Frank Dunlop and at the same time to protect the councillors, to
25 prevent Tom Gilmartin from taking from me, supporting Quarryvale the
26 councillors that I felt would have been on his side.

27 Q. 171 You accept, Mr. O'Callaghan, as accept you must, that because of Mr.
28 Gilmartin's involvement in the project, he must have known within a very
29 short period of time of the fact that Mr. Dunlop was in fact involved, do
30 you agree with that?

- 1 A. I've just told that you.
- 2 Q. 172 Yes. And therefore it follows from that, Mr. O'Callaghan, that there can
3 be no reality to keeping Mr. Dunlop's involvement a secret from Mr.
4 Gilmartin or from the bank, isn't that right?
- 5 A. Yes.
- 6 Q. 173 So you are keeping something else I suggest to you secret?
- 7 A. Well I'm telling you --
- 8 Q. 174 If you just let me put to you now, what I am saying you are keeping secret.
9 If you accept you are not keeping Mr. Dunlop's involvement a secret from
10 Mr. Gilmartin or the bank --
- 11 A. Yes I was. I was!
- 12 Q. 175 I suggest to you that what you are keeping secret are the payments that you
13 made to Mr. Dunlop through Shefran. Would you agree with that?
- 14 A. I do not agree with that.
- 15 Q. 176 All right. When did you disclose the fact that you were paying Mr. Dunlop
16 through Shefran to the bank?
- 17 A. Oh, ... I can't remember exactly when but possibly in April. I'm not sure
18 of the date.
- 19 Q. 177 Well did you do it in January, in February?
- 20 A. Well sure I couldn't have done it in January.
- 21 Q. 178 Did you do it in March when you made your --
- 22 A. Maybe possibly in April.
- 23 Q. 179 In April?
- 24 A. Yeah, yes.
- 25 Q. 180 You will be aware of Mr. Kay's evidence of the fact that he wasn't aware in
26 1991 of payments to Shefran, do you agree with that?
- 27 A. That he wasn't aware.
- 28 Q. 181 Yes.
- 29 A. No, I don't agree with that.
- 30 Q. 182 You don't agree with that. When did you tell Mr. Kay that you were paying

1 Mr. Dunlop through Shefran and that invoices had issued from Riga from
2 Shefran to Riga?

3 A. It must have been sometime after April '91.

4 Q. 183 Do you know when it was that you told the bank?

5 A. I don't exactly know, no.

6 Q. 184 When did you tell Mr. Gilmartin that the payments to Shefran were payments
7 to Mr. Dunlop?

8 A. I don't remember telling Mr. Gilmartin about Shefran. I told him about
9 Frank Dunlop and as far as I'm concerned Shefran and Frank Dunlop were the
10 same thing.

11 Q. 185 But Mr. Gilmartin didn't know about Shefran if your evidence is correct, is
12 that right?

13 A. I don't remember ever telling him.

14 Q. 186 It would follow from that then, that you he wouldn't have known who the
15 payments to Shefran were unless somebody told him, isn't that right?

16 A. Yes.

17 Q. 187 Why wouldn't you have told Mr. Gilmartin if he knew about Mr. Dunlop being
18 retained that you had embarked upon this mechanism of paying Mr. Dunlop
19 through Shefran?

20 A. Because again, this was totally irrelevant. As far as I was concerned,
21 Shefran meant absolutely nothing. Shefran and Frank Dunlop were one and
22 the same entity.

23 Q. 188 Then why didn't you tell Mr. Gilmartin?

24 A. There wasn't any, in my opinion, there wasn't any need. I told him about
25 Frank Dunlop. If he asked me about Shefran I would have told him. It just
26 didn't crop up. It could have been called anything, Shefran meant nothing
27 to me, except it was the same thing as Frank Dunlop.

28 Q. 189 Be that you would have understood that Mr. Dunlop and Shefran were one and
29 the same?

30 A. Yes.

- 1 Q. 190 It doesn't follow, Mr. O'Callaghan, that anybody else who didn't have your
2 specialised knowledge of the situation would have known the same, do you
3 agree with that?
- 4 A. Yes.
- 5 Q. 191 There were only two people present at the meeting at which you made your
6 arrangement Mr. Dunlop; yourself and Mr. Dunlop, isn't that right?
- 7 A. That's right.
- 8 Q. 192 Mr. Dunlop who knew who Shefran was and you knew who Shefran was, isn't
9 that right?
- 10 A. Yes.
- 11 Q. 193 So the information then about the utilisation of Shefran has to come out to
12 other people involved in this transaction, either from Mr. Dunlop or from
13 yourself, do you agree with that?
- 14 A. That's right, yes.
- 15 Q. 194 Mr. Gilmartin has told the Tribunal that he had little or no contact with
16 Mr. Dunlop and Mr. Dunlop agrees with this. Mr. Dunlop tells the Tribunal
17 that he never discussed fees with Mr. Gilmartin, do you agree with that?
- 18 A. Yes.
- 19 Q. 195 It would follow from that then, that the most likely person to have
20 discussed fees paid to Mr. Dunlop and the specialised nature of the payment
21 of those fees with Mr. Gilmartin was yourself?
- 22 A. Yes.
- 23 Q. 196 Do you agree with that?
- 24 A. Yes.
- 25 Q. 197 Did you ever discuss with Mr. Gilmartin the special arrangement you had
26 made for the payment of the fees to Mr. Dunlop through Shefran?
- 27 A. Not through Shefran. I told Tom Gilmartin that I was dealing with Frank
28 Dunlop and I told Tom Gilmartin that I was paying Frank Dunlop and we were
29 paying Frank Dunlop. I never used the word "Shefran" to him because it
30 didn't make any difference. He could have called it West Cork Foods as far

1 as I was concerned. Shefran meant nothing to me.

2 Q. 198 Can I show you 2209, Mr. O'Callaghan; this is an article in the Sunday
3 Independent of October 1998, and you will remember, Mr. O'Callaghan, that
4 the Tribunal wrote to you in or around late 1988, 1998 as it wrote indeed
5 to Mr. Dunlop. And there was a lot of publication in the newspapers around
6 this time and in fact I think in early October 1998, you paid 300,000 pound
7 Mr. Dunlop, isn't that right?

8 A. That is correct.

9 Q. 199 Right. And I'll come to deal with that in time. If you look at this
10 article and if you look at the third column and there is a quote there from
11 Mr. Dunlop, please the third column underneath the foal photograph of Mr.
12 Lawlor and it says:

13

14 "Yesterday, in a telephone interview he added" and this is Mr. Dunlop "Tom
15 Gilmartin did not want me under any circumstances. And I use that word
16 advisedly involved in the Quarryvale project. In order to avoid him being
17 aware of my involvement, invoices for professional services were invoiced
18 through Shefran".

19

20 That is one of Mr. Dunlop's first public statements in relation to the
21 reason why Shefran was used by you and by he. Now, do you agree with what
22 Mr. Dunlop told the Sunday Independent on the 11th of October that was
23 published on the 11th of October. Do you agree with that?

24 A. That paragraph?

25 Q. 200 Yes.

26 A. The reason I'll repeat. The reason that Shefran was used was to protect
27 whatever councillors would support Quarryvale, Tom Gilmartin's Councillors
28 that would support Quarryvale, protect them and make sure they stayed
29 inside with me. That's the reason the whole thing was set up.

30 Q. 201 Sorry. I'm obviously not making myself clear?

- 1 A. Sure i don't agree with that is the answer to your question.
- 2 Q. 202 What Mr. Dunlop is telling the plain people of Ireland in that public
3 statement through Mr. Corcoran in the Sunday Independent, is the reason
4 that he used Shefran and therefore, Mr. O'Callaghan, the reason you used
5 Shefran is that Mr. Gilmartin didn't want him involved and it was used in
6 order to avoid Mr. Gilmartin being aware of Mr. Dunlop's involvement. Now,
7 is that true or false?
- 8 A. Yes, and consequently, if Mr. Gilmartin was aware of Frank Dunlop's
9 involvement he might have pulled his councillors from us.
- 10 Q. 203 Yes.
- 11 A. So it's the same thing we're talking about.
- 12 Q. 204 You have agreed, Mr. O'Callaghan, that Mr. Gilmartin knew within a very
13 short period of time of the fact that Mr. Dunlop was involved because you
14 told him, isn't that right?
- 15 A. Not no sorry that is not correct. The reason Mr. Gilmartin knew that Frank
16 Dunlop was involved because he would have been told by McGrath or Gilbride.
- 17 Q. 205 According to --
- 18 A. And I told him afterwards.
- 19 Q. 206 When did you tell him?
- 20 A. Some time towards the end of March.
- 21 Q. 207 So by the end of March 1991 and before any payment had been made --
- 22 A. Yes.
- 23 Q. 208 -- to Shefran, you told Mr. Gilmartin about the fact that Mr. Dunlop was
24 being retained?
- 25 A. Yes.
- 26 Q. 209 If you are correct in that, there is no reason why the payments could not
27 have been made to Frank Dunlop & Associates, isn't that right?
- 28 A. That's right.
- 29 Q. 210 So why is it then that you didn't make any payments to Frank Dunlop &
30 Associates?

1 A. Because Frank Dunlop used, had I think had a second -- as I said, I didn't
2 worry about this. I didn't mind this really. Quite a lot of our
3 professional teams used separate companies to invoice us outside of their
4 professional names. This is a normal procedure. You wouldn't know what
5 name a company would come up with, for all different reasons that they
6 have. Frank was using Shefran and it was set up originally to avoid, to
7 assist me in Tom Gilmartin not knowing that Frank Dunlop was involved, to
8 protect the councillors that we wanted to support us.

9
10 Secondly, and Frank was interested in this. And the reason why I think he
11 probably kept this going was that he also had some arrangement, which he
12 hasn't said anywhere in his evidence. He had some arrangement with his own
13 communication company, Murray Consultants, the company that he worked with
14 before. That any new clients, any new clients that would come into his
15 company, that he probably would have to give a percentage of that I think
16 to Murray Consultants or some arrangement like that. I am not totally
17 privy this. So it suited him as well to have a separate company for any
18 new clients like ourselves.

19 Q. 211 Are you suggesting to the tribunal that it was at Mr. Dunlop's initiative
20 that Shefran was used?

21 A. No, I'm not saying that no, no, no, no. It was I suggested. I asked for
22 it actually.

23 Q. 212 By the end of March 1991, if what you're just told the Tribunal is true,
24 Mr. O'Callaghan, you had told Mr. Gilmartin of the fact that you had
25 retained Mr. Dunlop, is that correct?

26 A. That is correct yes.

27 Q. 213 Now, you subsequently paid three invoices, isn't that right, totalling
28 80,000 pounds to Mr. Dunlop through Shefran, isn't that right?

29 A. Yep.

30 Q. 214 If Mr. Dunlop -- if Mr. Gilmartin had been told, as you say he about, by

1 the end of March 1991, of Mr. Dunlop's involvement and that Mr. Dunlop was
2 going to be paid, why didn't you make those payments out to Frank Dunlop &
3 Associates?

4 A. Because Frank had set up this invoicing system. He stuck with it, he
5 stayed with it, and as I said to you I think it also suited himself because
6 of his relationship with his previous employers to have a separate company.

7 Q. 215 Subsequent to the 16th of May and after the vote, Mr. O'Callaghan, Mr.
8 Dunlop provided invoices through Frank Dunlop & Associates to you, isn't
9 that right?

10 A. Yes, uh-huh.

11 Q. 216 So and he also continued to provide invoices from Shefran, isn't that
12 right?

13 A. That is correct.

14 Q. 217 Now, do you want to explain in the light of your evidence to the Tribunal
15 this morning, why it was that you then embarked on a joint or a dual system
16 of payment from Mr. Dunlop?

17 A. I think the answer to that is that first of all Shefran, the Shefran
18 payments were for Frank's -- the initial Shefran payments from March until
19 the middle of May, let's call it the first vote, were inclusive, they
20 included total expenditure, outlay, they included everything actually.
21 From August of '91 on Frank split the system, his complete outlay expenses
22 office etc. was Frank Dunlop & Associates and his fees was strictly
23 Shefran. As to why he, I think the reason why he operated two systems both
24 Shefran and FDA from May on was because I believed he discovered that there
25 was a lot more involved in this whole lobbying system and it cost a lot
26 more money than we expected and it was going to go on a lot longer than was
27 expected. So he decided for his own reasons to keep his fees separate from
28 his outlay and expenses. That he was his choice and I had no objection to
29 that.

30 Q. 218 You had no option? Did you say you had no option?

- 1 A. I had no objection to that, sorry.
- 2 Q. 219 You had no objection. Did Mr. Dunlop ever invoice for fees through Frank
3 Dunlop & Associates?
- 4 A. Oh, yes he did, yes.
- 5 Q. 220 Isn't that right?
- 6 A. I think so, yes.
- 7 Q. 221 He invoiced for professional fees through Frank Dunlop & Associates.
- 8 A. Yes.
- 9 Q. 222 Isn't that right?
- 10 A. Yes.
- 11 Q. 223 So how it can it be then, Mr. O'Callaghan, that he is invoicing for some
12 professional fees through Shefran and some professional fees through Frank
13 Dunlop & Associates?
- 14 A. I don't know but you've got to remember that he probably had an arrangement
15 in his own office as well with his own staff and the bonus system, you
16 know.
- 17 Q. 224 Can I summarise as best I can understand and I'm sure I don't have a proper
18 appreciation of your evidence, Mr. O'Callaghan, this morning. You are
19 telling the Tribunal for the first time today that at your first meeting
20 with Mr. Dunlop, you made an arrangement for with him for an all-in fee of
21 80,000 pounds provided the matters were dealt with by April 1991, is that
22 right?
- 23 A. That's right.
- 24 Q. 225 You wanted to keep Mr. Gilmartin's involvement from Mr. Dunlop, Mr.
25 Dunlop's involvement from Mr. Gilmartin?
- 26 A. Yes.
- 27 Q. 226 And in order to achieve that aim, you arranged or agreed with Mr. Dunlop
28 that Mr. Dunlop would invoice through Shefran, is that right?
- 29 A. Yes.
- 30 Q. 227 Within -- by the end of March and before any invoice was in fact issued,

1 you had told Mr. Gilmartin of Mr. Dunlop being retained.

2 A. Can I just change that. Mr. Gilmartin was aware of that through both
3 Councillors McGrath and Gilbride and I confirmed it to him.

4 Q. 228 So by the end of March 1991, and before any invoice had been paid to Mr.
5 Dunlop, Mr. Gilmartin was aware, you say, of Mr. Dunlop being retained?

6 A. Yes.

7 Q. 229 And therefore there is no longer from the end of March 1991, any question
8 of secrecy involving the retention of Mr. Dunlop, is that correct?

9 A. That's right, yes.

10 Q. 230 Notwithstanding that, you proceed to make three payments totalling 80,000
11 pound to Mr. Dunlop's company Shefran, is that right?

12 A. Yes. And he, when you say three payments, he provided proceeded to invoice
13 me through the company Shefran.

14 Q. 231 And those payments are not, if I understand your evidence correctly, to
15 your knowledge disclosed to Mr. Gilmartin?

16 A. Yes.

17 Q. 232 Okay. So that let us say then that by the 1st of June 1991, the following
18 is the situation if your evidence is correct. You have retained Mr. Dunlop
19 to carry out the lobbying. You have agreed a fee of 80,000 pounds to the
20 end of April '91, is that correct?

21 A. To increase to 100,000 pounds if it goes beyond that date.

22 Q. 233 Yes. You have told or Mr. Gilmartin is aware of Mr. Dunlop being retained,
23 is that right?

24 A. Yes.

25 Q. 234 But Mr. Gilmartin does not know of the payments to Mr. Dunlop through
26 Shefran?

27 A. By what date?

28 Q. 235 By the 1st of June '91.

29 A. I'm not sure. Whether he knows that are or not I can't say.

30 Q. 236 When did you tell him about the payments to Shefran were payments to Mr.

1 Dunlop?

2 A. I don't know when I told him about Shefran. I told him about Frank Dunlop
3 towards the end of March. With regards to the Shefran payments, I don't
4 know if I ever told him.

5 Q. 237 All right. It would follow from that, if your evidence is correct, and you
6 are the person together with Mr. Dunlop, who knows about Shefran and its
7 purpose that if you didn't tell Mr. Gilmartin that Shefran was Mr. Dunlop,
8 Mr. Gilmartin does not know that Shefran is Mr. Dunlop, do you agree with
9 that?

10 A. I can't say that for definite because he might have seen it in the
11 accounts.

12 Q. 238 How could he have seen it in the accounts, it's in the Riga --

13 A. I don't know but it's possible.

14 Q. 239 -- Riga subordinated loan and Mr. Gilmartin doesn't have access to that
15 information?

16 A. Well, I don't know. I can't say for definite if he did not know about
17 that.

18 Q. 240 The first time the information is provided to the bank is I think in
19 relation to the subordinated loan, the information is not provided until
20 coming up to the signing of the, in fact I think it's January 1992, but the
21 repayment takes place in July, June of 1991, the share not the share
22 subscription agreement, the subordinated loan?

23 A. Yeah, okay.

24 Q. 241 It follows from that, Mr. O'Callaghan, if what you are telling the Tribunal
25 is true and if you had disclosed to Mr. Gilmartin the involvement of Mr.
26 Dunlop, that what you are keeping secret from Mr. Gilmartin and the bank
27 and anybody else indeed, are the payments, isn't that right?

28 A. Well we're not keeping them secret.

29 Q. 242 Well who did you tell about them?

30 A. Whoever wanted to know. Whoever asked the question.

- 1 Q. 243 There is two people at the meeting, Mr. O'Callaghan, at which this
2 arrangement is made. There is yourself and Mr. Dunlop. All right?
- 3 A. Uh-huh.
- 4 Q. 244 Mr. Dunlop doesn't discuss this with anybody, if his evidence is correct,
5 other than yourself?
- 6 A. Uh-huh.
- 7 Q. 245 You don't discuss Shefran with Mr. Gilmartin and you can't recollect when
8 you would have discussed Shefran with the bank, isn't that right?
- 9 A. I can't recollect when I did with the bank, yeah.
- 10 Q. 246 Yes. And I am suggesting to you, Mr. O'Callaghan, that having disclosed to
11 Mr. Gilmartin that Mr. Dunlop was involved at the end of March, you are no
12 longer keeping Mr. Dunlop a secret from Mr. Gilmartin?
- 13 A. That's correct.
- 14 Q. 247 And that to continue to use Shefran as a mechanism for paying Mr. Dunlop,
15 means that in fact what you are keeping from Mr. Gilmartin or from the bank
16 or from anybody else, are the payments to Shefran, do you agree with that?
- 17 A. I don't agree with that at all. There was no need to keep these as a
18 secret from anybody once Tom Gilmartin knew that Frank Dunlop was involved.
19 That's the whole point!
- 20 Q. 248 Yes. And it follows from that, Mr. O'Callaghan. That one would have
21 expected that you would have from the end of March 1991, proceeded to pay
22 Mr. Dunlop through Frank Dunlop & Associates?
- 23 A. That didn't suit him. He obviously preferred to use the other system. As
24 I said to you this happens with numerous of our professional team.
- 25 Q. 249 Now, in the course of your discussion with Mr. Dunlop, at which you made
26 this arrangement, did Mr. Dunlop discuss with you what was involved in
27 political lobbying?
- 28 A. Yes.
- 29 Q. 250 What did he tell you?
- 30 A. Well he told me that I would have to be prepared to, as I said, spend most

1 of the week in Dublin. Every week right up to the date of the vote and
2 that I would have to go and meet, he would arrange it, but I would have to
3 meet as many of the councillors as were prepared to meet us. Meet them on
4 a one-to-one. Explain to them what our proposal was. And try and convince
5 them the advantages of supporting Quarryvale as against Neilstown and at
6 the same time to ensure that the Quarryvale site would go ahead as well as
7 the Blanchardstown site would go ahead and that we would not really disrupt
8 the retail hierarchy in the rest of West County Dublin. This is what the
9 challenge was.

10 Q. 251 Did Mr. Dunlop discuss with you making political donations?

11 A. No.

12 Q. 252 Did Mr. Dunlop discuss with you the fact that the Local Elections were
13 imminent?

14 A. Oh, yes.

15 Q. 253 And that -- did he discuss with you the fact that the present council was a
16 Fianna Fail Council dominated by Fianna Fail, they had a majority on the
17 Council?

18 A. Well I can't remember it being discussed but I'm sure it must have been
19 discussed.

20 Q. 254 Yes. Mr. Dunlop told the Tribunal and indeed previously had told the
21 public at 11901, and this is part of the series of articles that were
22 written in October '98 and if you look at the second column last paragraph
23 please and if it could be increased.

24

25 "Dunlop has confirmed that as part of his duties as a lobbyist he has made
26 political contributions to a range of politicians and parties over the
27 years. All of which are documented and available for inspection by the
28 Revenue Commissioners, the Flood Tribunal or the Moriarty Tribunals."

29

30 And in evidence when that document was put to him, he told the Tribunal on

- 1 day 806 at question 105. That he had made political contributions to a
2 range of politicians over the years and that was part of his duties as a
3 lobbyist. Now, did Mr. Dunlop discuss that with you?
- 4 A. No. Discuss which with me?
- 5 Q. 255 Yes. That he would be making political donations or contributions and that
6 would be part of his duties as a lobbyist?
- 7 A. I can't say that we specifically had that discussion but I'm pretty sure
8 that I would know even then that as a political lobbyist that Frank Dunlop
9 would be making political contributions to politicians.
- 10 Q. 256 Did you consider in the course of your discussions that any of those
11 contributions would be made on your are behalf?
- 12 A. It didn't. The subject did not come up.
- 13 Q. 257 So you didn't have any discussion with Mr. Frank Dunlop?
- 14 A. No, as I said, we did not have a discussion, no I did not have a
15 discussion.
- 16 Q. 258 You if I just take you through some documents at 4671. 4671. This is Mr.
17 Dunlop's diary for the 21st, 22nd and 23rd of February 1991. And you will
18 see for example there on February the 22nd, there is an entry "GV and big
19 John". And that's an entry in relation to Mr. GV Wright and I think John
20 Byrne. So you will see there recorded a meeting that Mr. Dunlop has
21 arranged with Mr. GV Wright and another person, isn't that right?
- 22 A. Yes.
- 23 Q. 259 And you will agree with me I think, Mr. O'Callaghan, because you must, that
24 there is no reference there to yourself for Mr. Ambrose Kelly or to meeting
25 with Mr. Dunlop, isn't that right?
- 26 A. That's correct.
- 27 Q. 260 And if you look then at 4694?
- 28 A. Sorry, I don't think I had met him by that date.
- 29 Q. 261 I beg your pardon.
- 30 A. That's February '91, isn't it?

1 Q. 262 Yes. You have told the Tribunal your first meeting was the end of February
2 '91 and within a few days later so in fairness to yourself I'm taking it at
3 the earliest possible date according to your evidence which is the 21st of
4 February. I am just showing you, Mr. O'Callaghan, that Mr. Dunlop's diary
5 makes no record of any meeting with yourself or with Mr. Ambrose Kelly,
6 isn't that right?

7 A. That's right.

8 Q. 263 And if you look at then at 4694, which is Monday the 25th, the 26th and the
9 27th of February 1991, while there are references to "Joe T" which is
10 Mr. Tiernan and "Baldoyle" and other matters such as that, there is no
11 reference to you or to Mr. Ambrose Kelly or to Quarryvale, isn't that
12 right?

13 A. That's right.

14 Q. 264 And at 4710, on the 27th of February 1991, Mr. O'Callaghan, you meet with
15 Mr. Kay, isn't that right?

16 A. Yes.

17 Q. 265 And in that you confirm you have spoken to Mr. Gilmartin and they are
18 satisfied that there is good co-operation between the two of them and that
19 you were to contact Tom later this week and arrange a series of meetings to
20 be held next week with the city and county managers, politicians etc. You
21 confirm that you were reasonably happy with progress being made to date and
22 you were confident the zoning process should move ahead satisfactorily.
23 And then you talk about Mr. Gilmartin's refinancing plans. There is no
24 reference there to Mr. Dunlop, isn't that right?

25 A. Yes, that's right.

26 Q. 266 And there is no reference there to Mr. Lawlor, isn't that right?

27 A. That's right.

28 Q. 267 Now, at 4707. Mr. O'Callaghan, again around this time on the 27th of
29 February, you arranged for a debit in fact of 26,192 pounds being 45,850
30 Dollars to be sent to a company called Anglo Securities, 4808.

- 1 A. Yes.
- 2 Q. 268 For Mr. Gilmartin, isn't that right?
- 3 A. Yes.
- 4 Q. 269 And that was the first payment that was made I think out of what ultimately
5 became the subordinated loan, isn't that right?
- 6 A. That's correct.
- 7 Q. 270 Now, can you just explain to the Tribunal why you were making that payment
8 on behalf of Mr. Gilmartin?
- 9 A. Mr. Gilmartin had linked up with Anglo Irish Securities with a view to they
10 providing the money or the funding again to buy us back out of Quarryvale
11 and for Tom Gilmartin to take over Quarryvale on his own. The difficulty
12 with that particular project was or with that scheme was that the people
13 arranging this money or promising him that they would arrange his money,
14 wanted to be paid a fee up front and Tom didn't have the money so we made
15 the money available.
- 16 Q. 271 That was ultimately attributed to the Barkhill subordinated loan, isn't
17 that right?
- 18 A. Yes. That is correct, yes.
- 19 Q. 272 And I think if we go on to 28841 please; which is the 28th of February.
20 You will see from Mr. Dunlop's diary that there doesn't appear to be any
21 entries that would be referable either to yourself, Mr. Kelly or meetings
22 with councillors, isn't that correct?
- 23 A. That's correct.
- 24 Q. 273 Right. If we move onto the following --
- 25 A. Sorry -- any meetings hadn't started at that particular stage.
- 26 Q. 274 Well according to your evidence you have your second meeting with Mr.
27 Dunlop, which Mr. Dunlop says was arranged and which you say wasn't
28 arranged, in the first week of March 1991. Isn't that right?
- 29 A. Yes, sorry.
- 30 Q. 275 And at 28842. There is no entry in Mr. Dunlop's diary for you for any

- 1 meeting with Mr. Dunlop, isn't that right?
- 2 A. That's correct, yes.
- 3 Q. 276 And there isn't any entry that's referable to meeting with councillors,
4 isn't that right?
- 5 A. That's correct.
- 6 Q. 277 And yourself. And I think on the 5th of March at 4740, Riga paid a sum of
7 10,028 pounds which was attributable to Mr. Gilmartin, isn't that right,
8 it's the fourth entry from the bottom?
- 9 A. I don't see that.
- 10 Q. 278 It's the fourth entry, I think from the bottom.
- 11 A. Yes, I have it, yes.
- 12 Q. 279 And that is debited to the Riga bank account at 4747 on the 5th of March
13 '91.
- 14 A. Yes.
- 15 Q. 280 And at 4741, in the list of Westpark expenses --
- 16 A. Yes.
- 17 Q. 281 -- prepared by Mr. Lucey from the documentation contained within Riga, that
18 is the second item listed under the heading "Westpark expenses" with the
19 first item being the first payment for Mr. Gilmartin, isn't that right?
- 20 A. That's correct.
- 21 Q. 282 I think at 28843, on the 7th, 8th and 9th of March, which is Mr. Dunlop's
22 diary, while there are references to "Tommy B" being Tommy Boland, on the
23 7th of March "Betty C, Gresham" on the 7th of March "Al Smith" on the 8th
24 of March. There is no reference to you, isn't that right, Mr. O'Callaghan?
- 25 A. That is right.
- 26 Q. 283 Nor is there any references to you meeting anybody in Mr. Dunlop's office
27 or Mr. Dunlop arranging meetings at which you were to be in attendance,
28 isn't that right?
- 29 A. That's correct.
- 30 Q. 284 And there is no reference to Mr. Ambrose Kelly?

- 1 A. No.
- 2 Q. 285 Right. At 47 --
- 3 A. I don't think Frank Dunlop even knew Ambrose Kelly.
- 4 Q. 286 This is in the light of your evidence that you would have stayed with
5 Mr. Ambrose Kelly during this period?
- 6 A. Oh, yes, sorry.
- 7 Q. 287 And that I think Mr. Dunlop's evidence also was that councillors on
8 occasion went to meetings in Mr. Kelly's office, isn't that right?
- 9 A. Yes.
- 10 Q. 288 And we will see in Mr. Dunlop's diaries later such meetings being arranged,
11 isn't that right, Mr. O'Callaghan?
- 12 A. Yes.
- 13 Q. 289 We don't see any such meetings at this period in time. At 4764, which is
14 the 11th, 12th and 13th of March 1991, right. While there are references
15 to various projects Mr. Dunlop was involved in, such as decision time re
16 Newlands and County Council, there is no reference to yourself or to
17 Mr. Ambrose Kelly or to Quarryvale or meeting any Residents Association or
18 meeting any women in Clondalkin or any other meeting, isn't that right?
- 19 A. Yes.
- 20 Q. 290 Right. And on the 13th of March '91, at 4780. There is a meeting at the
21 bank which appears to have been attended by Mr. Deane, Mr. Gilmartin,
22 Mr. Kay, Mr. Donagh and Mr. Byrne which discusses the refinancing package
23 then being proposed by Mr. Gilmartin and the Heads of Terms or Heads of
24 Agreement or a shareholders agreement that was to be entered into between
25 Riga and Barkhill, isn't that right?
- 26 A. Yes.
- 27 Q. 291 There is no reference in that document to Mr. Dunlop being retained or to
28 any fee having been agreed with Mr. Dunlop, isn't that right?
- 29 A. Yes.
- 30 Q. 292 Indeed if one looks at 4781 item 16, there is a reference "liabilities to

1 the architects they are to be paid" isn't that right?

2 A. Yes.

3 Q. 293 And on the following page at item 20 at 4782, there is a list of fees at
4 item 20 "professionals due 220,000 fees" isn't that right?

5 A. Yes.

6 Q. 294 "20 K Touche Ross. K O'Malley 50,000. Gunnes 26,000. 100,000 S Maguire"
7 and then beneath that "21. 55,000 prints and brochure" isn't that right?

8 A. Yes.

9 Q. 295 There isn't any reference there to anybody indicating to the bank an
10 arrangement that's made with Mr. Dunlop for 80,000 pounds or the fact that
11 Mr. Dunlop has been retained, isn't that right?

12 A. Yes.

13 Q. 296 One would have thought, Mr. O'Callaghan, and I put it though no higher than
14 that, that had anybody at that meeting been aware of the fact that there
15 was a liability then in being from Barkhill to Mr. Dunlop, through whatever
16 mechanism was being employed, it would have been recorded there. Do you
17 agree with that?

18 A. No, I don't really. I would the would not have mentioned Frank Dunlop at
19 that stage.

20 Q. 297 I beg your pardon?

21 A. No, I would not have mentioned Frank Dunlop. What date is this?

22 Q. 298 13th of March 1991, by which stage, if your evidence is correct, you have
23 made your arrangement Mr. Dunlop for 80,000 pounds to the end of April,
24 isn't that correct?

25 A. Yes. I wouldn't have mentioned this to the bank at this stage possibly.

26 Q. 299 And in fairness to yourself, it's not suggested that you are at the
27 meeting. Mr. Deane, Mr. Gilmartin were at the meeting with Mr. Kay, Mr.
28 Donagh and Mr. Byrne. May the Tribunal take it, Mr. O'Callaghan, that you
29 would have told Mr. Deane about the arrangement as soon as you were aware
30 of it?

1 A. Yes.

2 Q. 300 At 2844. This is Mr, 28844, sorry. This is Mr. Dunlop's diary for the
3 14th, 15th and 16th and 17th of March. And again, I just draw to your
4 attention, Mr. O'Callaghan, there is no recorded entry for yourself,
5 Mr. Ambrose Kelly, Mr. Gilmartin or anything to do with Quarryvale, isn't
6 that right?

7 A. Yes.

8 Q. 301 And if I show you the continuation of that at 4783. There is similarly on
9 this page no reference to yourself, Mr. Ambrose Kelly or Mr. Gilmartin,
10 isn't that right?

11 A. Yes.

12 Q. 302 At 4799 on the 20th of March 1991, there is a mark up in Allied Irish Bank
13 and there are two matters in this I want to draw to your attention at 4787,
14 please. Under the second last paragraph under the heading "rezoning
15 planning designation" it says:

16

17 "Tom Gilmartin has always maintained the government would be disposed to
18 granting designated status to the site which would give it the same tax
19 benefits as received by Tallaght." And then two lines down from that it
20 says "Owen O'Callaghan also believes designated status will be obtained in
21 due course".

22

23 And I think your evidence is that in fact I never gave the bank any such
24 assurance, isn't that right?

25 A. Absolutely.

26 Q. 303 On the following page at 4788. At the top of the page the following is
27 recorded "The 1988 Draft Plan for the overall Dublin area is the to be
28 finalised and adopted by May 1991. Tom Gilmartin has had extensive
29 discussions with local community groups, town planners and county
30 councillors in relation to his proposed development. It is intended to

1 have Dublin County Council incorporate his scheme in the Dublin Draft Plan.
2 This would then make it extremely unlikely that full planning permission
3 would not issue in due course. Applications to rezone the Palmerstown
4 site and to dezone the O'Callaghan site had been lodged with the council.
5 Kieran O'Malley who is recognised as the leading planning consultant in
6 Dublin was retained in mid 1990 to advise on this aspect of the
7 development.

8
9 We have been advised by Tom Gilmartin/Owen O'Callaghan that the County
10 Council will vote on motions to implement these arrangements in the week
11 commencing the 25th of March 1991".

12
13 There isn't there any reference to Mr. Dunlop being retained, isn't that
14 right?

15 A. That's correct.

16 Q. 304 And it would appear that neither yourself, neither Mr. Gilmartin or
17 yourself, if you were aware of it, by this stage, by this date, disclosed
18 to the bank that Mr. Dunlop had been retained, isn't that right?

19 A. Yes.

20 Q. 305 By you are certainly providing information on the expected date at which
21 the motion is going to be heard, isn't that right?

22 A. Yes.

23 Q. 306 Right. But you are not providing any information about the fact that you
24 have either retained Mr. Dunlop or the amount of the fee, isn't that the
25 position?

26 A. That's correct, yes.

27 Q. 307 At 4800, in Mr. Dunlop's diary for 21st, 22nd and 23rd of March 1991, there
28 is no reference to you, Mr. Gilmartin, Quarryvale or Mr. Ambrose Kelly,
29 isn't that right?

30 A. Yes.

1 Q. 308 There is for example references to meeting "P Ward at Leinster House" but
2 there is nothing to indicate Mr. Dunlop carrying out any activity on behalf
3 of the Quarryvale development, isn't that right?

4 A. Yes.

5 Q. 309 And he himself hasn't recorded any meetings here with councillors, isn't
6 that right?

7 A. Yes.

8 Q. 310 If I were correct in what you have told the bank in relation to the
9 intended date for the hearing of the motion, this would have been a
10 critical week for Mr. Dunlop to be working, isn't that right?

11 A. Yes.

12 Q. 311 Yet there is no recorded entry in Mr. Dunlop's diary for what was then
13 perceived to be the date of the meeting 25th of March 1991, for any
14 meetings with councillors, isn't that right?

15 A. Yes.

16

17 CHAIRMAN: Ms. Dillon, it's ten to twelve so we might take a short brake.

18

19 MS. DILLON: Yes.

20

21 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK.**

22 **AND RESUMED AS FOLLOWS:**

23

24 MS. DILLON: Mr. O'Callaghan, please.

25

26 CHAIRMAN: All right, Ms. Dillon.

27

28 Q. 312 MS. DILLON: And I think you had agreed with me before the break, Mr.
29 O'Callaghan, from the document on screen, at 4800, that there was no
30 reference to yourself or to Mr. Ambrose Kelly or Mr. Gilmartin, isn't that

1 right?

2 A. Yes.

3 Q. 313 And again at 4803, which is the week beginning the 25th of March and that
4 is 25th, 26th and 27th of March, there is no reference there to any diary
5 entry involving yourself, isn't that right?

6 A. Yes.

7 Q. 314 And you know that the first Shefran invoice is dated, I think the 25th of
8 March 1991, isn't that right?

9 A. Yes.

10 Q. 315 At 4804. Now, this is a copy of the invoice that was provided to the
11 Tribunal by Mr. Dunlop and I think you have a similar invoice in your
12 documentation, isn't that right?

13 A. Yes.

14 Q. 316 This invoice is not stamped paid or marked paid in any way, isn't that
15 right? 4804 in full, please.

16 A. Yes.

17 Q. 317 It is for a sum of 25,000 pounds. It's a round figure sum, isn't that
18 right?

19 A. Yes.

20 Q. 318 There is no element of VAT, isn't that right?

21 A. Yes.

22 Q. 319 There is no invoice number, isn't that right?

23 A. Yes.

24 Q. 320 There is no correspondence surrounding this document, isn't that right?

25 A. Yes.

26 Q. 321 There is no letter from Mr. Dunlop either on his own behalf or on behalf of
27 Shefran or on behalf of Frank Dunlop & Associates sending this document to
28 you, isn't that right?

29 A. Yes.

30 Q. 322 There is no acknowledgement from Riga or from yourself or from O'Callaghan

- 1 Properties that you ever received this document, isn't that right?
- 2 A. Yes.
- 3 Q. 323 It exists, as it were, Mr. O'Callaghan, in a vacuum, isn't that right?
- 4 A. I wouldn't agree with that.
- 5 Q. 324 Well would you like to indicate to the Tribunal what other document exists
- 6 surrounding this invoice?
- 7 A. Well basically this invoice was agreed across the table between Frank
- 8 Dunlop and myself.
- 9 Q. 325 Where did the meeting take place in?
- 10 A. In his office Frank Dunlop's office.
- 11 Q. 326 What date is did the meeting take place?
- 12 A. Oh it was probably the same day as the date on the invoice.
- 13 Q. 327 That would be the 25th at 4803?
- 14 A. Yeah.
- 15 Q. 328 And you say on that date?
- 16 A. Either the day before or that date, yeah.
- 17 Q. 329 The day before was Sunday the 24th.
- 18 A. Well it was that date so.
- 19 Q. 330 Are the right. Would you have come um, from Cork that morning?
- 20 A. Quite possible.
- 21 Q. 331 Do you know, Mr. O'Callaghan?
- 22 A. Oh, I don't, Ms. Dillon.
- 23 Q. 332 Right. And again, you would agree with me that there is no documentation
- 24 such as bills or invoices or travel vouchers or hotel expenses for the 25th
- 25 of March or for the 24th of March, showing that you had come to Dublin at
- 26 that time?
- 27 A. No, because I did not keep them.
- 28 Q. 333 You didn't keep them. If we go to the invoice at 4804. This is the first
- 29 invoice, isn't that right?
- 30 A. Yes.

- 1 Q. 334 From Shefran?
- 2 A. Yes.
- 3 Q. 335 And by the 25th of March which is towards the end of March, do you believe
- 4 that you had told Mr. Gilmartin of the retention of Mr. Dunlop to achieve
- 5 the lobbying or to do the lobbying in relation to Quarryvale?
- 6 A. By the end of March, yes.
- 7 Q. 336 Do you think it's likely by the time this invoice was issued that you had
- 8 told Mr. Gilmartin of Mr. Dunlop being retained?
- 9 A. I can't say.
- 10 Q. 337 Right. When you told Mr. Gilmartin that Mr. Dunlop had been retained, what
- 11 was his reaction?
- 12 A. Very happy.
- 13 Q. 338 He was very happy?
- 14 A. Yes.
- 15 Q. 339 Why had Mr. Gilmartin changed his mind between the first meeting with Mr.
- 16 Dunlop and the occasion on which you told him that you had retained Mr.
- 17 Dunlop?
- 18 A. I don't know.
- 19 Q. 340 Did you explain to Mr. Gilmartin the amount of money you had agreed to pay
- 20 Mr. Dunlop?
- 21 A. No.
- 22 Q. 341 Right. So was it fair to say then that following whatever conversation you
- 23 had with Mr. Gilmartin, while he was aware that Mr. Dunlop was being
- 24 retained, he was unaware that Mr. Dunlop would be paid through Shefran or
- 25 the amount that Mr. Dunlop would be paid?
- 26 A. Yes.
- 27 Q. 342 All right. Did he agree to Mr. Dunlop being retained?
- 28 A. He had no objections.
- 29 Q. 343 Did you furnish a copy of this invoice to the bank?
- 30 A. At that particular time I don't think so.

1 Q. 344 Did you ever furnish a copy of the invoice to the bank?

2 A. That I'm not quite sure of. I can't recollect.

3 Q. 345 The evidence from the bank has been from Allied Irish Bank that they were
4 never furnished with a copy of this invoice or indeed the other two 1991
5 Shefran invoices?

6 A. At any stage.

7 Q. 346 At any stage?

8 A. Uh-huh.

9 Q. 347 And that when the auditors came to look for the back up documentation for
10 this invoice and the other two Shefran invoices, the bank were unable to
11 provide them because they had never been given them. Is that a surprise to
12 you?

13 A. No, no because the invoices were in my possession it was not a surprise to
14 me.

15 Q. 348 So I had this invoice, is that correct?

16 A. Yes.

17 Q. 349 What did you do with it when you got it, Mr. O'Callaghan?

18 A. When this invoice was agreed by Frank Dunlop and myself.

19 Q. 350 Uh-huh.

20 A. I brought the invoice to Cork with me and kept it on my desk. It was not
21 stamped by me because it wasn't put into the accounts department. And I
22 kept the invoice on my desk until I was in a position or Riga was in a
23 position to pay this money to Frank Dunlop because now I was landed with an
24 invoice for 25,000 pounds, which was something that was not in our own
25 company budgets, it was classified as the Dublin project, which up to a few
26 weeks before that we were not going to have any involvement at all in, and
27 instead we were going to receive quite a substantial amount of money
28 instead.

29

30 Now, I ended up with an invoice in my position, the start of a few to come,

1 that I would have to pay and Riga would have to pay. To ensure that Frank
2 Dunlop kept his services up and ensure that we kept or lobbying up and to
3 ensure that we got Quarryvale rezoned. I kept my invoice on my desk to
4 ensure that when the time came, that Riga would have sufficient funds I
5 would pay Frank Dunlop number 1. And number two, I would have it
6 reimbursed by Barkhill or by the bank. So I kept that invoice on my own
7 desk.

8 Q. 351 You had already, prior to receiving this invoice, paid out two amounts on
9 behalf of Mr. Gilmartin, 26,192 and 10,028 out of Riga, isn't that right?

10 A. Yes.

11 Q. 352 And that I think totals 36,000 approximately?

12 A. Yes.

13 Q. 353 Isn't that right? And you had paid that out on behalf of Mr. Gilmartin?

14 A. Yes.

15 Q. 354 Right. You didn't have any difficulty or concern in making those payments
16 on behalf of Mr. Gilmartin insofar as the financial stability of Riga was
17 concerned, isn't that right?

18 A. Yes I did.

19 Q. 355 Yes.

20 A. It made a big dent in other cashflow.

21 Q. 356 Yes. But insofar as this invoice was concerned, you tell the Tribunal you
22 have a recollection of receiving it from Mr. Dunlop unaccompanied by any
23 correspondence and bringing it to Cork and leaving it on your desk until
24 such time as you were satisfied there were sufficient funds to pay it, is
25 that correct?

26 A. It's more than a recollection because that's what happened.

27 Q. 357 All right. And when were you satisfied, Mr. O'Callaghan, that there was
28 sufficient funds to pay that invoice?

29 A. Whenever the invoice was paid.

30 Q. 358 And when was that?

- 1 A. Oh, I'm not sure whatever date.
- 2 Q. 359 It was paid I think on the 16th of May 1991, isn't that right?
- 3 A. Yeah, okay.
- 4 Q. 360 Which was the cheque I think was dated the I think the 16th of May and it
5 was paid the following day on the 17th of May, isn't that right?
- 6 A. Yes, okay.
- 7 Q. 361 And what other event can you recollect happened on the 16th of May?
- 8 A. Oh, that was the day of the vote of course.
- 9 Q. 362 That was the day of the vote. So what was if about the cashflow of Riga on
10 the 16th of May, Mr. O'Callaghan, that led you to the view that at that
11 stage you were in a position to make this payment to Mr. Dunlop?
- 12 A. I would say pure coincidence.
- 13 Q. 363 You say it is only a coincidence --
- 14 A. Yes.
- 15 Q. 364 -- that the cheque was paid on the same date as the vote the successful
16 rezoning vote for Quarryvale?
- 17 A. And obviously I would be hoping to be in a position to pay it that day of
18 course, yeah.
- 19 Q. 365 Uh-huh. Now, just looking at the invoice for a moment. Do you agree that
20 it has never been stamped paid?
- 21 A. That's right because it never came into our accounts department and I
22 wouldn't have stamped it myself.
- 23 Q. 366 Did you never give it to Mr. Lucey or any of the people who worked with Mr.
24 Lucey in the accounts department?
- 25 A. No, not until possibly around December of '93.
- 26 Q. 367 December of 1993, you would have given it it to the accounts department, is
27 that right?
- 28 A. I would have given it to Mr. Lucey.
- 29 Q. 368 Right. At that stage why were you giving the invoice to Mr. Lucey in
30 December 1993?

1 A. Because I would have relocated it in my own office, I would have found it
2 actually.

3 Q. 369 And what else did you find with that invoice?

4 A. I found the other invoices there.

5 Q. 370 So are you telling the Tribunal that by December 1993, you had mislaid
6 these invoices and that you found them then in December '93 and gave them
7 to Mr. Lucey?

8 A. I wouldn't have said mislaid. What actually happened was, mislaid in
9 inverted commas really. I kept this invoice and the following invoices,
10 the other two invoices as well, as I said, to ensure that mainly that we
11 could pay them when we had funds available because there was no budget. We
12 had no real budget for Barkhill. And secondly, to ensure that when we did
13 pay them, that we were refunded by Barkhill for the same amount of money.
14 So it would not effect our on own companies. And remember this was 1991.
15 Cash would not have been too flaitiúil in those days. I had kept the
16 invoices on a file in my own desk and these invoices were as I say I kept
17 in my possession. My filing system would probably not be the most modern.
18 My filing system consisted of having 50 or 60 files on a particular bench
19 that I kept on my office and where items to be attended to and to be looked
20 after where were kept in those files.

21

22 Those invoices were put into those files only when removed from my desk,
23 only when we were refunded by Barkhill and Allied Irish Bank and kept in my
24 own office on this particular bench that I had. There were a lot of other
25 files. A lot of other files, could be 50 or 60 of them. There would be
26 current items that I have. I wouldn't put them into a filing cabinet. I
27 would kept them on this bench so I could get at them if I wanted, and that
28 I would be reminded them of them as well actually. That's where they were.
29 They were there actually until '93, when I was cleaning out of my system,
30 end of the year '93, I found the files and handed them to Aidan Lucey.

1 They were rediscovered about two months ago in a box in our office.

2 Q. 371 Two months ago?

3 A. I have them in my possession at the moment, yeah.

4 Q. 372 And you have those in your possession at the moment, is that right?

5 A. Yeah.

6 Q. 373 And those that you discovered two months ago, have they been disclosed to
7 the Tribunal?

8 A. No they haven't. No, no.

9 Q. 374 All right. Looking at the document that's on screen for a moment, I think
10 if we just step back for a moment, Mr. O'Callaghan. Are you telling the
11 Tribunal that the original Shefran invoice that you received was kept in a
12 file in your office until December 1993?

13 A. Yes.

14 Q. 375 In December 1993, do you say you gave the invoice to Mr. Aidan Lucey?

15 A. Yes.

16 Q. 376 Right. And what did you discover then two months ago exactly?

17 A. When, because these offices -- these files have caused so much commotion,
18 we went looking for them throughout our system. We have changed offices a
19 few times since.

20 Q. 377 Uh-huh.

21 A. And we gist couldn't find them. And I eventually started looking for them
22 myself two months ago and an extensive search opened up every possible box
23 we could find and eventually found them in a particular box which was
24 marked Quarryvale actually.

25 Q. 378 And that box that was marked "Quarryvale" are the contents of that box
26 something that you haven't disclosed to the Tribunal until today, is that
27 right?

28 A. That's right. That's right, yes.

29 Q. 379 What else was in the box apart from the three invoices?

30 A. Plans and Drawings and ...

- 1 Q. 380 Were there any other invoices in the box, Mr. O'Callaghan?
- 2 A. No.
- 3 Q. 381 Were there any other financial matters in the box?
- 4 A. No strictly site plans and drawings.
- 5 Q. 382 With the exception of the three invoices from Mr. Dunlop?
- 6 A. Yes.
- 7 Q. 383 In the name of Shefran?
- 8 A. Yes.
- 9 Q. 384 And are you telling the Tribunal they are the original invoices as received
- 10 --
- 11 A. They are.
- 12 Q. 385 -- by you?
- 13 A. Absolutely the ones I brought myself from Dublin by hand. Yes. They still
- 14 have the fold on them actually. They were folded and put into an envelope
- 15 and given to me.
- 16 Q. 386 And prior to that, the documents that you provided to the Tribunal on foot
- 17 of your affidavit of discovery, where did you find that?
- 18 A. Sorry, I missed your question.
- 19 Q. 387 The document you have already provided to the Tribunal in your discovery,
- 20 Mr. O'Callaghan, where did you find that?
- 21 A. That's the copy invoice, is it?
- 22 Q. 388 Yes.
- 23 A. I presume they were with Aidan Lucey.
- 24 Q. 389 That's at 26936?
- 25 A. I'm not sure where we found them but I didn't have them.
- 26 Q. 390 26936. This is a document that you provided to the Tribunal, isn't that
- 27 right?
- 28 A. Well they must have been located in our office. They are copies I believe.
- 29 Q. 391 So at 26936 and 4804 together, please. One is the invoice provided, the
- 30 document provided to the Tribunal by you which is at page 26936 and the

1 other is the document provided to the Tribunal by Mr. Dunlop at 4804, isn't
2 that right?

3 A. Yes.

4 Q. 392 Did you provide Mr. Dunlop with a copy of that invoice in 1998?

5 A. I think we did, yes.

6 Q. 393 Yes. Mr. Dunlop's evidence has been that he himself, he didn't believe
7 that he retained any copy of these invoices?

8 A. Yes.

9 Q. 394 Although he believes that the invoice was correctly dated and given to you
10 on the date on the invoice and you agree with that, isn't that right?

11 A. Yes.

12 Q. 395 O now, insofar as you say you have now found the original of these
13 invoices, you have found them two months ago, is that right?

14 A. Yes.

15 Q. 396 Did I take any step to inform the Tribunal of the fact that you had found
16 the original of these invoices and the documents that you found?

17 A. No, no.

18 Q. 397 Did you inform your solicitor of the fact --

19 A. Yes.

20 Q. 398 -- that you had found those invoices?

21 A. To the best of my knowledge, yes.

22 Q. 399 Right. And are you in a position then to, at the close of business today,
23 to give the original of those invoices to the Tribunal, Mr. O'Callaghan?

24 A. Yes, they are in my file in our office here I can have them handed in at
25 lunchtime.

26 Q. 400 Insofar as the document you had previously provided to the Tribunal is on
27 screen, it doesn't contain any notation signifying that it has been paid,
28 isn't that right?

29 A. That's because I did not stamp it.

30 Q. 401 Right. And indeed, the other two invoices in 1991 are similarly treated,

1 isn't that right?

2 A. That is correct.

3 Q. 402 Right. And if we move then to look at 4840, Mr. O'Callaghan, on the 28th
4 of March, 29th and 30th of March in Mr. Dunlop's diary, we see that you are
5 not recorded as being in Mr. Dunlop's office or at any meeting, isn't that
6 right?

7 A. Yes.

8 Q. 403 And at 4885. In the week beginning the 1st of April in Mr. Dunlop's diary,
9 similarly, there is no entry for yourself, Mr. Gilmartin or Mr. Ambrose
10 Kelly, isn't that right?

11 A. Yes.

12 Q. 404 But on the second of April you issue the second invoice at 4849, isn't that
13 right?

14 A. Yes.

15 Q. 405 And again, I think that this is a copy provided by Mr. Dunlop which you
16 have provided an identical copy, isn't that right? And again, would I
17 agree with Mr. Dunlop it's likely he got this copy from you in 1998?

18 A. That's likely.

19 Q. 406 And again this is not stamped paid, isn't that correct?

20 A. Correct.

21 Q. 407 It's for a round figure sum of 40,000 pounds.

22 A. Yes.

23 Q. 408 It is paid I think on the 30th of May 1991, isn't that right?

24 A. I'm not sure of that.

25 Q. 409 Yeah. When this invoice was issued, if it was issued on the 2nd of April
26 1991, Mr. O'Callaghan, you hadn't paid the other invoice, isn't that right?

27 A. Yes.

28 Q. 410 When did you meet with Mr. Dunlop in relation to this invoice?

29 A. Oh, I was in his office full-time so, that time.

30 Q. 411 Yes.

- 1 A. I was in his office four or five day a week so.
- 2 Q. 412 So at 4885, on the 2nd of April, according to Mr. Dunlop's diary, you are
3 not recorded as being in attendance?
- 4 A. Yes, correct, yes.
- 5 Q. 413 Notwithstanding that, you say you did meet with Mr. Dunlop and you would
6 have had a discussion I assume with him about this invoice?
- 7 A. Oh, yes it was agreed across the table, yes.
- 8 Q. 414 What was agreed between you?
- 9 A. Sorry, the amount was agreed across the table between the two of us.
- 10 Q. 415 So this would have been the second instalment of the 80,000, is that right?
- 11 A. Yes.
- 12 Q. 416 Right. Did you send any acknowledgement or receipt of this invoice?
- 13 A. No.
- 14 Q. 417 Did you get any correspondence from Mr. Dunlop in connection with the
15 invoice?
- 16 A. No, we just sat across the table agreed the amount he had the invoice made
17 out folded it up put it in an envelope and gave it to me.
- 18 Q. 418 Again, this is an invoice that exists I suggest to you, Mr. O'Callaghan, in
19 a vacuum. In that there is no other documentation surrounding this invoice
20 other than the invoice itself, isn't that right?
- 21 A. Well the invoice itself is a document. That's what counts.
- 22 Q. 419 Yes. There is no other document surrounding it. There is no
23 correspondence passing between you and Mr. Dunlop, isn't that right?
- 24 A. No.
- 25 Q. 420 There is no record of any meeting or attendance recorded in Mr. Dunlop's
26 office, isn't that right?
- 27 A. No because I was permanent in his office.
- 28 Q. 421 Right. Though you are not recorded, isn't that right?
- 29 A. I don't think there's any need to record me because I was like a member of
30 his staff.

- 1 Q. 422 And by this stage, do you think that you had told the bank that you had
2 retained Mr. Dunlop?
- 3 A. That's the ...
- 4 Q. 423 2nd of April.
- 5 A. I don't think so but later in April as far as I know.
- 6 Q. 424 Was there any reason why you would have been keeping it from the bank that
7 you had retained Mr. Dunlop and had agreed the issuing of two invoices at
8 this stage to the tune of 65,000 pounds?
- 9 A. It's possible, I can't say if this is a fact now but maybe I hadn't been in
10 the bank. Maybe I was too busy.
- 11 Q. 425 Again can I ask you, was Mr. Gilmartin aware of this invoice from Shefran
12 at 4849?
- 13 A. No.
- 14 Q. 426 Did you discuss it with Mr. Gilmartin?
- 15 A. No, no not the invoice, no. No.
- 16 Q. 427 And --
- 17 A. And Mr. Gilmartin would not have wanted to discuss that invoice with me
18 because it was quite possible I would have asked him for some money towards
19 that invoice and he wasn't in a position to give it to me.
- 20 Q. 428 Well at this stage you hadn't made any arrangement to pay this invoice
21 yourself, isn't that right?
- 22 A. Not yet.
- 23 Q. 429 Not yet. And that invoice, I think was a paid I think on the 30th of May
24 1991, isn't that right?
- 25 A. Well, yes I haven't seen, yes.
- 26 Q. 430 And we'll come to the date of the payment.
- 27 A. Yes.
- 28 Q. 431 That was approximately just something slightly less than two weeks after
29 you had paid the first payment on the 16th of May 1991, isn't that right?
- 30 A. Yes, yes.

1 Q. 432 Now, by this stage the 3rd of April 1991, had you taken any steps to inform
2 councillors and the public that you were involved in a joint enterprise
3 with Mr. Gilmartin, other than the meeting with the ladies in Finch's pub
4 in Clondalkin?

5 A. Other than the councillors.

6 Q. 433 Yes.

7 A. I don't think, I'm not sure, I'm not sure now.

8 Q. 434 Well wasn't it necessary or likely that there would have to be some sort of
9 a public announcement about the fact that you joined forces with Mr.
10 Gilmartin?

11 A. Possibly, yes, I can't recollect.

12 Q. 435 Yes. And if I show you. It might assist your recollection, 4886. The
13 bank, I think rang you, Mr. O'Callaghan, on the 3rd of April 1991, which is
14 the day after I agree the invoice for 40,000 pounds with Mr. Dunlop. And
15 therefore you have agreed to pay the second instalment to Mr. Dunlop of
16 40,000 pounds and the question that the bank put to you is in the first
17 paragraph "when do Tom Gilmartin and Owen O'Callaghan making the formal
18 press announcement they are joining forces".

19 A. Yes.

20 Q. 436 And would you agree with me, that the making of a press announcement was
21 something that would have fallen within Mr. Dunlop's job description?

22 A. Oh, yes.

23 Q. 437 Yes. And then your explanation to the bank is recorded as follows "Owen
24 O'Callaghan explained that he has particularly over the past two weeks,
25 been meeting city and county managers and planning officers, local
26 politicians and community associations. This process was delayed due to
27 annual leave of officials prior to the end of their holiday year. He
28 received great support for the scheme and is very pleased he has the right
29 the support to progress matters. He feels a formal press announcement
30 should be made next week and both Tom and himself will meet Jack Fagan,

1 Irish Times contact name and community association and local
2 representatives will be given".

3

4 There is no suggestion there to the bank that in fact you were going to
5 deal with any joint press announcement through the offices of your press
6 advisor or lobbyist Mr. Dunlop, isn't that right?

7 A. Yes.

8 Q. 438 I would suggest to you that it would be part and parcel of the normal job
9 description of Mr. Dunlop and what he had been retained to do, if you are
10 making a joint press announcement, that it would be orchestrated or
11 overseen by Mr. Dunlop, would you agree with that?

12 A. Yes.

13 Q. 439 This document does not suggest that at this stage, if you had, as you tell
14 the Tribunal, retained Mr. Dunlop that you had in fact disclosed that to
15 the bank at this stage, isn't that right?

16 A. That's right.

17 Q. 440 Because you appear to be telling the bank that the formal press
18 announcement will be made through Mr. Jack Fagan of the Irish Times, isn't
19 that right?

20 A. Yes.

21 Q. 441 Why wouldn't you have told the bank about Mr. Dunlop being retained to this
22 point in time, Mr. O'Callaghan, and that you had in fact the previous day
23 agreed an invoice for 40,000 with Mr. Dunlop?

24 A. There probably wasn't any need as far as I was concerned. The obvious
25 person, look reading that statement, the obvious person that was going to
26 make this statement to the press to meet Jack Fagan was Frank Dunlop.

27 Q. 442 Well, I suggest that are wrong about that, Mr. O'Callaghan, because you had
28 signed an agreement at 4646 with the bank, at paragraph six. In which you
29 had entered into a binding legal agreement with the bank to "the bank to
30 approve the appointment of any professional team in relation to the ongoing

1 professional advice the company will retain" do you see that?

2 A. Yes.

3 Q. 443 You will be aware of course that's a document you signed as part of the
4 heads of term on the 15th of February 1991, isn't that right?

5 A. Yes.

6 Q. 444 And you had a contractual obligation to inform the bank of the fact of who
7 you were going to retain in terms of professional advice or professional
8 team, isn't that right?

9 A. That's right.

10 Q. 445 And similarly in paragraph seven, all decisions were to be made by
11 unanimous agreement of Mr. Gilmartin and O'Callaghan Properties, namely
12 yourself, isn't that right?

13 A. Yes.

14 Q. 446 And while I tell the Tribunal you had told Mr. Gilmartin of Mr. Dunlop's
15 retention, you hadn't agreed Mr. Dunlop's fees, isn't that right, with Mr.
16 Gilmartin?

17 A. Yes.

18 Q. 447 Yes. Can you explain to the Tribunal why in the light of your agreement
19 with the bank on the 15th of February 1991, you don't appear to have told
20 the bank by the 3rd of April 1991 of your agreement to pay Mr. Frank Dunlop
21 80,000 pounds by the end of April 1991?

22 A. Probably felt it wasn't necessary to tell the bank about that.

23 Q. 448 All right.

24 A. Didn't feel there was any need and as well as that, at that stage if I did
25 say to them I'm only surmising, that they felt that they probably would
26 have gone and started talking to Tom Gilmartin about this, despite the fact
27 that I believed I had told Tom Gilmartin about this long before this.

28 Q. 449 That doesn't make any sense with respect to you, Mr. O'Callaghan, because
29 if your earlier evidence to the Tribunal is correct, Mr. Gilmartin knew by
30 the end of March about Mr. Dunlop's retention, isn't that right?

- 1 A. That's what I'm saying to you. That's right, yes.
- 2 Q. 450 So if that evidence is correct, there would have been no reason for you not
3 to have told the bank?
- 4 A. There was no need to be broadcasting this either. There was no need to be
5 ...
- 6 Q. 451 I am looking now at your contractual obligations according to the agreement
7 you had made on the 15th of February, Mr. O'Callaghan. And may the
8 Tribunal take it then, that insofar as there is a term contained in the
9 agreement of the 15th of February, that you -- the bank had to approve the
10 appointment of any professional team, that wasn't a clause by which you
11 felt yourself particularly bound?
- 12 A. That is correct.
- 13 Q. 452 All right. And that therefore, you were sufficiently comfortable in your
14 relationship with the bank that you would have been able to embark upon
15 retaining Mr. Dunlop to act as the professional advisor for the rezoning
16 without seeking the prior permission of the bank?
- 17 A. That is correct.
- 18 Q. 453 And that would you you would similarly have retained Mr. Dunlop without the
19 prior agreement of Mr. Gilmartin although under clause seven you were
20 obliged to get his agreement?
- 21 A. Yes.
- 22 Q. 454 Right. At 4893, for the -- Mr. Dunlop's diary for the 4th, 5th of April
23 and indeed that weekend, you will note that there is no reference there to
24 Mr. Gilmartin or to yourself or to Quarryvale, isn't that right?
- 25 A. Yes.
- 26 Q. 455 Now, would you have been aware of the fact that on the a 5th of April of
27 1991, that Mr. Dunlop had paid 5,000 pound Mr. Liam Lawlor. He says
28 through Mr. Noel Lawlor, which is denied by Mr. Noel Lawlor. Did you know
29 that?
- 30 A. No, I did not know that.

- 1 Q. 456 At 4906, this is a receipt from Fianna Fail of the 21st of May, and there
2 is a handwritten note at the bottom "5,000 cash 5th of the 4th '91 to NL".
3 Which is denied by Mr. Noel Lawlor that he received that. Were you aware
4 at that stage of any such payment by Mr. Dunlop to Mr. Lawlor?
- 5 A. No, Mr. Dunlop would not tell me those things, not at all.
- 6 Q. 457 Now, on the 5th of April 1991, Mr. Dunlop opened what became known as the
7 Rathfarnham account, the 042 account. Did you know that, Mr. O'Callaghan?
- 8 A. No I did not, no. At the time, no, no.
- 9 Q. 458 And were Mr. Dunlop's banking arrangements unknown to you?
- 10 A. Yes, with one exception. When we were try driving to various meetings he
11 used to occasionally stop the car at the Bank of Ireland College Green.
12 That's as much as I would know about his banking arrangements.
- 13 Q. 459 Did you ever arrange to make a direct payment into that account of Mr.
14 Dunlop's held at AIB Rathfarnham?
- 15 A. Yes, we did, yes.
- 16 Q. 460 And was that a direct payment of a significant amount of money?
- 17 A. Yes, it was.
- 18 Q. 461 Yes. And that was 70,000 pounds, isn't that right?
- 19 A. That's correct, yes.
- 20 Q. 462 And you arranged a direct transfer to Mr. Dunlop's account, isn't that
21 right?
- 22 A. That was arranged from our office in Cork. He himself actually, I rang the
23 office back. I'll explain that to I later on I'm sure when it will come
24 up. To explain that question you've asked me. That was made from our
25 office in Cork. It was made through our office in Cork through a phone
26 call from Frank Dunlop to Aidan Lucey to transfer that amount of money to a
27 bank in Rathfarnham, an AIB bank in Rathfarnham.
- 28 Q. 463 Now, I think also on the 5th of April at 4904, Mr. Gilmartin rang the bank
29 and I just want to draw to your attention the fourth paragraph of what Mr.
30 Gilmartin is recorded as telling the bank. And in that he records "agreed

1 a meeting to take place on Tuesday next to discuss press announcement
2 joining meeting and remaining site assembly".

3

4 And there isn't there any reference to Mr. Dunlop having been retained in
5 Mr. Gilmartin's conversation with the bank, isn't that right?

6 A. Yes.

7 Q. 464 And in the final paragraph he says "he is satisfied things are in good
8 shape with locally elected reps and community associations. Owen
9 O'Callaghan has done great work in this regard". And Mr. Gilmartin was
10 obviously there recorded as being pleased your efforts, isn't that right?
11 Isn't that right?

12 A. I'm sure he was.

13 Q. 465 Now, but there isn't anything in this bank document which records the
14 telephone conversation between Mr. Gilmartin and the bank to indicate that
15 anyone was discussing Mr. Dunlop or the fact that he had been retained,
16 isn't that right?

17 A. That's right.

18 Q. 466 All right. And at 28845, in Mr. Dunlop's diary for the 8th, 9th and 10th
19 of April, there is no record of Mr. Gilmartin or yourself or Mr. Ambrose
20 Kelly or Quarryvale, isn't that right?

21 A. Yes.

22 Q. 467 And at 4920. For the following week, the continuation of that week, while
23 there is reference to Mr. Chris Jones, who was another developer for whom
24 Mr. Dunlop acted in connection with lands at Ballycullen. There isn't any
25 reference to you, isn't that right?

26 A. That's right.

27 Q. 468 Mr. O'Callaghan. And at 4925, on the following week, which is the 15th,
28 16th and 17th of April '91, similarly, you are not recorded as being in
29 attendance in Mr. Dunlop's offices, nor indeed are Mr. Gilmartin or
30 Mr. Ambrose Kelly, isn't that right?

1 A. Yes.

2 Q. 469 There is no indication of any meetings having been set up by Mr. Dunlop for
3 you with any councillors or indeed with local authority officials or
4 Residents Associations, isn't that right?

5 A. Yes.

6 Q. 470 You will agree I think with me, Mr. O'Callaghan, that Mr. Dunlop's later
7 diaries have entries in relation to various Residents Associations in
8 Quarryvale, isn't that right?

9 A. Yes.

10 Q. 471 And this all happens in the later part of 1991, indeed in 1992 and 1993,
11 isn't that right?

12 A. Yes.

13 Q. 472 But at this particular point in time there isn't any record of any such
14 meetings in Mr. Dunlop's diaries, isn't that the position?

15 A. Yes.

16 Q. 473 And would you agree with me, that to this point in time, which is to the
17 15th of April 1991, there exists two independent documents to indicate a
18 contractual relationship between yourself and Mr. Dunlop and they are the
19 two invoices we've looked at from Shefran to Riga?

20 A. Yes.

21 Q. 474 All right. And at 4927, on the 15th of April, there is another mark up in
22 Allied Irish Bank in relation to Barkhill Limited and at 4929. In the
23 first paragraph, in the second last line, the bank have now been advised by
24 Tom Gilmartin/Owen O'Callaghan that the County Council will vote on motions
25 to implement the arrangements on the 2nd of May '91, and those arrangements
26 are in relation to Quarryvale and Neilstown. And there isn't there any
27 reference that Mr. Dunlop was acting, isn't that right?

28 A. Yes.

29 Q. 475 And at 4930, under the heading "summary recommendations" in the second
30 paragraph it says "Tom Gilmartin/Owen O'Callaghan have in the past

1 fortnight met with local elected representatives, community association,
2 planning officials and the city and county managers all of whom have
3 expressed their support for the proposed retail development".

4 There is no suggestion there that those meetings were made or arranged
5 through Mr. Dunlop, isn't that right?

6 A. Yes.

7 Q. 476 Now, I think also around this time, Mr. O'Callaghan, at 4946, Mr. Gilmartin
8 received a demand for six and a half million pounds sterling from the
9 Inland Revenue, isn't that right, in England?

10 A. Yes.

11 Q. 477 Were you aware of that?

12 A. At the time not -- I was not aware of that until I read it in the
13 newspaper.

14 Q. 478 I had understood you to tell the Tribunal on the last occasion which you
15 were here that you knew in 1990 that Mr. Gilmartin had Revenue
16 difficulties?

17 A. Yeah, that's exactly what I said.

18 Q. 479 Yes. And were you aware of the specific instance in this case of a demand
19 for six and a half million pounds around this time?

20 A. No and I certainly didn't know it was that sizeable.

21 Q. 480 And at 4947, Mr. O'Callaghan, in Mr. Dunlop's diary for the 18th, 19th and
22 20th of April, there is again no reference to Quarryvale, yourself or
23 Mr. Ambrose Kelly or indeed Mr. Gilmartin, isn't that right?

24 A. Yes.

25 Q. 481 There are references there to Mr, to the Minister for the Environment on
26 the 18th of April, room 706 Leinster House. Was that something that was in
27 connection with Quarryvale?

28 A. No, not that I know of.

29 Q. 482 Right. And I think on the same day the 18th of April, at 4948, you contact
30 Allied Irish Bank and you confirm that you'd spoken to Mr. Gilmartin and

1 arranged to meet council next Tuesday or Wednesday. The vote will be on
2 the 26th of April 1991. And the council required written confirmation from
3 O'Callaghan Properties, Barkhill that they had merged. And in the next
4 entry relates to the acreage proposed and it says:

5
6 "110 acres is proposed for rezoning to retail but they may have to scale
7 this back to 65 or 70 acres. This would have adverse effect on the
8 proposed development of shopping centre. He has arranged preparation of
9 map for 70 acres in case it is required". Can I suggest to you, Mr.
10 O'Callaghan, that's the first mention of a cap in relation to the
11 Quarryvale zoning?

12 A. Possibly.

13 Q. 483 In other words, what's being reduced is the acreage for retail?

14 A. Uh-huh.

15 Q. 484 Do you agree with that?

16 A. Yeah, I think that's what that was about. I'm not quite sure of that
17 actually.

18 Q. 485 Right. Again, can I, in relation to your contacts and what is happening
19 here, there is no reference here to the bank that Mr. Dunlop has been
20 retained, isn't that right?

21 A. Yes.

22 Q. 486 And at 4962 on the 22nd, 23rd and 24th of April, there is similarly no
23 reference to you or to Mr. Gilmartin or to Mr. Ambrose Kelly, isn't that
24 right?

25 A. Yes.

26 Q. 487 By on the 26th of April, at 4978, I think Mr. McGrath's motion was listed
27 before the council for the first time, isn't that right?

28 A. I haven't that on screen.

29 Q. 488 I will have seen that at 778.

30 A. Yes.

1 Q. 489 You will see at paragraph 13 of Ms. Sinead Collins' statement that the item
2 38 on the agenda was reached at the meeting 26th of April and it was agreed
3 to defer the next motion to the next special meeting dealing with the
4 Development Plan review at the next meeting on the 2nd of May 1991. It was
5 again agreed to defer the motion to the next special meeting which took
6 place on the 16th of May 1991.

7
8 And do you agree that Mr. McGrath's motion as lodged in February '91, was
9 first listed before the Council on the 26th of April?

10 A. Yes.

11 Q. 490 Did you arrange for the adjournment of that motion?

12 A. No.

13 Q. 491 Mr. Dunlop has told the Tribunal he didn't arrange for the adjournment of
14 the motion. Do you know how it was that Mr. McGrath came to adjourn the
15 motion from the 26th of April to the 2nd of May in the first instance?

16 A. No, I don't know. I was not involved in that.

17 Q. 492 You were not involved in that?

18 A. No.

19 Q. 493 Were you aware of any difficulties around this time in relation to the
20 proposed rezoning of the Quarryvale lands?

21 A. Um, I can't remember exactly. There was some -- there was some problem
22 arose all right but I can't remember what it was --

23 Q. 494 Yes.

24 A. -- at that particular time.

25 Q. 495 On the 26th of April, Mr. O'Callaghan, the matter was adjourned to the 2nd
26 of May and at 4971, on the 25th of April, there is the first recorded entry
27 in Mr. Dunlop's diary at 12 o'clock for "Tom Gilmartin/Owen O'Callaghan"
28 and do you agree that this is the first record by Mr. Dunlop of a meeting
29 involving yourself?

30 A. Sorry, on the diary, yes, yes.

- 1 Q. 496 Yes. And can I just draw to your attention a matter that Mr. Dunlop
2 himself pointed out to the Tribunal. That he has spelt your name
3 incorrectly. Isn't that right?
- 4 A. Yes.
- 5 Q. 497 Yes. And indeed, on the entry on the following day where it says " Eoin
6 Buswells" he has again spelt your name incorrectly, isn't that right?
- 7 A. Yes.
- 8 Q. 498 The spelling of your name is OWEN, isn't that right?
- 9 A. Yes.
- 10 Q. 499 Mr. Dunlop was at a loss to explain how it could be that he could have
11 spelt your name incorrectly in April of '91, because according to
12 Mr. Dunlop he was retained by you he was retained by you prior to the 22nd
13 of January of 1991?
- 14 A. Uh-huh.
- 15 Q. 500 And you don't agree with Mr. Dunlop as to the date, isn't that right?
- 16 A. The date, no, I do not.
- 17 Q. 501 Right. Now, just looking at that diary entry for a moment, Mr.
18 O'Callaghan. The diary records an entry for Mr. Gilmartin and yourself for
19 12 o'clock, isn't that right?
- 20 A. Yes.
- 21 Q. 502 And at 1:30 for Liam, which is Liam Lawlor, isn't that right?
- 22 A. I assume so, yes.
- 23 Q. 503 Is there any possibility, Mr. O'Callaghan, that what in fact happened was
24 because the motion was listed before the council on the 26th of April 1991,
25 Mr. Gilmartin was going to attend at the County Council on the 26th of
26 April and would have met at that stage with Mr. Dunlop or become fully
27 aware of the fact that Mr. Dunlop was retained?
- 28 A. Well Mr. Gilmartin did not meet Frank Dunlop on that date.
- 29 Q. 504 What I am asking you now to deal with it is the entry that's in the diary.
30 The entry is there, Mr. O'Callaghan, in front of you. And what I am asking

1 you; is there any possibility that in fact what happened is that Mr.
2 Gilmartin, if the motion had proceeded on the 26th of April, Mr. Gilmartin
3 would have been in attendance on the 26th of April and would have become
4 aware at that stage of Mr. Dunlop's involvement, is there any possibility
5 that that is what might have happened?

6 A. I don't know, I can't answer that but it is a fair possibility that they
7 did. Tom Gilmartin was in Dublin at that particular time. He did not turn
8 up to any meeting with Frank Dunlop, that I am sure of.

9 Q. 505 If this is a correct entry and you are aware of Mr. Gilmartin's evidence,
10 that his first meeting with Mr. Dunlop was at the end of April of 1991,
11 isn't that right?

12 A. Yes.

13 Q. 506 You don't agree with Mr. Gilmartin's evidence in that regard?

14 A. No, of course I don't, no.

15 Q. 507 Can you explain in the light of your evidence this entry in relation to Mr.
16 Gilmartin in Mr. Dunlop's diary on the 25th of April 1991?

17 A. My only explanation for this is, and again it's assuming, that is that if
18 the vote was to take place around that time and we were expecting that it
19 would take place on that particular date. That I would have asked Tom
20 Gilmartin to come across to Dublin to meet him on that particular date, and
21 to be here on that particular date. I would have stayed said it to Frank
22 Dunlop. And I would have been hoping that Tom Gilmartin would have met
23 with Frank Dunlop and that Frank would outline to him exactly what our
24 situation was. On that basis, I am just say assuming that Frank Dunlop
25 probably put the two names in the diary.

26 Q. 508 Right.

27 A. But it never happened.

28 Q. 509 And if you look, you say such a meeting never took place?

29 A. No, no, no.

30 Q. 510 On the following day you see on the 26th of April, there is a name

1 obliterated in the middle of the morning, isn't that right?

2 A. Yes.

3 Q. 511 And if I show you 25596, and Mr. Dunlop has confirmed that what was
4 originally written beneath that entry was the name of Tom Gilmartin. And I
5 think if we looked at the next page which ends in seven it's easier to see
6 it probably.

7 A. Yes.

8 Q. 512 I think you will agree that what was originally entered in Mr. Dunlop's
9 diary and subsequently obliterated by him was Mr. Gilmartin's name, you see
10 that?

11 A. Yes.

12 Q. 513 If we go back and move down then, if we go back to page to 4971. And we go
13 down to the second obliteration in Mr. Dunlop's diary. And beneath the
14 words "Tommy B" and above the words (Eoin Buswells Hotel) if you look at
15 25602, Mr. O'Callaghan, you see that what was originally written by Mr.
16 Dunlop before he obliterated it was "Tom Gilmartin".

17 A. Yes.

18 Q. 514 Right. Now, if we go back then to 4971, and we see that the original diary
19 would have read Tom Gilmartin, Owen O'Callaghan 25th of April, 26th of
20 April Tom Gilmartin, subsequently obliterated and at 4 o'clock Tom
21 Gilmartin and beneath that Eoin again spelt incorrectly Buswells Hotel,
22 isn't that right?

23 A. Yes.

24 Q. 515 And then if I show you what Mr. Dunlop originally provided to the Tribunal
25 as being his Quarryvale related entries at 15354. And I just want to show
26 you that what Mr. Dunlop disclosed to the Tribunal originally as his
27 Quarryvale related entries in connection that diary was only Mr. Gilmartin
28 and yourself on the 25th of April. And he had excised or removed from the
29 Tribunal any reference to either Mr. Gilmartin or yourself on the 26th of
30 April?

1 A. Yes.

2 Q. 516 Can you think of any reason first of all as to why Mr. Dunlop would
3 initially have hidden from the Tribunal the existence of an entry relating
4 to you at 4971?

5 A. No, I can't. All I can do is try and explain to you what I think happened
6 on those dates. Tom Gilmartin was over here, was in Dublin. And I was
7 hoping that he would go and meet Frank Dunlop with me. That is why Tom and
8 Frank had the dates in on the 25th. I know Tom didn't turn up, didn't meet
9 him. I know he did turn up in Dublin, I know that but he didn't meet Frank
10 Dunlop. And it's possible, it's possible that I suggested to Frank that we
11 would put him in for the next day the 26th of April. And Tom didn't turn
12 up again.

13 Q. 517 Or indeed what might have happened, Mr. O'Callaghan, is that if Mr.
14 Gilmartin is correct in what he tells the Tribunal, his evidence is, is
15 that at the end of April 1991, he went to a meeting in Mr. Dunlop's office
16 with you, it was an unexpected meeting, according to Mr. Gilmartin and he
17 was brought there by Mr. Lawlor and you from the Dail and you there met
18 with Mr. Dunlop and at that meeting and subsequent to it, he overheard the
19 conversation relating to the payment 40,000 pounds to Mr. Lawlor that we
20 discussed on the last occasion. Is there any possibility that Mr.
21 Gilmartin is correct?

22 A. Absolutely wrong. He is not correct. That is not correct!

23 Q. 518 Mr. Dunlop's evidence to the Tribunal is that within a day or on the day
24 following his first meeting with Mr. Gilmartin, he had a separate second
25 and private meeting with you, Mr. O'Callaghan at which you came to your
26 arrangement in relation to fees. And I simply want to point out to you,
27 that the only recorded consecutive sequence of a meeting involving Mr.
28 Gilmartin and yourself in the first instance and Mr. Dunlop and yourself
29 alone in the second instance, is the 25th of April '91 and the 26th of
30 April '91 as recorded in Mr. Dunlop's diary. And do you agree with that?

- 1 A. That's what's in the diary, yes.
- 2 Q. 519 And you do you agree that insofar as there is an independent record of the
3 sequence of meetings and when they occurred, that the diary entry of Mr.
4 Dunlop tends to suggest that for whatever reason there was scheduled to
5 have been a meeting on the 25th of April involving Mr. Dunlop, Mr.
6 Gilmartin and yourself. Do you agree with that?
- 7 A. Yes.
- 8 Q. 520 And that for whatever reason on the following day a scheduled meeting with
9 Mr. Gilmartin was overwritten and a meeting is recorded or due to take
10 place involving only yourself and Mr. Dunlop, do you agree with that?
- 11 A. Yes.
- 12 Q. 521 Right. Can I --
- 13 A. Can I say to you that that is totally and utterly impossible.
- 14 Q. 522 Yes. How do you say it's impossible, Mr. O'Callaghan?
- 15 A. If the vote was supposed to take place on the 26th of April, how could I
16 have met Frank Dunlop for the first time with Tom Gilmartin on the 25th of
17 April. And how in the name of God could we have got around to 40 or 50
18 councillors and three or four Residents Associations, have the vote, have
19 Quarryvale rezoned on the 16th of May. With that amount of short time,
20 that is physically impossible!
- 21 Q. 523 Uh-huh. I thought you had agreed with me, Mr. O'Callaghan, and correct me
22 if I'm wrong. That you were certainly aware by this stage of the fact that
23 the particular council in question was a Fianna Fail majority council?
- 24 A. Yes.
- 25 Q. 524 And I am suggesting to you that all that was necessary for you to achieve
26 success in your endeavours before the council would to have been brought on
27 side the Fianna Fail Councillors?
- 28 A. That is also impossible. Impossible. It could not have happened. The
29 Fianna Fail group never voted together in block!
- 30 Q. 525 Yes. Is it possible --

- 1 A. You would have had to have a complete -- and I can't remember the figures
2 at the time. You but you would have had to have every member of the Fianna
3 Fail Party supporting that. That is also impossible.
- 4 Q. 526 Well with respect you wouldn't, Mr. O'Callaghan, as you well know. I
5 suggest to you you needed a simple majority of those present and voting in
6 order to --
- 7 A. That would mean one block of councillors together. That wouldn't happen.
- 8 Q. 527 Yes.
- 9 A. Especially, especially with Mr. Liam Lawlor in the middle of it, which is
10 the whole point!
- 11 Q. 528 If we could just now concentrate for a moment, Mr. O'Callaghan, on your
12 explanation for the entries in Mr. Dunlop's diary of the 25th and the 26th
13 of April, and can I suggest to you the following; the diary entry records
14 the spelling of your name in an incorrect fashion?
- 15 A. Yes.
- 16 Q. 529 And that suggests a less than intimate or close association with Mr.
17 Dunlop. Do you a disagree with that?
- 18 A. Disagree because he's often incorrectly spelt my name even to this day.
- 19 Q. 530 And subsequently, I think the entries in Mr. Dunlop's diary relating
20 yourself are either OWEN or OOC, isn't that right?
- 21 A. Yes.
- 22 Q. 531 But on this occasion, which is the first recorded entry in Mr. Dunlop's
23 diary of you, your name is spelt incorrect. Isn't that right?
- 24 A. Yes but he's often spelt my name like that.
- 25 Q. 532 Yes. And the diary entries that were obliterated and hidden from the
26 Tribunal by Mr. Dunlop when he made disclosure originally, concealed from
27 the Tribunal that on the 26th of April, two meetings should have taken
28 place involving Mr. Gilmartin and another meeting involving you, isn't that
29 right?
- 30 A. Yes.

1 Q. 533 Can you think of any reason, Mr. O'Callaghan, why if Mr. Dunlop was
2 prepared to disclose the meeting of the 25th of April to the Tribunal as
3 being Quarryvale related, he would have sought to conceal, as indeed he
4 did, from the Tribunal the existence of the obliterations on the 26th of
5 April and the meeting with you at 4 o'clock on the 26th of April?

6 A. I have no idea.

7 Q. 534 Yes. Do you think it might have in anything to do with the fact that Mr.
8 Gilmartin was telling the Tribunal that there were two meetings. There was
9 a meeting in late April 1991, at which he was brought to Mr. Dunlop's
10 office by yourself and Mr. Lawlor at which he over heard certain things.
11 And that this record of the 25th of April '91, was the only independent
12 record of such a meeting having taken place, if indeed it did take place.

13 A. The only meeting that took place between Liam Lawlor, Frank Dunlop, Tom
14 Gilmartin and myself took place at the end of February 1991.

15 Q. 535 Can we agree a number of matters so arising out of the evidence this
16 morning and your previous evidence to the Tribunal, Mr. O'Callaghan as
17 follows.

18

19 Up to the 25th of April 1991, there exists two invoices from Shefran to
20 Riga?

21 A. Yes.

22 Q. 536 For a sum of 25,000 pounds and 40,000 pounds respectively?

23 A. Yes.

24 Q. 537 That Mr. Dunlop was retained by you initially without the knowledge or
25 consent of Mr. Gilmartin?

26 A. Yes.

27 Q. 538 That Mr. Gilmartin had prior to that objected to Mr. Dunlop being retained
28 by you?

29 A. Yes.

30 Q. 539 But that Mr. Dunlop, that this objection by Mr. Gilmartin was based on the

- 1 fact that Mr. Gilmartin was satisfied he could manage the job himself?
- 2 A. Yes.
- 3 Q. 540 And it did not have anything to do with any perceived association between
4 Mr. Dunlop and Mr. Lawlor?
- 5 A. Yes.
- 6 Q. 541 In other words --
- 7 A. Yes, yes, yes.
- 8 Q. 542 -- you disagree with Mr. Dunlop's evidence?
- 9 A. Yes.
- 10 Q. 543 You disagree with Mr. Dunlop's evidence, even though he was not challenged
11 on your behalf when he gave that evidence.
- 12 A. Yes.
- 13 Q. 544 That in fact what you told Mr. Dunlop was that the objection Mr. Gilmartin
14 had was Mr. Dunlop's association with Mr. Lawlor. You don't agree with
15 that, isn't that right?
- 16 A. Oh, no, no, no.
- 17 Q. 545 Now --
- 18 A. Because Mr. Gilmartin did not say that to me. Mr. Gilmartin, as I said and
19 I'll repeat it again, felt that he could handle this whole situation
20 himself.
- 21 Q. 546 Right. But Mr. Gilmartin did have, to your knowledge an objection to
22 Mr. Lawlor, isn't that right?
- 23 A. Yes.
- 24 Q. 547 Because in the previous year and in 1989 you had confirmed to the Gardai
25 your agreement with or understanding of Mr. Gilmartin's complaints
26 including a complaint against Mr. Lawlor, isn't that right?
- 27 A. Yes.
- 28 Q. 548 And that Mr. Gilmartin I think you agreed with me had continuously
29 complained about Mr. Lawlor and his conduct towards Mr. Gilmartin, isn't
30 that right?

1 A. Yes.

2 Q. 549 You yourself didn't necessarily agree with Mr. Gilmartin but you knew of
3 Mr. Gilmartin's view of Mr. Dunlop?

4 A. That is correct.

5 Q. 550 And it is your evidence to the Tribunal that there was never any discussion
6 or complaint by Mr. Gilmartin, that Mr. Dunlop was a bag man for
7 politicians?

8 A. Yes, correct.

9 Q. 551 Now, Mr. Gilmartin says and told the Tribunal that his objection to Mr.
10 Dunlop was because Mr. Dunlop had a reputation for being a bag man for
11 politicians?

12 A. Yes.

13 Q. 552 Had you ever heard that suggested about Mr. Dunlop?

14 A. No.

15 Q. 553 And did you know that that was the view that Mr. Gilmartin held of Mr.
16 Dunlop?

17 A. Only much later on, much later on.

18

19 CHAIRMAN: Ms. Dillon --

20

21 Q. 554 MS. DILLON: And that that was a view that was expressed I think by Mr.
22 Dunlop in the media by Mr. Gilmartin in the media and I think to the
23 Tribunal prior to Mr. Dunlop giving his evidence here in April 2000, isn't
24 that right?

25 A. I think so, yes.

26 Q. 555 In other words, Mr. Gilmartin had told the press and Mr. Gilmartin had told
27 the Tribunal that Mr. Dunlop was a bag man for politicians and was involved
28 in paying bribes before Mr. Dunlop had his road to Damascus conversion here
29 in April 2000, where he similarly confessed to the Tribunal that he had
30 been engaged in systematic corruption?

1 A. I think it's only Gilmartin would use an expression like that.

2 Q. 556 Yes. Do you know how it was or how it was that Mr. Gilmartin came to hold
3 the view of Mr. Dunlop some years prior to April 2000, that Mr. Dunlop was
4 engaged in bribing politicians?

5 A. I don't know.

6

7 CHAIRMAN: Ms. Dillon, it's gone one o'clock. So we'll have to leave Mr.
8 O'Callaghan over to tomorrow at half ten. And Mr. Deane is at two o'clock.

9

10 MS. DILLON: Yes, Sir.

11

12 CHAIRMAN: Thank you.

13

14 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

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1 **THE TRIBUNAL RESUMED AS FOLLOWS AT 2:00 P.M.:**

2

3

4 MR. QUINN: Good afternoon, Sir. Before Mr. Deane, resumes his evidence,
5 it is proposed to call Mr. Liam Creaven to give some very short evidence.

6 Mr. Creaven, please.

7

8 CHAIRMAN: Mr. Creaven's been sworn, hasn't he?

9

10 MR. QUINN: Not in the Quarryvale module.

11

12 CHAIRMAN: Now, you can step in to the box, Mr. Creaven. Would you take
13 the oath in your right hand and say after me ...

14

15 **MR. LIAM CREAVERN HAVING BEEN SWORN, WAS QUESTIONED BY.**

16 **MR. QUINN AS FOLLOWS:**

17

18 CHAIRMAN: And your full name is?

19 A. Liam Creaven.

20

21 CHAIRMAN: Thank you. You can sit down, Mr. Creaven.

22

23 MR. QUINN: Mr. Dore has handed me a copy of a medical report for
24 Mr. Creaven dated the 30th of June 2008. Mr. Creaven was due to give
25 evidence from time to time.

26

27 CHAIRMAN: We know that, yes.

28

29 MR. QUINN: Over the last six months. Unfortunately, it would appear that
30 Mr. Creaven has suffered from severe back and leg pain, isn't that correct,

1 Mr. Creaven?

2 A. Correct. Yes.

3 Q. 557 I think Mr. Dore is applying for representation.

4

5 MR. DORE: I appear, Chairperson, and when I first applied, I did apply
6 for representation. I presume that continues.

7

8 CHAIRMAN: Question. Yes. Well we'll certainly grant you representation.

9

10 MR. DORE: I'm very obliged. Chairperson, it might be appropriate just to
11 read the medical report into the record.

12

13 CHAIRMAN: Yes, all right.

14

15 MR. DORE: It's a medical report of Dr. Frank Chambers, a consultant in
16 anesthesia and pain medicine, dated the 30th of June 2008.

17

18 And it reads "To whom it may concern. Re Mr. Liam Creaven. 43 St Fintan's
19 Park, Sutton, Dublin 13.

20

21 "Mr. Creaven is a patient of mine and was referred me by Mr. Ashley
22 Poynton, consultant orthopedic and spinal surgeon.

23

24 He presented with severe back and leg pain. Despite maximum medications,
25 he continues to be symptomatic. In view of his severe ongoing pain and
26 associated core morbidities, in terms of diabetes etc. and the fact that
27 Liam is on considerable amount of medications including Utrons patch and
28 Lyrica, it can significantly impair his cognitive function and result in
29 memory loss.

30

1 If you require any further information please do not hesitate to contact
2 me. Signed Dr. Frank chambers."

3

4 CHAIRMAN: All right. Thank you.

5

6 MR. DORE: Obligated.

7

8 MR. QUINN: I take it that, that medical report can be added to the brief
9 now.

10

11 CHAIRMAN: Yes.

12

13 MR. QUINN: It's part of the evidence.

14 Q. 558 Thank you, Mr. Creaven, for attending.

15

16 Mr. Creaven, I think you were an elected councillor for the Howth ward and
17 you were a member of Dublin County Council in 1991?

18 A. Correct.

19 Q. 559 And I think you have been supplied, if I could have 16890, a summary of
20 your involvement and particularly your involvement in relation to the
21 Quarryvale votes. And you've approved of this summary and that summary is
22 now on screen. And I think it shows that you were present at a special
23 meeting of the council on the 16th of May 1991, and that you voted in
24 favour of the, what I might refer to as the McGrath motion, which was in
25 favour of transferring the zoning to the Quarryvale site, both in relation
26 to the amendment to that motion and the substantive amended motion, isn't
27 that correct?

28 A. Correct.

29 Q. 560 And I think again you were present on the 17th of December 1992, and you
30 voted in favour of the amendment which effectively transferred the zoning

1 to that site at that time also, isn't that the position?

2 A. Correct.

3 Q. 561 You were written to I think by the Tribunal and you were asked for a
4 narrative statement and you were asked a series of questions. And that
5 letter is dated the 21st of March 2000, and is at 1561 and 1562 of the
6 brief and you responded to the letter I think on the 13th of April 2000,
7 and that response is at 1563. And in essence, I think it would be fair to
8 say that your response to the queries raised were to the effect that you
9 never attended any public or private meeting in relation to the -- or in
10 connection with the rezoning of Quarryvale, is that correct?

11 A. Correct.

12 Q. 562 And I think you say you never requested any party to provide any assistance
13 in connection the proposal to rezone Quarryvale?

14 A. Correct.

15 Q. 563 However, I think you say as appears at 1563, that when asked whether you
16 were ever lobbied in connection with the rezoning of Quarryvale, your
17 response was that you had received many requests to support and also vote
18 against in most proposals with regard to the Draft Development Plan on the
19 Quarryvale site you are recorded as having said "I received various
20 representations for and against". Is that correct?

21 A. Correct.

22 Q. 564 And then I think you advised the Tribunal that you were never requested nor
23 did you ever solicit the support of any other member of the council for the
24 rezoning of Quarryvale.

25 A. Correct.

26 Q. 565 And when asked if you had ever received any payments donations or benefits
27 of gifts in relation to the development of Quarryvale, you advised the
28 Tribunal that you had received a Christmas hamper, is that correct?

29 A. Correct.

30 Q. 566 Now, you have given evidence on a number of other modules I think. And it

- 1 would be fair to say that you had a very close and possibly continued to
2 have a very close bond and relationship with Mr. Frank Dunlop?
- 3 A. Correct.
- 4 Q. 567 I think you have advised the Tribunal on previous occasions that by and
5 large you supported any proposal that Mr. Dunlop was in favour of?
- 6 A. Correct.
- 7 Q. 568 And account Tribunal take it that your support for Quarryvale both in 1991
8 and again in 1992, was as a result of having been requested for your
9 support by Mr. Dunlop?
- 10 A. I'm sorry?
- 11 Q. 569 Can the Tribunal take it that Mr. Dunlop requested your support for the
12 Quarryvale proposals in May '91 and again in December '92?
- 13 A. Yes. I should say that the Quarryvale, the primary reason I voted for
14 Quarryvale was the number of requests I got from the local people, which
15 was very controversial rezoning. And for the first time I got a letter
16 from the local priest asking me to support it.
- 17 Q. 570 You were I think a councillor for the Howth ward, is that correct?
- 18 A. Yes.
- 19 Q. 571 And in 1991, I think the proposal had the support of Mr. McGrath and
20 Councillor Hanrahan, isn't that right?
- 21 A. Yes.
- 22 Q. 572 And the late Councillor Tom Hand.
- 23 A. Yes.
- 24 Q. 573 All signed the amended motion, isn't that correct?
- 25 A. Yes.
- 26 Q. 574 Did Councillor McGrath and Councillor Hand or indeed Councillor Hanrahan
27 seek your support for the 1991 proposals?
- 28 A. I can't recall.
- 29 Q. 575 Well what happened what about Mr. Dunlop, did Mr. Dunlop seek your support
30 for the 1991 --

- 1 A. I can't recall whether Frank Dunlop asked me to vote for it, I told
2 everyone publicly that I was voting for it.
- 3 Q. 576 Even in 1991?
- 4 A. I believe so.
- 5 Q. 577 Yes. And you followed through with your support in December '92?
- 6 A. Yes.
- 7 Q. 578 And do you recall ever discussing the matter with Mr. Dunlop?
- 8 A. I can't say that I recall specifically talking to him. But all I can say
9 is that he knew that I was supporting it.
- 10 Q. 579 Yes. And you recorded and in Mr. Dunlop's books and records in a series of
11 trial positions as having been a supportive of the proposal in 1992 both in
12 the best case and worst case scenarios, isn't that correct?
- 13 A. Yes.
- 14 Q. 580 You've seen that in the brief?
- 15 A. Yes.
- 16 Q. 581 And do you say, did you ever meet Mr. O'Callaghan in relation to the
17 proposal?
- 18 A. I'm sorry.
- 19 Q. 582 Did you ever meet with Mr. O'Callaghan?
- 20 A. Not purposely or specifically or for that but I'm sure I met him with Frank
21 Dunlop.
- 22 Q. 583 Yes. You say you never met him or he never sought your support for the
23 proposals?
- 24 A. No.
- 25 Q. 584 What about Mr. Tom Gilmartin?
- 26 A. Never met the man.
- 27 Q. 585 Did any other councillors seek your support?
- 28 A. No.
- 29 Q. 586 What about Councillor Gilbride?
- 30 A. No.

- 1 Q. 587 You would have known Councillor --
- 2 A. Pardon.
- 3 Q. 588 You would have known Councillor Gilbride?
- 4 A. Yes.
- 5 Q. 589 And Councillor McGrath?
- 6 A. Yes, yes.
- 7 Q. 590 They were both members of the same party, isn't that correct?
- 8 A. That's correct.
- 9 Q. 591 Would it be fair to say that there was a lot of dissension publicly as a
10 result of the vote in May 1991, and indeed I think a number of Fianna Fail
11 Councillors lost their seats in the June elections in 1991.
- 12 A. I believe that's right, yes.
- 13 Q. 592 Yes. And you were aware that it was a controversial rezoning?
- 14 A. Yes.
- 15 Q. 593 Now, in your statement I think you give evidence of having received a
16 hamper, isn't that right?
- 17 A. A which?
- 18 Q. 594 A Christmas gift in 1991, isn't that correct?
- 19 A. Yes.
- 20 Q. 595 Can you tell the Tribunal how that came about?
- 21 A. Oh, was it that, I can't other than that it was Christmas and ...
- 22 Q. 596 And who gave you the hamper? If we could have 1563 again please.
- 23 A. Who gave it to me ... I'm not sure was it Frank Dunlop.
- 24 Q. 597 We know that Mr. Dunlop submitted an invoice to Riga Limited at 8966 on the
25 21st of December 1992, for a sum of 64,897.78 pounds. And accompanying
26 that invoice he provided details at 8967, of how that amount was broken
27 down.
- 28 A. Yes.
- 29 Q. 598 It's on screen now. But under the heading "other miscellaneous costs" Mr.
30 Dunlop identifies fees a sum of 15,636.77 pounds which are assigned to

1 costs including expenses and Christmas gifts, do you see that?

2 A. Yeah.

3 Q. 599 What can you tell the Tribunal about your Christmas gift in December '92
4 and how you can and how you are in a position to advise the Tribunal that
5 it related to Quarryvale?

6 A. I can't think of anything about it, I can't tell you anything about it.

7 Q. 600 Yes.

8 A. Just that it was a Christmas gift.

9 Q. 601 Yes. The question asked of you, Mr. Creaven, at 1562 in relation to that
10 matter. It's at item No. F and it says "whether you were at any time and
11 for any purpose in receipt of any payments, donations or benefits including
12 any form of gifts, assistance, services, facilities, entertainment or any
13 other benefit of a non-monetary nature from any parties who were involved
14 in the development of the Quarryvale shopping centre or from any persons or
15 companies acting on behalf of the developers".

16

17 And the they identified the people involved with the development to include
18 Mr. O'Callaghan, Mr. Gilmartin and those acting for and on behalf of the
19 developers as Frank Dunlop & Associates, Shefran Limited and Frank Dunlop.
20 In any event, you believe that whatever gift or hamper you received in 1992
21 presumably, was in relation to Quarryvale or I didn't remember support for
22 Quarryvale, is that correct?

23 A. Yes.

24 Q. 602 Thank you very much, Mr. Creaven.

25

26 CHAIRMAN: Thank you very much, Mr. Creaven.

27

28 MR. DORE: Just for the purposes of clarification.

29

30 CHAIRMAN: Sorry, I should have ...

1

2

WITNESS WAS QUESTIONED AS FOLLOWS BY MR. DORE.

3

4 Q. 603 MR. DORE: I take it, Mr. Creaven, your Christmas hamper was wasn't worth
5 15,636.77 or the colour of it, would that be fair to say?

6 A. No, it wasn't.

7 Q. 604 What would you say it was worth?

8 A. What would I say it's worth?

9 Q. 605 Yeah.

10 A. Oh, I've no idea.

11 Q. 606 But it's small. Small beer to put it in the vernacular.

12 A. Pardon.

13 Q. 607 Small beer to put it in the vernacular.

14 A. Yes.

15 Q. 608 Now, Mr. Creaven, would it be fair to say that and I think this was given
16 in your evidence on several occasions before the Tribunal, that your ethos
17 was pro-development, isn't that right?

18 A. Yes.

19 Q. 609 And you weren't, as it were, Mr. Dunlop's puppet. Mr. Dunlop may have
20 approached you and may have suggested to you that the development was good
21 but the reason for you supporting the development was your own ethos, it
22 wasn't the fact that you were asked or any representation was made through
23 Mr. Dunlop, isn't that right?

24 A. Yes.

25 Q. 610 Thank you.

26

27 CHAIRMAN: Thank you, Mr. Creaven.

28 A. Thank you.

29

30 MR. QUINN: Mr. John Deane, please.

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1 **MR. JOHN DEANE CONTINUED TO BE QUESTIONED BY.**

2 **MR. QUINN AS FOLLOWS:**

3

4 CHAIRMAN: Good afternoon Mr. Deane.

5 A. Good afternoon.

6 Q. 611 MR. QUINN: Good afternoon, Mr. Deane. Mr. Deane, on the last occasion we
7 were dealing with the accounts of Barkhill Limited and if I could just ask
8 you some questions in relation to the accounts of Riga Limited. You were a
9 director of Riga and I think you would have signed the audited accounts of
10 Riga as a director, as would Mr. O'Callaghan, isn't that correct?

11 A. That's correct.

12 Q. 612 And in her evidence to the Tribunal, Ms. Cowhig has advised the Tribunal
13 that from time to time if she had queries arising on the audit of the Riga
14 accounts, that she would raise those queries with you and were the person
15 who would most likely provide answers or solutions to queries that she had?

16 A. That's correct.

17 Q. 613 You were effectively her liaison person. And I think you will have seen
18 her evidence that in relation to the transfer of the professional fees out
19 of the Riga accounts, the Barkhill loan account for the year ended '93,
20 that her evidence has been to the effect that she would have done that
21 having discussed the matter with you?

22 A. That's correct, yes.

23 Q. 614 And she has advised the Tribunal that in relation to that 86,000 odd, that
24 she discussed the matter with you and that you would have advised her that
25 you felt because Mr. Gilmartin's fees weren't being paid, that perhaps your
26 fees. And when I say "your" I mean Riga's as project manager's
27 professionals fees wouldn't be paid, isn't that correct?

28 A. Yes, members of our team.

29 Q. 615 Yes. And would you have said that to her?

30 A. Yes, I would have.

1 Q. 616 And she has given that as a reason for the transfer out of those funds at
2 that time?

3 A. Yes, we discussed the accounts on an annual basis and she would have asked
4 me did I believe that those amounts due by Barkhill to Riga would be
5 readily paid and I gave two reasons. One, that the bank wouldn't provide
6 the funding to Barkhill to pay. Secondly, I didn't think that Tom
7 Gilmartin would permit them to be paid in view of arguments that we had
8 previously about paying his professional team.

9 Q. 617 I am just going to put three or four principles to you, Mr. Deane, in
10 relation to your belief at that time, if it were your belief.

11

12 Firstly, we are talking about a period after the end of April '93, isn't
13 that correct?

14 A. Yes, the accounts you're talking about, that's right.

15 Q. 618 And they are done I think prior to, I think the 8th of June '93. So we're
16 talking about a period somewhere between beginning of May '93 and June '93.
17 And I'm going to suggest to you that at that stage the three Shefran
18 payments weren't included in any application for funds for Barkhill. In
19 other words, we know that there was an allocation of funds to Barkhill and
20 a facility provided to Barkhill in May '93, late May '93 or June '93. And
21 I'm going to suggest to you that the 80,000 pounds wasn't sought from the
22 bank by Barkhill at that time?

23 A. Because I don't see that that's relevant to ...

24 Q. 619 Well if the -- this is the point that I want to make to you. If the 80,000
25 were to be paid by Barkhill, Barkhill would have to be in funds, isn't that
26 correct?

27 A. That is correct. But I think --

28 Q. 620 Otherwise it would lie dormant in the account or be part of the carried
29 loan between Riga and Barkhill, which is in essence what happened
30 ultimately, isn't that right?

1 A. Yes. I may be misunderstanding the situation. As I understand it, the
2 three Shefran payments are the 86, together with a number of other things
3 like land and other costs were part of the 1 million subordinated loan.
4 Consequently, they were never going, Barkhill would never be repaying those
5 items as it were from a new facility, because we had already provided the
6 funds to pay for those as part of other commitment to the bank and to Tom
7 Gilmartin to provide 1 million pounds for the benefit of the project.

8 Q. 621 I appreciate that. That's exactly the point I wanted to make to you,
9 Mr. Deane, as the second point. In other words, an apprehension that Mr.
10 Gilmartin would never allow the payment of that money which you say
11 necessitated taking it out for that year of those accounts, was never
12 likely to arise because it was always intended and it had been the position
13 right through since those payments were made by Riga on behalf of Barkhill,
14 that they would fall into that, what was referred to as the loan account or
15 the subordinated loan account?

16 A. I thought the question you asked me was had Barkhill made an application
17 for funds to pay those.

18 Q. 622 But if I were anticipating a refusal by Mr. Gilmartin to, of a refund by
19 Barkhill to Riga, as a prerequisite to that refusal Barkhill would have to
20 have the funds it make the payment. And in order to have the funds
21 Barkhill would have to have applied to the bank for a facility to include
22 that 80, that's the point I'm wishing to make.

23 A. I don't see it that way. The question I was asked by Clare when we were
24 doing the accounts was, in effect you if you issued an invoice tomorrow
25 morning to Barkhill for the all the sums due, which effectively was the
26 425,000, would you get paid. And the answer to that question is no,
27 because first of all Barkhill didn't have the funds to pay that invoice.
28 And secondly, the Tom Gilmartin wouldn't agree to it.

29 Q. 623 And even if --

30 A. They are two separate issues.

1 Q. 624 And the reason Barkhill didn't have the funds for those payments because
2 was because it hadn't applied to the bank for the funds. But assuming and
3 if we move to the second point. Assuming it was intended that Riga with a
4 would be paid that 400,000 to include the 80, and assuming that the bank
5 had provided those funds, first of all had been asked for the funds and
6 secondly had sanctioned the funds to Barkhill, would you agree with me that
7 in fact they could have been paid without Mr. Gilmartin's input in the same
8 way that a number of other accounts were being settled at this time by Riga
9 on the signature of Mr. O'Callaghan and Mr. Pitchard who were two of the
10 three people mandated to drawdown the funds from the bank on behalf of
11 Barkhill?

12 A. Yes, if there were funds made available by loan or the accounts, yes, that
13 could have been done. But the reality of life at that point in time, is
14 that there weren't funds there which could be disbursed to repay Riga. The
15 question I was asked by the auditor Clare Cowhig at the time, was
16 effectively if you sent an invoice for this money to Barkhill, would you go
17 paid. And my answer to that straight up was no, I would not anticipate
18 those being paid and out of the Barkhill account. For the reason that one,
19 the bank wouldn't advance the money and secondly, that I didn't see Tom
20 Gilmartin agreeing to it. That was the answer I gave her. And that was
21 the discussion.

22 Q. 625 And indeed, in the year following I think, the 80 of that sum had been
23 transferred back. Does that mean that you believed for the year ended
24 April '94, that the bank would in fact or that Barkhill would in fact have
25 paid those funds at that time?

26 A. I believed at that time that zoning had gone through. The row with Tom
27 Gilmartin over payment of his particular consultants had ameliorated
28 somewhat because we had made arrangements with Connell Wilson who had been
29 in fairness owed a lot of money but we didn't have the money to pay them.
30 And I felt at the very least we would get back the fees incorporated the

1 our subordinated loan.

2 Q. 626 And just taking that decision made somewhere between the 1st of May '93 and
3 the 8th of June '93, on the 20th of January '93 at 9125, and this is a
4 document that we have seen last week. It's an attendance on yourself and
5 Mr. O'Callaghan with Mr. McGrath Mr. O'Farrell and Ms. Basquille. It's an
6 attendance taken by Ms. Basquille within the bank. And if I could bring
7 you to 9127 under the heading "outstanding fees" and you might recall that
8 the bank at in stage were concerned about mounting outstanding fees, it was
9 one of these crucial meetings with Mr. McGrath and the note records the
10 following and this is Mr. O'Callaghan speaking to the bank:

11

12 "Owen O'Callaghan advised that a payment of 64,000 was still due to Frank
13 Dunlop in relation to the zoning costs and requested payment of this
14 invoice from Barkhill's loan facility. He was clearly disappointed when
15 told that this would not be possible in view of the fact that the facility
16 was drawn to the maximum amount permitted and he highlighted" and this is
17 Mr. O'Callaghan "that Riga would be covering all fees in relation to Green
18 take over and the stadium proposal which had indirect benefit for Barkhill
19 and had also paid security costs in relation to the Bruton House".

20

21 So that the 400,000 you're talking about, which includes the 80, included
22 the fees in relation to the Stadium proposal, isn't that correct?

23 A. Yes, it would.

24 Q. 627 And in January '93, Mr. O'Callaghan was advising the bank that Riga were
25 going to take care of those fees, isn't that the position?

26 A. But again, I think there is a different issue. The issue there is a
27 cashflow issue. Who is actually going to pay the fees out of their account
28 and -- and we had agreed at that stage to do it. The second issue is an
29 accounting issue. This was being carried as an asset in the books of Riga
30 under the Barkhill loan and I was being asked a straight forward question.

1 If you sent an invoice would you get paid and the answer to that because
2 for, you've pointed it out. One of the reasons the bank wouldn't agree to
3 it by showing this, we had said to the bank that we would cover the
4 cashflow of that, so clearly they weren't going to do it. And I didn't
5 believe that Tom Gilmartin would agree to it. So that's why. That's the
6 question I was asked by the auditor and that's the answer I gave him for
7 those reasons.

8 Q. 628 Now, just as a matter of general policy and I'm now moving to the Riga
9 accounts. Would it be fair to say that you did not have any day-to-day
10 input into those accounts but that at accounting year end, when the auditor
11 came to do the audit on the accounts and she took the books and records
12 from Riga and began to go through them, she would prepare queries and by
13 and large those queries were either addressed to you or to Mr. Lucey?

14 A. That's a fair summary, yes.

15 Q. 629 Now, if I could have 28798. This is an example of one such query list and
16 it's referred to as the "Riga Limited outstanding queries for the 30th of
17 April '92." In other words, Ms. Cowhig is here preparing the accounts for
18 Riga Limited to the 30th of April '92. And the very first item that she
19 has here picked up on, on her queries list is a cash payment on the 18th of
20 November '91 of 5,000 pounds. Do you see that?

21 A. I do.

22 Q. 630 And if I take you to 6260. About five from the bottom, this is an extract
23 now from the Riga cheques payments book. If I could gist highlight the
24 very bottom of that, please. And if we could highlight about five from the
25 end. Do you see a cash payment --

26 A. Yes.

27 Q. 631 -- of 5,000 pounds there. Maybe that could be highlighted across.
28 Straight completely across. And I think it's entered under "sundries" and
29 I think if we look to the right of the 5,000 we'll see the number "5098".
30 And it says "expenses Westpark". If you disagree with me say so,

1 Mr. Deane, because I appreciate that it's very difficult to identify it and
2 but I think ...

3 A. I think I understand that, yes.

4 Q. 632 So obviously when she came to prepare her books and records and her audit,
5 she found this matter in the sundries account, a cash payment. And I think
6 the 5,000 if we trace it we find it's a 5,000 pounds payment made to Mr.
7 O'Callaghan, isn't that correct? And we can see that lodgement to Mr.
8 O'Callaghan's account at 6262. And we so can see the withdrawal or the
9 debit on the Riga account at 6261. And it's on the 21st of November '91.

10 A. Yes, I see that.

11 Q. 633 And when she came to analyse those sundries at 6266, and this is either in
12 Ms. Cowhig's handwriting or some member of her staff, under the heading
13 "analysis of sundries" at four down you see cash 5,000, 18th of November
14 '91?

15 A. Yes.

16 Q. 634 And on the right she has assign it had to "735" and you see the 5,000?

17 A. Yes.

18 Q. 635 And 735 as I understand it is the Barkhill loan account, it's her reference
19 to the Barkhill loan account?

20 A. I'm not sure.

21 Q. 636 And if we go back then to 28798. She now has been presented with a cash
22 payment to Mr. O'Callaghan and it's referred to the Quarryvale expenses
23 within the cash payments book presumably an instruction not given by you by
24 given by someone at the date the cheque was drawn, isn't that correct? In
25 other words, if I go back to 6260 and we do the just taking it in sequence
26 when the cheque was drawn in November '91 for 5,000 pounds, it was the
27 details were described as "cash" and the 5,000 was entered "sundries" and
28 somebody referenced the 5,000 to the Barkhill, the Westpark expenses, which
29 is effectively Quarryvale?

30 A. Yes, I see that.

1 Q. 637 Isn't that correct? So she has picked up the sundries. She has gathered
2 that it's in relation to that. And she has raised a query. And if we go
3 back now to 28798, this is at the year end. She's picked up the on the
4 matter. She has a query and I think your evidence has been that either
5 yourself or Mr. Lucey would have answered that query but possibly yourself,
6 isn't that right?

7 A. In general terms the queries raised if they weren't answered by Mr. Lucey
8 then Clare's next port of call would have been me.

9 Q. 638 And the query appears to have been answered on the basis that it's Westpark
10 - not Barkhill "L Lawlor" isn't that right?

11 A. That's what it says, yes.

12 Q. 639 And somebody either you or somebody within Riga would have advised Ms.
13 Cowhig that this was a payment to Mr. Lawlor, a cash payment to Mr. Lawlor?

14 A. That certainly appears to be the case, yes.

15 Q. 640 And I think it was written up not to the Barkhill loan account but it was
16 written up within Riga to the account known as the, initially the nominal
17 account at 2823 and we see in a at page 6267. And at 6268, if we could go
18 to maybe 6268, the nominal account of Riga which is given the reference 357
19 has an advertising and subs section, do you see that?

20 A. Yes.

21 Q. 641 And the first entry there appears to be the 5,000 pounds payment to L
22 Lawlor Fianna Fail?

23 A. Yes.

24 Q. 642 And that would have been written in sometime in November '92 in relation to
25 the period ended April '92 for the payment to Mr. O'Callaghan of 5,000
26 pounds in November '91, isn't that correct?

27 A. That's correct, that appears to be the case, yes.

28 Q. 643 Now, when we look at Mr. O'Callaghan's account of course we don't
29 necessarily see a 5,000 pounds payment or debit from his account at 6262.
30 However, I think it would be fair to say that the books and records of Riga

1 Limited were audited and signed off on the basis that under advertising and
2 subs there was a 5,000 pounds payment to Mr. Lawlor, isn't that right?

3 A. That certainly seems to be the case, yes.

4 Q. 644 However, I think that at 28840 on the 24th of June of this year, when
5 dealing with one of the two 10,000 pounds sundry payments, Mr. O'Callaghan
6 provided through his solicitors a revised statement. He was of the opinion
7 that perhaps that that 5,000 wasn't the 5,000 to Mr. Lawlor as he
8 originally envisaged, isn't that correct?

9 A. That's correct.

10 Q. 645 It may in fact have related to the purchase a horse?

11 A. I think Mr. O'Callaghan always had a difficulty in that he believed he made
12 one payment to Mr. Lawlor. And having identified the five that's what left
13 the ten as it were, as a mystery item.

14 Q. 646 If we go back to 28798 when Ms. Cowhig picked up on this 5,000 pounds
15 reimbursement to Mr. O'Callaghan initially, she did so on the basis that
16 someone had told her or had advised her that it was a payment to
17 Mr. Lawlor?

18 A. That's obviously the case, yes.

19 Q. 647 And she initially thought it was a payment in relation to Westpark or an
20 expense in relation to Westpark because that's what was written up in the
21 cheques journal, isn't that correct?

22 A. Yes.

23 Q. 648 We saw that at 6260.

24 A. That's correct.

25 Q. 649 So the position would appear to be the following. Mr. O'Callaghan was
26 reimbursed with 5,000 pounds in November '91 for a payment made at some
27 stage but he felt to Mr. Lawlor.

28 A. I think he was, I mean just to get clear in the amounts. I think the
29 amount that if you want to call it reimbursed was the sum of 10,000 pounds
30 on two occasions and that I think, they both followed the same pattern and

1 I think this is, I don't think this is a reimbursement as such. This is
2 another payment to Mr. O'Callaghan.

3 Q. 650 I am going to go with the idea at the moment, Mr. Deane, if I may, that in
4 November 1991, when Mr. O'Callaghan's account was reimbursed with 5,000
5 pounds.

6 A. Yes.

7 Q. 651 When the cheque was written within Riga.

8 A. Yes.

9 Q. 652 First of all, it was believed that that 5,000 pounds was due in relation to
10 Westpark expenses.

11 A. That appears to be the case, yes.

12 Q. 653 And it's unlikely that the acquisition of a horse would relate to Westpark
13 expenses would that be fair to say?

14 A. Certainly not.

15 Q. 654 How would a payment to Mr. Lawlor be a Westpark expense in November '91?

16 A. Well I think if you were making a political contribution or that then it
17 was for the Barkhill project if you want to call it that.

18 Q. 655 So would be it be fair to say it was understood at the time it was entered
19 up, that Mr. O'Callaghan had on behalf of Riga who in turn on behalf of
20 Barkhill Limited paid a political contribution to Mr. Lawlor of 5,000
21 pounds?

22 A. I think that can only be the interpretation of it, yeah.

23 Q. 656 And that at some stage that was rectified and Ms. Cowhig raised the issue
24 at 28798, when preparing her audit on her accounts and was advised that it
25 wasn't a Barkhill expense but in fact it was a payment to Mr. Lawlor and
26 was therefore written up in the books and records of Riga Limited under
27 advertising and subs?

28 A. Yes, appears to be the case, yes.

29 Q. 657 And that whoever gave the information initially in relation to it being a
30 Westpark expense or a payment to Mr. Lawlor or reimbursement Mr.

1 O'Callaghan for a payment to Mr. Lawlor, whoever gave that it wouldn't have
2 been you. But as a matter of probability having regard to the nature of
3 the relationship between yourself and Ms. Cowhig, when she came to raise
4 the issue or the query at year end, it's probably you who advised her that
5 it was a payment to Mr. Lawlor and not a Westpark expense or a Barkhill
6 expense?

7 A. Well as I said, there are two issues there. First of all, maybe I did
8 advise her, I don't recall specifically. But the issue really I suppose is
9 that Clare would come to me with queries when she didn't get answers
10 elsewhere. So I can't say for certain whether I did or I didn't. If that
11 was answered in the office by somebody, then that query wouldn't have come
12 to me.

13 Q. 658 Now, if I move then to the accounts, that was the query raised on the
14 accounts for the year ended April '92. And if I move to the queries raised
15 on the accounts for the year end 30th of April '93. Before I get to the
16 query I'm going just going to put a series of documents just to put it in
17 context. On the 7th of November 1992 at 8422, there is a stub in Mr.
18 O'Callaghan's personal account a cheque book stub for cheque No. 1223, in
19 the sum of 10,000 pounds made payable to Senator Batt O'Keeffe, do you see
20 that cheque stub?

21 A. Yes, I do.

22 Q. 659 And the actual cheque itself at 8423, and it's a cheque dated 7th of
23 November 1992, and it's drawn on Mr. O'Callaghan's own account in the sum
24 of 10,000 pounds, do you see that?

25 A. That's correct.

26 Q. 660 A and if we look at Mr. O'Callaghan's account at 8426 we see a debit of
27 10,000 pounds for a that cheque at 1223, at the very bottom 12th of
28 November. Just immediately ahead of that on the 10th of November you see a
29 lodgement to Mr. O'Callaghan's account of 10,000 pounds?

30 A. Yes.

- 1 Q. 661 And if we go to 8428 we see a cheque drawn on Riga Limited cheque No. 2460
2 debited on the Riga account on the 10th of November 1992. And that is the
3 cheque I suggest to you that credits Mr. O'Callaghan's account in relation
4 to the debit arising from the payment of 10,000 to Mr. O'Keeffe?
- 5 A. That would appear to be the case, yes.
- 6 Q. 662 Yes. Now, dealing with the books and records of Riga Limited, when that
7 cheque was written for Mr. O'Callaghan obviously there had to be an entry
8 in the cheque payments book. And if we could have 8427 please, we see an
9 entry in the cheque payments book and it's cheque No. 60 but in fact it's
10 2460 but it's cheque made payable to Mr. O'Callaghan, it's 10,000 pounds.
11 It's entered under sundries and you see the reference or the designation
12 "5098"?
- 13 A. Yes.
- 14 Q. 663 And again I think we've agreed that that relates to Barkhill, Westpark,
15 Quarryvale whatever you wish to call it. So it was understood I suggest to
16 you, when this cheque was written in November '92 to Mr. O'Callaghan to
17 reimbursement him for a sum of 10,000 paid by him to Mr. Batt O'Keeffe,
18 that that reimbursement was going to be assigned to Barkhill for Westpark,
19 the Westpark project or the Quarryvale project, isn't that correct?
- 20 A. I presume somebody assumed that that was the case.
- 21 Q. 664 And when Ms. Cowhig came to do the audit for the, what would have been the
22 year end 30th of April '93, the payment having been made in November '92.
23 At 8429, she picked up in her analysis of sundry payments, a payment to
24 Owen O'Callaghan 10,000 pounds and if you look across she has given a
25 designation it would appear to have a designation "735" which would have
26 been the Barkhill loan account. And she re-designates it to "357" which is
27 advertising and subs. Do you see that?
- 28 A. Sorry.
- 29 Q. 665 It's on the right-hand side.
- 30 A. Oh, yes sorry I have it now, yes. I see it, yes.

- 1 Q. 666 And before she does that, she has written in over the 10,000 "see Batt
2 O'Keeffe".
- 3 A. Yes I do.
- 4 Q. 667 And at 28803, in her queries items to complete, for that period ended 30th
5 of April '93, item No. 7 it says "Owen O'Callaghan 10,000". And then to
6 the right of that is written "Batt O'Keeffe, Fianna Fail, Westpark?
7 refundable? subscription Riga".
- 8 A. Yes.
- 9 Q. 668 And I think it was written up to the advertising and subscription accounts
10 of Riga at 8430 for the accounting period ending April '93. And we see
11 that on screen at the moment, isn't that correct? Do you see that, the 357
12 advertising and subs. And if you go down you will see Batt O'Keeffe Fianna
13 Fail 10,000 pounds?
- 14 A. Yes, I see that.
- 15 Q. 669 However, if we go back to the initial entry at 8427 would you agree with me
16 that when the cheque was written to Mr. O'Callaghan to reimburse him for
17 that payment to Mr. O'Keeffe, someone within Riga, maybe Mr. O'Callaghan,
18 had decided that it was in essence a Westpark or a Barkhill expense, isn't
19 that right?
- 20 A. That's most unlikely that Mr. O'Callaghan would have identified that as a
21 Westpark expense.
- 22 Q. 670 But somebody identified it as a Westpark expense?
- 23 A. It could well have been the person who was writing the cheque. I cannot
24 see for a moment that Mr. O'Callaghan would identify Batt O'Keeffe as a
25 Westpark expense.
- 26 Q. 671 That's what I was hoping to raise with you, Mr. Deane. Assuming that the
27 person who wrote that cheque to reimburse Mr. O'Callaghan did so on
28 instructions and those instructions would have to come from either yourself
29 or Mr. O'Callaghan, isn't that correct?
- 30 A. No, I would never, I would never have given any instructions in relation

1 to --

2 Q. 672 Assuming that the instructions are had come from Mr. O'Callaghan then and
3 the record is correct, then the instructions were that it was a payment of
4 10,000 pounds in connection with Quarryvale, isn't that right?

5 A. I don't, I can't agree with you because I just don't know. And I don't
6 believe --

7 Q. 673 Sorry, apologies.

8 A. -- for one second that Mr. O'Callaghan would have said to anybody that Batt
9 O'Keeffe who everybody in Cork knows is a Cork based politician, could have
10 anything whatsoever to do with Westpark. I just think somebody made an
11 error. It was picked up by the auditor. It was done properly and that's
12 the issue. And I don't think Mr. O'Callaghan would have said that's a
13 Westpark expense.

14 Q. 674 Would you agree with me that in the absence of an explanation that it was
15 in error, that the paper would suggest that it was in fact a payment in
16 relation to Quarryvale, the entries at the time, the contemporaneous
17 entries in the books and records of Riga Limited suggest that it was in
18 fact a Westpark expense or a Barkhill expense?

19 A. Somebody clearly wrote that down there. The important thing I think is,
20 that when the auditor came to look at it, the matter was picked up properly
21 and dealt with.

22 Q. 675 Yes. Now, there was a second payment, if we look at the document on
23 screen, a second cheque written. This time it says cheque for 70,000
24 pounds and it's written to Frank Dunlop. In fact, I think it was a credit
25 transfer in the end from Riga Limited to Mr. Dunlop on foot of an invoice
26 which had issued in relation to the Stadium project in July '92?

27 A. Yes.

28 Q. 676 You know that?

29 A. Yes.

30 Q. 677 And that's given the designation "5098" and that also is a Westpark

1 expense, isn't that right, or a suggested Westpark expense?

2 A. That's correct, it relates, I think 5098 was a reference to the Dublin
3 project, if you want to call it that.

4 Q. 678 And there is a third entry there and it's a payment of 5,000 pounds to GV
5 Wright, isn't that right?

6 A. That's correct.

7 Q. 679 And doesn't that, that cheque is at 8467 it's dated the 11th of November
8 '92. This time it's a direct payment from Riga Limited to Mr. Wright. And
9 would you agree with me that, that payment which we see being debited to
10 the account of Riga Limited at 8470, was again entered in the books and
11 records of the cheque payments journal at 8469 as a payment in connection
12 with Westpark, isn't that correct?

13 A. Yes.

14 Q. 680 Do you say that's an error?

15 A. No, I don't, in what way is it an error, I'm sorry.

16 Q. 681 I am not suggesting that it is an error. But assuming that it is correct
17 and not an error, would you agree with me when that cheque was written it
18 was understood that it was written in connection Quarryvale?

19 A. Yes, that's --

20 Q. 682 And why would the payment to Senator GV Wright, who would have been a
21 colleague at the time of Senator Batt O'Keeffe, why would a payment of
22 5,000 pounds to him at that time be a Quarryvale expense?

23 A. I think again I didn't write the note and I didn't write the cheque. But I
24 can only assume from the notation that Mr. Wright was in Dublin and it was
25 associated with the Dublin project. Mr. Batt O'Keeffe was in Cork. He had
26 nothing whatsoever to do with the Dublin project.

27 Q. 683 And if we go to 28803 and we look at No. 8 queried by Ms. Cowhig, we see
28 that GV Wright query 5,000 pounds, Fianna Fail Councillor - subscription.
29 And I think a decision was taken and if we look at 8702, we will see it
30 being put into effect, whereby that payment was entered up in the books and

1 records of Riga Limited for that year end under the heading "advertising
2 and subs" as was the 5,000 pounds sorry 8472 as was the payment to
3 Mr. O'Keeffe, you see about half way down the --

4 A. Yes, I see those, yes.

5 Q. 684 What I'm suggesting to you, Mr. Deane, that those three payments which are
6 grouped together in the books and records and the payments journal of Riga
7 Limited at 8469, namely the reimbursement to Mr. O'Callaghan in relation to
8 the payment to Mr. Batt O'Keeffe or Senator Batt O'Keeffe, as he is
9 described in these cheque stubs of Mr. O'Callaghan. The payment of 70,000
10 pound Mr. Dunlop and the 5,000 pounds to Senator GV Wright are all entered
11 up as being referable to Barkhill, Westpark and Westpark expenses.

12 A. The designation of 5098 is written after every one of those in the cheque
13 payments book. As I have said, I can't see how any attribution can be made
14 of the Batt O'Keeffe payment to Quarryvale, I just don't or to the Dublin
15 project because I just don't understand how that can be the case. Clearly
16 somebody made a mistake and that was that.

17 Q. 685 Now if, we move forward to 1993 and we deal with payments made in November
18 1993, which would fall into the year ends April '94 for Riga, again for
19 Riga?

20 A. Right.

21 Q. 686 At this stage if, I could have 10362, about midway down and just below the
22 bank area, do you see two entries one for Colm McGrath of 20,000 and one to
23 John O'Halloran for 5,000?

24 A. Yes.

25 Q. 687 And if we go across the sheet, I think we see an attribution to those
26 payments to Westpark?

27 A. Yes.

28 Q. 688 And if I could have 9692. This is a payment in September 1993 to Frank
29 Dunlop of 25,000 pounds, it's a about four down from the top. And again if
30 you go across to the right-hand side you see that 25,000 written up to 5098

1 which is a Westpark expense, do you see that?

2 A. I'm just wondering were all the Dublin expenses written up to 5098, I'm
3 just not just not familiar with the coding enough to be able to give
4 definitive answers. But you had Clare Cowhig here recently and I'm sure
5 she was able to explain the codes better than I can.

6 Q. 689 I should explain that whilst Ms. Cowhig had her own code for Barkhill and
7 for Quarryvale, the 5098 was a Riga code. In other words, it's a code
8 written by the employees of Riga or whoever writes the books, the cheques
9 within Riga as opposed to the auditors. Do you understand?

10 A. I'm not disagreeing with you, I'm just saying it's something I'm not
11 familiar with the accounts in that sort of detail.

12 Q. 690 If we look at 9691 we see an invoice for an all purpose Stadium dated 10th
13 of June 1993, directed to Riga Limited which is paid on the 14th of
14 September '93 it's in the sum of 25,000 pounds and it relates to that
15 payment that I showed I a moment ago in relation to Mr. Dunlop?

16 A. Yes.

17 Q. 691 And again if I take you to the bank statements of Riga Limited at 10363, on
18 the 23rd of November '93, you will see that there is a debit on the Riga
19 account for cheque No. 503994 in the sum of 20,000 pounds and we don't have
20 that cheque but we are advised that that's a cheque to Councillor McGrath.
21 And if we go to 10354. Again, in November 1993, there is a cheque debit of
22 503995 for 5,000 pounds. And we see that cheque at 10351, it's made
23 payable to John O'Halloran from Riga Limited and it's dated 9th of November
24 1993. And if we go to 9693 we have a cheque in the sum of 25,000 pounds
25 made payable to Frank Dunlop dated 14th of September '93, a cheque which
26 appears to have been cashed and if I take you to the 10366. This is the
27 analysis of the sundries column within the cheque payments book of Riga
28 Limited done by the auditors Barbar & Co. And you will see four from the
29 top the Frank Dunlop 25,000 then the reference to Barkhill and do you see
30 the reference 735?

1 A. Yes.

2 Q. 692 That is a Barkhill reference. And then if you go about two-thirds of the
3 way down you will see "Colm McGrath 20,000 pounds" again you will see
4 written in Barkhill 735?

5 A. Yes.

6 Q. 693 And then if go to the next one John O'Halloran 5,000 pounds again 735?

7 A. Yes.

8 Q. 694 And if we had 10367, and if you look at the, this is an extract from Barbar
9 & Co.'s working papers, you will see there the Barkhill loan given 735
10 designation. And you will see the two cheques or the three cheques as they
11 are now are. One to Frank Dunlop for 25,000; one to Colm McGrath for
12 20,000 and one to John O'Halloran for 5,000 all being written up to the
13 Barkhill loan account?

14 A. That's correct.

15 Q. 695 And I suggest to you, that they appeared in the books and records of
16 Barkhill Limited for the year ended April '94 as part of the Barkhill loan
17 account. In other words, that there were payments made on behalf of
18 Barkhill.

19 A. Yes.

20 Q. 696 That is the payment to Councillor McGrath and Councillor O'Halloran, isn't
21 that right?

22 A. That's correct.

23 Q. 697 However, they were I suggest to you for the year ended the 30th of April
24 '95 moved out of the Barkhill loan account and they were taken within the
25 Riga to the directors loan account. And we see that if we look at 9708,
26 you will see an extract showing the inter company balance within Riga
27 commencing with the balance on the 30th of April '95 with the figure of
28 2.33 million, do you see that at the top right?

29 A. Yes.

30 Q. 698 And then if you add to that movements on that account or factor in the

1 movements on the account, you get a balance owing to Riga on the 31st of
2 March '95 of 2.322 million, do you see that?

3 A. Yes.

4 Q. 699 And there is an explanation given for those figures and allowing for
5 deductions, the matter was queried by Leo Fleming on the 2nd of February
6 '96 at 9711. He has received a letter of the 8th of August '95, which is
7 at 9707 and the accompanying schedule, which you will see shows a balance
8 of 2,322,923 if you go back to 9711 please. And then on the 29th January
9 '96, he had received a second letter from Barbar & Co. at 9710, and this
10 gives a balance due of 2,262,923 which shows a difference between two year
11 ends of 60,000?

12 A. Yes.

13 Q. 700 And if we go to 9712. When he queries that difference of 60,000 he is
14 advised that the difference of 60 arises from a cost originally taken as
15 Barkhill but was subsequently discussed and decided to be a Riga cost,
16 hence the revised balance of monies from Barkhill to Riga. And that 60,000
17 is broken down in for the year end April '95 at 10369. When Ms. Cowhig
18 transfers the 60,000 out of the Barkhill loan account within Riga and into
19 the directors loan account. And the figure is made up of the 5,000 to John
20 O'Halloran, 20,000 to Colm McGrath 25,000 to Frank Dunlop and there is a
21 further 10,000 to Owen O'Callaghan which is described as Westpark expenses
22 and that makes up the 60,000?

23 A. Yes.

24 Q. 701 Now, the net effect of all of that very convoluted sequence of events,
25 Mr. Deane, is that for one year, that is the year ended April '94, looking
26 at the books and records of Riga Limited, those payments were regarded as
27 part of the monies due to Riga by Barkhill Limited. However, for the
28 following and subsequent years they were regarded as monies due to Riga
29 Limited from the directors loan?

30 A. Yes, I understand what you're saying.

1 Q. 702 And first of all, in the first instance, can I ask you how payments to
2 Councillors McGrath and O'Halloran could be ever regarded as Westpark
3 expenses?

4 A. It they were payments made as we regarded them in, connection with the
5 Dublin project. Therefore, they were properly attributed to that, that's
6 the way I believe it was done.

7 Q. 703 And in relation to the transfer back of the sums from the Barkhill loan
8 account to the directors loan account, Ms. Cowhig in her evidence has said
9 that she made that transfer back having discussed the payments with you and
10 having advised you that because there weren't any invoices available for
11 these, that it's unlikely that the auditors for Barkhill Limited would
12 allow the payments as part of the loan account and would probably transfer
13 them to the directors loan account and sets this time there was the
14 possibility of an investor becoming involved in Barkhill Limited that it
15 was best to leave them within the Riga directors loan account?

16 A. Yeah, I understand what you're saying but I don't actually think that's
17 quite the way it happened. I think it was a discussion we had for maybe
18 the following year's accounts that there were two payments I think to
19 Mr. Lawlor that came up. And she had advised in relation to those, because
20 they wanted invoices for those. That they were, they would go into a
21 directors loan in Barkhill because we had an outside investor coming in at
22 that time, they would want the directors loan cleared off, which would be
23 normal enough. So if he we wanted to have them as part of the directors
24 loan and have the timing of that at our own discretion, then they should be
25 taken back to the Riga loan. And that was the discussion we had and I
26 think at that stage, she also told me for the previous year there were some
27 other items that would be similarly treated and asked me would she treat
28 them in a similar fashion and I said yes go ahead and do that. I don't
29 think we had any discussion about adding up which invoices or sorry which
30 amounts payable to I whom. It was just simply a fact that she said there

1 are similar ones were from the previous year that are likely to be treated
2 the same way and would she treat them similarly and I said yes.

3 Q. 704 And just in relation to the payments to Mr. Lawlor, if I could 11379
4 please. This again is an extract from the cheque payments book of Riga
5 Limited. And if we look at an item third from the end, we see a payment in
6 1994 cash payment of 10,000 pounds, do you see that?

7 A. That's correct.

8 Q. 705 And if we go to the right-hand side you see under the heading "sundries"
9 again a reference to 5098 OOC/pol c/LL?

10 A. Yes, I see that.

11 Q. 706 And if we look at 11648 and again about one-third of the way down you will
12 see on the 13th of March '95, a cash cheque made payable to cash well a
13 cheque described in the cheque payments book as having been made payable to
14 cash?

15 A. Yes.

16 Q. 707 In the sum of 20,000 pounds?

17 A. Yes.

18 Q. 708 And again under the heading sundries on the far right hand corner I will
19 see 5098 OOC/pol c/LL?

20 A. Yes.

21 Q. 709 And we see those debits on the Riga account?

22 A. Yes.

23 Q. 710 The 10,000 pounds on the 27th of December '94 at 11380, cheque No. 504577
24 being debited to the account on that date and at 11649 on the 13th of March
25 '95, we see the debit on cheque No. 574741 in the sum of 20,000 pounds?

26 A. Yes, I see those.

27 Q. 711 And if we look at 11381 under the heading "analysis of sundry cheques for
28 the year ended 30th of April '95" a document prepared by Barbar & Co. when
29 they came to deal with the audit about a third of the way from the bottom
30 you will see "cash 10,000 pounds plus 20,000 pounds" and you see it has

- 1 been given a reference 75A which I suggest is a Barkhill loan account
2 reference 30,000 pounds?
- 3 A. I see the references there.
- 4 Q. 712 Yes. All right. However, at 11382 at the very bottom you see the Bank of
5 Ireland AIB No. 1 account analysis. And if we go over the page at 11383 we
6 see the two payments to cash of 10 and 20,000 pounds being directed to the
7 directors loan account?
- 8 A. Yes.
- 9 Q. 713 And again, would you agree with me that when both of those cheques were
10 written within Riga first of all it would appear that the details entered
11 up under the heading "details" which presumably is the payee on the written
12 cheque, that in both cases it's cash?
- 13 A. Yes, I understand that, yes.
- 14 Q. 714 And that whoever wrote those cheques understood at that time if we go back
15 to 11397 that they were writing cheques in relation to an expense in
16 respect of Barkhill Limited as opposed to Riga Limited?
- 17 A. That's correct.
- 18 Q. 715 And that as a matter of probability whoever wrote up those cheques at that
19 time in the cheque payments book was doing so as the behest of Mr.
20 O'Callaghan who I think admits to having made both of those payments to
21 Mr. Lawlor?
- 22 A. Yeah, that's quite probable.
- 23 Q. 716 Did you know that Mr. Lawlor was receiving those payments at that time?
- 24 A. I knew after the event that he had received them I believe.
- 25 Q. 717 How long after the event did you learn of the first payment?
- 26 A. Oh, I can't say for certain but I would have thought within a relatively
27 short time.
- 28 Q. 718 So you would have known of the first 10,000 before you learned of the
29 second 20,000?
- 30 A. That's quite probable. Yes.

- 1 Q. 719 Yes. And why was Mr. Lawlor paid 10,000 in September '94?
- 2 A. It was part of the two payments I think were actually connected as I
3 recall. Mr. Lawlor was to get money for his help in connection with both
4 the Stadium project and Quarryvale. He had been instrumental in organising
5 the agreement with Green Properties for the zoning agreement for 500,000
6 square feet and he had done an awful lot of work in connection with the
7 Stadium. And he asked Owen O'Callaghan for a payment for services as it
8 were and Owen agreed to give it to him. And that's my recollection of the
9 events.
- 10 Q. 720 Mr. O'Callaghan had made the payments out of his own directors loan account
11 ultimately, isn't that right?
- 12 A. Uh-huh.
- 13 Q. 721 His loan account within Riga was either credited or debited with the 30,000
14 or did you share the payments between you?
- 15 A. Initially it was done that way and subsequently it was shared.
- 16 Q. 722 Shared?
- 17 A. Yeah and the way as I understand or sorry as I recall the conversations,
18 when these two items came up Clare was discussing the accounts with me.
19 She made the point that because there weren't invoices they would have to
20 go into the directors loan account within Barkhill. As we were getting
21 outside investor in at that particular point in time they would insist on
22 that being cleared, it would have had to have been paid anyway. So she
23 advised that the thing to do was to put it into the directors loan account
24 within Riga and then there was flexibility as to when it was paid subject
25 to the payment of the benefit in kind tax.
- 26 Q. 723 You recall earlier that we saw, Mr. Deane, that within Riga there was an
27 advertising and subs account where other payments, for example the payments
28 to Mr. McGrath and Mr. O'Halloran ultimately found their home?
- 29 A. Yes.
- 30 Q. 724 Whereas these payments to Mr. Lawlor find their home in the directors loan

1 account?

2 A. Yes.

3 Q. 725 Not in advertising and subs, is there any significance in that?

4 A. I'm not sure to be certain -- my accounting -- in fact, my impression and
5 I'm not an accountant, is that this was for, as it were, work done.
6 Therefore you would have to have an invoice and without an invoice the only
7 place to go is into the directors loan account. Where as the others were
8 political contributions which went into advertising and subs.

9 Q. 726 That's the point I'm raising with you, Mr. Deane. Did payment to Batt
10 O'Keeffe for example and GV Wright, whilst initially written up to the loan
11 account and were ultimately assigned I think to the advertising --

12 A. Uh-huh.

13 Q. 727 -- and subs accounts?

14 A. Yes.

15 Q. 728 Whereas the payment to Mr. Lawlor didn't find its way to the advertising
16 and subs and stayed within the directors loan account?

17 A. I think the issue, again, as far as I can recall and I'm open to correction
18 on this, was that this was seen as work done effectively.

19 Q. 729 Whereas the work, the payments to Mr. O'Keeffe and Mr. Wright you say were
20 not in respect of works done?

21 A. No, I don't believe so.

22 Q. 730 And if these were in respect of works done, was there an issue concerning
23 an invoice from Mr. Lawlor in relation to the works done?

24 A. Yes, he never gave an invoice for those so you couldn't treat them as
25 expenses.

26 Q. 731 Was he ever asked for an invoice?

27 A. Subject to correction, I think he may well have been. Mr. O'Callaghan
28 would be best placed to deal with them.

29 Q. 732 If Mr. Lawlor was being paid in September '94 and in March '95 for works
30 done. That presupposes that there was some understanding or agreement with

1 Mr. Lawlor that he would receive payment at that time in relation to works
2 done by him?

3 A. Well obviously the fact that payments were received indicates that there
4 was an agreement made. If your question is was there an agreement made
5 years beforehand; I don't believe there was.

6 Q. 733 My question really was, when was the agreement and what was the agreement
7 and who was the agreement with?

8 A. Well the discussions took place between Mr. O'Callaghan and Mr. Lawlor.

9 Q. 734 You would have been aware of those discussions presumably?

10 A. I'm not sure I was aware of them at the beginning but certainly I became
11 aware of them.

12 Q. 735 The rezoning I think, in fact there were three or four key votes on the
13 rezoning of Quarryvale. The first was May '91.

14 A. Yes.

15 Q. 736 The second was December '92.

16 A. Yes.

17 Q. 737 The third would have been about June '93 in relation to the Written
18 Statement but I think that was a unanimous decision ultimately and the
19 fourth would have been around October, November '93 when the maps and then
20 the written statement were finally confirmed.

21 A. Yes.

22 Q. 738 Are you saying that Mr. Lawlor received these payments in September '94 and
23 in March '95 in relation to his contribution to those successful votes?

24 A. No I'm not.

25 Q. 739 On the Quarryvale project?

26 A. No, no. I think you are putting words into my mouth. Maybe I expressed it
27 incorrectly the last time. As I understand it, he was asked for money for
28 what he did in relation to the agreement Green Properties and all the work
29 he'd done in relation to the Stadium. That is my recollection and I can't
30 put it any further.

- 1 Q. 740 What had he done in relation to Green Properties?
- 2 A. He was instrumental in reaching an agreement between ourselves and Green
3 Properties that the first cap on Quarryvale would be 500,000 square feet.
- 4 Q. 741 That was the agreement in May '91?
- 5 A. Yes, that's my recollection.
- 6 Q. 742 Now, are you saying therefore that a portion of the payment in September
7 '94 and in March '95 dated the work Mr. Lawlor did in May '91?
- 8 A. What I'm saying is when he, as my recollection of the discussion with Mr.
9 O'Callaghan. He was making the point that he had been instrumental in
10 getting that agreement done. He had done an awful lot of work in
11 connection to the Stadium and he wanted to be paid. I can't put it any
12 broader than that.
- 13 Q. 743 Can I ask you what work he had done in relation to the Stadium?
- 14 A. Again, my understanding is that he had worked with Mr. O'Callaghan and Mr.
15 Dunlop in relation to the Stadium in its promotion in connection with the
16 sort of proposal that was ultimately put to the government. And he
17 actually I think came up with the idea first of the National Stadium.
- 18 Q. 744 So these payments related to his works in connection with the Stadium and
19 his brokering of a deal with Green Properties in May '91?
- 20 A. That's the way he put it to Mr. O'Callaghan as I recall.
- 21 Q. 745 And when did he put that to Mr. O'Callaghan?
- 22 A. Around the time that the first payment was made to him.
- 23 Q. 746 That would be around September '94?
- 24 A. I believe so, yes.
- 25 Q. 747 And he was looking in September '94 for payment in relation to works which
26 dated back to May '91 you say?
- 27 A. That's -- I'm just telling you you as I recall it.
- 28 Q. 748 Did Mr. O'Callaghan tell you how much Mr. Lawlor had sought in September
29 '94?
- 30 A. No, I don't think he did. I think he said he, in the first time he made a

1 payment to him was 10,000 pounds. And he made a clear to me at the time
2 Mr. Lawlor wasn't happy with that and was seeking more money. And I think
3 that is where it was settled with the 20,000.

4 Q. 749 Was there ever a suggestion for example that Mr. Lawlor would sue Mr.
5 O'Callaghan and indeed yourself for payments at that time?

6 A. I can't say.

7 Q. 750 The agreement, the request for the payment appears to have been made
8 shortly prior to the first payment. And the first payment itself didn't
9 appear to be adequate in Mr. Lawlor's eyes and that necessitated a second
10 payment some months later, isn't that correct?

11 A. That's my understanding of it, yes.

12 Q. 751 But you don't suggest that there was a pre-existing agreement that these
13 payments would be made to Mr. Lawlor as I understand your evidence?

14 A. I don't -- I certainly I have no recollection of a pre-existing loan.

15 Q. 752 Therefore, what was the obligation on yourself or Mr. O'Callaghan to make
16 any payments to Mr. Lawlor in September '94, or March '95?

17 A. I don't believe there was any pre-existing obligation to do it whatsoever.
18 Again Mr. O'Callaghan was actually doing the negotiations with Mr. Lawlor,
19 unless he has a different view of it.

20 Q. 753 If what you say is correct, Mr. Deane, then these are the nature of an ex
21 gratia payment to Mr. Lawlor bound fixed to Mr. O'Callaghan and yourself as
22 being appropriate for the works that you believe Mr. Lawlor and the benefit
23 he had been to the project?

24 A. I don't know how you describe them. I just give you the facts as I recall
25 them.

26 Q. 754 Now, there were I think in September '93, I think at 10075, the office of
27 the National Treasurers of Fianna Fail wrote to Mr. O'Callaghan advising
28 him of the Fianna Fail debt at that time. And advising him that a senior
29 representative of the treasurers committee would be in contact with him
30 personally in relation to the debt at that time.

- 1 A. Yes.
- 2 Q. 755 Were you aware that Mr. O'Callaghan had received this letter in September
3 '93?
- 4 A. Yes, I believe there O'Callaghan discussed it with me around that time.
- 5 Q. 756 Yes. And I think the evidence has been that Mr. Mac Sharry, later that
6 year contacted Mr. O'Callaghan and Mr. O'Callaghan gave an undertaking that
7 he would pay 100,000 pounds to Fianna Fail at that time?
- 8 A. I don't recall the sequence of events and who contacted who but certainly I
9 do recall requests being made for a substantial sum of money and
10 Mr. O'Callaghan agreeing to make that contribution.
- 11 Q. 757 Yes. And would it be fair to say that you concurred in that decision to
12 make that substantial contribution to Fianna Fail?
- 13 A. That's correct.
- 14 Q. 758 And I think the payment was divided into three payments effectively. The
15 first was a payment made I think on the 11th of March '94, at a fundraising
16 dinner, at 21896. When Mr. O'Callaghan, I think at 21897 wrote a cheque
17 for Fianna Fail in the sum of 10,000 pounds and handed it over at that
18 dinner. I think a dinner attended by Mr. Albert Reynolds?
- 19 A. Yes.
- 20 Q. 759 Who would have been, I suggest to you, well known to yourself and Mr.
21 O'Callaghan by March '94?
- 22 A. I'm not sure if I had met him but certainly Mr. O'Callaghan would have
23 known him, yes.
- 24 Q. 760 And of course Riga reimbursed Mr. O'Callaghan in relation to that payment
25 and the Riga cheque payments book if 21900 shows an entry. If we could
26 have just about midway down it's I'm sorry for the ... For the bad quality
27 of the copy on screen. But you will see there it's a contribution to I
28 think it might be party and in brackets (FF) and do you see that 10,000
29 pounds?
- 30 A. Yes.

- 1 Q. 761 And as I say the Riga reimbursed Mr. O'Callaghan in relation to that and we
2 see the debit on the Riga account 21901. And then in the year end 30 April
3 '94 at 21902, you see an entry on the No. 1 account just No. 1 Bank of
4 Ireland analysis of sundry cheque payments and three from the end, do you
5 see "cash" and there seems to be a payment to McCroome Dairy with 311.01
6 pounds, plus 10,000 which is I suggest that 10,000 pounds payment. And if
7 we go to 21903, you will see the advertising and sub account. And about
8 five from the bottom you will see "Bank of Ireland Fianna Fail 10,000
9 pounds" do you see that?
- 10 A. Yes, I do.
- 11 Q. 762 And if you -- I think it was the books and records of Riga Limited and the
12 audited accounts of Riga for 30th of April '94 at 21904, under the
13 heading -- these are the add backs effectively because obviously you can't
14 deduct this as an expense of the trade. You will see there advertising and
15 subscriptions and you will see 50,916, which I suggest includes the 10,000
16 pounds payment?
- 17 A. Yes, I do.
- 18 Q. 763 And then I think there was a second payment on the 13th of May '94, this
19 time a cheque by Riga Limited at 10959 made payable to Niall Crowley in the
20 sum of 10,000 pounds?
- 21 A. Yes.
- 22 Q. 764 And if we look at 10961, we look at the cheque payments book of Riga
23 Limited and about two-thirds of the way down you see Niall Crowley, I think
24 it's Fianna Fail 10,000 pounds and it's --
- 25 A. Yes.
- 26 Q. 765 If we go across the screen you will see a that 10 written under sundries.
27 And you will see the 10 debited to the Riga account at 10962 on the 18th of
28 May '94. And then there is an analysis done at 10965 for the year ended
29 30th of April '95. And the fourth item down is Niall Crowley election fund
30 10,000 pounds.

1

2 And I think it's assigned to 385, which is the political donations
3 reference. However, would you agree with me that just looking at that 385
4 that somebody has written another figure on that account, just look at, if
5 that could be highlighted please. You see Niall Crowley election fund
6 10,000 pounds?

7 A. Yes.

8 Q. 766 And then to the right there was obviously assigned to a different
9 subcategory within Riga?

10 A. That may well have been the case.

11 Q. 767 In any event, if we look at 10966 item No. 385 nominal account is political
12 donations and you see the contribution there identified as being a
13 contribution to Niall Crowley election fund 10,000. And I think that left
14 a balance outstanding of 80,000 on the commitment to the 100,000, isn't
15 that correct?

16 A. That's correct.

17 Q. 768 And I think that that 80,000 was paid on the 21st of June '94 at 11141 by a
18 cheque signed by Mr. O'Callaghan. 11142 I think we see the cheque payments
19 book showing the payment to Fianna Fail. And you see it on the right-hand
20 side about four down on the right-hand side taking the dark line as a kind
21 of a centre line, just inside the dark line on the right-hand side?

22 A. It looks like it anyway.

23 Q. 769 Yes. And we see the debit on the Riga current account of the Bank of
24 Ireland South Mall at 11143. And I think at you see the cheque and I think
25 it shows the debit on that account of the 80,000 which appears to have
26 taken the overdraft balance on that account from 70,777 to 97,777, isn't
27 that right?

28 A. That's correct.

29 Q. 770 And at 11144 I think we see the year end 30th of April '95 and you see a
30 Fianna Fail contribution 80,000 and again there is a reference there of 385

1 which is the reference to the political account. However, again I would
2 ask you to confirm that you would accept that it doesn't appear to have
3 been what was first written there?

4 A. Again, certainly, it looks as though something has been written over it
5 again, what it is, I wouldn't have any idea.

6 Q. 771 Now, I'm not sure to what extent you are familiar with the accounting
7 records within Riga Limited. The primary accounting records within Riga.
8 Would you agree with me that where we have them, that the cheques seem to
9 correspond with the details column of the cheques payments book. In other
10 words, the payee written on the cheques seems to be the payee described on
11 the cheque payments book?

12 A. The first thing is that I am not familiar with the books and records
13 internally within Riga at all. I have never had reason to look at them or
14 check them or do anything with them. So I am totally unfamiliar with
15 those. But certainly, cheques you have put up seem to do what you say.

16 Q. 772 Yes. Did Mr. O'Callaghan give you any explanation as to why and it appears
17 to be the case, if what I am suggesting is correct, that the cheques to
18 Mr. Lawlor of 10 and 20,000 in September '94 and in March '95 were written
19 to cash?

20 A. No, I don't recall any discussion about that particular one.

21 Q. 773 If I could just very leave briefly deal with a series of board meetings of
22 Barkhill Limited, Mr. Deane. You weren't a director of Barkhill but you
23 did attend a number of the board meetings, isn't that correct?

24 A. That's correct.

25 Q. 774 There is a meeting I think requested by you on the 4th of February '93 at
26 1984. Where you enclose an agenda for a meeting on February '93?

27 A. Yes.

28 Q. 775 And I think it was hoped that Mr. Gilmartin would attend that meeting?

29 A. I think it was --

30 Q. 776 Discussed. Sorry. If we could have 9184. It's your letter to the bank

1 enclosing an agenda?

2 A. That's correct. As I was just saying, it was hoped Mr. Gilmartin would
3 attend all of the meetings.

4 Q. 777 Yes. Now, we discussed this. There doesn't appear to have been a meeting
5 between September '91 and February '93. And indeed, this particular
6 meeting doesn't appear to be a proper board meeting in that I understand
7 from you, from the cross-examination on Mr. Pitchard, that the
8 representative of Allied Irish Bank to the board of Barkhill Limited had to
9 be in attendance for there to have been a proper board meeting as per the
10 Share Subscription Agreement. Were you aware of that as solicitor involved
11 at this time?

12 A. Certainly the share subscription, I'm sure, provided for what was a quorum
13 at the board meetings.

14 Q. 778 In any event, as it transpired, I think Mr. Gilmartin did not attend the
15 meeting, isn't that the position?

16 A. Again, I would have to see the note, I'm happy to see that.

17 Q. 779 He is not recorded as having attended. And if we could have 9230 I think.
18 We see what was discussed at that meeting?

19 A. That seemed to be a meeting between the company and the bank rather than a
20 board meeting, from the heading on it.

21 Q. 780 Yes?

22 A. Just it may not have been a formal board meeting.

23 Q. 781 Yes. If we look at 9227. This is a fax dated the 5th of February '93 or
24 the 2nd of May '93 from your office or to your office and it's headed
25 Quarryvale agenda at AIB Centre 9th of February '93?

26 A. Yes.

27 Q. 782 You say that that's a meeting with the bank as opposed to a board?

28 A. It's just the heading on the previous item you showed seemed to suggest a
29 meeting between the company and the bank.

30 Q. 783 9230. Matters were discussed at a meeting between the company and AIB bank

1 on the 9th of February '93?

2 A. Maybe it was intended as a board meeting and when the directors weren't
3 there, it turned into just an ordinary meeting of the bank, I don't know.

4 Q. 784 Yes. Would it be fair to say that all of the board meetings of AIB took
5 place at Bank Center?

6 A. Yes, all of the company board meetings took place there, yes, that's
7 correct.

8 Q. 785 And if we look at, the bank themselves provided or made a note of that
9 particular board meeting, as they did with a number of the meetings. And
10 if we look at 9233 Ms. Basquille deals with an outline of a position
11 regarding creditors. And she identifies a series of creditors. Now, she
12 identifies, for example, 80,000 for the completion of the County Council
13 lands. I think that should be 880,000 sums outstanding at that stage.
14 Legal fees, I think there were injunction proceedings brought to obtain
15 vacant possession of the site in Quarryvale. Then there were repairs to
16 the Bruton house, the mound and fence on-site, planning application fees,
17 additional fees to Ambrose Kelly fees, fees to Ovarup De Loitte & Touche
18 and interest etc. And I think at the time those fees, as outlined there,
19 made their way into an application for additional facilities which came
20 through in May June '93 isn't that correct?

21 A. That seems to be right.

22 Q. 786 Now, we know that Mr. Gilmartin didn't attend that meeting because the bank
23 wrote to Mr. Gilmartin I think on the 10th of February at 9239 expressing
24 their disappointment at his failure to attend, isn't that correct?

25 A. That's correct.

26 Q. 787 Now, the next meeting that we have is a meeting on the 24th of March '93.
27 And we have the minutes of that meeting at 9367. And again, Mr. Gilmartin
28 did not attend this meeting. But I think that you attended the meeting,
29 isn't that correct?

30 A. Yes and Mr. Gilmartin's solicitor, Seamus Maguire, was there as well.

- 1 Q. 788 Yes. And we see the items discussed at that meeting, including the Council
2 lands and the up-to-date position concerning steps being taken to secure
3 the site, isn't that right?
- 4 A. Yes.
- 5 Q. 789 And then under heading "planning permission" I think it was reported that
6 there had been meetings with the planners with a view to progressing
7 drawings and it was hoped that a final meeting would take place on the 25th
8 of March following which drawings would be prepared for planning
9 permission?
- 10 A. Yes.
- 11 Q. 790 And if we look at 9368, I think you discussed as you did at a lot of
12 meetings the interest of various anchors and tenants of the scheme and you
13 also discussed the issue of finance?
- 14 A. Yes.
- 15 Q. 791 And I think a report was given to the board and the current financial
16 position and it was recognised that arrangements now had to be made with
17 the company bankers for continuation of existing facilities, isn't that
18 correct?
- 19 A. Yes.
- 20 Q. 792 And the granting of further facilities for additional lands?
- 21 A. That's correct.
- 22 Q. 793 And then I think we say it on the last occasion end the heading "company
23 matters" serious concern was expressed on the question of the completion of
24 the accounts?
- 25 A. Yes.
- 26 Q. 794 And then there was a discussion as to when the next meeting took might take
27 place and the possibility of facilitating Mr. Gilmartin for that meeting?
- 28 A. Yes, I think we said at that meeting that if the date we had chosen didn't
29 suit Mr. Gilmartin then if he could give us any other dates. Can I just
30 see the last page of that, the next page.

- 1 Q. 795 At 9369, and I think you had fixed a date as the 28th of April --
- 2 A. In fact -- a point you were making recently about not keeping Mr. Gilmartin
- 3 informed. I think if you just look at in a last paragraph there. "That in
- 4 the event of Mr. Gilmartin requiring an alternative date for a meeting, it
- 5 was suggested Mr. Gilmartin would supply a choice of alternative dates.
- 6 Likewise if Mr. Gilmartin felt that the meeting should take place in Luton,
- 7 arrangements could be made to hold the meeting there."
- 8
- 9 This was the situation we had on an ongoing basis. Mr. Gilmartin wasn't
- 10 coming to meetings. We had offered to have meetings on days that suited
- 11 him and even offered to go to Luton to meet him so ...
- 12 Q. 796 And I think on 25th March '93, Mr. McGrath again wrote to Mr. Gilmartin at
- 13 9385 expressing his disappointment at his decision not to attend the board
- 14 meeting and advising him of a re-scheduled meeting for the 28th of April
- 15 '93, isn't that right?
- 16 A. Yes.
- 17 Q. 797 And I think on the 26th of March '93 at 9391, Ms. Basquille took a phone
- 18 call from Mr. Gilmartin as it would have been the day following the receipt
- 19 or the day of receipt perhaps of Mr. McGrath's letter. And she records Mr.
- 20 Gilmartin as launching into past grievances and complaining about
- 21 blackmail, corrupt practices putting in place of the shareholders
- 22 agreement, referring to the fact that Barkhill was and still should be his
- 23 deal and expressing dissatisfaction at the fact that he was not being
- 24 consulted decisions taken by the company?
- 25 A. Yes, I see that.
- 26 Q. 798 So would it be fair to say that if we take the period December '92 to March
- 27 '93 just taking that period, that Mr. Gilmartin was going through a
- 28 particularly bad period insofar as his attitude to the company and to
- 29 yourself and Mr. O'Callaghan was concerned and indeed the bank?
- 30 A. Yes, he went through periods when he just disagreed with everything that

1 was being done and failed to come to meetings and was prepared to issue
2 general statements about the way he felt about things and not come and deal
3 with matters properly.

4 Q. 799 Would you have known, Mr. Deane, in March '93 that Mr. Gilmartin had made
5 that complaint to the bank?

6 A. No, I don't believe the bank told me about that complaint in specific terms
7 but I would have known that Tom Gilmartin in general on most occasions was
8 unhappy with the way things were going. He felt the deal should be his.
9 None of us should get involved. On many occasions he said if it was left
10 to me everything would be. When asked what he meant by "if it was left to
11 him everything would be okay" he failed to say what I would have done
12 differently or how he would have done it better, how he would have improved
13 the company situation but still continued with these sort of
14 generalisations.

15 Q. 800 Now, I think Mr. Gilmartin had been sued by the Corporation in relation to
16 an interest claim on the Neilstown lands by reason of the failure to close
17 in September 1990 as originally envisaged. And when he came to the
18 meeting, as he did, on the 28th of April '93 at 9508, he brought with him
19 those proceedings which we see at 22548 and I don't necessarily want those
20 on screen at the moment by you will be familiar with that claim for
21 interest against Mr. Gilmartin by the Corporation?

22 A. Yes, I do recall that.

23 Q. 801 Now, if we revert to 9508 this appears to have been the only meeting
24 attended by Mr. Gilmartin in 1993?

25 A. That could well be the case. I couldn't say that for certain. Certainly,
26 he didn't attend a lot of meetings at all times.

27 Q. 802 And this is a meeting that you attended, isn't that correct?

28 A. That's right.

29 Q. 803 Base you were invited to attend as was Mr. Maguire and Mr. O'Farrell?

30 A. That's right.

- 1 Q. 804 And again I think Mr. O'Callaghan took the chair, Mr. Gilmartin's
2 attendance was only for part of the meeting as recorded here?
- 3 A. Yes I think he actually turned up late to the meeting and a he got a review
4 of what had happened prior to his arrival.
- 5 Q. 805 It says having dealt with the site matters and the planning permission it
6 says "at this stage Tom Gilmartin joined the meeting. Owen O'Callaghan
7 gave a resume of meeting to that point. Tom Gilmartin requested a copy of
8 the site layout and Owen O'Callaghan undertook to furnish same
9 immediately." And then that's at 9508.
10 Now, I think on the last occasion we had been taking about the question of
11 anchors and the, their expression of interest, isn't that right?
- 12 A. That is correct.
- 13 Q. 806 And again, that matter was addressed at that meeting and addressed after
14 Mr. Gilmartin arrived to the meeting, isn't that right?
- 15 A. That's right.
- 16 Q. 807 And it says "the interest of various anchors and tenants of the scheme was
17 reported to the bord." And we saw a letter for example written to
18 Mr. O'Farrell by Mr. O'Callaghan on the 22nd of February '93 at 9285 in
19 relation to anchors and I opened that letter on the last occasion. I don't
20 intend to open it again but it's the type of thing that was current at this
21 stage what was happening in relation to the anchors in Quarryvale and in
22 particular what might be also happening at Blanchardstown. And there is a
23 certain degree of --
- 24 A. Two or three main things were discussed. Board meetings for a number of
25 years with our planning application, our anchors interest and the possible
26 funding of the development and getting the bank repaid their money. And
27 they were the three main items I would say recurring themes running right
28 through the board meetings.
- 29 Q. 808 Now, Mr. Gilmartin has given evidence to the Tribunal and he has alleged
30 that at some stage in the course of that meeting he believes it is perhaps

1 that meeting, that an issue arose as to whether or not Blanchardstown would
2 get designation. And that he was adamant that he had been advised that it
3 would get designation that the towns would get designation and he has
4 advised the Tribunal and has given evidence that at some stage Mr.
5 O'Callaghan left the meeting and returned to reassure the meeting that
6 Blanchardstown would not get designation and that he had that from the
7 horse's mouth.

8

9 Mr. Gilmartin goes on in his evidence to say that leaving the meeting he
10 was advised by Mr. O'Callaghan that Mr. O'Callaghan had paid money in
11 relation to that and that it had got cost him 30,000 pounds and Mr.
12 Gilmartin has alleged that he was advised by Mr. O'Callaghan or told at the
13 time by Mr. O'Callaghan that he Mr. O'Callaghan had paid Mr. Bertie Ahern
14 30,000 pounds in that regard. You will have seen that evidence and you
15 will be familiar with that claim?

16 A. I have heard the general gist of it, yes.

17 Q. 809 Now, first of all, are you aware of a payment or any payment by Mr.
18 O'Callaghan to Mr. Ahern either of this 30,000 referred to at this time or
19 the 50,000 that we dealt with last week?

20 A. I am not aware of any payment by Mr. O'Callaghan to Mr. Ahern. And I don't
21 believe any payment took place.

22 Q. 810 Had Mr. O'Callaghan made a payment to Mr. Ahern, can the Tribunal take it
23 that you would have been aware of the payment?

24 A. I believe I certainly would have.

25 Q. 811 Can you recall Mr. O'Callaghan leaving a meeting, either this meeting or
26 any other board meeting attended by Mr. Gilmartin and others to check on
27 the issue concerning the designation of Blanchardstown?

28 A. No.

29 Q. 812 Do you recall any incident involving Mr. O'Callaghan and an assurance being
30 given by him after he had left the meeting of his return to the meeting

1 that Blanchardstown would not get designated?

2 A. No, that just didn't happen. Mr. O'Callaghan did not leave any meeting
3 that I can recall and come back and give an assurance about Blanchardstown
4 having as you say got it from the horse's mouth. I don't believe that
5 happened.

6 Q. 813 Now, if we revert to 9508. I think under the heading "finance" I think a
7 report was given to the board on the current financial position of the
8 company. And the board were advised that it was hoped that an application
9 for finance would be made on the 6th of May. And I think Mr. Gilmartin
10 raised the issue of outstanding creditors and it's suggested that these
11 were explained by Mr. O'Callaghan?

12 A. Yes.

13 Q. 814 This was May 19 -- sorry April 1993, isn't that right?

14 A. Yes.

15 Q. 815 What issue was raised by Mr. Gilmartin in relation to outstanding
16 creditors?

17 A. The at this remove, I have no idea.

18 Q. 816 Did Mr. Gilmartin ever raise the payments to Shefran Limited or Frank
19 Dunlop at any of these meetings?

20 A. To my recollection, he never queried any of those. He may well have asked
21 about old creditors which in fairness to him, he would have wanted to see
22 paid. So that I'm guessing by that could well have been an issue of which
23 he might have raised.

24 Q. 817 But leaving aside old creditors, did Mr. Gilmartin ever allege that there
25 were being payments made to Mr. Dunlop either through, to Mr. Dunlop
26 personally or through a company Shefran Limited which were irregular or
27 inappropriate?

28 A. No.

29 Q. 818 Did I ever query the identity of Shefran Limited with you or in your
30 presence with Mr. O'Callaghan and/or representatives of the bank?

- 1 A. No.
- 2 Q. 819 Now, I think under the heading "company matters" again serious concern is
3 recorded as having been expressed in relation to the outstanding accounts
4 and I think you were able to say that you had written twice to Mr. Fleming
5 for a list of outstanding items and we dealt with this on Friday, isn't
6 that correct?
- 7 A. That's correct.
- 8 Q. 820 And then under the heading "any other business" it suggests that Mr.
9 O'Callaghan explained the up-to-date position in relation to the Stadium
10 and the Sharkey lands?
- 11 A. That's right.
- 12 Q. 821 And Mr. Gilmartin handed over a writ by the corporation for interest and we
13 saw that writ a moment ago. Was that the writ handed over?
- 14 A. That I believe was the case, yes.
- 15 Q. 822 Now, the next meeting of the board of Barkhill appears to have taken place
16 on the 16th of June '93 at 9738 and we dealt with this on Friday in the
17 context of that letter of the 3rd of May '93 from and the accompanying
18 schedule for Leo Fleming of DeLoitte & Touch.
- 19 A. Yes.
- 20 Q. 823 However, looking at the record of that meeting you don't appear to have
21 attended this board meeting of the 16th of June, Mr. Deane, isn't that
22 right?
- 23 A. No, my name doesn't appear.
- 24 Q. 824 And neither does it appear at 9746, in the bank's record?
- 25 A. Yes.
- 26 Q. 825 Is it possible that you weren't at that meeting?
- 27 A. I did attend virtually all of the meetings but it is possible that I may
28 not have been at one or two of them.
- 29 Q. 826 So any discussion on the Deloitte & Touche letter of the 3rd of May and the
30 accompanying schedule at this meeting if you didn't attend would have been

- 1 a discussion in your absence --
- 2 A. Clearly so.
- 3 Q. 827 And required your input.
- 4 A. Clearly so.
- 5 Q. 828 And we saw the manuscript notations on two separate documents accompanying
6 the schedule to that letter. One in your handwriting and one in Mr.
7 O'Callaghan's handwriting?
- 8 A. That's correct.
- 9 Q. 829 Those entries would have to have been made at some other meeting or at some
10 other occasion and certainly not at this meeting?
- 11 A. Well certainly not by me at that meeting, that's for sure, which I wasn't
12 there.
- 13 Q. 830 Now, again I think the Council lands were discussed as was the planning
14 permission, the interest of the scheme, the finance and I think a draft
15 Letter Of Offer was produced by Mr. O'Farrell. And then at 9739 a number
16 of company matters arising on that letter of the 3rd of May were addressed,
17 isn't that correct?
- 18 A. Yes.
- 19 Q. 831 And then under the heading "any other business" I think it records that
20 Mr. Maguire on behalf of Tom Gilmartin expressed Mr. Gilmartin's concern
21 that he was not being kept informed and kept up-to-date with the affairs of
22 Barkhill. He expressed particular concern about not being informed that a
23 loan application had been made on behalf of Barkhill to AIB. And I think
24 Mr. O'Farrell responded that the matter had been discussed at a previous
25 meeting which was attended by Mr. Gilmartin?
- 26 A. That's correct.
- 27 Q. 832 And it records that Mr. O'Callaghan rejected any suggestion that he was not
28 forthcoming with information and he undertook to forward to Mr. Gilmartin a
29 detailed set of plans. And I think we had seen reference at the earlier
30 meeting to those plans being sought, isn't that the position?

- 1 A. Yes.
- 2 Q. 833 Now, there was a meeting I think between Mr. O'Callaghan and Mr. O'Farrell
3 following on that meeting at 9750 where Mr. O'Callaghan is recorded as
4 having asked whether or not the 63,000 pounds due to -- or paid by Riga to
5 Frank Dunlop had been included?
- 6 A. Yes, it's not on screen.
- 7 Q. 834 Sorry, it's 9751. Second last paragraph.
- 8 A. Yes.
- 9 Q. 835 And I believe that that 63,000 odd was not included in the facility granted
10 to Barkhill?
- 11 A. That's ...
- 12 Q. 836 Was paid by Riga and was included in the work in progress Stadium account
13 within Riga is that correct --
- 14 A. It was marked -- it ultimately transferred into the work in progress.
- 15 Q. 837 And was written off over a two year period with the other sums totalling I
16 think in excess of 400,000?
- 17 A. Yes.
- 18 Q. 838 And I think on the 24th of June '93 at 9796 there was a further meeting of
19 Barkhill. Again, this time attended by you where I think the facility was
20 discussed, isn't that the position?
- 21 A. Yes.
- 22 Q. 839 And it records that Mr. Gilmartin, whilst he wasn't in attendance, could be
23 contacted by telephone?
- 24 A. Yes.
- 25 Q. 840 And I think what was really considered was that this meeting was the formal
26 Letter Of Offer of the additional facilities to Barkhill from Allied Irish
27 Banks including the roll up of additional interests and the monies which
28 would have enabled the completion of the Council lands and the other
29 matters?
- 30 A. And there was also the question of Riga being asked for an additional

1 guarantee to support those facilities as well.

2 Q. 841 And I think whilst the note records that whilst a meeting was specifically
3 in relation to the Barkhill facilities, the following matters were also
4 discussed. The Donoghue Cottage, a letter threatening proceedings against
5 Barkhill on behalf of one of the people whose property was damaged in the
6 removal from the site?

7 A. Can I just see that, please.

8 Q. 842 That's at item 8 B, a letter threatening proceedings was issued against
9 Barkhill, do you see that?

10 A. Yes, that's right.

11 Q. 843 And Mr. O'Callaghan tells the meeting that there was evidence to suggest
12 that he had deliberately damaged the property himself?

13 A. That's correct.

14 Q. 844 And then at 9797 I think Deloitte & Touche fees were discussed and you were
15 asked to requested to investigate the matter further (inaudible).
16 Provision had been made for a further payment. And I think it was
17 suggested that the next meeting would be on the 13th of October '93.

18 A. Yes, unless anybody else wanted one earlier than that.

19 Q. 845 And I think at that meeting on the 13th of October '93 Deloitte & Touche
20 attended and there was discussion in relation to the audit matters, isn't
21 that correct? And we see that at 10259 and again you were in attendance at
22 this meeting?

23 A. Yes.

24 Q. 846 Mr. Gilmartin was not in attendance?

25 A. No, that appears to be right.

26 Q. 847 And again, the outstanding audit queries were addressed. The site matter
27 in particular the purchase of the lands from the council remained
28 outstanding for completion. In relation to the planning permission, the
29 meeting was advised that a final decision on zoning would take place during
30 October. The interest of the various anchors and tenants of the scheme was

1 reported to the board. The board was updated on the financial position of
2 the company. And it records under heading "company matters":

3

4 "In view of the discussion regarding the accounts with the auditor it was
5 felt that the accounts could be finalised very shortly and sent to each
6 director for signing. After that the various returns could be made to the
7 Revenue and Companies Office to avoid the company being struck off."

8 A. But the main issue at that meeting was the value of attributed to the land
9 I think the debt of the company was very high and if you took the bank
10 debt, shareholders loans etc. and the subordinated loan. And I think
11 offhand, the value of the land was something like 12 million and the value
12 of the company's total indebtedness might have been 12 million, so there
13 was a big issue about that.

14 Q. 848 Yes. And we see Mr. Fleming's typed note of that meeting at 10261. As you
15 say, he deals with the valuation of lands held for development purposes as
16 item No. 1.

17 A. Yes.

18 Q. 849 Yes. Now, you think the next meeting of the company was at May '94 and if
19 we could have 11005, I think there was a meeting on the 19th of May 1994,
20 which was attended by you?

21 A. Yes.

22 Q. 850 I think Mr. Richard Forman was in attendance at this meeting and I think
23 Mr. Forman at this stage through his offices of Connell Wilson were
24 assisting Barkhill in finding an investor, is that correct?

25 A. I think that might have been the first meeting at which he came to the
26 board and basically he was giving an overview of what supportive gift the
27 company and if I recall after that meeting then we asked him formally to do
28 some work for the company.

29 Q. 851 And I think that potential of Mr. Forman followed on as a settlement of a
30 claim by him on behalf of Connell Wilson against Barkhill Limited. A claim

1 which was supported by an affidavit sworn by Mr. Gilmartin?

2 A. I, it did follow probably in that sequence but I think the reason that
3 Connell Wilson were asked to come to the meeting was Mr. Gilmartin
4 suggested that they might be of benefit to the company, they had known the
5 land and they might be able to find a suitable investor. It was for that
6 reason I think they were invited.

7 Q. 852 In evidence Mr. Gilmartin has taken credit for having been successful in
8 finding Grovenor as an investor in Barkhill Limited and has said that it
9 was through his offices and indeed the offices of Mr. Wilson that Grovenor
10 and an investor was ultimately found for Barkhill?

11 A. I don't believe that's certainly not the case as far as I know.
12 Mr. Connell Wilson had given an instruction I think to look. He gave the
13 name of six potential investors. He was asked to go ahead with them. I
14 think you will see certainly there was discussions that Mr. Lee of
15 Herdman's office was at later stage dealing with others and they were the
16 people that interviewed Grovenor as far as I'm concerned.

17 Q. 853 At 11005, I think again Mr. Gilmartin through Mr. Maguire raised a number
18 of specific queries?

19 A. That's correct.

20 Q. 854 Including queries which were raised on Mr. O'Callaghan for example he
21 believed that Owen O'Callaghan required a council yard for his own benefit?

22 A. That's just ridiculous. That didn't happen and there's no question of it.

23 Q. 855 He inquired as to whether or not Mr. O'Callaghan had purchased the St.
24 Patrick's land for his own benefit?

25 A. The St. PATrick's lands were a vital piece of land to enable the underpass
26 under the N4 to be built. They were critical to the whole development.
27 There was no question whatsoever that they were being bought for any other
28 benefit other than Barkhill's.

29 Q. 856 He had queried as to whether or not Owen O'Callaghan had done a private
30 deal with the IDA?

- 1 A. Yes, he did. And again, that was incorrect. Owen had discussed I think
2 with the IDA the possibility of them supporting the industrial land within
3 Quarryvale and there was IDA lands fairly close to Quarryvale at the time.
- 4 Q. 857 Now, if we go forward at 11006, I think there were queries raised or
5 matters dealt with including the derelict sites appeal, the O'Donoghue
6 Cottage, the protection of the houses, the enclosure and the St. Patrick's
7 lands for the roundabout. And under the heading "planning permission" I
8 think Mr. O'Callaghan was able to report that objections had been received
9 from PHI which would have been Mr. Sharkey, who had lands adjoining the
10 Neilstown lands and Luke Moriarty, a local trader. And Mr. O'Callaghan
11 indicated that it was unlikely that an oral hearing would be held and that
12 the matter would be dealt with by way of written submissions?
- 13 A. That's correct.
- 14 Q. 858 Did Mr. O'Callaghan tell you or tell the board in May '94, how he was in
15 possession of such knowledge, namely that there wouldn't be an oral hearing
16 in relation to the planning application for Quarryvale?
- 17 A. Nobody could be in possession of such knowledge. I think from dealing with
18 planning or planning appeals, you can get a good sense of when you feel an
19 oral hearing is likely to occur. And if you have two objectors and their
20 objections are not very strong, then in my experience the planning appeals
21 board deal with it by way of written submissions rather than by way of oral
22 hearing. Clearly, they make the submissions to what mode that I they
23 choose. But generally it is done by way of written submissions, unless the
24 matter is extremely controversial.
- 25 Q. 859 Now, again at the note goes on to record the potential investor interest
26 and the address to the period or the report to the board by Mr. Forman and
27 you said that he referred as we see there to having targeted six parties
28 being a combination of institutions and large institutional property
29 companies.
- 30 A. Can I just see that please?

- 1 Q. 860 That's at item No. 6.
- 2 A. Yes.
- 3 Q. 861 And I think Mr. Forman was asked to make a list of any information or
4 details which he required, if these could be made available to him, isn't
5 that the position?
- 6 A. That's right, so that he would have any necessary information to help him
7 in his search for investors.
- 8 Q. 862 And I think you reported to the board that Mr. O'Callaghan and you had a
9 meeting with a team wherein, who had indicated an interest in becoming
10 involved in the scheme on a joint development basis, subject to one of the
11 major anchors becoming a tenant, is that correct?
- 12 A. That's correct we had done business with Gerard Brennan's company in
13 Merchants Quay in Cork and had a very successful relationship with them.
14 They were interested in coming to the site on the basis that Barkhill would
15 be the siting and they would match that by an equivalent amount of cash and
16 do a joint development. And I think ultimately, that fell down because the
17 bank weren't prepared to run with the idea of the Barkhill loan staying in
18 existence and wanted a deal whereby they would be repaid a substantial part
19 of their loan.
- 20 Q. 863 Now, the next board meeting I think was on the 14th of March '95, at 11656,
21 and again you were in attendance. But this time I think the board was
22 joined by Mr. Paul Sheeran, who was the nominee of Mr. Gilmartin he wasn't
23 a director but he was there representing the interests of Mr. Gilmartin?
- 24 A. Yes and Mr. Gilmartin effectively had two representers at that meeting and
25 subsequent ones Mr. Paul Sheeran, who was his nominee and his solicitor
26 Mr. Seamus Maguire.
- 27 Q. 864 And I think again in relation to the site matters. I think there was a
28 reference to monies outstanding in relation to derelict sites levy and then
29 in relation to the St. Patrick's land, I think it was agreed that a
30 contract should be signed in relation to those lands. And I think in May

1 1995, there were additional facilities granted to Barkhill including a sum
2 of 1 million pounds which went towards acquiring those lands, is that the
3 position?

4 A. Yes, the real danger with that land is that if anybody else figured out
5 that it was critical to the whole Barkhill situation in its planning, that
6 some other party could go along and buy that land and effectively stop the
7 whole development.

8 Q. 865 And we see that the loan of offer is in relation to that additional
9 facility which was granted on the 23rd of May '95, is at 11764 and we see
10 the acceptance of that signed by the directors including Mr. Gilmartin at
11 11769.

12 A. Yes.

13 Q. 866 And I think Mr. O'Callaghan, if we go back to 11656, dealt with the
14 planning application. And at 11657, he dealt with the -- or the board
15 dealt with the retail anchors and the investment interest, isn't that
16 right?

17 A. Yes.

18 Q. 867 And then there was a discussion on finance.

19 A. I think that was, that meeting actually -- under investor interest was
20 Hammerson were the parties becoming involved and I think Connell Wilson had
21 found and they were starting to become involved at that stage.

22 Q. 868 And I think one of the matters that was dealt with there was a confirmation
23 that all references and whatever agreement was being entered into between
24 Barkhill and Hammersons to O'Callaghan Properties would in fact relate to
25 Barkhill Limited, isn't that correct?

26 A. When Hammerson made their offer they referred in their Heads of Terms offer
27 or their Letter Of Offer to the fact that it was O'Callaghan Properties,
28 O'Callaghan Properties and we were just making the point that while they
29 had mentioned O'Callaghan Properties as a name, the entity they would be
30 doing the business of course would be Barkhill and we wanted to make that

1 clear at the meeting.

2 Q. 869 Now, this meeting is on the 14th of March '95, the previous meeting I think
3 had been in May '94, isn't that the position?

4 A. Sorry, I'm not sure.

5 Q. 870 Well the previous meeting that I had on screen I think was for the 19th of
6 May '94.

7 JUDGE FAHERTY: 19th of May.

8 Q. 871 MR. QUINN: At 11005.

9 A. Yes, I see that.

10 Q. 872 Had there been other meetings -- board meetings between May '94 and March
11 '95 can you recall?

12 A. I'm surprised that there weren't because they were being held pretty
13 regularly. Again detailed minutes were being kept as I can see. If the
14 minutes aren't there and the bank don't have a record then obviously
15 meetings, bord meetings as such mustn't have taken place.

16 Q. 873 And if we can have 11381 please. This is the analysis of the sundry
17 cheques within Riga Limited for the year ended 30th of April '95. And it
18 relates to the two payments to Mr. Lawlor of the 10 and the 20,000, do you
19 see those references near the bottom to cash 10 and 20,000?

20 A. Yes.

21 Q. 874 And the reference to 75A which I suggest to you and which I think you
22 accept is a Barkhill loan reference. Now, those payments were made in
23 September '94 and in March '95. And going back to the board meeting at
24 11656. Would you agree with me there doesn't appear to be any reference at
25 that board meeting to any payments to Mr. Lawlor or the suggestion that
26 there would be payments to Mr. Lawlor or that there were monies due to
27 Mr. Lawlor by Barkhill Limited?

28 A. Yes, that certainly appears to be correct, yeah.

29 Q. 875 Do you recall any discussion at any board meeting of any payments to any
30 politicians be they political contributions or payments generally?

1 A. No, I don't.

2 Q. 876 The next board meeting which --

3

4 JUDGE FAHERTY: Mr. Quinn, I'm sorry to interrupt you. You could you go
5 back a moment to 1105. Just remind ...

6

7 MR. QUINN: Yes.

8

9 JUDGE FAHERTY: I just want to you ask you, Mr. Deane, there is a query
10 there at paragraph D, do you see that? It's down?

11 A. Yes, I see, that, Judge.

12

13 JUDGE FAHERTY: Mr. Deane, what Mr. Gilmartin is requesting information
14 about fees and costs O'Callaghan Properties?

15 A. I think that --

16

17 JUDGE FAHERTY: Do you what query he was making at that meeting?

18 A. I think he felt that we were some how going to charge for the work we were
19 doing. Whereas in the shareholders agreement we had agreed to project
20 management for free.

21

22 JUDGE FAHERTY: Yes, you weren't to charge a fee for project manager?

23 A. No, the query there I think, Judge, related to that, were we charging a fee
24 for project managing as it were, the Barkhill arrangements which we had
25 said in the shareholders agreement we wouldn't do.

26

27 JUDGE FAHERTY: Yes.

28 A. That was answering that question. I think that was the basis on which he
29 was asking the question. If you're talking then about in terms of an offer
30 for Hammerson and subsequently the offer from Grovenor were, there was a

1 project management fee for us in that. That was in terms of once the deal
2 had been done with Barkhill and Barkhill had been paid for the land. We
3 would then project manage the development on behalf of Grovenor or
4 Hammerson initially and then Grovenor. So it was a role outside Barkhill
5 altogether, which we would be then undertaking.

6

7 JUDGE FAHERTY: Could I see the next page of that.

8

9 MR. QUINN: Yes. 1106, please.

10

11 Q. 877 I think the query, Mr. Deane, was that -- was the request by Mr. Gilmartin
12 for information as to the fees and costs O'Callaghan Properties were
13 charging that were not being recorded. And I think the assurance that was
14 given was that only O'Callaghan indicated that all the accounts had been
15 paid, had been formally passed thugh the bank. Mary Basquille indicated a
16 full list of these had been submitted to Tom. Owen confirmed that no other
17 costs were being incurred other than as agreed in board meetings?

18 A. Yes, I see that.

19 Q. 878 Now, I know you didn't pass on the payments to Mr. Lawlor, which were made
20 in September '94 and in March '95. But I think you suggest that they were
21 in relation to, they were costs incurred in relation to Barkhill?

22 A. Well that's clearly the case. But as you say, they weren't passed on so
23 that deals with the issue.

24

25 JUDGE FAHERTY: That's fine, sorry. I just wanted to ask Mr. Deane what
26 he felt Mr. Gilmartin was querying about and he has answered the question.

27

28 Q. 879 MR. QUINN: Now, the next meeting is a meeting on the 24th of May 95 at
29 11794. And I think Mr. Gilmartin did attend this meeting. And you were
30 also in attendance.

1 A. Yes.

2 Q. 880 And you dealt with site matters, planning permission and the interest in
3 the scheme, isn't that right?

4 A. That's correct.

5 Q. 881 And I think you indicated to the meeting that the strength of interest from
6 bankers and unit tenants was due to the quality of the site. And you
7 indicated to the meeting that Marks & Spencers had been brought on board by
8 Tom Gilmartin long before any involvement by O'Callaghan Properties in the
9 lands and O'Callaghan Properties were merely bringing forward his interest
10 to conclusion?

11 A. That's correct.

12 Q. 882 I think Marks & Spencers were identified as one of the key anchors for the
13 site and their involvement would be hugely beneficial in the success of the
14 project or the profitability or the increased profitability of the project?

15 A. That's absolutely right.

16 Q. 883 And I think you are here acknowledging that Mr. Gilmartin was instrumental
17 in interesting them in the site, isn't that right?

18 A. That's as it happened and obviously we gave him credit for it and there was
19 no issue about that.

20 Q. 884 And I think by, this is a meeting of May '95. But I think by October '95
21 Grovenor, the Grovenor deal is on the table, isn't that right?

22 A. That's correct, yes.

23 Q. 885 So this is a very crucial stage in bringing an investor on board isn't that
24 right?

25 A. That's correct. Hammersons were on board, what's the date of the meeting
26 again?

27 Q. 886 24th of May '95?

28 A. May '95 I was working flat out to try and organise the legal side of the
29 legal with Hammerson and we were making huge progress at that stage. And I
30 think in about July 1995, if my memory serves me right, Hammerson pulled

1 out. And then through Charles Lee we got Grovenor involved and they were
2 involved from September '95 perhaps onwards.

3 Q. 887 Now, also discussed at this meeting at 11795 were the industrial interests,
4 the retail park and investor interest. And you were reporting to the board
5 on the investor interest, isn't that right?

6 A. That's correct.

7 Q. 888 Yes?

8 A. And that was the work being done by Connell Wilson. I had gone across to
9 London and met Connell Wilson. And certainly at this stage I think we had
10 work done with Hammerson on their particular offer. And we had worked on
11 the Heads of Terms getting them to a stage that would be acceptable to both
12 Hammerson and to Barkhill. And I think at that meeting that sort of drew
13 the Heads of Terms to a head.

14 Q. 889 And if we go to 11796 I think there was a discussion on finance and I think
15 there was a list attached to the board papers, which were noted as having
16 been paid by Riga on behalf of Barkhill. And if we look at 11797 we see
17 that list of payments, which include payments of 70,000 to Ambrose Kelly,
18 payments -- sterling payments to Connell Wilson on foot of the agreement
19 and then I think there is a payment to Mr. Dunlop, South Dublin County
20 Council, further payments to Mr. Dunlop and Ambrose Kelly, and I think
21 there is a payment to a company Essential Services Limited. Do you see
22 that?

23 A. That's correct.

24 Q. 890 Who were Essential Services Limited?

25 A. I believe that's, if my memory serves me right, that's a company run by
26 Mr. Colm McGrath.

27 Q. 891 Was there any discussion about Councillor Colm McGrath and the retention of
28 his company or payments by way of recoupment to Riga Limited by way of
29 payments to Mr. McGrath's company?

30 A. I can't recall if there was any specific discussion or not.

1 Q. 892 You agree with me that there is nothing recorded in the minutes that --
2 accompanying the documents that were payments to a company associated with
3 Mr. Colm McGrath?

4 A. No, nor is there anything else to suggest that any one of those who has
5 gone through in any great detail.

6 Q. 893 Did Mr. Gilmartin, was Mr. Gilmartin aware in May '95 that a company
7 connected with Mr. McGrath was being paid by Barkhill for services?

8 A. It would be wrong of me to say yes. I just simply don't know.

9 Q. 894 Who retained the services of Essential Services Limited?

10 A. I believe Mr. O'Callaghan negotiated that with them directly.

11 Q. 895 And the eight and a half thousand pounds appearing there on that document
12 as having been approved for payment, doesn't give any indication that
13 Essential Services is in fact a company associated with Mr. Colm McGrath?

14 A. Not on the face of that, no.

15 Q. 896 Now, I suggest to you that that this is a meeting that may stand out in
16 your memory, Mr. Deane, because I think Mr. Gilmartin raised a number of
17 issues at this meeting and they are recorded at 3755.

18 A. Yes, I remember that well.

19 Q. 897 You remember this meeting?

20 A. I do.

21 Q. 898 And I think Mr. Gilmartin gave a detailed statement of a number of matters
22 with which he was dissatisfied, isn't that right?

23 A. That's absolutely right.

24 Q. 899 It's just four o'clock, Sir. Since I'm going to deal with this, it might
25 be an appropriate time to rise.

26

27 CHAIRMAN: We are sitting tomorrow at half ten for Mr. O'Callaghan and
28 tomorrow afternoon at two o'clock for Mr. Deane.

29

30 MR. QUINN: Yes, Sir.

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THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY.

THURSDAY, 10TH JULY 2008, AT 10:30 A.M: