

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY

21ST JULY 2004 AT 10.30 AM:

CHAIRMAN: Good morning Ms. Dillon.

MS. DILLON: Morning sir. I understand that Mr. Russell, Mr. Lawlor's counsel, you will recollect that you specially fixed today, for the hearing of the cross-examination by Mr. Russell of Mr. Lawlor at Mr. Russell's specific request. I understand that Mr. Russell has now indicated, albeit indirectly that he is not available until midday today.

CHAIRMAN: That's fine. If necessary we'll rise and resume at 12 o'clock, if we run out of work before.

MR. LAWLOR: Sorry, could I just make the point Chairman, I have had a very cordial discussion with Mr. Quinn on this matter. Your own running order states that if Mr. O'Callaghan, Mr. Redmond and myself. And I took that to be what I got from the Tribunal.

CHAIRMAN: Yeah well there is no difficulty.

MR. LAWLOR: The mere raising of it by Ms. Dillon is unnecessary.

CHAIRMAN: These things have to be raised in the public for the record, but we have no difficulty.

MR. LAWLOR: I appreciate that because Mr. Quinn explained to me that's fine.

CHAIRMAN: It still has to be dealt with on the record.

10:45:04 1 MR. LAWLOR: Could I seek your guidance, Chairman, as this module is coming to
2 a conclusion, I am getting correspondence now from solicitors for the Tribunal,
3 that it's not really a module at all now, it's phase one of two modules or it's
4 phase one of a module, and the reason I want your guidance, Chairman, is as
10:45:24 5 follows:

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7 It will be my understanding that as this module concluded final submissions
8 would be made, and yourself and your colleagues would give due consideration to
9 reporting on this module.

10:45:39 10
11 Now, it appears now that I am getting correspondence to suggest that no that's
12 not the case, it's going into another module and when that module is over there
13 will be reportage.

10:45:50 15 CHAIRMAN: Well, at this stage we don't know exactly what module or modules
16 will follow the eventual conclusion of the Quarryvale, of the Arlington
17 Quarryvale module. That's the decision that will have to be made, but
18 currently the likelihood is that there will be one or more modules to follow
19 the Arlington/Quarryvale module before a report is published.

10:46:18 20
21 MR. LAWLOR: But, Chairman, where leaves the suggested equity and balance that
22 Mr. Gilmartin's allegations in this module can stand on the public record for
23 the length of time it takes for other modules to be completed. I and others
24 have a right --

10:46:37 25
26 CHAIRMAN: Also on the record is your position and the position of other
27 witnesses, so it's not just a matter of Mr. Gilmartin's position remaining
28 unchallenged on the record.

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10:46:51 30 MR. LAWLOR: Unchallenged is one thing --

10:46:53 1
2 CHAIRMAN: But the Tribunal would anticipate that there wouldn't be a a great
3 deal of time after the Arlington/Quarryvale, prior to the publication of a
4 report, or prior to the conclusion of whatever the Tribunal deems are related
10:47:07 5 modules before they are concluded.
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7 So that, these are matters that will be dealt with, at some stage in the future
8 and an opportunity will be afforded to witnesses in this or parties in this
9 module to make submissions at the end of this module.
10:47:27 10
11 MR. LAWLOR: At the end of this module. And that is a module then in it's open
12 right.
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14 CHAIRMAN: No, at the end of the Arlington/Quarryvale module of which this is
10:47:36 15 one phase.
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17 MR. LAWLOR: So we'll be making submissions after Mr. Gilmartin's
18 re-examination in the autumn?
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10:47:41 20 CHAIRMAN: No, no. That, Mr. Gilmartin's re-examination in the autumn will
21 conclude this phase.
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23 MR. LAWLOR: Yes.
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10:47:50 25 CHAIRMAN: But the module is, consists of this phase and the next phase.
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27 MR. LAWLOR: So when do we get to put our submissions in?
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29 CHAIRMAN: Our estimate is that it will be -- it will be sometime next year
10:48:05 30 before the full module, all phases in this module are concluded, at that stage

10:48:10 1 an opportunity will be provided to parties to make submissions if they wish.

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3 MR. LAWLOR: But could we not be given the opportunity to make a submission on
4 this module after because --

10:48:21 5

6 CHAIRMAN: No, because Mr. Lawlor, both this phase and the next phase are
7 linked, they are in effect, they have been broken for the purposes of enabling
8 both to be prepared properly by the Tribunal's legal team. They could have
9 been run as all phases could be have run back-to-back, but that decision was
10 made for housekeeping reasons to divide the module in to more than one phase.

11

12 MR. LAWLOR: But then you go off to Carrickmines 2 and don't get into the next
13 phase to deal with it as quickly and as expeditiously as possible.

14

10:49:06 15

16 CHAIRMAN: We are doing the best we can to deal with it as quickly as
17 possible. But there will be an opportunity to make submissions at the end of
18 the full module.

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19 MR. LAWLOR: Well you know, that's sort of not my complaint, but that's the
20 point I am trying to convey.

10:49:21 20

21

22 Take for instance in the allegation, the serious allegation about the
23 interference in the sale of Dublin Corporation lands, that finishes with this
24 module. Over and done with. On we go not next module, which is dealing with
25 the various political decisions of planning. So that, a submission could be
26 correctly made on that item, dealing with that matter and dealing with those
27 allegations of interference by Mr. Gilmartin and has been fully explored in
28 this module and is effectively concluded.

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10:49:52 30 I appreciate fully, Chairman, that some of the other allegations overlap into

10:49:57 1 the next module. Sorry my apologise --

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3 CHAIRMAN: Yes, but the position is that, we assume that submissions will be

4 made as to the credibility of different witnesses, not just solely in relation

10:50:14 5 to allegations made and -- that is an issue that couldn't be properly dealt

6 with until the entire module had concluded.

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8 MR. LAWLOR: Could we not have the interim submission opportunity at the end of

9 this module to address what has been alleged in this module and addressed?

10:50:34 10

11 CHAIRMAN: No. We are quite satisfied that what we are doing, the way we are

12 doing it is the appropriate route and there will be no submissions permitted

13 until the end of the full module.

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10:50:45 15 The same applies to the Carrickmines 2 module, which is divided into several

16 phases. And that's --

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18 MR. LAWLOR: That module is looking purely at who owns land is it?

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10:50:58 20 CHAIRMAN: Yes but, I'm just saying that submissions in that and in any other

21 module which is divided into phases are more properly dealt with at the end of

22 the full module, so that's the decision of the Tribunal.

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24 MR. LAWLOR: Well I just, I'm of the opinion that Mr. Gilmartin's allegations

10:51:15 25 are allowed stand far longer --

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27 CHAIRMAN: We -- this is the way we feel it should be done.

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29 MR. LAWLOR: Okay, well you are the boss here thank you.

10:51:26 30

10:51:26 1 MR. GALLAGHER: Sir just, I don't know whether I misheard Mr. Lawlor, but I
2 think he said that the Carrickmines module is looking purely at who owns lands,
3 is it? And I think you responded that it is, but I think that it looks at more
4 than that. And lest there might be a misunderstanding, I just think it should
10:51:47 5 be clarified that there will be more than that.

6
7 MR. LAWLOR: You were dead right Mr. Gallagher, exactly. I think Mr. Finlay
8 got it on the record here at the outset, that mark two of Carrickmines is
9 purely trawling around looking for who is supposed to have an interest in the
10:52:03 10 lands.

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12 CHAIRMAN: Well Mr. Lawlor we are not dealing with Carrickmines 2.

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14 MR. LAWLOR: No, but Mr. Gallagher's interjection to try and suggest it is not
10:52:11 15 what it is. Because it I gather it will be the focus of some interesting
16 considerations in another --

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18 CHAIRMAN: It is clear, if you go back to the opening of that module, the
19 detail there is there.

10:52:23 20
21 All right Ms. Dillon?

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23 MS. DILLON: Mr. George Redmond please.

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GEORGE REDMOND, HAVING BEEN PREVIOUSLY SWORN, RETURNS TO THE WITNESS BOX AND IS QUESTIONED BY MS. DILLON AS FOLLOWS:

MS. DILLON: You will recollect sir that the Tribunal directed in light of the fact that Mr. George Redmond was not legally represent that Mr. Redmond could prepare a schedule of question that is he wished to have asked of himself as it were, in ease of that process I am going to ask a series of questions of Mr. Redmond, these have been prepared by Mr. Redmond and furnished to the Tribunal.

Q. 1 The first question you would like asked of yourself Mr. Redmond is; would you state your recollection of your first meeting with Thomas Gilmartin?

A. Yes. Thank you, Your Worships.

Well the first meeting with Mr. Gilmartin it's now evident that it took place on the 28th June 1988 in my office. And my distinct recollection of the meeting was that it took place in the form -- Mr. Liam Lawlor who was a councillor at the time in Dublin County Council, brought this gentleman in to me in my office.

I was alone in my office, and there is a note in my diary which was not entered by myself, my secretary and my own conclusion is that it was inserted that morning and I came in late, but anyway, Mr. Lawlor brought Mr. Gilmartin in and he introduced him to me and he described you know, what he was, he was from the west of Ireland, and he had settled in England and he had performed well there. Had experience in property development and was now in Ireland. I am not certain whether it was made clear to me whether he was resident here or moving backwards and forwards. But anyway, that he was in Dublin and he wanted to invest in land and projects, and he was already involved in Bachelor's Walk, Arlington.

10:54:50 1
2 I got the impression he was Arlington. I didn't -- you know, the discussion
3 obviously was rather superficial, but anyway, we got down and he indicated, he
4 saw there was a motorway being constructed and he was interested in the service
10:55:08 5 station. Service area. On the lines of those that we have on the motorways in
6 the UK and other places, and at that time the motorway was only under
7 construction. I think they had only sort of finished earth works, but however
8 it wasn't surprising that someone would raise this question.
9

10:55:36 10 I was in a position that I told him, I explained first of all that the road was
11 not really a county road that we were agents for the government in everything,
12 they supplied the money, the design and everything about the road. And really
13 we were only agents and that the position was that a decision had been made
14 that there would be no service stations on the road.

10:56:01 15
16 MS. DILLON: I don't wish to interrupt you Mr. Redmond but you will recollect
17 when you asked the Tribunal for this facility, that one of the matters you
18 undertook was brevity. There are 20 of these questions you are now six minutes
19 answering the first question, if it's going to go on like this you will be here
10:56:16 20 until well past lunchtime, is there any possibility you can speed it up, Mr.
21 Redmond?

22 A. I can promise you, Your Worship, we won't go beyond an hour.

23

24 CHAIRMAN: Sorry?

10:56:26 25 A. We won't go beyond an hour.

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27 CHAIRMAN: Whether it's an hour or more or less, there is no need to go over
28 information that already, we have all this.

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10:56:35 30 JUDGE FAHERTY: On the 13th of July, last Friday week, Ms. Dillon took you

10:56:41 1 through a number of these items you have given a great deal of evidence about
2 the first meeting, you might bear that in mind, if there is anything extra that
3 you wish to add regarding it, obviously you can add it, but we have taken, it
4 is obviously all on transcript.

10:56:55 5 A. Well apologise, I think I mentioned to Ms. Dillon that I had a rather traumatic
6 morning this morning and I needed a bit of a pipe opener before I got -- so you
7 can regard that as a pipe opener.

8
9 JUDGE FAHERTY: That's fair enough

10:57:10 10 A. The other thing is, we have already covered it, is the documentation, the
11 letter from Mr. Gilmartin, you know, acknowledging the meeting. The reply, by
12 another officer of the council referring to the meeting and reiterating what
13 was said at the meeting.

10:57:28 15 The thing I have to say here now, is at that stage I never, I didn't know
16 Mr. Gilmartin and there wasn't -- I knew nothing about Quarryvale or his
17 intentions and I don't know who else, who knew them, I certainly didn't know
18 them and it never came up at the meeting, and in his letter there is no
19 reference to it.

10:57:51 20
21 The third thing is, there was certainly no map. I couldn't have provided a
22 map, I didn't even know anything about Quarryvale at the time. And again,
23 there is a letter, his first letter was a rather gracious letter and if he had
24 been given a map, I am quite certain the man would have acknowledge
10:58:12 25 acknowledged and thanked me for it, but there is no reference, and no reference
26 by him to Quarryvale. That's the end it, Your Worship.

27
28 By the way, when they parted from me, there was no arrangement to meet again,
29 about anything else.

10:58:25 30 Q. 2 The second question, Mr. Redmond, that you wanted asked of yourself is: Did

- 10:58:30 1 you have any further meeting with Mr. Gilmartin at any time up to your
2 retirement and after at which Mr. Lawlor attended?
- 3 A. Never, Your Worship.
- 4 Q. 3 The third question that you want asked of yourself Mr. Redmond is as follows:
10:58:41 5 You heard Mr. Gilmartin's statement alleging that you had a pre-prepared map of
6 the 170 acre Quarryvale area showing the shown ownership of land, what have you
7 to say about it?
- 8 A. As I have already said in relation to the first, I hadn't heard of Quarryvale
9 at that time. The first time I heard of Quarryvale was a meeting with the
10:59:01 10 government, so there was no question and no evidence of any map in the County
11 Council. If there was it would have been produced.
- 12 Q. 4 The fifth, the fourth question you no longer wish for it to be asked. The
13 fifth question apropos the two meetings between Dublin city and County Manager
14 and his assistant managers and An Taoiseach and four front bench ministers,
10:59:27 15 what was said and views expressed about Mr. Gilmartins objective re the
16 Quarryvale land?
- 17 A. The principle thing that came forward from those meetings was, here was a
18 man -- well first of all the land was there, a lot of it was publicly owned, it
19 was there for many years, here was a man who was coming along and he had
10:59:48 20 persuaded the government I think that he had the ability to provide many many
21 jobs in an area where jobs were needed. And that's about the central idea
22 behind what was said. There was no, there were nothing about specific acreage,
23 there was nothing about specific floor areas, there was nothing about parking.
24 It was simply that it was a project that would produce jobs.
- 11:00:15 25 Q. 5 The next question that you wish to ask of yourself Mr. Redmond is as follows:
26 Did the views etcetera expressed contribute to the later decision of the
27 Corporation managers to negotiate with Mr. Gilmartin for the sale of the land?
- 28 A. It may well have, Your Worship. It may well have, the fact that jobs were in
29 the offing as I said, I wasn't involved in the detailed discussion, but it
11:00:42 30 certainly, when the Taoiseach and four ministers and the need for jobs it -- it

11:00:48 1 may have certainly impressed them.

2 Q. 6 The next question that you wish asked of yourself Mr. Redmond is: Who were the
3 officers of Dublin Corporation who would have the main input into decisions
4 leading eventually to inviting offers by way of public tender and what role has
11:01:06 5 each?

6 A. Well the officers in question would have been the City Manager, Mr. Morrissey
7 who had a delegated functions. I can't put -- I can't see a place for
8 Mr. Haughey, although he did involve himself in the three discussions, the one
9 with Mr. O'Callaghan, Mr. Gilmartin and Mr. Corcoran, so he obviously was
11:01:30 10 involved somehow, and the valuer and possibly the law agent. It would be a
11 very limited number of people. I would not have been involved.

12 Q. 7 The next question that you wish asked of yourself is: Did you have any role in
13 any of this?

14 A. I had no role in, whatsoever in relation to the corporation land. And in
11:01:51 15 particular, I would stress that from the 24th of February, which was the date
16 on which Mr. Gilmartin made his allegations, a mention of Quarryvale was never
17 made in my presence, all the decisions from then on were, well I was excluded
18 from them and -- not that there was any need to enjoin me in them, but I mean
19 the point was, when that happened the curtain was drawn down on my part.

11:02:22 20 Q. 8 The next question you wished asked of yourself is: In view of your county role
21 and functions were your views ever sought?

22 A. When the first -- sometime in the autumn when we were discussing what, should
23 negotiations be -- should negotiations be opened with Mr. Gilmartin for a
24 possible sale of the land? It wasn't that I was invited, but the type of
11:02:51 25 meeting it was, that was open for discussion and I expressed my views in
26 relation to the zoning, you know, that it was his proposals were certainly
27 contrary to the zoning. And I also expressed the view, that in view of the
28 value of the land it should be, it should be offered by way of public
29 advertisement, it was the added thing that there was really no grounds for
11:03:16 30 dealing exclusively with Mr. Gilmartin and it was contrary to practice,

- 11:03:22 1 contrary to centuries of practice in dealings with corporate land.
- 2 Q. 9 The next question that you wish asked of yourself Mr. Redmond is: Following
- 3 the submission by Mr. McLoone of his recommendation of terms to Mr. Morrissey
- 4 did you speak to or make any form of representation to either Mr. Feeley
- 11:03:42 5 Mr. Morrissey or Mr. McLoone, who were the three officers involved in decisions
- 6 leading to presenting a recommendation to the members of the city council?
- 7 A. I made none, Your Worship, and that is, they too in evidence have said that I
- 8 took no part. And incidentally, I would include in that, officers under my
- 9 control.
- 11:04:01 10 Q. 10 Did you make -- the next question you wish asked of yourself Mr. Redmond is:
- 11 Did you make representations aimed at delaying or aborting the submission of
- 12 the terms to the city council after the tenders were received viz between 19
- 13 May and 12 June 1989?
- 14 A. I was totally unaware of the terms and I certainly took -- I was totally
- 11:04:24 15 unaware of them, so I could not have done anything, nor would it have been
- 16 possible for anyone to do anything at that stage.
- 17 Q. 11 The next question you wish asked of yourself is: When did you first become
- 18 aware of the allegations made against you by Mr. Gilmartin to the city County
- 19 Manager on the 23rd of February 1989?
- 11:04:41 20 A. Not until I received the brief. I spent the whole period from '89 right up to
- 21 virtually the present day without ever knowing that, without ever knowing that
- 22 those allegations were made. That's it. In fact -- that's it. That's the
- 23 answer.
- 24 Q. 12 The next question you wish asked of yourself is: Did Mr. Gilmartin himself
- 11:05:13 25 ever confront you with any of the allegations he made against you to the city
- 26 and County Manager?
- 27 A. Mr. Gilmartin did not.
- 28 Q. 13 The next question you wish asked is: Is there any substance or truth in the
- 29 charges made against you as follows.
- 11:05:29 30

- 11:05:29 1 A. Alleged conversation with George Brady he over heard?
2 B. A McDonalds take-away in Palmerstown?
3 C. Roads concession in Blanchardstown to an unnamed person or persons?
4 A. Not a shred of substance in those three matters which were alleged against me
11:05:48 5 by Mr. Gilmartin to the City Manager and which were, no support whatever for
6 them. In fact, they were examined, as you were aware, Your Worship, by
7 Mr. Prendergast in the Planning Department and also by the Gardai.
8 Q. 14 The next question you no longer wish to have asked. And then the next question
9 is: When you referred Mr. Corcoran to Dublin Corporation, were you fully
11:06:15 10 satisfied that that was the proper decision for anyone holding your office to
11 make?
12 A. Yes, I was. I got a query about Corporation land and I referred him to the
13 Corporation.
14 Q. 15 The next question is: Up to the time of your retirement on the 26th June 1989,
11:06:30 15 was the application for the council's land the only matter Mr. Gilmartin had
16 before the council?
17 A. The only matter he had -- yes, I think I would say it was the only matter he
18 had before the council, that was the question of buying the council land. He
19 was, his consultants of course were discussing roads with the roads engineers,
11:06:52 20 and obviously he had been to see Mr -- he had been to see Mr. McCarron,
21 planning officer and Mr. Murray his deputy, but aside from that, but as far as
22 did he have anything for decision before the council, he didn't.
23 Q. 16 The next question you wish asked is: Did you on any occasion in the years 1988
24 and 1989 ask or seek anything of Mr. Gilmartin?
11:07:15 25 A. Never. Never.
26 Q. 17 The next question you wish asked is: Did you ever ask any other person to seek
27 anything on your behalf from Mr. Gilmartin himself or any of his associates?
28 A. Never.
29 Q. 18 The next question you wish asked is: Following your retirement did you have
11:07:32 30 any contact with either Mr. Gilmartin or Liam Lawlor or any other person

- 11:07:36 1 involved in the Quarryvale development?
- 2 A. Absolutely none. The last time I was with Mr. Gilmartin in company was the
- 3 meeting that took place in the afternoon, that was sometime, I think we are all
- 4 agreed sometime in February. I never ever exchanged a word with him and the
- 11:07:58 5 same with Mr. Lawlor, from then on. I retired and that was it.
- 6 Q. 19 There is only one matter that I would wish to put to Mr. Redmond in
- 7 re-examination and this is the question, Mr. Redmond, that you have raised for
- 8 the first time of a meeting at which you attended with Mr. Feeley and
- 9 Mr. Haughey, at which an agreement was made to sell the Corporation and the
- 11:08:20 10 council lands to Mr. Gilmartin, do you remember referring to this meeting in
- 11 your evidence?
- 12 A. It wasn't -- it took place at the normal Wednesday meeting of managers.
- 13 Q. 20 Yes.
- 14 A. And all that occurred was, Mr. Morrissey said what will we do about this land?
- 11:08:38 15 And it was decided that they would go ahead with the advertisement.
- 16 Q. 21 The advertisement.
- 17 A. Sorry not the advertisement, with asking the valuer to negotiate.
- 18 Q. 22 Yes now the questions I have for you are as follows. Did you put that to
- 19 Mr. Feeley when he was here giving evidence?
- 11:08:52 20 A. Did I put it to him?
- 21 Q. 23 Yes.
- 22 A. I can't remember.
- 23 Q. 24 Well the answer is Mr. Redmond that you didn't. Did you put it --
- 24 A. If you recall Ms. Dillon.
- 11:09:01 25 Q. 25 Yes.
- 26 A. I came in one morning and Mr. Feeley had been on the witness stand the previous
- 27 day, and I think I was given some time to sort of scan through his, the
- 28 transcript, but I mean it was under pressure, I interviewed Mr. Feeley. There
- 29 are a lot of things, Your Worship, I would like to go back on I can assure you.
- 11:09:33 30 Q. 26 Yes, did you put it to Mr. Prendergast when he was here?

- 11:09:37 1 A. He wasn't here. You see I wasn't -- I wasn't here when Mr. Prendergast was
2 interviewed, I would love on opportunity to ask him.
- 3 Q. 27 And in any of your statements to the Tribunal in relation to the decision to
4 sell the corporation and the council lands, to Mr. Gilmartin, in any of your
11:09:55 5 written statements to the Tribunal, of which there are I think five, have you
6 ever adverted to the fact that a decision had been made at a meeting between
7 Mr. Feeley and other assistant managers and yourself to sell the land to
8 Mr. Gilmartin?
- 9 A. That wouldn't, didn't seem to me to be important.
- 11:10:12 10 Q. 28 You don't understand the question.
- 11 A. I do, I understand. It's not in the statements, yes.
- 12 Q. 29 Is it the position then that the first time that you have suggested to the
13 Tribunal that there was such an agreement between Mr. Feeley and the other
14 managers is when you gave evidence here yourself?
- 11:10:28 15 A. Well sure that's the only way it could happen Ms. Dillon.
- 16 Q. 30 I am sorry you don't understand the question Mr. Redmond. Is it the situation
17 that the first time that you have indicated to the Tribunal, that an agreement
18 was made at a meeting between Mr. Feeley and his assistant city and County
19 Managers to sell the land to Mr. Gilmartin, was made when you were giving
11:10:46 20 evidence here?
- 21 A. It wasn't -- it wasn't, it wasn't agreement that's number one. It was a
22 decision to negotiate for the land not to sell it.
- 23 Q. 31 The question is, I will just repeat it again for you, Mr. Redmond. Is it the
24 position, that the first time you told the Tribunal of a decision to sell the
11:11:04 25 lands to Mr. Gilmartin was when you gave evidence here?
- 26 A. If it's not in the statements then it must be.
- 27 Q. 32 Yes. Thank you Mr. Redmond.
- 28
- 29 CHAIRMAN: Thank you
- 11:11:14 30 A. But I would emphasise that I wouldn't see that as a signal event.

11:11:21 1
2 CHAIRMAN: All right thank you Mr. Redmond
3 A. Thank you, Your Worships. And, just one thing, could I have an opportunity to
4 bring Mr. Feeley and Mr. Prendergast back? It's important, I think they should
11:11:36 5 be brought back.

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7 CHAIRMAN: We can consider that.

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9 **THE WITNESS THEN WITHDREW.**

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11 MR. GALLAGHER: Mr. O'Callaghan please.

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11:12:19 1 CHAIRMAN: By Mr. Lawlor I think. Mr. Lawlor had started to cross examine.
2 Do you want to -

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MR. LAWLOR: Thank you Chairman.

11:12:29 5

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OWEN O'CALLAGHAN, HAVING BEEN PREVIOUSLY SWORN, RETURNS TO THE

7

WITNESS BOX AND IS QUESTIONED AS FOLLOWS BY MR. LAWLOR:

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9 Q. 33 MR. LAWLOR: Mr. O'Callaghan, I just wanted you to try and assist the Tribunal
11:12:36 10 regarding Mr. Gilmartin's entry into the, sort of North Clondalkin area at it's

11 broadest, when did you -- what is your recollection as to when Mr. Gubay made

12 his offer and concluded his agreement to purchase the Balgaddy town centre

13 lands, can you recall -- was that --

14 A. I would think that I'm not quite sure of it, but I would think that Mr. Gubay
11:13:13 15 showed an interest in the Balgaddy lands probably in April or May of 1988.

16 Q. 34 Well Mr. McLoone would have negotiated with Mr. Gubay's advisers, is that
17 right?

18 A. I'm not sure.

19 Q. 35 So it was Dublin Corporation land that Mr. Gubay contracted to purchase, is
11:13:42 20 that right?

21 A. Yes.

22 Q. 36 Maybe if I could have 1845 please? That, you will see Mr. O'Callaghan, is
23 approved offer D4 of the 9th February of 1988, insofar as it relates to the
24 amendment of the various clauses as set out above and the substitution of the
11:14:14 25 name etcetera. And then the order:

26

27 Approval granted to the varying of the order and Mr. Morrissey the assistant
28 city and County Manager is signing that, effectively confirming that Dublin

29 Corporation is disposing of the Balgaddy whatever it is, freehold, simple hold

11:14:33 30 lease or whatever sort of contract that they were -- so would you agree with me

11:14:37 1 that it was, that's the official sort of confirmation of the conclusion of
2 Mr. Ed Lyons negotiations on behalf of Mr. Gubay?
3 A. Yes, it seems like that.
4 Q. 37 Now, are you aware that Mr. McLoone and Mr. Gilmartin in their statements
11:14:58 5 concurred that Mr. McLoone first met Mr. Gilmartin in late 1988, would you be
6 aware of?
7 A. No, I am not aware of that.
8 Q. 38 Okay. If we can have Mr. Gilmartin's statement please? Starts on page 580?
9 Now, could I have the next page please, 581? We are now dealing with
11:15:41 10 Mr. Gilmartin's statement and he is saying under heading six there.
11
12 "During the course of my discussions with Dublin Corporation officials and in
13 particular Mr. Haughey and McLoone, they asked me whether I would be interested
14 in doing anything to get development off the ground in any of the four western
11:16:01 15 towns identified. The first thing Mr. O'Callaghan is, would you confirm that
16 it's your understanding that there is just three projected satellite towns in
17 County Dublin, not four?
18 A. That's correct.
19 Q. 39 Yes. So that's the first incorrectness. In the statement.
11:16:14 20
21 Now would you have any knowledge of the position regarding the Tallaght town
22 centre at that time?
23 A. 1988? My only knowledge would have been that it had not got off the ground, it
24 had not commenced, but that Dublin County Council were very anxious that it
11:16:34 25 would start as soon as possible.
26 Q. 40 Well I think it's, it actually had, but you were aware that it was contracted
27 to Monarch Properties by the Dublin Corporation, were you?
28 A. I can't be certain but yeah, I think it's possible that I did, yes.
29 Q. 41 Right. And would you have been aware that Blanchardstown was in the ownership
11:16:54 30 of the Green Property Company, the town centre site?

- 11:16:56 1 A. That is 1988 we are talking about now?
- 2 Q. 42 Yes, yeah.
- 3 A. Yes, I would have known that, yes.
- 4 Q. 43 Well, would you tell the Tribunal, do you accept that Mr. Gilmartin is being
- 11:17:08 5 asked to go and look at two town centre sites here according to his statement
- 6 that are already in the legal contractual situation with two other well known
- 7 developers, at Tallaght and Blanchardstown, at that time?
- 8 A. Well that that sound very strange to me.
- 9 Q. 44 And then would you further agree that Mr. McLoone is taking Mr. Gilmartin out
- 11:17:32 10 to North Clondalkin to supposedly show him the Balgaddy site when the same
- 11 Mr. McLoone would have pre 9th February 1988, which is the order signed by
- 12 assistant manager, had concluded an agreement with Merrygrove. So in effect
- 13 the Gubay company, yes in effect the three satellite town sites were at various
- 14 stages of progress with three developers, would you accept that?
- 11:18:02 15 A. Yes. Yes that sound very strange.
- 16 Q. 45 So, does it sound very odd that the chief valuer is taking out an interested
- 17 party to look at a site that -- and when did you enter the frame then, into the
- 18 Balgaddy site?
- 19 A. August, September of 1988.
- 11:18:24 20 Q. 46 So Mr. McLoone is, if his statement is to be believed is taking out
- 21 Mr. Gilmartin to show him the Gubay O'Callaghan site, isn't that right?
- 22 A. Yes, seems so.
- 23 Q. 47 Or maybe they were never looking at Balgaddy, that Mr. McLoone was colluding
- 24 with Mr. Gilmartin targeting the Quarryvale lands. Do you believe
- 11:18:48 25 Mr. Gilmartin was ever shown the Balgaddy land and was told that it was
- 26 available for a town centre development?
- 27
- 28 MR. GALLAGHER: That again is a matter for the Tribunal.
- 29
- 11:18:59 30 CHAIRMAN: Mr. O'Callaghan can't answer that.

- 11:19:01 1
- 2 MR. LAWLOR: I'm asking Mr. O'Callaghan, is he aware that Mr. Gilmartin was
- 3 offered a site that he was in a legally contractual negotiations for
- 4
- 11:19:10 5 CHAIRMAN: That's --
- 6
- 7 MR. LAWLOR: That's fine
- 8
- 9 CHAIRMAN: But you asked him then did he believe that he had been shown -- I
- 11:19:16 10 mean how, he can't say what -- will you
- 11
- 12 Q. 48 MR. LAWLOR: Well do you believe, Mr. O'Callaghan, that Mr. McLoone was
- 13 interfering in his previous function by showing Mr. Gilmartin a site that you
- 14 and Mr. Gubay were in legal contractual negotiations or agreement on?
- 11:19:32 15 A. Well I am not quite sure when Mr. McLoone showed the Balgaddy site to Tom
- 16 Gilmartin. Can you just remind me when did he?
- 17 Q. 49 Yes. Mr. McLoone's statement, we'll just get it up late '88 is in the
- 18 statement, we will come to it in a moment, but Mr. McLoone says he was first
- 19 called to Mr. Haughey and Mr. Morrissey's office in late 1988, and introduced
- 11:20:02 20 to Mr. Gilmartin and thereafter he took him out to North Clondalkin, supposedly
- 21 showed him the Balgaddy town centre lands. Mr. Gilmartin rejected it out of
- 22 hand and then went on to - well I don't know how Quarryvale came into the
- 23 frame, the management according to Mr. Gilmartin's evidence or his statement
- 24 didn't suggest that they were directing him towards Quarryvale lands at all, if
- 11:20:28 25 they ever did it, they were supposed to be asking him to go out and look at the
- 26 Balgaddy site?
- 27 A. Well if it's late '88 he shouldn't, Mr. McLoone should not have been showing
- 28 the Balgaddy site to anybody because it was then in the possession of
- 29 Merrygrove and we were talking to Merrygrove as well about it.
- 11:20:45 30 Q. 50 Can we have page 925 please. Just down at the bottom of the second paragraph,

11:20:58 1 Mr. O'Callaghan:
2 "Around this time I had brought Mr. Gilmartin to see the lands zoned for the
3 proposed Clondalkin town centre and lands at Quarryvale. I think this was late
4 1988 or thereabouts."

11:21:15 5
6 So could you just tell the Tribunal the state of your negotiations and progress
7 with Mr. Gubay in late 1988?
8 A. Well, we started speaking with Mr. Gubay in September of, or speaking to his
9 agent in September of 1988, and the land was in his possession at that stage.
11:21:38 10 So I am surprised -- I wasn't aware of that, the land was being shown to
11 anybody else, or shown to Tom Gilmartin at that time, I was not aware of that
12 actually, it seems quite strange to me.
13 Q. 51 Did Tom Gilmartin ever tell you how he came to identify the Quarryvale lands?
14 A. Yes, there are a few versions of that actually, if I can remember them.

11:22:02 15
16 CHAIRMAN: But Mr. O'Callaghan, Mr. Lawlor wants to, has asked you did he tell
17 you any of these versions or a version as to how he came to identify the land?
18 A. Yes he mentioned, he mentioned two to me as far as I can recall.
19 Q. 52 MR. LAWLOR: Day 472 page 9, maybe this might clear up the mystery of the
11:22:42 20 missing map also. Day 472, page 9, line 9.
21
22 Now Mr. Gilmartin is, his evidence "However for various reasons, I felt that
23 the development of that site would be very difficult." I presume he means the
24 Balgaddy site. "And while examining maps of the area in the offices of Dublin
11:23:42 25 County Council" and then "could I pause there and ask you Mr. Gilmartin what
26 office etcetera", then "I went into the from County Council to the public thing
27 and a gentleman there, I asked for a particular ordinance map of that area".
28
29 So Mr. Gilmartin is suggesting that he identified the Quarryvale lands while
11:24:06 30 inspecting council maps.

11:24:08 1
2 Could I put it to you, did he ever say that that's how he decided Quarryvale
3 was the best site in Europe?
4 A. No.
11:24:17 5 Q. 53 Do you recall a Marks and Spencers involvement in anyway?
6 A. Yes, he mentioned that to me.
7 Q. 54 Are you aware, Mr. O'Callaghan, that Taggart, the Belfast based architects
8 that, as you will recall, Mr. Gilmartin retained to assist him in the design of
9 the Westpark project, were acting for Marks and Spencers in the north and that
11:24:42 10 there was various versions as they say, Mr. Forman in his statement said they
11 identified the land and then he retracted it in his evidence to concur with
12 Mr. Gilmartin's line on the matter. But that Marks and Spencers were actually
13 the anchor tenant driving the scheme is there any --
14
11:24:59 15 CHAIRMAN: Sorry Mr. Lawlor that's not quite accurate, there was a
16 qualification of his statement by him when he was giving evidence.
17
18 MR. LAWLOR: I stated that, yeah
19
11:25:09 20 CHAIRMAN: Ultimately the Tribunal has to decide what in fact he intended to
21 say.
22
23 MR. LAWLOR: Well a qualification or a different version, it's pretty much,
24 there is not a hare's breath between either of them now.
11:25:21 25
26 CHAIRMAN: Well that's a matter, he said in his statement, the indication in
27 the statement, it was put to him that, what he was saying in the statement was
28 that Marks and Spencers had initially identified the site to Mr. Gilmartin, but
29 he qualified that when he was giving evidence and he said that that's not what
11:25:43 30 he had intended to say. So there is --

11:25:47 1

2

MR. LAWLOR: We'll leave you judge that one Judge.

3

4

If we can go to page 10 of day 472, could you just, do you recall the Marks and

11:25:59 5

Spencers interest Mr. O'Callaghan, or do they feature in Mr. Gilmartin's

6

thinking at the time or did he ever say to you that he had them as an anchor

7

tenant?

8

A. Yes, I can answer that question, yes. The architects that Tom was dealing with

9

in the north of Ireland were also acting for Marks and Spencers in Sprucefield

11:26:23 10

in the north of Ireland, and they were asked by Marks and Spencers to locate a

11

site in Dublin which they did, i.e. the Quarryvale site and they passed that

12

information on to Tom Gilmartin, that's what happened.

13

Q. 55 Now, could I just ask you about the Balgaddy project. Mr. Gilmartin has

14

claimed, at this Tribunal, that your lodging of a planning application to meet

11:26:50 15

your contractual responsibilities to the Corporation was a stunt. Could you

16

address that claim by Mr. Gilmartin, that he saw that while in good faith he

17

was negotiating with you, you produced this stunt to lodge a planning

18

application, what do you say to that?

19

A. Well we had to lodge a planning application for the Balgaddy site, we lodged it

11:27:14 20

Christmas, December of 1989. We had to do that to project our contract and

21

protect the Balgaddy contract and in effect to protect Tom Gilmartin. If we

22

had not lodged that planning application, as Tom knew, every bit as much as I

23

did, if we hadn't lodged that planning application, Dublin Corporation could

24

have taken the land back from us. And put it on the market again and would

11:27:41 25

probably have sold it to quite a few people who had shown us an interest in the

26

land. Green Properties for example, Des Sharkey and people like that.

27

28

The land would probably have been purchased by somebody else if we had not gone

29

in for planning permission, and there was no way, to the best of my knowledge

11:27:57 30

those people who have done that to prevent Tom going ahead with Quarryvale. So

- 11:28:02 1 what we did we did in Tom's interest and Tom's request that's why we lodged the
2 planning application.
- 3 Q. 56 So, Mr. Gilmartin's evidence, Mr. O'Callaghan, that it was a stunt, is wholly
4 wrong is that right?
- 11:28:14 5 A. Oh it's ridiculous.
- 6 Q. 57 When you first entered into discussions with Mr. Gilmartin, what understanding
7 and knowledge did he have of the County Development Plan or the requirements to
8 advance his project, do you recall an understanding of what he was confronted
9 with or what he had to do or what you both had to do effectively?
- 11:28:38 10 A. He would have very little knowledge of the Development Plan.
- 11 Q. 58 Could I have day 472 page 53? You see there Mr. O'Callaghan on line 9 question
12 187. Myself I think questioning Mr. Gilmartin.
13
14 "Mr. Gilmartin you were familiar that there was a County Development Plan, were
11:29:10 15 you?
16 Answer: I was advised that there was a Development Plan from 19 whatever it
17 was '72 or '82, '72 I think" which is correct. "I was also advised about the
18 Myles Wright plan, so I was aware that there was some plans, but I never
19 bothered looking at them."
- 11:29:31 20
21 Do you think it rather odd that a property developer who wants to spend a 100
22 to 150 million pounds wouldn't think it worthwhile to just at least basically
23 study the Development Plan in the County where he wanted to build his big
24 scheme?
- 11:29:47 25 A. Yes that is very odd to say the least.
- 26 Q. 59 Would you just go down to 17A. You have built a number of shopping centres,
27 could you put credibility on the jobs claim, there is 20,000 jobs claimed there
28 by Mr. Gilmartin on line 18, what's the sort of relativity of jobs to square
29 footage, is there a figure you can give the Tribunal?
- 11:30:14 30 A. Well the figure of 20,000 was based on one and a half million square feet of

- 11:30:22 1 retail space and half a million square feet of retail park space. The figure
2 could be pretty accurate.
- 3 Q. 60 75 jobs per square foot, would that be -- is that 75 --
- 4 A. I don't think it's that actually, that's not realistic.
- 11:30:38 5 Q. 61 No that's what it is, I have just calculated it, so you were packing 75 people
6 into ever square foot he was building?
- 7 A. One and a half million square feet is net space, not gross space, so it's
8 probably less, taking the overall site, one and a half million square feet of
9 retail space would be in excess of two million square feet of gross area. So,
10 you wouldn't talk of 75 people per square foot, it would be less than that.
- 11:31:00 10 The figure of 20,000 jobs is a bit high but based on the square footage that
11 Tom expected to get in the whole scheme, in fairness to him is probably not
12 that far out.
- 13
- 14 Q. 62 So there was a possibility, how many jobs are in Liffey Valley now?
- 11:31:20 15 A. Based on 250,000 square feet, there are 3 and a half thousand jobs. Sorry
16 based on 250,000 square feet.
- 17 Q. 63 Yes okay. Could I ask you, Mr. O'Callaghan, to explain to the Tribunal, you
18 are there sitting in the box and I have been here and others, courtesy of
19 Mr. Gilmartin's allegations, now his allegations directed towards you,
20 according to Mr. McLoone's statement that there was a million pounds embezzled
21 from his company, are you aware of that in Mr. McLoone's statement?
- 22 A. Yes.
- 23 Q. 64 And he also went on to suggest, well Mr. McLoone parroting for Mr. Gilmartin in
24 his statement, Owen O'Callaghan, on day, page 930.
- 11:32:35 25
- 26 Now down there at the bottom you see what Mr. McLoone is saying re Owen
27 O'Callaghan you met him on that date etcetera etcetera. Do you concur with
28 Mr. McLoone's evidence in that matter? "I cannot recall meeting --
- 29 A. That's yes.
- 11:32:55 30 Q. 65 That's correct is it? Page 936 please? Down the bottom here, Mr. McLoone in

- 11:33:06 1 his efforts to be helpful to the Tribunal in his statement that he sent in
2 hoping it would be treated in the strictest of confidence and not circulated he
3 says "I recall him using the words fraud, collusion, conspiracy and associated
4 with those words were the following parties, Mr. O'Callaghan, Mr. Dunlop, the
11:33:25 5 banks and possibly others". Now would you assume the banks meant AIB?
6 A. Yes.
7 Q. 66 What do you say about Mr. McLoone's statement suggesting that this is what
8 Mr. Gilmartin was claiming against you, did you ever defraud him, did you ever
9 collude against him, did you ever partake in a conspiracy?
11:33:50 10 A. That is completely untrue.
11 Q. 67 So, what is truth in your dealings with Mr. Gilmartin, Mr. O'Callaghan, can you
12 tell the Tribunal?
13 A. I treated Mr. Gilmartin and dealt with Mr. Gilmartin in an extremely fairway.
14 I felt I was very badly treated by Tom Gilmartin and I prefer to leave it at
11:34:20 15 that and not elaborate any further on it.
16 Q. 68 Well, you are aware that he went on here in direct sworn evidence to suggest
17 you were a crook, you were a gangster and you were a cuckoo, which then
18 afterwards was identified as robbing somebody else's nest, isn't that right?
19 A. Yes.
11:34:43 20 Q. 69 Would you tell the Tribunal what you think of that allegation made by
21 Mr. Gilmartin?
22 A. Well again that is an outrageous lie and all I would like to say, going through
23 history of Tom and myself from 1988 to 1996 rather than elaborate on it, I
24 would say that it's, naturally of course I would say it's an outrageous lie and
11:35:05 25 coming from a spiteful, vindictive and ungrateful man, I would prefer to leave
26 it like that.
27 Q. 70 The only one playing cuckoo and trying to come into the nest in North
28 Clondalkin was Mr. Gilmartin really wasn't it, he was the one that was gate
29 crashing?
11:35:24 30 A. I wouldn't call him a cuckoo, I would call him a lot worse than that, he was

- 11:35:28 1 the man that upset the plan for North County Dublin.
- 2 Q. 71 Magpie, scavenger?
- 3 A. Anything you like.
- 4 Q. 72 Yes. Could I just put to you, Mr. O'Callaghan, the Westpark brochure and
- 11:35:41 5 Mr. Gilmartin's ambitions, were you surprised at Mr. Kiaran O'Malley a very
- 6 eminent planning consultant who has given evidence here and represented
- 7 Mr. Gilmartin, didn't appear to try to get him to realistically address the
- 8 size issue. You have seen in your brief maybe the paperwork from Mr. O'Malley,
- 9 or more importantly, did you try to explain to Mr. Gilmartin the unrealistic
- 11:36:12 10 size and scale of the Westpark project?
- 11 A. Yes both Mr. O'Malley and myself did. Mr. O'Malley is a very eminent planner,
- 12 very experienced planner and I am surprised Tom Gilmartin did not take notice
- 13 of him and listen to him. The only hope that Kiaran O'Malley gave Tom
- 14 Gilmartin to get his one and a half million square feet off the ground was that
- 11:36:36 15 the Quarryvale location should be designated an enterprise zone something
- 16 similar to the finance services centre, that was the only hope it ever had,
- 17 that was even a slim hope. That's the advice Kiaran O'Malley gave him. I
- 18 suggested, I agreed with that and suggested that to Tom as well. But we
- 19 weren't listened to I'm afraid.
- 11:36:54 20 Q. 73 But would you agree with me that even if it was designated for tax incentives
- 21 or zoning or whatever, that the Ministerial Directive hung like a dark cloud
- 22 over the project?
- 23 A. Totally.
- 24 Q. 74 It could never be granted, could it?
- 11:37:12 25 A. It was physically impossible.
- 26 Q. 75 But that directive sits in situ today as well, it's still there, guides your
- 27 projects where ever you want to apply?
- 28 A. It is replaced by retail planning guidelines now at this stage which are every
- 29 bit as strict as the Ministerial Directive.
- 11:37:29 30 Q. 76 Is that the reason why we don't have the whos who of the -- do you remember

- 11:37:33 1 Mr. Gilmartin telling but the retailers that he thought he could attract to
2 Westpark?
- 3 A. Yes.
- 4 Q. 77 IKEA they are still not in this country?
- 11:37:44 5 A. You can't locate them in this country, this country cannot take those
6 retailers.
- 7 Q. 78 Why you, well you didn't, but taking then the situation that you are confronted
8 with, why did you agree to vacate your Balgaddy site to the advantage of
9 Mr. Gilmartin? You seemed to be walking away from a very viable profitable,
10 potential project?
- 11 A. I didn't have any choice really. Tom Gilmartin's attitude to the Development
12 Plan and his approach to Quarryvale and his, I suppose insistence that he would
13 get Quarryvale off the ground, despite the fact that he wasn't quite sure what
14 he was at, completely destroyed the Balgaddy site from a commercial point of
15 view. Once multiples at that time in 1988, '89, '90 it was difficult enough to
16 get multiples in position, and in those days we only had Irish multiples
17 Quinnsworth, Roches, Dunnes etcetera. No UK multiples, if any multiples even
18 national multiples were aware that there was an excellent site like Quarryvale
19 which it was and still is, multiples would not move to a lesser site and
20 Balgaddy was a lesser site. Tom made everybody very much aware of that, so
21 from a commercial point of view Balgaddy was finished really, still there today
22 undeveloped.
- 23 Q. 79 But the locating of the tremendous site on the junction of the M50 and Galway
24 Road relative to it being so special, was only special if you got the square
25 footage that he was looking for?
- 11:39:02 26 A. Planning permission and square footage, absolutely yes.
- 27 Q. 80 So, move across to Balgaddy site, crow quarter of a mile away, put three
28 quarter of a million square foot Liffey Valley centre on it would it do just as
29 good business or would it be detrimental site?
- 11:39:42 30 A. It would do almost as good business today, if it was not interfered with by

- 11:39:47 1 Quarryvale, if it was left stand alone as designated centre, in accordance with
2 Development Plan, it would now be up and running probably at half a million
3 square feet plus and serving the needs of the local area.
- 4 Q. 81 Which Liffey Valley doesn't?
- 11:40:02 5 A. I wouldn't agree fully with that.
- 6 Q. 82 No, it is deficient in the major super store for food purchasers?
- 7 A. That is only because it has been capped again, because it was capped in the mid
8 90s, the cap has been lifted but still restricted, it is still a district
9 centre.
- 11:40:19 10 Q. 83 So it is a deficient town centre in comparison to Tallaght and Blanchardstown?
- 11 A. Hopefully that will resolve itself in the next few days, as you know what the
12 Development Plan is going through presently.
- 13 Q. 84 Sure. You have a situation here now where the fantastic vision of the site
14 running to 180 acres is just that, but it's only just that if it gets the 1.5
11:40:42 15 million square feet. If it was getting what was intended it was no better site
16 than Balgaddy, was it?
- 17 A. Correct.
- 18 Q. 85 And --
- 19 A. That is correct.
- 11:40:50 20 Q. 86 Could I even put to you the road traffic access and egress from the town centre
21 in the corner is probably less attractive for traffic movement purposes than
22 the Balgaddy site with the Fonthill Road now constructed?
- 23 A. No, I wouldn't agree with that.
- 24 Q. 87 Well the planners, you agree that the planners were totally. Mr. Gilmartin has
11:41:09 25 told this Tribunal that the planners thought Westpark was fantastic and they
26 were enthusiastic but constrained by the fact they had the development plan to
27 implement. Do you believe Mr. Gilmartin when he told the Tribunal that
28 Westpark was a viable plan that the planners would have agreed to and granted
29 approval on?
- 11:41:29 30 A. That is not correct.

- 11:41:31 1 Q. 88 It just would not have been granted, would it?
- 2 A. No, no.
- 3 Q. 89 And do you believe that the ministerial meetings and support and possible
4 exaggerations of Mr. Gilmartin as to how real or otherwise they were a cause of
11:41:50 5 his difficulties in not facing realism about the size of Westpark?
- 6 A. I know very little about that, all I know is what Tom mentioned to me about
7 those meetings.
- 8 Q. 90 But did he always give you the impression that his ministerial access could get
9 him his approval?
- 11:42:09 10 A. Yes, he did, yes.
- 11 Q. 91 Is there any basis for justification in that assumption by him?
- 12 A. I don't know. I don't know. But in fairness to him, if he was given that
13 impression, it wasn't very fair to him.
- 14 Q. 92 Well are you aware that Mr. Morrissey in his statement has suggested that one
11:42:27 15 of his meetings with the other managers dealing with Dublin made no reference
16 whatsoever to either of Mr. Gilmartin's projects but Mr. Gilmartin has gone on
17 record as saying that that was a meeting where the Taoiseach and Ministers
18 directed the management to approve Westpark and to get on with it. It wasn't
19 even discussed at that ministerial Corporation management meeting, are you
11:42:52 20 aware of that?
- 21 A. I just read about that, that's all I know about that.
- 22 Q. 93 The other allegation that I didn't put to you Mr. O'Callaghan, probably the
23 most serious, is that when -- well could I first put to you, if Mr. Gilmartin
24 had 1.3 million pounds to make the final payment to you, your game was over and
11:43:13 25 his game was on, big time was it?
- 26 A. Absolutely.
- 27 Q. 94 And is it your evidence to the Tribunal that you got involved with
28 Mr. Gilmartin because Mr. Gilmartin failed to make that 1.5 million pounds
29 payment?
- 11:43:32 30 A. That was one of the reasons.

- 11:43:35 1 Q. 95 What were the others?
- 2 A. The second reason was that we were very anxious to get a development going in
3 Dublin. You have to remember that I would have been fronting up a company with
4 about 4 or 500 people employed. Tom was going around with a briefcase on his
11:43:58 5 own, just himself to worry about. We were very anxious to get established in
6 Dublin in the late '80s early '90s because that's where the action was. We
7 failed in Cooldrinagh, Tom killed off Balgaddy, so we were going nowhere. I
8 was anxious to get a development going. And the bank suggested we get involved
9 in Tom that was just one reason, we wanted to get a development going was a
11:44:28 10 second and the third and probably main one was Tom had not paid us the balance
11 of our monies. If he had I wouldn't be here today.
- 12 Q. 96 Now, Mr. Gilmartin would totally disagree with that as you can expect
13 Mr. O'Callaghan, but one of the most serious allegations of all that
14 Mr. Gilmartin has made against yourself and your business colleague and
11:44:46 15 solicitor Mr. Deane, is that you made an agreement with Mr. Gilmartin to join
16 up and then you, through the manipulations of your solicitor, changed the
17 agreement in the words as to what had been verbally agreed. You are aware of
18 that allegation?
- 19 A. Yes.
- 11:45:10 20 Q. 97 So what do you say about that allegation?
- 21 A. That's completely untrue. That's a terrible stigma in particular for Tom
22 Gilmartin to place -- to try to place on Seamus Maguire and John Deane, that's
23 ridiculous, we all know that.
- 24 Q. 98 But have you read the two hours of evidence given by Mr. Deane when being
11:45:31 25 questioned by Mr. Gallagher and they were dealing with draft contracts and
26 giving effect to the allegation of Mr. Gilmartin's and trying to tease it out,
27 to then discover the following morning that Mr. Deane, while being cautious in
28 the box, was proven right that the original contracts duly dated and signed
29 were in the possession of the Tribunal. You are aware of that?
- 11:45:54 30 A. Yes I am aware of that yes.

- 11:45:55 1 Q. 99 So do you believe there is been a satisfactory retraction from the Tribunal's
2 legal team that they were impugning --
- 3 A. It's not for me to comment on that.
- 4 Q. 100 So your evidence is that the -- why do you think Mr. Gilmartin suggested that
11:46:15 5 the suggest that the subject of planning clause should have been in the
6 contract, because that's the nub of his armament wasn't it?
- 7 A. Yes Tom Gilmartin suggested that. I would suggest that he thought of that in
8 the past couple of months. He never mentioned that to me over the past 15, 16
9 years. And it was his solicitor Seamus Maguire in 1988, January '89 requested
11:46:41 10 that condition be put in. Tom refused twice to allow that to be put into the
11 contract. It was never an issue until a few months ago, I think he just
12 probably dreamed it up.
- 13 Q. 101 Could it have been that while recommended as we know from Mr. Maguire's
14 evidence here that he did recommend Mr. Gilmartin should include that
11:46:59 15 condition?
- 16 A. Yes.
- 17 Q. 102 That it was an out clause that wouldn't have necessitated the availability of
18 the 1.3 million pounds if the clause was in there?
- 19 A. Yeah.
- 11:47:09 20 Q. 103 So, because he couldn't find the 1.3 million pounds he is making the false
21 allegations that the contract was doctored?
- 22 A. But he didn't take that allegation in 1989/1990 he didn't make that allegation
23 until recently.
- 24 Q. 104 So that's a fabrication from Mr. Gilmartin is it?
- 11:47:27 25 A. Totally.
- 26 Q. 105 Just briefly, because there has been evidence from a whole range of parties
27 about the Buswells Hotel meeting, you have said that on the 28th of December
28 Mr. Deane has said, Mr. Ambrose Kelly and I will say that the meeting never
29 took place in that context with councillor Hanrahan and Mr. Gilmartin, isn't
11:47:52 30 that right?

- 11:47:52 1 A. That is correct.
- 2 Q. 106 If I can just have day 475 page 125? Mr. Gilmartin has given a very detailed
3 explanation of the meeting and how it happened and so forth, which you will
4 probably be aware of. The first thing I think in his evidence is that he is
11:48:12 5 talking about the wrong building, there is no down stairs in those days in
6 Buswells where Mr. Gilmartin vividly described where he had and who he saw, is
7 that right?
- 8 A. Sorry there was a down stairs in those days but we were not down stairs.
- 9 Q. 107 In the bar they have created a down stairs now, but it wasn't there then?
- 11:48:33 10 A. In 1988/89 there was a basement, a down stairs basement.
- 11 Q. 108 But not associated with the bar the way Mr. Gilmartin described it?
- 12 A. Correct.
- 13 Q. 109 We just have that there. Line 11A: "You and Mr. Hanrahan was working with
14 Ambrose Kelly and Owen O'Callaghan" that's me. I never worked with you or for
11:48:55 15 you in any capacity Mr. O'Callaghan, did I?
- 16 A. No.
- 17 Q. 110 "You were on board with him already. You were there at that at that meeting.
18 You were there having a drink with him, although you didn't drink as I
19 understand. I never remember you taking an actual drink other than water or
11:49:12 20 something. But they were having a drink at the bar, you were altogether, you
21 were all involved in the Neilstown site and Mr. Hanrahan was present with you
22 having a drink and he was involved in the Neilstown site with you, Ambrose
23 Kelly and Owen O'Callaghan".
24
- 11:49:31 25 Now you may not have read that transcript, but could I put it to you that's a
26 totally different version now of what Mr. Gilmartin has claimed in his
27 statements and other parts of his evidence, is that right?
- 28 A. That's right.
- 29 Q. 111 So and in his own statement he has suggested that I introduced him to
11:49:51 30 Mr. Finbar Hanrahan, is it your recollection that you introduced him?

11:49:56 1 A. I pointed him in the direction of Finbar Hanrahan.

2 Q. 112 But would you agree with me that, are you in the knowledge that I did or did

3 not --

4 A. You were not present.

11:50:05 5 Q. 113 No. And did I ever, did Mr. Gilmartin ever say I introduced him to Finbar

6 Hanrahan?

7 A. No, not to me.

8 Q. 114 Mr. O'Callaghan, in June 1989 where rested your relationship with

9 Mr. Gilmartin?

11:50:31 10 A. June '89.

11 Q. 115 Yeah.

12 A. In what sense.

13 Q. 116 You weren't -- you had an agreement with him, had you, an option agreement?

14 A. Yes, yes.

11:50:42 15 Q. 117 But you weren't in partnership with him as transpired much later?

16 A. That's correct. We had transferred the interest of our Balgaddy site to Tom

17 Gilmartin at that stage.

18 Q. 118 Was there a recompense of outlay that is Mr. Gilmartin would have incurred when

19 the company came together?

11:51:03 20 A. I'm not quite sure.

21 Q. 119 Like, was -- Mr. Gilmartin had been incurring costs in the assembly of the

22 site, professional fees, outgoings, travel expenses?

23 A. Yes.

24 Q. 120 Quite a substantial expense?

11:51:20 25 A. Yes.

26 Q. 121 And then two partners come together to start afresh and form a new working

27 arrangement, was there a recognition?

28 A. That was not June '89.

29 Q. 122 No, it wasn't it came later, but was there a recognition of Mr. Gilmartin's

11:51:36 30 outlays of prior period of coming together?

11:51:38 1 A. No.

2 Q. 123 Did Mr. Gilmartin say I've expended a million pound and therefore out of the
3 new company, I am entitled to recover my costs etcetera, was that --

4 A. Not in '89, no.

11:51:50 5 Q. 124 But going on further?

6 A. Oh, yes.

7 Q. 125 Yes he --

8 A. After, from December 1990 onwards.

9 Q. 126 Did Mr. Gilmartin give a comprehensive list of those outgoings?

11:52:03 10 A. Yes.

11 Q. 127 How did he treat the 50,000 pounds he gave to the Minister for the Environment?

12 A. I didn't see that, I was not aware of that.

13 Q. 128 But did he put in a cost heading to recover his expenditure into the company,
14 to be recompensed for his carrying of costs on behalf of the company prior to
11:52:26 15 it's new life?

16 A. I'm not quite sure, I can't answer that question, I'm not quite sure.

17 Q. 129 There was an agreement and a financial settlement with Mr. Gilmartin?

18 A. Oh, yes there was. By us, correct. You are talking about '95/'96.

19 Q. 130 I appreciate we are not going there, but during the period of time when
11:52:47 20 Mr. Gilmartin incurred costs on his own on outgoings?

21 A. Okay yes.

22 Q. 131 I am asking, was the situation that he was recompensed for all his outgoings
23 and how did he treat the 50,000 pounds he paid to the Minister?

24 A. I know what you are talking about but I cannot answer that question, that's
11:53:04 25 '95/'96, yeah.

26 Q. 132 On the financial side of things, Mr. O'Callaghan, I don't want to go into it in
27 detail because if Mr. Kaye is coming in and can deal with the bank side of it,
28 but there was a fairly tortuous list of financial institutions that possibly
29 were going to fund the project prior to your taking an interest in the project,
11:53:28 30 is that right?

- 11:53:28 1 A. That's correct, yes.
- 2 Q. 133 Was there any validity in all, I did out a list of 17 financial institutions
- 3 that Mr. Gilmartin referred to at various stations, and I think I could just
- 4 end it by saying, do you recall a Mr. McMullen?
- 11:53:43 5 A. Yes.
- 6 Q. 134 Could I have page 3924 please? Could you tell the Tribunal who, what or where
- 7 did he come out of?
- 8 A. I would know very little about Mr. McMullen, this was part of Tom's attempts to
- 9 finance, to make money available, to close his land sales in Quarryvale. This
- 11:54:08 10 development, I think '89, I was only aware of four institutions or individuals
- 11 he was dealing with to try and arrange finance, they were four individuals
- 12 actually and the reason that we, that I was aware of it was that because on two
- 13 occasions at least two occasions these individuals were looking for payments up
- 14 front before they would make an attempt to finance a project and on two
- 11:54:33 15 occasions we put up that funding. But I know no more about Mr. McMullen.
- 16 Q. 135 Would you be aware that he was head of a junk bond, vulture fund from New York?
- 17 A. No I'm sorry, no.
- 18 Q. 136 Well that's what he was. So that was the sort of sign of desperation by
- 19 Mr. Gilmartin, that he was down to that type of possible funding to save his
- 11:54:58 20 project, is that right?
- 21 A. Could be.
- 22 Q. 137 I mean is it your evidence that Mr. Gilmartin didn't have the financial
- 23 resources to see his project through?
- 24 A. Absolutely. Totally, totally.
- 11:55:08 25 Q. 138 Could the blame game on everybody else is really back at his own doorstep, is
- 26 that correct?
- 27 A. I'm afraid so.
- 28 Q. 139 Mr. Gilmartin claims that he brought the Duke of Westminster into the project,
- 29 is that right?
- 11:55:25 30 A. Absolutely not.

- 11:55:27 1 Q. 140 But that's his sworn evidence.
- 2 A. I've read that.
- 3 Q. 141 If we can have page 163 of day 475? If we go to the previous page, 162 please?
- 4 26 there. "Mr. Lawlor: You don't get the answer you see. He had the Duke of
- 11:56:11 5 Westminster." and Judge Keys says and you are complaining about not getting the
- 6 answers you wanted to receive etc".
- 7
- 8 Mr. Gilmartin somewhere in that evidence, I have read it -- he introduced the
- 9 Duke of Westminster's Grosvenor estates into the project, that's not correct,
- 11:56:23 10 is it?
- 11 A. Not at all, I have read about a lot of false claims made hereby Tom in the past
- 12 few months but that is probably the most false one.
- 13 Q. 142 I just, finally, Mr. O'Callaghan, you retained legal advise to attempt to
- 14 protect your zoning on the Balgaddy lands when the debate was ensuing between
- 11:56:51 15 whether Westpark could switch the zoning through a vote of the elected members
- 16 is that right?
- 17 A. Yes.
- 18 Q. 143 You retained the services of Mr. Sean O'Leary, is that right, a Cork barrister?
- 19 A. Yes.
- 11:57:04 20 Q. 144 Would that the same Mr. Sean O'Leary that was the national director of
- 21 elections for Fine Gael?
- 22 A. Yes.
- 23 Q. 145 He is now a judge?
- 24 A. Yes.
- 11:57:13 25 Q. 146 There has been concern here, you see that there was any over link or inter link
- 26 between legal people and politicians in lobbying and so forth, I trust the man,
- 27 obviously he did what he did and he did it very efficiently, the most
- 28 competent man and I am not impugning anything, but he did have those
- 29 connections and he represented you and gave you legal advice, isn't that right?
- 11:57:37 30 A. Yes.

- 11:57:39 1 Q. 147 In conclusion, could you just tell the Tribunal very briefly your recollection
2 of the campaign mounted by the Green Property Company against the Quarryvale
3 project. Did they mount a very major campaign?
4 A. Yes they mounted a major campaign, very aggressive campaign. It lasted right
11:58:01 5 through 1990/91/92. Headed up by John Corcoran at the time. He was just
6 defending and protecting his own property, not to blame him.
7 Q. 148 Well are you familiar with -- what motion was tabled to eventually correct the
8 zoning issue between the two sites, can you recall -- now, well could I put it
9 to you it was Mr. Gilmartin got the motion signed by two elected members and
11:58:33 10 tabled, is that right?
11 A. Yes.
12 Q. 149 And that was Councillor McGrath and Councillor Gilbride, they -- well you may
13 not be familiar, but there was a motion put in?
14 A. I am not sure of the second, McGrath but I am not sure of the second.
11:58:49 15 Q. 150 Sure.
16 A. If you are right on the second --
17 Q. 151 The reason I believe I'm right, is the motion was worded and signed in the Red
18 Cow premises, where we were out looking at that mad junction that's still a
19 problem today, on a site visit from the council, officially out to see?
11:59:06 20 A. That's before my time I'm afraid.
21 Q. 152 Yes. Now, but you are familiar are you, that the motion as tabled didn't
22 embrace the 180 acre lands at Westpark, is that right, it had limitations on
23 it?
24 A. Yes.
11:59:25 25 Q. 153 Is that your --
26 A. Yes I think, yes.
27 Q. 154 If I could have page 766 please? I would just put to you, Mr. O'Callaghan,
28 that I was asked by Councillor McGrath to sign the motion but I refused to sign
29 it on the basis that I could see what was going to happen, vis-a-vis
11:59:54 30 Blanchardstown and the trouble it was going to cause, but I did caution if they

- 11:59:58 1 were going to table a motion that it should restrict the acreage into the
2 corner of the site, so that the 180 acres as was written up couldn't grow topsy
3 turvy into a million and a half square feet, which was at the heart of the
4 worry that people had, that was instructive about it, would that be right?
- 12:00:16 5 A. That's correct.
- 6 Q. 155 So, if I could just read that letter then, coming up to the decision "I would
7 like to thank you for receiving us on Monday morning last to discuss the
8 question of Lucan/Clondalkin rezoning. We got a very fair hearing and came
9 away from the meeting happy that reasonableness would prevail.
- 12:00:33 10
11 I now understand that the new motion is being drafted in connection with moving
12 the Neilstown site to the Quarryvale site and I am happy with this. I will
13 probably see you tomorrow in the chamber".
14
- 12:00:44 15 That's from the manager of Green Properties on the basis that I requested that
16 he meet with the Chairman who also represented Blanchardstown and the other
17 Fianna Fail councillors for Blanchardstown to reassure Mr. Corcoran we were
18 going to put a limit on Quarryvale so to get away from Mr. Gilmartin's Westpark
19 idea. Can you tell the Tribunal that a couple of days later the council did in
20 fact put a zoning on the Quarryvale lands?
- 12:01:08 21 A. Yes.
- 22 Q. 156 And that was, I am not sure whether it was unanimous, I know I supported it as
23 did others, on the basis of that letter?
- 24 A. That's correct. That would have solved the problem at the time, that agreement
12:01:23 25 would have solved a lot of problems at the time and the council vote had a
26 strong majority in favour of zoning Quarryvale provided that the location was
27 moved to the Coldcut Road end of the site.
- 28 Q. 157 Yes.
- 29 A. That would satisfy John Corcoran, but for some reason within a month the whole
12:01:40 30 thing changed again.

12:01:41 1 Q. 158 Well that's because Mr. Tom Smith gave a legal opinion saying our actions
2 couldn't be effective in planning law. We are not going into that he is that's
3 for another day, for the next module. We'll get into that in great detail,
4 Chairman?

12:01:54 5 A. I am not sure what you are talking about now.

6 Q. 159 I am definitely sure.

7

8 CHAIRMAN: Mr. Lawlor --

9 Q. 160 That's for the next module, I hope you will circulate his written opinion when
12:02:05 10 I send it into you this time because --
11

12 CHAIRMAN: Mr. Lawlor do you have any further questions?

13 Q. 161 I do. I want to put to you finally, Mr. O'Callaghan, that the collective seven
14 councillors in Dublin 15 would not have voted for the motion, to zone
12:02:24 15 Quarryvale if that letter hadn't issued and could I further put it to you --
16

16 A. That is correct, yes.

17 Q. 162 And you had virtually nothing to do with this at the time. It was purely
18 Mr. Tom Gilmartin looking for support for --

19 A. That's right.

12:02:38 20 Q. 163 His project, isn't that right?
21

21 A. That's correct.

22 Q. 164 And the council gave him that support?
23

23 A. Yes.

24 Q. 165 Without crookery, gangsterism, bribery, conspiracy or any other type of wording
12:02:51 25 that Mr. Gilmartin wants to now try and use. So, in effect the then elected
26 Dublin County Council gave Mr. Tom Gilmartin the zoning of moderate proportions
27 on the Quarryvale lands?
28

28 A. That to the best of my knowledge is correct. I was only on the edge at that
29 time. On the edge of the whole of Quarryvale at that time. To the best of my
12:03:11 30 knowledge what you are saying is correct, yes.

12:03:12 1 Q. 166 So in conclusion we are here, Mr. O'Callaghan, chasing Mr. Gilmartin's
2 allegations the vast bulk would you suggest could have been teased out and
3 established as being false and private but they have been given the full public
4 airing because we have counsel for this Tribunal, that's acting in a vindictive
12:03:30 5 and bias way on behalf of Mr. Gilmartin.

6
7 CHAIRMAN: Mr. Lawlor that's nothing to do with this witness.

8
9 MR. LAWLOR: It's to do with the workings of the Tribunal.

12:03:37 10
11 CHAIRMAN: Yes but that's -- you are cross-examining a witness, you are asking
12 him to express an opinion about which he shouldn't be asked.

13
14 Q. 167 MR. LAWLOR: Well do you believe the former Sole Member was right to get
12:03:50 15 immunity for Mr. Gilmartin --

16
17 CHAIRMAN: Mr. Lawlor that's another irrelevant question of this witness.

18 Q. 168 This witness is at the basis of allegations from a witness that has been
19 granted immunity does he not have an opinion, can I not ask him --

12:04:03 20
21 CHAIRMAN: No, you can't ask him his opinion about immunity.

22 Q. 169 I am asking does he agree it is a correct thing.

23
24 CHAIRMAN: He doesn't have to answer it, he shouldn't answer that.

12:04:13 25 Q. 170 Well -- could I further ask, because I am amazed at your own comment that it's
26 nothing to do with you, it's question for you, do you have something to do with
27 the reviewing of this immunity that was granted by the sole, by the DPP.

28
29 CHAIRMAN: Mr. Lawlor have you any further questions for this witness?

12:04:30 30 Q. 171 Well, just in conclusion Mr. O'Callaghan, could you tell the Tribunal why Tom

12:04:36 1 Gilmartin, A failed to get approval for his Westpark project, and B failed to
2 stay a member of the consortium that developed it?

3 A. His ambitions, first of all he ignored the Development Plan completely.
4 Anybody with any knowledge of planning would not have attempted what he did
12:04:59 5 attempt, it was very very foolish, extremely foolish. Secondly, the size of
6 the development he was talking about was way too big for Dublin, the reality at
7 this stage is that, under the present retail planning guidelines that are now
8 established that by the year 2011 Quarryvale can grow to 700,000 square feet.
9

12:05:26 10 In 1988 Tom wanted to put one and a half million square feet there. 23 years
11 back from 2001, he was talking about the double the size that will be allowed
12 in 2011. So, it was very foolish to attempt what he did actually. If he had
13 known more about the system and about the planning guidelines and about
14 Development Plan and Ministerial Directives, if he had gone to the trouble of
12:05:54 15 reading the Development Plan, I don't think he would have attempted what he
16 did. He was a lucky man that he actually didn't go completely broke and got
17 back to England with double his investment.

18 Q. 172 Mr. Gilmartin has given you credit with Mr. Dunlop of being capable of
19 manipulating the agenda of the County Council Development Plan meetings and
12:06:13 20 suggested here in evidence that the elected members and management colluded in
21 not wanting to address the map that included the Quarryvale lands, are you
22 aware of that?

23 A. I am not aware of that, no.

24 Q. 173 What Mr. Gilmartin told the Tribunal is that in order to frustrate his
12:06:32 25 commercial ambitions, you and others were able to delay the decision making
26 process of the Dublin County Council.

27 A. I doubt that very much, that I would be capable and Mr. Dunlop and myself
28 capable of doing anything like that.

29 Q. 174 But you see in 1988 Mr. Gilmartin was making statements that he would have the
12:06:52 30 zoning in a matter of weeks to Mr. Kaye and to others and that it was all going

- 12:06:56 1 to be done?
- 2 A. That's just proof again of a complete lack of knowledge of the Development
- 3 Plan.
- 4 Q. 175 And when was the plan eventually made Mr. O'Callaghan?
- 12:07:06 5 A. December 1993.
- 6 Q. 176 So it was five years after Mr. Gilmartin was getting his decision in weeks.
- 7 Did he say to you at the time he was expecting this decision?
- 8 A. Yes.
- 9 Q. 177 You didn't believe him?
- 12:07:17 10 A. I told him that he was incorrect, he didn't listen to me.
- 11 Q. 178 Thank you very much Mr. O'Callaghan.
- 12
- 13 CHAIRMAN: Right we'll just take a break for about ten minutes.
- 14
- 12:07:26 15 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND**
- 16 **RESUMED AGAIN AS FOLLOWS:**
- 17
- 18 CHAIRMAN: Mr. Redmond, do you want to cross examine Mr. O'Callaghan?
- 19
- 12:25:44 20 MR. REDMOND: I'll be very brief, Your Worship.
- 21
- 22 CHAIRMAN: All right.
- 23
- 24 **THE WITNESS IS QUESTIONED AS FOLLOWS BY MR. REDMOND:**
- 12:25:52 25
- 26 Q. 179 MR. REDMOND: Good morning Mr. O'Callaghan?
- 27 A. Morning Mr. Redmond.
- 28 Q. 180 Just one or two questions about the agreement made in January '89 between
- 29 yourself and Mr. O'Callaghan. It's origin was the pressure, did the pressure
- 12:26:12 30 come from Mr. Gilmartin for that agreement?

- 12:26:16 1 A. Yes.
- 2 Q. 181 It did.
- 3 A. Yes completely.
- 4 Q. 182 And I think the evidence is it came in the latter part of 1988?
- 12:26:25 5 A. Yes, December 1988.
- 6 Q. 183 Yes. Well at that time, insofar as the other lands are concerned, the evidence
- 7 on the file was that he had certainly I think entered into contracts with
- 8 Sharpe and Bruton, but insofar as the Corporation was concerned, they had just
- 9 authorise negotiations and the same applied in the case of the County Council
- 12:26:56 10 land and I don't think there was any move on the Van Houle land, just reading
- 11 the brief now, at this stage.
- 12 So he had -- he may have had deposits out on the first two lots of land, but
- 13 financially he wasn't deeply committed at that stage. Were you -- did he tell
- 14 you that, did he more or less paint a picture of what was happening in
- 12:27:22 15 Quarryvale?
- 16 A. No, he did not tell me that, but he had quite a few options tied up and quite a
- 17 few contracts signed.
- 18 Q. 184 That's fair enough.
- 19 A. He was quite committed.
- 12:27:33 20 Q. 185 But he had quite a lot on his plate though. I mean, you know, having to
- 21 acquire all the land and that planning and all the rest, what was his objective
- 22 in acquiring Balgaddy? I mean, we have his descriptions of Balgaddy and he
- 23 says, it's an impossible site, said you were mad to get involved, why at this
- 24 stage was he wanting to buy your interest?
- 12:28:04 25 A. Well Tom believed that he could transfer the zoning from the Balgaddy site to
- 26 the Quarryvale site, the town centre zoning.
- 27 Q. 186 He really, he really felt convinced that this could be done and did he give any
- 28 indication as to who was going to do it for him?
- 29 A. Well he was advised, he was advised this could happen, he believed it himself.
- 12:28:34 30 He was so adamant about this, that for a while I thought that was possible as

12:28:38 1 well actually. I know in hindsight is a great thing, we all know now you
2 couldn't do that. But Tom was convinced that all he had to do was transfer the
3 zoning from the Balgaddy site to the Quarryvale site and his planning problems
4 would be solved.

12:28:54 5 Q. 187 In other words, it was the friends in high places who would do it.
6 A. I couldn't answer that now, I don't know. I can't answer that. Tom himself
7 was convinced that you could transfer the planning. Who advised him of that,
8 I'm not quite sure.

9 Q. 188 But he was, I mean what was the figure finally agreed in January,
10 Mr. O'Callaghan?
11 A. The total figure was 3 and a half million pound for our interest and Tom would
12 then have to pay 3 million pounds in staged payments to Dublin Corporation.

13 Q. 189 So for the 30 acre site, which at the moment had no planning permission or
14 anything else, he was now prepared to pay 6.5 million, that would put the price
15 over 200,000 an acre?
16 A. Correct. But I wouldn't be too sure if Tom was going to complete his contract
17 with Dublin Corporation.

18 Q. 190 But that price would be way over market value, would you agree?
19 A. Absolutely.

12:29:56 20 Q. 191 So, at that stage he was so committed and convinced that he was prepared to,
21 one might say, gamble 6.5 million?
22 A. Yes.

23 Q. 192 So what his aim was then to get control of both sites?
24 A. Yes.

12:30:17 25 Q. 193 And based on advice to work some sort of a switch between the two?
26 A. Switch the zoning from Balgaddy to Quarryvale and let the Balgaddy site stand
27 there.

28 Q. 194 Yes, yes. And what were his -- was intention would be to hold on to his
29 investment in Balgaddy?
12:30:41 30 A. Well he wouldn't, he never classified Balgaddy as an investment, as you

12:30:45 1 probably well know he "rubbished" Balgaddy, were the words he used for it.

2 Q. 195 Yes. Insofar as the negotiations for the 6.5 million, well you know the 3 and

3 the 3.5, did he conduct those negotiations himself?

4 A. Yes.

12:31:07 5 Q. 196 With yourself?

6 A. Yes.

7 Q. 197 He didn't engage anyone?

8 A. No.

9 Q. 198 And he -- he hadn't any difficulty making up his mind?

12:31:17 10 A. It took five minutes.

11 Q. 199 Five minutes.

12 A. Five minutes in a meeting that lasted 8 hours.

13 Q. 200 That's all. I just wanted to clarify, Your Worships, what the position was,

14 what his objective was, I think you helped me that respect. That's all.

12:31:33 15

16 CHAIRMAN: thank you Mr. Redmond. Mr. Lucey?

17

18 MR. LUCEY: Yes Chairman just a few questions please.

19

12:31:39 20 **THE WITNESS IS QUESTIONED AS FOLLOWS BY MR. LUCEY:**

21

22 Q. 201 MR. LUCEY: Mr. O'Callaghan if I can clear up one issue which was raised by

23 Mr. Gilmartin in his own evidence about the Lee Tunnel, can I just ask you,

24 Mr. Gilmartin suggested that you mentioned at your first meeting with him, that

12:31:56 25 there had been a diversion of the Lee Tunnel to suit a site of yours in Mahon,

26 first of all in respect of the Lee Tunnel, can you assist the Tribunal about

27 it's construction and time frame during which the decision was made to open the

28 tunnel and when it actually opened?

29 A. Yes. In 1982 Cork City Council and Cork County Council decided that they

12:32:22 30 required a Lee crossing, the river Lee crossing, and between 1982 and 1991 it

12:32:31 1 was debated between the City Council, the County Council, the Department of the
2 Environment and their consultants as to whether the Lee crossing would be a
3 tunnel, a bridge or a barrage. It was not until 1991 that the final decision
4 was taken and that decision was that it would be a tunnel. Nobody knew until
12:32:53 5 1991, what was going there or where exactly it was going. I could not have
6 told anybody in 1988 or '89 what was going there.

7 Q. 202 And when do you know Mr. O'Callaghan, did the work commence on the Lee Tunnel?
8 A. Work actually commenced in 1995, it was completed in 1999.

9 Q. 203 Your interest at the Mahon site could you explain to the Tribunal what that
12:33:17 10 site is and when you acquired that please?
11 A. We showed an interest in that site in 1997, together with 25 more companies, it
12 was put out to public tender, in fact I did suggest to the city manager in 1995
13 it was a very very valuable site, and showed an interest but he could not sell
14 to us because it was public land. And because of that inquiry he decided the
12:33:43 15 potential or he recognised it's potential and he put it out to public tender
16 and there were 26 companies tendered, including ourselves, tendered for that
17 115 acres of land.
18 Companies came from Ireland, Britain and Europe and an enormous figure was
19 achieved for the site. We were short listed to the last ten and eventually
12:34:04 20 succeeded in acquiring it. It's now under construction as the Mahon point
21 development, retail, residential.

22 Q. 204 And when Mr. O'Callaghan, did you actually acquire it?
23 A. We acquired the site in the year 2000.

24 Q. 205 And Mr. Gilmartin's suggestion then that the meeting that you had with him in
12:34:27 25 November 1988, that there was some alteration to the Lee Tunnel to suit your
26 site what do you say to that suggestion?
27 A. Impossible. Nobody at that stage, at that time nobody, no human being at that
28 stage knew what the river Lee crossing was going to be. As I said, whether it
29 would be a tunnel, a bridge or a barrage, nobody could have said it was going
12:34:50 30 to be a tunnel least of all me. I had no involvement in it.

- 12:34:59 1 Q. 206 Now Mr. O'Donnell, when he was cross-examining you raised the issue of your
2 relationship with Mr. Gilmartin essentially going through three phases. During
3 the phase after January of 1989 after the agreement was concluded, can you just
4 tell the Tribunal how often you would have been in contact with Mr. Gilmartin
12:35:09 5 until 1996?
6 A. From 1990 on, '92/93, probably twice a week on the telephone and maybe a
7 meeting, five, six, seven times a year. Relationships were quite good
8 actually, very good.
9 Q. 207 When was the first time you heard of the 50,000 pounds payment to Mr. Flynn?
12:35:36 10 A. When I read about it.
11 Q. 208 When did you read about it?
12 A. In the newspapers. Well it was in '98 or '99, I'm not too sure of the date but
13 it was public knowledge.
14 Q. 209 Did Mr. Gilmartin ever bring it up with you?
12:35:50 15 A. No, not with me, no.
16 Q. 210 Now finally, Mr. O'Callaghan, in her evidence Freda Kelly indicated that her
17 first meeting with you was in the company of Mr. Frank Dunlop, when did you
18 first meet Mr. Dunlop?
19 A. February '91.
12:36:07 20 Q. 211 So if she had a meeting with you at that stage, with Mr. Dunlop it was at that
21 time or thereafter?
22 A. Yes.
23 Q. 212 Thank you Mr. O'Callaghan.
24
12:36:17 25 MR. GALLAGHER: Mr. O'Callaghan I just have a few questions for you.
26
27 **THE WITNESS IS QUESTIONED AS FOLLOWS BY MR. GALLAGHER:**
28
29 Q. 213 MR. GALLAGHER: You were asked by Mr. Lawlor in relation to the employment that
12:36:25 30 would be generated by a 1.5 million gross retail shopping area and 0.5 million

12:36:33 1 retail park. Would you tell the Tribunal please how many square feet of retail
2 shopping development has been provided in Quarryvale to date, gross?
3 A. Well I can tell you the net figure sorry.
4 Q. 214 Well, okay.
12:36:53 5 A. The net figure is 230,000 square feet.
6 Q. 215 What's the gross figure approximately?
7 A. About 400,000 square feet.
8
9 CHAIRMAN: What's the difference between gross and net when you are talking
10 about square footage?
11
12 MR. GALLAGHER: Significant, I suspect Mr. O'Callaghan will tell you.
13
14 CHAIRMAN: Where does the difference arise?
12:37:17 15 A. Well the net space, Chairman, is the actual retail space that one uses, the
16 space between the -- sorry the space between the walls of the shop unit the
17 necessary space, it excludes the malls, toilet areas canteens etcetera and in
18 supermarket it excludes internal isles as well, a significant difference
19 actually.
12:37:43 20 Q. 216 You mean in the supermarket the passages or walkways through which one would --
21 A. Debatable but they could be excluded.
22 Q. 217 They are excluded?
23 A. Yes.
24 Q. 218 So there is 400,000 square feet of gross shopping space, how much gross retail
12:38:01 25 park is there?
26 A. Well in the retail park there is no difference in gross or net in retail park.
27 Sorry. Retail park in Liffey Valley is 300,000 square feet.
28 Q. 219 And offices?
29 A. Gross, 110,000 square feet.
12:38:27 30 Q. 220 Gross.

- 12:38:28 1 A. Gross.
- 2 Q. 221 Hotel.
- 3 A. 300 bedroom.
- 4 Q. 222 Space?
- 12:38:40 5 A. 300 by 8,000 per bed, is that 30,000. It's close to 80,000 square feet I
6 would imagine.
- 7 Q. 223 Is there any commercial or industrial development apart from that?
- 8 A. Yes there is indeed. There would be another 80,000 square feet of commercial
9 space there, plus a public house which would be 15,000 square feet I think.
- 12:39:07 10 Q. 224 Anything else?
- 11 A. Cineplex.
- 12 Q. 225 Yes. What size is that, gross?
- 13 A. 30,000 square feet.
- 14 Q. 226 Anything else?
- 12:39:23 15 A. That's it.
- 16 Q. 227 I make that 1 million and 15,000 square feet gross, is that correct?
- 17 A. Approximately.
- 18 Q. 228 And are there any planning applications extant for further development on the
19 site?
- 12:39:49 20 A. Oh, yes.
- 21 Q. 229 What planning permissions have you --
- 22 A. There are no planning permissions at the moment because the Development Plan is
23 currently being voted on in South Dublin County Council right now.
- 24 Q. 230 Is there space for residential development?
- 12:40:02 25 A. Yes.
- 26 Q. 231 How much?
- 27 A. 600 units.
- 28 Q. 232 And if the Development Plan is reviewed and the density is increased, what do
29 you expect could be provided on the space so designated?
- 12:40:20 30 A. There is the expectations of no great difficulty, but the allowance, the

12:40:25 1 current retail planning guidelines will allow Liffey Valley to go to 700,000
2 square feet net space by 2011.

3 Q. 233 7,000 --

4 A. By 2011. 7,000 square feet of net retail space.

12:40:44 5 Q. 234 Right?

6 A. By 2011.

7 Q. 235 What would that be gross?

8 A. About 800,000, 815 or 8 20,000 gross.

9 Q. 236 Well what about the residential area?

12:40:57 10 A. The residential will increase to a 1,000 units.

11 Q. 237 And a 1,000 units at, of approximately what size?

12 A. A 1,000 square feet each, gross.

13 Q. 238 So.

14 A. A 1,000 by a 1,000 square feet. A 1,000 units by a 1,000 square feet.

12:41:21 15 Q. 239 Ultimately then, what would the total area to be, the total square footage of
16 all of these component parts be?

17 A. You have added up just over one million square feet there, you would add on
18 another 350,000 square feet of retail, bringing it close to, just over 2
19 million square feet.

12:41:47 20 Q. 240 So. At the end of the day, if 2011 is the end of the day, there would be
21 something of the order of 2 million square feet on the lands that Mr. Gilmartin
22 was hoping to develop, on part of the lands that Mr. Gilmartin was hoping to
23 develop, is that right?

24 A. Yes. Well all of the lands there Mr. Gilmartin was hoping --

12:42:16 25 Q. 241 All of the land. He was hoping to develop more lands than Quarryvale has been
26 built on, isn't that right?

27 A. Mr. Gilmartin was hoping to move into the Liffey Valley itself to build some
28 houses on that.

29 Q. 242 He had, as I understand it, something of the order of 176 acres proposed, is
12:42:31 30 that right in his original?

- 12:42:33 1 A. 184.
- 2 Q. 243 184. How many acres have been built or will be built or are included in what
- 3 is known as Liffey Valley now?
- 4 A. That is, is the question when the 2 million square feet is completed on the
- 12:42:51 5 development, how much land will it be built on?
- 6 Q. 244 How much land has been built on at the moment?
- 7 A. At the present moment probably 80 acres.
- 8 Q. 245 And when the balance of the lands is built on that you talked about, that would
- 9 give approximately 2 million square feet?
- 12:43:09 10 A. Yes.
- 11 Q. 246 How many acres would be involved?
- 12 A. 180 acres. 184 to be precise.
- 13 Q. 247 184.
- 14 A. Yes.
- 12:43:19 15 Q. 248 Did, does this proposed development, which will amount to eventually to 2
- 16 million square feet or thereabouts, involve developing lands on the northern
- 17 side of the N4, of the Galway Road?
- 18 A. That's in the Liffey Valley itself as such, no no it does not no.
- 19 Q. 249 It does not. No Mr. Gilmartin envisaged did he not, building lands and
- 12:43:48 20 developing north of the N4?
- 21 A. Down in the Liffey Valley itself, that is north of the N4.
- 22 Q. 250 Yes north of the N4?
- 23 A. That's in the Liffey Valley itself, he did envisage that, that's correct,
- 24 that's sacrosanct you can't do that.
- 12:44:04 25 Q. 251 I see. Do your proposals envisage building in the Liffey Valley itself?
- 26 A. Oh God not no, not at all sir. You'd have to leave the country if you
- 27 suggested that.
- 28 Q. 252 You have given in evidence your recollection of events surrounding the meeting
- 29 in Buswells Hotel, had Mr. Gilmartin to your knowledge ever told you an untruth
- 12:44:39 30 prior to that meeting?

- 12:44:48 1 A. I don't think so, told me an untruth prior to that meeting?
- 2 Q. 253 Prior to that meeting. At any stage did he tell you anything that you found
3 out to be a lie?
- 4 A. Well -- he told me quite -- exaggerated quite a bit.
- 12:45:05 5 Q. 254 You have said he exaggerated. Did he ever tell you anything that was untrue,
6 that was a lie?
- 7 A. I can't answer that question.
- 8 Q. 255 Sorry, you cannot?
- 9 A. I cannot answer that question.
- 12:45:17 10 Q. 256 But can you recall any untruth or lie he told you prior to that meeting?
- 11 A. Well it's a difficult one to answer, when I believe all these meetings he
12 alleged he had with Ministers I am not too sure whether that was correct or
13 not.
- 14 Q. 257 Yes, but what I am asking you about something that you knew or, at that time to
12:45:39 15 be untrue or that you subsequently found out to be untrue?
- 16 A. I don't think so. To the best of my knowledge, I don't think so.
- 17 Q. 258 In answer to some questions put by Mr. Redmond you indicated that
18 Mr. O'Callaghan's, sorry Mr. Gilmartin's aim was to transfer the zoning from
19 Balgaddy to Quarryvale?
- 12:46:14 20 A. Yes, sir.
- 21 Q. 259 Did that in fact happen?
- 22 A. No, no. That can't happen.
- 23 Q. 260 I see. And how has the Balgaddy site zoned at the moment?
- 24 A. Balgaddy is zoned right now as a district town centre.
- 12:46:29 25 Q. 261 I see.
- 26 A. It was actually town centre at the time and has been down graded to district
27 centre.
- 28 Q. 262 I see.
- 29 A. To be more precise to correct that, it has been down graded from town centre to
12:46:41 30 district town centre.

- 12:46:42 1 Q. 263 I see. How, what changes were affected to the zoning of the Quarryvale site, I
2 know we are not going to get into detail. I want to know exactly what
3 happened?
- 4 A. Well in 1993, December '93 Quarryvale was established as a district centre.
- 12:46:57 5 Q. 264 I see. So whilst there wasn't a switch in zoning, what happened was that two
6 sites in close, relatively close proximity to each other, within of the order
7 of a mile or that order?
- 8 A. Yes three quarters of a mile.
- 9 Q. 265 Were zoned for large scale shopping development.
- 12:47:18 10 A. District centre.
- 11 Q. 266 Large scale?
- 12 A. District centre is maximum 250,000 square feet.
- 13 Q. 267 I see. I see. On the -- may I have page 2181 please? This is an excerpt from
14 the diary of Mr. Willie Murray who was a deputy planning officer for Dublin
12:47:57 15 County Council in 1989 and he has at 12 o'clock on the 24th, Friday 24th
16 February 1989 he has recorded a meeting with George Redmond and Callaghan. Do
17 you see that?
- 18 A. Yes.
- 19 Q. 268 He has given evidence and said that on day 498 at question 504, he says "that
12:48:26 20 he can not recall specifically what the meeting was, but imagined G Redmond and
21 Callaghan, they are in the same, it's the same meeting, it's about Callaghan's
22 operations and doings and which means it's at the stage in the chronology it's
23 likely to have been about Balgaddy.
24
- 12:48:43 25 Do you remember meeting Mr. Redmond in connection with Balgaddy?
- 26 A. I never met Mr. Redmond when he was County Manager.
- 27 Q. 269 Did you ever meet Mr. Murray?
- 28 A. Oh, yes I did indeed yes.
- 29 Q. 270 Did you meet Mr. Murray about Balgaddy?
- 12:48:58 30 A. Possible. But I cannot recollect. I met Mr. Murray about Quarryvale on quite

12:49:06 1 a few occasions. I can't remember meeting him about Balgaddy but it is
2 possible.

3 Q. 271 Well in February 1989 did you meet him, can you recall meeting him?

4 A. I cannot because I would not have any reason to be meeting him in February
12:49:20 5 1989. At that stage our interest in Balgaddy had been transferred to Tom. I
6 had absolutely no reason to meet anybody with regard to any part of Dublin, as
7 far as I was concerned in February '89 we were out of Cooldrinagh, out of
8 Balgaddy and we were finished, we were gone.

9 Q. 272 Why would Mr. Murray have an entry in his diary for 24th of February 1989 for
12:49:43 10 meeting you and Mr --

11 A. I don't know.

12 Q. 273 Redmond.

13 A. I certainly never met Mr. Redmond, I am sure he will confirm that to you
14 himself, except one particular occasion after his retirement I met him in a
12:49:58 15 golf club that's all. And I can't recollect meeting Willie Murray. I would
16 not have had any reason to meet Willie Murray in February of '89.

17 Q. 274 Mr. Gilmartin has given evidence that he raised the question of zoning with
18 you, and you told him to consult the zoning, in the context of the contract
19 that had been signed, and you told him to consult the contract, in other words
12:50:24 20 he was suggesting as I understood his evidence, that a final payment was
21 dependant on the zoning of the Quarryvale lands and you in turn told him to
22 consult the contract or speak to his solicitor about it?

23 A. When did he say that?

24 Q. 275 May I have -- I just --

12:50:53 25 A. If I can help you Mr. Gallagher, he never mentioned that to me, from 1989 never
26 mentioned to me until I heard it here in the Tribunal a few weeks ago.

27 Q. 276 Mr. Maguire has said that about two years after the agreement was signed
28 Mr. Gilmartin phoned him and said that the agreement didn't -- sorry the
29 agreement that --

12:51:13 30 A. Yes.

- 12:51:14 1 Q. 277 It didn't reflect what he had agreed with you and that he would get his money
2 back if the rezoning did not go through. And they also said, if you just bear
3 with me I will give you the reference, they telephoned you or spoke with you
4 and you referred him back to his solicitor and told him -- you disagreed with
12:51:45 5 him in his understanding of what the agreement contained, do you remember doing
6 that?
7 A. That never happened Mr. Gallagher.
- 8 Q. 278 I see.
9 A. Never, never happened in fact --
- 12:52:04 10 Q. 279 Sorry he says -- that when you went in for planning permission you asked him,
11 this is on day 464 page 17, you asked him to check the agreement and he
12 telephoned Mr. Maguire about it.
13 A. That's -- is that in 1989?
14 Q. 280 That --
- 12:52:24 15 A. December '89.
16 Q. 281 The planning application went in in December of 1989?
17 A. Yes.
18 Q. 282 So presumably.
19 A. Never mentioned. The one person who mentioned this and I repeat this again if
12:52:38 20 you don't mind. When the agreement was signed on 31st January 1989, Seamus
21 Maguire on two occasions asked Tom Gilmartin or suggested to Tom Gilmartin that
22 the agreement should be subject to the zoning and planning.
23 Q. 283 And you say that Tom Gilmartin never subsequently spoke to you about the
24 contents of the agreement?
- 12:52:54 25 A. Never, never, never. Never, never, never.
26 Q. 284 Now, given that the 184 acres of land will, by the year 2011 subject to many
27 unforeseen changes.
28 A. Yes.
29 Q. 285 Have approximately two million square feet built on it, does that not mean that
12:53:38 30 the land was capable of accommodating two million square feet approximately and

12:53:46 1 that Mr. Mr. Gilmartin's vision for it was an accurate vision, was an
2 achievable vision, although perhaps not achievable in the time scale or time
3 frame that he envisaged?

4 A. No, sir it doesn't mean that. It's wrong on two counts. First of all the 2
12:54:09 5 million square feet you have added up there, are in excess of 2 million square
6 feet you have added up there is mixed use development, you have retail, retail
7 park, office, public house, hotel, you have all these things included in the
8 mixed use development and 2 million square feet you have just come to, or you
9 have just arrived at. Tom Gilmartin's one and a half million square feet was
12:54:32 10 one and a half million square feet of net retail space, which is a completely
11 different thing to mixed use you have just toted up there.

12
13 MR. LAWLOR: We'll still be here in 2011 Chairman.

14
12:54:49 15 CHAIRMAN: Mr. Lawlor --

16 A. To try and make a comparison Mr. Gallagher, the real comparison is not what I
17 would be making but the real comparison would be that in 1988 this is probably
18 the important point, Tom Gilmartin planned one and a half million square feet
19 of net retail space. Net retail space, by the year 2011 the retail planning
12:55:11 20 guidelines, which are now law and have been since the year 2000 will allow
21 Quarryvale to expand or, or allow Liffey Valley to expand to 700,000 square
22 feet of net retail space, that's half of what Tom wanted to put on it. That
23 would be, that will be achieved subject to zoning. That will be achieved, 23
24 years after what Tom wanted. So, in other words Tom was out by 50 per cent, 23
12:55:39 25 years before it's time.

26 Q. 286 Mr. Lawlor put to you a letter of the 15th of -- sorry I have just written down
27 the date I've misplaced it, the letter that was written by Mr. Corcoran 15th of
28 the 5th 1991?

29 A. Yes.

12:56:03 30 Q. 287 That was the letter that Mr. Corcoran wrote to Councillor Boland. Did I

12:56:11 1 understand you to say that you were not involved in Liffey Valley or in
2 Quarryvale to any significant extent at that stage?

3 A. Not to any significant extent.

4 Q. 288 Had you employed Frank Dunlop at that stage?

12:56:24 5 A. Yes from February '91 on, that is correct, yes.

6 Q. 289 So Frank Dunlop was acting on your behalf from February 1991?

7 A. Yes. But Tom Gilmartin was very much involved to the front in Liffey Valley at
8 that stage.

9 Q. 290 Thank you.

12:56:41 10
11 CHAIRMAN: Mr. O'Callaghan just before you go, could I just ask you about one
12 issue, Mr. Lawlor asked you what your view as to Mr. Gilmartin's financial
13 ability to develop his project, what his financial resources were, what your
14 view of them were, you indicated that you didn't believe he had adequate
12:57:09 15 financial resources and the question is, was that something he said to you or
16 indicated to you or was it an opinion that you had?

17 A. Yes, Chairman, he did say that to me. During 1989 and 1990 I discussed Tom's
18 finances quite extensively with him actually, or he would have had with me.
19 Tom had a total of 4 million pounds and he started to acquire land ranging in
12:57:45 20 value from 15 and 20 million. The land that was zoned agricultural mainly, he
21 had a very very little hope at that stage of getting planning permission, any
22 person would have been aware of that. Without that he would of course had
23 great difficulty getting banking facilities, Tom was completely under funded.
24 I spelt that out to him many many times.

12:58:08 25 I think he hoped that, he hoped that if he got a permission of some kind that
26 the banks would come on board, but he also was mentioned earlier on, he hoped
27 he would get the land zoned in six months I don't know where he got that idea,
28 why he should even come one that suggestion. But he did. On the strength of
29 that he kept going and he signed a lot of options and a lot of contracts to buy
12:58:33 30 land in Quarryvale that he didn't have any money to pay for.

12:58:37 1
2 CHAIRMAN: Do you think it was something that was playing on his mind that he
3 was worried about?
4 A. Oh, yes he was indeed, yes. Very much so. I would get it twice a week from
12:58:47 5 him. Very much so. He was always optimistic. Tom was and I presume still is,
6 a born optimist. He was a very very brave man to do what he did.
7
8 CHAIRMAN: All right. Thank you Mr. O'Callaghan.
9
10 JUDGE FAHERTY: Just one matter Mr. O'Callaghan. You told Mr. Lawlor in
11 response to some of his questions that you agreed to vacate Balgaddy because of
12 Mr. Gilmartin's insistence and of some, because of some discussions he was
13 having with multiples.
14 A. Yes.
12:59:18 15
16 JUDGE FAHERTY: We know that obviously you signed the agreement with
17 Mr. Gilmartin in January of '89. Can I just ask you were you in making that
18 decision, were you in anyway influenced by the views of Mr. Lawlor as recorded
19 by yourself in November of 1988?
12:59:39 20 A. No --
21
22 JUDGE FAHERTY: I am referring to the memo that you made on the 4th November
23 reference 1940.
24 A. Yes.
12:59:49 25
26 JUDGE FAHERTY: Where --
27 A. No, I made up my own mind completely on this actually. In fact my decision on
28 this would have been -- I would have been always reasonably confident that the
29 Fonthill Road would have been realigned in time, maybe not before the Balgaddy
13:00:07 30 development commenced but definitely before it would have been completed and

13:00:10 1 Balgaddy could have gone ahead on it's own if it was left alone. By left alone
2 if Tom did not get involved in Quarryvale.
3 What made up my mind with Balgaddy was the commerce side of it judge, the
4 multiples not wanting to go in there, I got that Quinnsworths I am pretty sure
13:00:28 5 I got the same answer from Dunnes. I could not anchor the scheme at the time
6 because multiples in those days in particular, remember it was the late '80s
7 early '90s, multiples were in a position where they could wait for the best
8 site possible for them to anchor it. They were treated as prima donnas that
9 was before the Marks & Spencers, Debenhams and all these people started to come
13:00:51 10 into the country. In other words our choice was limited to two or three people
11 to select from, if there was a better site anywhere they would wait, they would
12 not go into our site. And that's what Tom Gilmartin did to Balgaddy, he put
13 Balgaddy which was always a poor location, even though it was designated by
14 Dublin County Council as town centre, it was always a poor location, but Tom
13:01:08 15 made sure it became a much poorer location.

16
17 JUDGE FAHERTY: Why did you record Mr. Lawlor as being quite confident that
18 Mr. Gilmartin would get his permission back in November of '88?

19 A. I am not sure of that, he told me obviously. I am not quite sure of that, but
13:01:26 20 he did tell me that he felt that way at the time.

21
22 JUDGE FAHERTY: Yes. All right. Just the other matter --

23 A. Sorry Judge, at that time I would have been pretty new to that part of west
24 County Dublin, Liam Lawlor was the local TD and he would have known that area
13:01:40 25 pretty well, so I would listen to what he said.

26
27 JUDGE FAHERTY: I mean, you and Mr. Gilmartin would have shared one thing at
28 that point, Mr. O'Callaghan, you were new to Dublin and indeed Mr. Gilmartin
29 was new to Dublin.

13:01:53 30 A. Absolutely, yeah. We share that very very much and I would say this to you

13:01:58 1 judge, only two people, one from Luton and one from the country would have got
2 involved in Quarryvale, the locals Dublin people wouldn't have touched it, it
3 was too difficult.
4

13:02:08 5 JUDGE FAHERTY: And the other question I have for you Mr. O'Callaghan, just it
6 was in relation to responses you gave when you were being examined by
7 Mr. Gallagher on the Buswells meeting, where you said you didn't fully believe
8 Mr. Gilmartin when he reported to you on what he alleges the conversation
9 between himself and Mr. Hanrahan. I think you agree that was the first time
10 Mr. Gilmartin had met Mr. Hanrahan I think, isn't that correct?

11 A. Yes.
12

13 JUDGE FAHERTY: Yes. I just want to ask you what, you didn't, you made a
14 statement in March of this year in relation to this and you didn't make any
15 reference to any suspicion you had that Mr. Gilmartin was exaggerating or that
16 you didn't fully believe him, but I am just wondering why you didn't put that
17 into your statement?

18 A. Well, I suppose it was something I didn't like to write at the time or put down
19 in writing at the time really. And I suppose I always had, I always had from
20 day, the first time I met Tom, the first meeting I had with Tom I had doubts
21 about him, these have been more and more consolidated I suppose as time went
22 on.
23

24 JUDGE FAHERTY: Obviously we are talking about an incident or alleged incident,
13:03:39 25 I should say in fairness, would you agree with Mr. Deane, I think it was also
26 Mr. O'Callaghan, in fairness to yourself, you have given this evidence, that
27 the total encounter between Mr. Gilmartin and Mr. Hanrahan lasted something
28 between 10 and 15 minutes?

29 A. Yes.
13:03:58 30

13:03:58 1 JUDGE FAHERTY: So that was from the time Mr. Gilmartin entered the premises to
2 the time you saw him exiting and you went after him?
3 A. Yes between ten and 15 minutes.
4

13:04:09 5 JUDGE FAHERTY: Thank you very much.
6
7 JUDGE KEYS: Mr. O'Callaghan, could I just have 1996 please on the screen?
8 That's a letter dated 8th December which you wrote I think to Mr. Tom Gilmartin
9 and if you just look at the first paragraph in it, it says:
10
11 "Dear Tom, I would firstly like to thank you for seeing me in Dublin on
12 Wednesday December 7th to discuss the proposed project for the Clondalkin/Lucan
13 satellite town. The wide ranging discussion and your sincere frankness is much
14 appreciated. I outline for, you my analysis of our discussions" so forth.
15
16 13:04:43 Now, on reading that letter it seems to me that you were rather impressed with
17 the frankness and honesty of Mr. Gilmartin at that stage. Would that be a
18 correct interpretation of that letter?
19 A. Yes. My first meeting, yes.
20
21 13:04:55 JUDGE KEYS: Now that's the 8th of December, as I understand it nothing
22 drastically occurred between both of you up to the 31st of January of the
23 following year, which was 1989 and shortly after that, there was no fall out,
24 as I understand it, is that correct?
25 A. That's correct.
26
27 JUDGE KEYS: And when you were asked in relation to the meeting at Buswells
28 Hotel, you were asked whether in fact, I think, you had confronted
29 Mr. Hanrahan after Mr. Gilmartin alleging that he had just been taped or been
30 13:05:28 asked for a 100,000 pounds to support his project in Quarryvale, and my

13:05:36 1 understanding of the evidence, and correct me if I am wrong, is that the reason
2 you didn't follow that up either with Mr. Gilmartin or with Mr -- you did not
3 believe him totally. Now here you have the 8th of December where you believed
4 he was a frank, honest, straightforward man, nothing occurred between the 8th
13:05:56 5 of December and the 31st of January or let's say into mid February, what made
6 you suddenly change your mind that he was now, what changed your mind that you
7 wouldn't believe him at that stage? Nothing had occurred?

8 A. Well between the 8th of December judge and the end of January or early
9 February, I would probably have had anything from 8 to 10 long telephone calls
13:06:19 10 with Tom Gilmartin, that would last an hour or an hour and a half each. I had
11 a 7 or 8 hour meeting early in January, somewhere around the 10th of January
12 which took place in the airport hotel when the agreement was agreed.

13
14 JUDGE KEYS: Yes.

13:06:34 15 A. During that space of time, those telephone calls and that long face-to-face
16 meeting, where I spent most of the time listening to Tom that's when I started
17 to get a little bit concerned.

18
19 JUDGE KEYS: I asked you earlier on did anything occur between the 8th and
13:06:50 20 December and 31st of January, and you said nothing that would undermine your
21 belief in his credibility. Are you going back now, saying sorry something did
22 happen between the 8th of December and 31st of January?

23 A. I must have misunderstood your question.

24
13:07:05 25 JUDGE KEYS: I can't see how you did. Why did you wait until the 7th or 6th of
26 this month for the first time to mention to the Tribunal that you didn't
27 believe in Mr. Gilmartin, when he said that he had been asked for a 100,000
28 pounds as a bribe from Mr. Hanrahan to support his project?

29 A. Why didn't I not --

13:07:25 30

13:07:25 1 JUDGE KEYS: Yes why did you wait until you gave evidence, I think on the 7th or
2 8th I am not sure what date, the last time you were here, why did you wait
3 until then to tell the Tribunal that you didn't believe him in what he was
4 saying, when he told you that he had just been asked for a bribe of 100,000
13:07:41 5 pounds from Mr. Hanrahan?

6 A. I wasn't asked the question.

7
8 JUDGE KEYS: Surely when you were talking to your lawyers and I am not asking
9 you to discuss what you discussed with them, surely it must have come up in
13:07:53 10 some conversation, when you made your statement and were submitting it that you
11 weren't asked did you believe him or why did you confront him, it was the
12 obvious thing?

13 A. I can assure you judge doubt was always there but it was something I had not
14 put down in writing.

13:08:09 15
16 JUDGE KEYS: Let's put it like this. Superintendent Sreenan who gave evidence
17 said there was a political climate in around that time, Mr. Gilmartin had made
18 allegations of improper conduct in the planning process, were you aware, did
19 you know that there was a political climate of that nature in Dublin in
13:08:26 20 relation to the planning process?

21 A. Only what Tom Gilmartin told me.

22
23 JUDGE KEYS: I see. Did you feel that the reason why you didn't confront or
24 would I be correct or would that be unfair, in saying the following, that one
13:08:40 25 of the reasons maybe why you didn't challenge Mr. Hanrahan is that you just
26 didn't want to know about it, that it was better keep the head down and just
27 you do your carry out your project in a proper manner, within the law, and say
28 nothing about it, don't rock the boat, would that be unfair?

29 A. No it's not unfair, no I wouldn't say that's unfair. I would say there was a
13:09:03 30 slight element of that as well, that's a fair question, yes.

13:09:06 1
2 JUDGE KEYS: Because Mr. Sreenan said in his evidence as I understand it,
3 subject to being corrected by the note, but he did suggest that he, that he
4 believed in the substance of what Mr. Gilmartin was telling him and when I
13:09:20 5 asked him well how come nobody followed all this up, he said nobody was
6 prepared to come forward, they were afraid, nobody was prepared to come forward
7 and give evidence or make allegations.
8 That's why I question the reasoning behind you not challenging either
9 Mr. Gilmartin later on again, because I think you went off you said to the
13:09:41 10 Shelbourne Hotel for a meal, you mentioned I think in your evidence it came up
11 on three occasions, did you not ask him are you joking me? Are you serious in
12 saying Mr. Hanrahan asked you for a 100,000 pounds? You never gave evidence --
13 I take it that never happened you didn't ask him that?
14 A. I didn't ask him was he serious, I can't ask him that question directly.
13:10:00 15
16 JUDGE KEYS: Why not? Isn't the obvious thing somebody -- with that incredible
17 story I am being told -- why, are you seriously telling me Mr. Hanrahan who was
18 in the Buswells Hotel asked you for a 100,000 pounds to support Quarryvale?
19 A. He was extremely forceful in his case, in his statement he was extremely
13:10:20 20 forceful.
21
22 JUDGE KEYS: I know that. Did you ever consider asking Finbar Hanrahan at a
23 later stage then, do you realise what Mr. Gilmartin is saying about you, just
24 in fairness to Mr. Hanrahan?
13:10:30 25 A. I wouldn't know Finbar Hanrahan well enough to ask that question.
26
27 JUDGE KEYS: Did you get to know him later on?
28 A. No.
29
13:10:39 30 JUDGE KEYS: Did he not support your projects later on?

13:10:42 1 A. No. On one occasion, I believe he possibly either abstained, in fact i think
2 he abstained in most cases. He might have voted on one occasion for the
3 project to go on public display, otherwise Finbar Hanrahan did not support
4 Quarryvale. He was always a none supporter of Quarryvale. I would not know
13:10:58 5 Finbar Hanrahan that well at all, as I said here in evidence to the best of my
6 knowledge Finbar Hanrahan was quite a loner and he was not a person that I
7 would ask that question to.
8
9 JUDGE KEYS: I see. Would I be fair in interpreting your evidence that you had
13:11:13 10 a reluctance to ask anybody about the veracity of Mr. Gilmartin's statement
11 that he had been asked for 100,000 pounds from Mr. Hanrahan in Buswells Hotel?
12 A. There would possibly be a element of that, I can't deny that. But my biggest
13 problem would be that I wouldn't be sure it was correct would be my main
14 concern.
13:11:32 15
16 JUDGE KEYS: But it wouldn't be in your interest would it, in your development
17 you hoped to carry on in Balgaddy to start revealing to either the proper
18 people, that there are councillors looking for bribes, that would have some
19 effect on -- the potential success of any project which you might --
13:11:54 20 A. Of course there is an element of that. But the biggest element of all believe
21 you me was that I wasn't, maybe I was shocked, but I wasn't a hundred per cent
22 certain of what had been said to me, what had been said to me by Tom Gilmartin
23 was the truth.
24
13:12:07 25 JUDGE KEYS: Would it not be, would I be unfair to you in saying maybe the
26 reason why you didn't take any steps to find out whether there was any truth in
27 this, is that it was just wiser to say nothing and do nothing that might
28 interfere with your plans?
29 A. That would be unfair.
13:12:24 30

13:12:24 1 JUDGE KEYS: Would that be unfair? Okay I will note that.

2

3 JUDGE FAHERTY: One thing I wanted to ask you really apropos what Judge Keys was
4 asking, when you were liaising with the Gardai in 1989 and they were asking you

13:12:37 5 to get Mr. Gilmartin to assist them in their inquiries, you have told us that

6 you reported to the Gardai and reported that you had tried but to no avail.

7 A. Yes.

8

9 JUDGE FAHERTY: In your discussions with the Gardai did you ever suggest or

13:12:54 10 convey to them that Mr. Gilmartin mightn't be in any way exaggerating what he

11 said, what you corroborated he told you about Mr. Lawlor and Mr. Redmond?

12 A. Yes. With the Gardai in that particular interview the Gardai were mainly

13 interested, were only interested in asking questions about Mr. Lawlor and

14 Mr. Redmond, mainly about Mr. Lawlor. I hadn't met Mr. Redmond so I couldn't

13:13:24 15 be of any assistance to them and I, they suggested, asked me had I heard

16 certain things, I said I did not really.

17 With regard to Mr. Lawlor all could I say to them was the truth exactly as it

18 was. Mr. Lawlor, I met in Dublin on two or three occasions prior to my meeting

19 with the Gardai, was an extremely helpful man and interested in what was

13:13:44 20 happening in Balgaddy add Quarryvale that's all I could relate to the those --

21

22 JUDGE FAHERTY: I am not talking about the substance, as I understand it you

23 were conveying to the Gardai in 1989, that you were doing your utmost to get

24 Mr. Gilmartin to cooperate.

13:13:57 25 A. Oh, yes, yes I was yes.

26

27 JUDGE FAHERTY: And he didn't, but --

28 A. My utmost judge, was three phone calls.

29

13:14:05 30 JUDGE FAHERTY: Obviously. But you had no hesitation in making those phone

13:14:09 1 calls at the behest of the Gardai to Mr. Gilmartin?

2 A. Absolutely not. I was prepared to go across with.

3

4 JUDGE FAHERTY: That's what I am asking you

13:14:17 5 A. I was prepared to go across to Luton with the Gardai if I could have tracked

6 down Tom Gilmartin. But Tom Gilmartin had, occasionally Tom would disappear,

7 go off the air, he was not contactable, you couldn't get him by telephone or

8 not find him, as I found out on many occasions when land sales had to be closed

9 etcetera. I was prepared to go across with the Gardai to meet Tom, but I could

13:14:40 10 not contact him.

11

12 JUDGE FAHERTY: But you were prepared to do it, in 1989?

13 A. None whatsoever, it would have been a great source to me if I went across with

14 the Gardai and Tom could have made a statement to them up front and I would

13:14:49 15 have known exactly where we stood.

16

17 JUDGE FAHERTY: Just the last point you didn't consider that your efforts or the

18 Gardai's efforts was a time wasting effort or it would be in vein, you wanted

19 to cooperate?

13:15:01 20 A. Yes totally, of course of the absolutely.

21

22 JUDGE FAHERTY: Very well thank you very much.

23

24 MR. GALLAGHER: Sir, might I be permitted to just one question arising from a

13:15:12 25 question asked by Judge Keys and replied to by Mr. O'Callaghan.

26 Q. 291 Mr. O'Callaghan, Mr -- Judge Keys asked you did you ever consider asking Finbar

27 Hanrahan at a later stage, do you realise what Mr. Gilmartin is saying about

28 you, in fairness to Mr. Hanrahan and you replied "I didn't know Mr. Finbar

29 Hanrahan well enough to ask that question".

13:15:36 30

13:15:36 1 Can I ask you did you subsequent to the meeting in Buswells Hotel -- did you
2 speak to Finbar Hanrahan concerning the vote that was to take place in Dublin
3 County Council relating to the rezoning of the Quarryvale lands?

4 A. This would have been the vote in May 1991 I take it, would it.

13:15:58 5 Q. 292 Well, yes, May of 1991 or any other vote?

6 A. Yes I spoke to him about the May 1991 vote yes, I asked him to support
7 Quarryvale, in the Council Chamber.

8 Q. 293 I see. You didn't ask him, you didn't mention anything to him about what
9 Mr. Gilmartin was saying at the time?

13:16:14 10 A. Certainly not when I was asking for his vote, certainly not.

11 Q. 294 Thank you.

12
13 CHAIRMAN: Thank you Mr. O'Callaghan, thank you for attending to give
14 evidence.

13:16:21 15
16 MS. DILLON: I wonder could I just ask your indulgence for a moment in the
17 relation to the witness list in the order this afternoon. Ms. Beverley Cooper
18 Flynn is not available to the Tribunal for the rest of the week as I understand
19 it except for today and I understand she has commitments tomorrow and under
13:16:37 20 those circumstances I wonder would you direct she be taken at 2 o'clock so her
21 evidence can be concluded in full today, if that's agreeable to the Tribunal?

22
23 CHAIRMAN: Yes, but we will not sit until about quarter past two.

24
13:16:50 25 MS. DILLON: May it please you. Thank you.

26
27 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH**

28

29

30

THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

13:16:57 1
2
3 MS. DILLON: Good afternoon sir. The next witness is Ms. Cooper Flynn,
4 Ms. Cooper Flynn is represented by Ms. Helen Kilroy of McCann Fitzgerald
14:18:48 5 solicitors and they have an application of limited legal representation for
6 Ms. Flynn.

7
8 CHAIRMAN: Yes, granted.

9
14:18:54 10 MS. DILLON: Ms. Flynn please.

11
12 **MS. BEVERLY COOPER FLYNN, HAVING BEEN SWORN WAS EXAMINED**

13 **AS FOLLOWS BY MS. DILLON:**

14
14:19:28 15 CHAIRMAN: Good afternoon Ms. Flynn.

16 Q. 295 Good afternoon Ms. Flynn. In 1989 you were an investment consultant with
17 National Irish Bank, is that correct?

18 A. That's correct, yes.

19 Q. 296 And I think that you, sorry I should have asked you first of all you have been
14:19:51 20 in receipt of documentation from the Tribunal, is that correct?

21 A. That's correct, yes.

22 Q. 297 Have you other than to your legal advisers given any of that documentation to
23 anybody else?

24 A. No I have not.

14:20:00 25 Q. 298 If we go back then to 1989, I think that you have seen the chart that has been
26 prepared by the Tribunal in relation to certain transactions at 4927 and we'll
27 provide you with a hard copy of that for ease of reference. Now, I think your
28 position Ms. Flynn is that, while you were involved in investing certain sums
29 on behalf of your parents, that you did not in fact or were not aware of the
14:20:31 30 origin of those funds, is that correct?

- 14:20:32 1 A. That's correct, Mr. Chairman.
- 2 Q. 299 Insofar as this chart represents an actual handling of the funds in question,
3 insofar as you were involved with it, you agree what's represented on the chart
4 is accurate?
- 14:20:45 5 A. Well there are a number of questions, Mr. Chairman, in relation to --
- 6 Q. 300 That's fine we'll go through them one by one so we can put aside the chart and
7 we will deal with each transaction and your involvement in relation to each
8 transaction on a documentary basis.
9
- 14:21:00 10 But in general do you have any information to assist the tribal as the source
11 of the monies that you used to make investments on behalf of your parents?
- 12 A. No, the source of the fund was my father, beyond that Mr. Chairman I don't
13 know.
- 14 Q. 301 I think your first involvement arose as a result of correspondence that passed
14:21:14 15 between yourself and your father on the 17th October 1989, page 389 please. In
16 this correspondence, 389 please.
17 This is a letter addressed to Mr. Pdraig Flynn "Dear Mr. Flynn, thank you for
18 your recent enquiry regarding the service of the financial advice and services
19 division of the National Irish Bank. I am enclosing a brief report setting out
14:21:48 20 my investment recommendation. I look forward to discussing it with you in the
21 near future, regards, Beverly Cooper Flynn, Financial Consultant".
22 That's your letter, is that correct?
- 23 A. That's correct.
- 24 Q. 302 Now, you enclosed that letter a report, page 390 please, in which you detail at
14:22:01 25 the outset of the report that Pdraig Flynn has 25,000 to invest. He requires
26 maximum growth on his investment with a medium level of risk. He does not
27 require a income on his investment, is that correct?
- 28 A. That's correct.
- 29 Q. 303 Now, presumably prior to this you had a meeting or discussion with your parents
14:22:19 30 or one or other of them?

- 14:22:20 1 A. My father asked me to prepare a recommendation for sum of 25,000.
- 2 Q. 304 Did he ask your advice about how he should invest a sum of 25,000 pound?
- 3 A. That's correct, yes.
- 4 Q. 305 Did he give any indication as to where he had got this sum of 25,000 pound?
- 14:22:33 5 A. No he did not, Mr. Chairman.
- 6 Q. 306 Now, I think insofar as you made recommendations, you recommended investment in
- 7 three funds. The first of which was described as the MIM Britannia Fund, which
- 8 is referenced there on page 390 and which you recommended at paragraph A the
- 9 sum of 10,000 pounds be invested in MIM Britannia's European Performance Fund.
- 14:22:57 10 Second recommendation you made is on 391, which was the Flemming Fund
- 11 Management Eastern Opportunities Fund, which involved the Far East but excluded
- 12 Japan and the third fund you recommended was the Nippon Warrants Fund which was
- 13 a managed portfolio of Japanese equity warrants, is that correct?
- 14 A. That's correct.
- 14:23:16 15 Q. 307 Then you concluded your advice at the bottom of page 391 with the following
- 16 advices:
- 17
- 18 "I can guarantee that the above investments are totally confidential and there
- 19 is no disclosure to any taxing authority" in that were you advising Mr. Flynn
- 14:23:32 20 that there would be no disclosure by National Irish Bank to any taxing
- 21 authority?
- 22 A. Yes, I suppose it's important to explain this was a standard paragraph from a
- 23 set of standard paragraphs for reports prepared by the bank. And basically
- 24 it's explaining like everybody who was dealing with a bank at the time that
- 14:23:49 25 they were dealing on a confidential nature, and at the time when you invest in
- 26 unit trust the obligation was on the individual to make their own returns to
- 27 the taxing authority, it wasn't done by the bank.
- 28 Q. 308 Yes, but insofar as the statement is contained in the sentence "I can
- 29 guarantee", the person who was given that guarantee on behalf of bank, was
- 14:24:07 30 yourself?

- 14:24:07 1 A. That is correct yes.
- 2 Q. 309 So you were guaranteeing that the above investments were totally confidence and
3 that there was no disclosure to any taxing authority. You then state "I have
4 spent quite a bit of time checking the exchange control requirements and I can
14:24:19 5 assure you we can handle all formalities relating to movement of money outside
6 the country both to the UK and above offshore sources".
7
8 Now again is it your position insofar as you were stating "I have spent quite a
9 bit of time checking exchange control requirements", you are talking about
14:24:37 10 National Irish Bank?
- 11 A. Yes that's correct.
- 12 Q. 310 And then you proceed to say "In the hands of the investor, there is liability
13 to income tax on distributions and on encashment after the investment period,
14 the proceeds are subject to capital gains tax. Of course it is up to the
14:24:49 15 individual investor to disclose the investment to the taxing authority".
- 16 A. That's also correct, yes.
- 17 Q. 311 So in effect insofar as the first paragraph of that sentence, of that document
18 is concerned beginning with the words "I can guarantee" in effect what National
19 Irish Bank was guaranteeing was secrecy, isn't that right?
- 14:25:09 20 A. No, that's not correct that would be an incorrect interpretation of the
21 paragraph. First of all it was giving assurance to the client that their
22 investment would be on a confidential basis. That was something that was the
23 same for everybody dealing with the bank, it was something expected they would
24 be dealing on a confidential basis.
- 14:25:23 25
26 It was then just informing the individual that their obligation in relation to
27 unit trust investment was they must return it themselves within their own tax
28 return that the bank would not make a tax return on their behalf.
29
- 14:25:35 30 To explain it, Mr. Chairman, there are a number of investments that you can go

14:25:41 1 into where automatically, for example, tax would be taken from the investment
2 and that particular instance the individual, the return is already done on
3 their behalf, but with a unit trust there is no tax taken from the investment
4 and therefore it is important to highlight to the client they have an
14:25:59 5 obligation to put in their tax return.

6 Q. 312 Yes, if we could focus on the question I asked you. The first paragraph not
7 the second paragraph. "I can guarantee that the above investments are totally
8 confidential". So what you are guaranteeing the client in that sentence, is
9 that you are guaranteeing them confidentiality, isn't that right?

14:26:14 10 A. I have already explained, Mr. chairman, the context in which that statement was
11 made.

12 Q. 313 Yes, it's a simple yes, are you guaranteeing them confidentiality?

13 A. Absolutely, you are telling the person their affairs will remain confidential.

14 Q. 314 And the second part of that going in tandem with confidentiality, is there is
14:26:32 15 no disclosure to any taxing authority, that's the second part of the assurance
16 that's being given, isn't that right?

17 A. Yes, the bank do not make any returns. I have already mentioned that
18 Mr. Chairman.

19 Q. 315 So the information in relation to this investment, remains confidential or
14:26:46 20 secret as between the bank and it's customer, is that right?

21 A. Well, Mr. Chairman, I'm afraid I have to object to the use of the word secret,
22 because it seems to imply that something was not correct. It was simply a
23 statement first of all, you have to take the two paragraphs together. As I
24 have already mentioned they were standard paragraphs drawn up by the bank to
14:27:05 25 explain the exact nature of this type of investment to a client. Number one,
26 it was confidential, number one the bank did not make a returns of this
27 particular investment to the taxing authority, but equally and you cannot
28 separate the two paragraphs, equally there is an obligation on the investor to
29 pay their income tax and to make their own individual tax returns. That's all
14:27:24 30 the two paragraphs were trying to say.

- 14:27:26 1
2 CHAIRMAN: But in summary without attaching any particular significance to the
3 word secrecy is guaranteed.
- 4 A. But there is no mention of the word secrecy, Mr. Chairman, in the letter.
- 14:27:38 5
6 CHAIRMAN: No but that is the, that is -- Ms. Dillon is putting it that is the
7 effect of the paragraphs, there is nothing wrong with --
- 8 A. To me Mr. Chairman, I don't mean to labour the point, but to try and say that
9 something is secret, almost seems that you are trying to hide it. All I was
10 saying to the client, in this case my father, was that his investments like
11 those of anybody else with the bank would be dealt with on a confidential
12 basis, not that they be kept secret but be confidential.
- 13 Q. 316 And in is far as the recipient of this information is concerned, it would of
14 course have been absolutely crystal clear to your father on receiving this
15 information, that when there was any encashment of any of these unit trusts, he
16 would have had a liability to tax and if there was any liability to tax the
17 obligation was on him to take care of it?
- 18 A. I think that's crystal clear.
- 19 Q. 317 Now, insofar as the balance of the document is concerned at 392, you then make
14:28:31 20 certain recommendations in relation to certain offshore investments in 3
21 particular funds, isn't that right?
- 22 A. That's correct, yes.
- 23 Q. 318 I think subsequently, a sum of 25,000 pounds was deposited, page 4903, on the
24 22nd of November 1989, in National Irish Investment Bank, if that can be turned
14:28:51 25 around please? Now, can you assist the Tribunal as to how it was that sum
26 of -- you will see there it's statement of account on behalf of Mr. Padraig
27 Flynn and that money, according to the bank's record, remains in National Irish
28 Investment Bank to the following day, when it is invested on foot of your
29 advices in certain funds.
- 14:29:09 30

- 14:29:09 1 Now, can you outline to the Tribunal the circumstances or what information you
2 have in relation to how this money arrived in National Irish Investment Bank?
- 3 A. I'm sorry, Mr. Chairman. I can't actually recall that.
- 4 Q. 319 Right. Let's see can we assist you at all if possible Ms. Cooper Flynn, your
14:29:26 5 mother gave evidence Ms. Dorothy Flynn here last week, and she told the
6 Tribunal that she was likely to have been the person who had made two
7 withdrawals from your father and mother's account held at Castlebar, that is
8 page 381 please.
9 Now, you will see there that this is an account with an address of 34
14:29:48 10 Northumberland Road, Chiswick, London in the name of your parents. It's been
11 described by Mr. Chambers as non-resident account and he confirmed your parents
12 were in fact resident at that time. And you will see the account number is
13 10,000-022 and you will see there is a withdrawal of 25,000 pound on the 20th
14 November 1989, do you see that?
- 14:30:08 15 A. Yes, I do.
- 16 Q. 320 Yes, do you see on the 20th November there is a withdrawal of 25,000 pounds?
- 17 A. That's correct, yes.
- 18 Q. 321 And it was your mother's evidence, Ms. Dorothy Flynn, that she is likely to
19 have been the person who made that withdrawal and it is likely she made that
14:30:30 20 withdrawal in cash?
- 21 A. I have no knowledge of that.
- 22 Q. 322 Yes. Now what is clear, is that the sum of 25,000 pounds in question arrived
23 in National Irish Investment Bank on the 23rd, 22nd of November 1989. Now, do
24 you have any recollection of meeting your father and getting 25,000 pounds in
14:30:52 25 cash from him?
- 26 A. I don't, but it is the case and the record shows, Mr. Chairman, that my father
27 did in fact make an investment with me on the, I think the 22nd or 23rd of
28 November 1989 for a sum of 25,000, that is correct.
- 29 Q. 323 And if that 25,000 pounds is in fact the 25,000 pounds that was withdrawn in
14:31:13 30 cash by your mother two days previously from the account in Castlebar, isn't it

- 14:31:17 1 likely that your father gave you that sum in cash?
- 2 A. I don't believe that is the case. I couldn't possibly comment, I don't know.
- 3 Q. 324 You have no recollection in any event of receiving a sum of 25,000 pounds in
- 4 cash from either of your parent to make this investment?
- 14:31:30 5 A. I was given a sum of 25,000, but I don't recall how I actually received the
- 6 money.
- 7 Q. 325 If we put back up 4903 then, which is the actual National Irish Investment Bank
- 8 document, if it can be turned around -- you will note there that on the 22nd of
- 9 November 1989, 25,000 pounds was lodged to National Irish Investment Bank. Did
- 14:31:57 10 your father to your knowledge have any accounts with National Irish Investment
- 11 Bank?
- 12 A. No, not to my knowledge.
- 13 Q. 326 And are you the person who would have had most association with National Irish
- 14 Investment Bank at this time.
- 14:32:07 15 A. I worked for National Irish Bank and National Irish Investment Bank was a
- 16 subsidiary.
- 17 Q. 327 Is it likely you are the person who made that deposit on an overnight basis in
- 18 order to carry out on the following day the investments?
- 19 A. I can't say that that is the case, Mr. Chairman. What normally would have
- 14:32:21 20 happened when I would get an application form with money to accompany it, I
- 21 would pass that onto the administration department of National Irish Bank
- 22 Financial Services, and from there they would carry out the necessary
- 23 telegraphic transfers. So I believe that would be the position.
- 24 Q. 328 If your father had given you 25,000 pounds in cash, on that occasion do you
- 14:32:41 25 think you would recollect that?
- 26 A. I believe I would, but I'm sorry I don't recall.
- 27 Q. 329 So, you do not know whether in fact he gave you that money or he gave somebody
- 28 else in National Irish Bank the money, is that the position?
- 29 A. I cannot recall how he gave me the money, whether he gave me a bank draft a
- 14:32:57 30 cheque whether it was cash I am not in a position to say.

- 14:32:59 1 Q. 330 Would you accept if your mother's evidence is correct it is more than likely he
2 gave it to you in cash?
- 3 A. I'm sorry, I don't know what my mother did, I can only speak on my own behalf,
4 Mr. Chairman.
- 14:33:10 5 Q. 331 Your evidence is you can't recollect whether he gave you a bank draft, cheque
6 or cash?
- 7 A. That's correct.
- 8 Q. 332 Right. You invested those funds isn't that correct? Page 402 please. In
9 those three funds, is that correct?
- 14:33:25 10 A. Yes that's correct.
- 11 Q. 333 You put a sum of 15,000 pounds into European Performance Funds, 5,000 into the
12 Nippon warrant fund and 5,000 pounds into I think the Eastern Fund in
13 Flemmings, is that correct?
- 14 A. That's correct yes.
- 14:33:40 15 Q. 334 And that transaction was carried out on the 23rd of November 1989?
- 16 A. Yes, that's also correct.
- 17 Q. 335 That was on foot of the 25,000 pounds that had been given to you by your
18 father.
- 19 A. Yes, that's correct.
- 14:33:52 20 Q. 336 Were those funds invested in the sole name of your father or in your name
21 together with your parents?
- 22 A. In the three names my mother, my father and my name.
- 23 Q. 337 Yes, why were you put on as one of the investors in the funds?
- 24 A. Well, I was put on, Mr. Chairman, at my own, I suppose my own advice to my
14:34:09 25 father. Because I worked in the bank and for administrative purposes to ease
26 with switching of funds when that might arise.
- 27 Q. 338 And for no other purpose?
- 28 A. For no other purpose, I had no beneficial interest whatsoever in the funds.
- 29 Q. 339 Were all three funds held jointly between the three of you?
- 14:34:28 30 A. Yes, I believe they were.

- 14:34:29 1 Q. 340 Application was made for exchange control clearance page 403 please, in respect
2 of the three funds and the signature of the applicant on this application which
3 is the 15,000 pounds, sorry 15,000 yes, to the Britannia Fund are all three of
4 you. Isn't that correct, Padraig Flynn, Dorothy Flynn and Beverly Cooper
14:34:53 5 Flynn?
6 A. Yes, that's correct.
7 Q. 341 Is that because the applicant had to be one of the persons who were holders of
8 the fund?
9 A. Sorry could you repeat the question?
14:35:00 10 Q. 342 Was that because the applicant had to be a person who was a holder of the fund?
11 A. Yes, well all three in this particular case signed, and the applicant was only
12 one name down for the applicant, but yes.
13 Q. 343 And then in the next transfer at page 404, similarly all three have signed,
14 isn't that correct?
14:35:18 15 A. That's correct yes.
16 Q. 344 And that's in respect of the 5,000 pounds to the Nippon warrant fund and then
17 at page 405, in respect of the Eastern Opportunities Fund the signature is in
18 the sole name of your father?
19 A. Yes, that's correct.
14:35:30 20 Q. 345 Was there any reason why your, there was only one signature on that?
21 A. No.
22 Q. 346 Yes. Did you direct that correspondence in relation to these funds would not
23 be sent to your parents?
24 A. Yes, I said that all correspondence would come through me.
14:35:47 25 Q. 347 Well to you or to the bank?
26 A. Well to the bank and through me obviously I pass it had on to my parents.
27 Q. 348 Yes at page 409, it would appear that in fact on one occasion that the Flemming
28 Fund wrote directly to your parents and the bank through Linda Hughes responded
29 as follows on the 23rd January 1990:
14:36:10 30

- 14:36:10 1 "Further to my conversation with Kelly Merrigan at Flemmings in London, I am
2 writing to advise that correspondence from you has been sent directly to the
3 above clients." That is Pdraig, Dorothy and Beverly Flynn.
4 "Please ensure that all correspondence issued with relation to our client is
14:36:27 5 sent directly to me at above address".
6
7 That was Linda Hughes, in other words the correspondence Ms. Flynn was not
8 being sent to you care of National Irish Bank, it was being sent to somebody
9 else, isn't that right?
- 14:36:37 10 A. I think in that particular case, Linda Hughes the administer at the time, was
11 probably annoyed that the company had written directly to the client because
12 when you are an agent on behalf of a particular client, the agent is supposed
13 to correspond at all times through the intermediary, in this case the bank.
14 So she was writing that on behalf of the bank.
- 14:36:56 15 Q. 349 I see, and then at 511 we see what appears to be your instructions in relation
16 to correspondence recorded on the front of the file. "No correspondence to
17 Pdraig or Dorothy Flynn as per Bev". I presume "Bev" there is yourself?
- 18 A. That's correct.
- 19 Q. 350 That would appear you had given an instruction in relation to these accounts
14:37:13 20 that your parent were not to receive any correspondence in connection with
21 these accounts?
- 22 A. Yes, my parent requested that the correspondence would come through me.
- 23 Q. 351 Why?
- 24 A. Well, I was managing the funds on behalf of my parents, they had dealt with me.
- 14:37:25 25 Q. 352 Well with respect, if we go back to 409 Ms. Flynn, you will see that the
26 complaint that was made by National Irish Bank on behalf of their clients was
27 on behalf of all three clients, Pdraig, Dorothy and Beverly Flynn, do you see
28 that, it says re Pdraig, Dorothy and Beverly Flynn?
- 29 A. Yes.
- 14:37:46 30 Q. 353 You are therefore one of the clients of National Irish Bank insofar as this

- 14:37:50 1 document reflects it?
- 2 A. That's correct.
- 3 Q. 354 And the complaint that had been made by the bank on your behalf, is that
- 4 correspondence had been sent directly to the above clients and the above
- 14:37:59 5 clients would include yourself, isn't that right?
- 6 A. Yes, that's correct.
- 7 Q. 355 So now, if the problem was if the situation, if the mechanism is put in place,
- 8 simply that all correspondence comes to you and you send it on to your parents
- 9 that wouldn't explain this letter, would it, because if you had got the
- 14:38:14 10 correspondence you would have had no problem with it, isn't it that right?
- 11 A. The position in this particular case is that the investment company wrote
- 12 directly to myself and my mother and father at the home address. And the bank
- 13 were notifying the investment company not to correspond directly with the
- 14 clients.
- 14:38:30 15 The other particular page, sorry it's gone from the screen now said that there
- 16 was no correspondence, that's internally with in the bank to go to my parents
- 17 because I would give that to my parents when I met them. They are two distinct
- 18 situations between the company and the bank and indeed then between the bank
- 19 and my parents.
- 14:38:48 20 Q. 356 Is it normal bank practice in relation to all of these funds that all
- 21 correspondence coming in to clients, comes directly to the bank as opposed to
- 22 the client themselves?
- 23 A. Yes, normally when there is an intermediary involved the company would write to
- 24 the intermediary which would be the bank.
- 14:39:03 25 Q. 357 Yes.
- 26 A. That's normal.
- 27 Q. 358 Then insofar as you were involved internally, you put a stop on all
- 28 correspondence being sent from the bank to your parents?
- 29 A. Yes, I said I would bring that correspondence with me when I met my parents.
- 14:39:16 30 Q. 359 What did that aid anything, Ms. Flynn, if it had gone to them in the post or

- 14:39:20 1 they were getting it from you, what was the difference?
- 2 A. The difference was when I accompanied the documentation I was in a position to
- 3 actually explain it to my parents, rather than the documents being sent out to
- 4 them in the post and then me coming home then maybe two or three weeks later
- 14:39:32 5 and the documents might not be to hand. It was just for ease.
- 6 Q. 360 I see, it wasn't for any other purpose other than the fact that you wanted in
- 7 relation to any of this documentation, to be in a position to explain to your
- 8 parents what the transactions were referred to?
- 9 A. Absolutely.
- 14:39:44 10 Q. 361 Right. And that the two separate pieces of correspondence in relation to
- 11 ensuring that correspondence is kept within National Irish Bank in relation to
- 12 the accounts of Beverly, Padraig and Dorothy Flynn, has nothing do with
- 13 anything accept administrative purposes, is that the position?
- 14 A. That is the position and just to add to that, that from time to time, reports
- 14:40:04 15 on how the investments were doing were actually sent out as it happens to my
- 16 parent, but that happened despite instruction on the file.
- 17 Q. 362 I think you were involved in investing a second sum on behalf your parents in
- 18 July of 1990, is that correct?
- 19 A. Yes, that's correct.
- 14:40:23 20 Q. 363 And now again at page 4906, we see this is a sum of 10,000 pounds, you accept
- 21 you made that investment on behalf of your parents, is that right?
- 22 A. Yes that's correct, Mr. Chairman.
- 23 Q. 364 Where did you get the money from?
- 24 A. From my father.
- 14:40:40 25 Q. 365 Did you get it in cheque or in cash?
- 26 A. Again I don't recall. Whatever the records of the bank reflect.
- 27 Q. 366 The records of the, insofar as the Tribunal understands it that money was
- 28 retained according to what your father has told the Tribunal in cash, in a safe
- 29 in the house, until he decided to invest it with you, through National Irish
- 14:40:58 30 Bank, it forms part of the proceeds of Tom Gilmartin's payment of 50,000

- 14:41:03 1 pounds?
- 2 A. I am not in a position to comment on any of that.
- 3 Q. 367 I am simply tell what your father told the Tribunal. If Mr. Flynn is correct
- 4 in that, it suggests very strongly that what you received was a sum of 10,000
- 14:41:14 5 pounds in cash, in July of 1990?
- 6 A. I'm sorry I don't recall that.
- 7 Q. 368 Yes. Is it likely again similarly to the 25,000 pounds, that if you had
- 8 received 10,000 pounds in cash, do you think that you would recollect it?
- 9 A. No, I suspect I would but -- I don't recall.
- 14:41:30 10 Q. 369 Do you remember receiving a bank draft from your father in July of 1990?
- 11 A. I don't recall that.
- 12 Q. 370 Right. Again the person who is described as the applicant on the form in
- 13 question is Beverly cooper Flynn, is that correct?
- 14 A. The applicant is Pdraig Flynn and the signature is Beverly Flynn.
- 14:41:46 15 Q. 371 Yes, again this is an account in which you again, are deemed to be a beneficial
- 16 owner on the paperwork, is that correct?
- 17 A. Yes, a top up to the existing investment.
- 18 Q. 372 That's correct and that was subsequently cashed. We will come to deal with the
- 19 encashment of that.
- 14:41:59 20 So your position in relation to this 10,000 pounds is the same as your position
- 21 in relation to the 25,000 pounds. You cannot remember whether it was a bank
- 22 draft, you cannot remember whether it was cash, you cannot remember whether it
- 23 was a cheque but you know that you got it?
- 24 A. I definitely got it, and the records will reflect what it is.
- 14:42:16 25 Q. 373 Yes. Insofar as you got it from anybody you got it from your father?
- 26 A. That's correct.
- 27 Q. 374 Did you have any discussion with him about the source of these funds?
- 28 A. No, Mr. Chairman, I did not.
- 29 Q. 375 Do you remember where you were when he gave you the money?
- 14:42:28 30 A. I'm afraid I don't.

14:42:29 1 Q. 376 Do you remember where you were when he gave you the 25,000 pounds?
2 A. I can't recall.
3 Q. 377 Did it occur to you that these were round sum figures, was it clear to you,
4 10,000 pounds is it round sum?
14:42:41 5 A. 10,000 is round sum, yes.
6 Q. 378 And 25,000 was a round sum?
7 A. 25,000 is a round sum.
8 Q. 379 Can you recollect any discussion with your father about the source of these
9 funds?
14:42:50 10 A. No, Mr. Chairman.
11 Q. 380 Can you recollect your father made arrangements to meet you or where you met
12 him in order to hand over the funds to you?
13 A. It could have happened in many places, but I don't recall where it actually
14 happened.
14:43:01 15 Q. 381 In any event you received the fund and you invested them?
16 A. That's correct.
17 Q. 382 I think you were also involved in a subsequent transaction involving a sum of
18 33,000 pounds in December of 1993?
19 A. It's clear from the records, Mr. Chairman, that I did invest a further 33,000
14:43:17 20 on behalf of my parents --
21 Q. 383 33?
22 A. 33 yes. I don't recall that but yes it is very clear that that happened.
23 Q. 384 At page 453, we see your signature on the documentation in relation to the
24 transaction of 33,000 pounds on 31 of December 1993. Can you confirm that's
14:43:33 25 your signature?
26 A. Yes that is.
27 Q. 385 And from the documentation, am I correct in understanding that what occurred
28 here was a sum of 33,000 pound was used to purchase 46,000 -- 46,361.35 dollars
29 in America is that right -- could I have page 452 please? You see there a
14:44:02 30 purchase of 46,000 dollars approximately in the centre?

- 14:44:06 1 A. Yes.
- 2 Q. 386 And according to Matteson Ormsby and Prentice solicitors, who are the
3 solicitors for National Irish Bank at page 4904 please. They say in relation
4 to this transaction:
- 14:44:23 5
- 6 "In relation to the lodgement of 33,000 pound on the 31st December 1993, our
7 clients have explained that the highlighted account number 90000348 represents
8 an internal account entitled credits clear to branches, CCB. In this
9 particular case the transaction relates to the execution of an international
14:44:41 10 money transfer for US dollars 46,000 approximately to Chemical Bank New York
11 for the benefit of Robert Flemming & Company Luxembourg branch. I attach copy
12 documentation in relation to this transaction".
13
- 14 And the documentation is the documentation we have already seen and other
14:44:57 15 documentation as well. Do you dispute any of that?
- 16 A. No.
- 17 Q. 387 If we go back to page 453 which contains your signature, this is the backing
18 sheet of a particular document, the front of which records 454 please, this
19 records the transaction. And you will see there it says please transfer the
14:45:27 20 sum of 46,361.35 US dollar equivalent of EP 33,000, do you see that in the top
21 corner?
- 22 A. Sorry could you just --
- 23 Q. 388 Could you increase it -- yes.
- 24 A. Yes.
- 14:45:41 25 Q. 389 Do you see that? And then?
- 26 A. Yes.
- 27 Q. 390 If you go down to the next part of the document, it says remiter's name and
28 address National Irish Bank Limited Dublin?
- 29 A. Yes I see that.
- 14:45:51 30 Q. 391 Do you see two columns beneath that beneficiary's name and address, Chemical

- 14:45:57 1 Bank with an address in New York?
- 2 A. Yes I do.
- 3 Q. 392 Do you see beneath that on behalf of clients P and D Flynn?
- 4 A. I do indeed.
- 14:46:05 5 Q. 393 Do you accept they are likely to be your parents?
- 6 A. Yes.
- 7 Q. 394 If you go up the next column and move down three, where it says beneficiary's
8 name and address Robert Flemming & Company Limited, Luxembourg branch?
- 9 A. Yes.
- 14:46:16 10 Q. 395 And the back of that document then, Ms. Flynn, is the document signed by you at
11 453 please. You have already seen and I think you confirmed this is your
12 signature?
- 13 A. That's my signature. That's the reverse side is it.
- 14 Q. 396 Apparently according to the bank. Now that would suggest Ms. Flynn you were
14:46:38 15 intrinsically involved in December 1993 with purchasing 46,000 dollars
16 approximately to invest in a Flemming Fund on behalf of your parents, Dorothy
17 Flynn and Pdraig Flynn, is that correct?
- 18 A. How do you mean? Like they gave me the money and I invested it, that seems to
19 indicate to me that's the telegraphic transfer, going from -- the money was
14:46:59 20 changed into dollars and transferred to Flemmings yes.
- 21 Q. 397 You accept you were involved in the transaction?
- 22 A. I accepted that fully at all time.
- 23 Q. 398 Now, can you tell the Tribunal where you got the 33,000 pounds from.
- 24 A. I don't recall the actual investment at all. Apart from the records that are,
14:47:13 25 that have been given to me in the discovery, so I am not in a position to do
26 that.
- 27 Q. 399 You accept from the documents that you did it?
- 28 A. Absolutely.
- 29 Q. 400 But other than that you have no recollection, you can't assist the Tribunal as
14:47:23 30 to whether these funds were given to you in cash, by draft or by cheque?

- 14:47:26 1 A. I have no recollection of the investment at all apart from what in the
2 discovery documents.
- 3 Q. 401 So the position in relation to three transactions in which you were involved on
4 behalf of your father and mother, Dorothy Flynn and Padraig Flynn, if I can
14:47:41 5 summarise the position as follows: You accept because the documentation says
6 so, that you were involved in investing 25,000 pounds in November 1989, is that
7 correct?
- 8 A. That's correct.
- 9 Q. 402 You cannot recollect whether it was cheque, cash or bank draft or the
14:47:54 10 circumstances in which your father got the money to you, if I can put it like
11 that, is that correct.
- 12 A. That's correct.
- 13 Q. 403 Insofar as the 10,000 pounds is concerned the following July a similar
14 situation pertains, you can't recollect whether it was cheque, cash or bank
14:48:07 15 draft or the circumstances under which your father gave it to you, is that
16 correct?
- 17 A. That's correct.
- 18 Q. 404 And insofar as the 33,000 pounds is concerned in December of 1993, you cannot
19 recollect whether it was cheque, bank draft or cash that your father gave you,
14:48:19 20 but you accept your must have got it and you can't recollect any particular
21 circumstances surrounding it?
- 22 A. In that particular case, I don't recall the investment at all.
- 23 Q. 405 If we can go on then to deal with certain withdrawals. Sorry, I think that you
24 accept, or do you accept that insofar as two of those funds were concerned that
14:48:34 25 they were encashed and that the proceeds were invested in National Irish Bank
26 in Monaghan?
- 27 A. That's correct.
- 28 Q. 406 I think you were instrumental in opening that account, is that correct?
- 29 A. Yes that is correct.
- 14:48:47 30 Q. 407 I think the Flemming Flagship Eastern Opportunities Funds page 446, this is a

- 14:49:04 1 request to the dealing room in Luxembourg of the Flemmings fund to encash the
2 shares contained in a certain fund, it's signed by yourself, Mr. Padraig Flynn
3 and Ms. Dorothy Flynn, is that correct?
- 4 A. That's correct Chairman.
- 14:49:17 5 Q. 408 Subsequent to that, a cheque was received at 447 please in the sum of 20,227.99
6 pounds, is that correct?
- 7 A. Yes that is correct.
- 8 Q. 409 At 448 which is the reverse of this cheque, you will see that there, the cheque
9 does to the appear to have been endorsed?
- 14:49:34 10 A. I can't really make out anything on that, I'm sorry.
- 11 Q. 410 Yes well it doesn't appear to contain your signature, is that correct?
- 12 A. On the back of the cheque.
- 13 Q. 411 Yes.
- 14 A. I can't make anything out on the bank of the cheque.
- 14:49:48 15 Q. 412 Very good. Page 450 in March of 1993 you requested somebody in national Irish
16 Bank to open a non-resident account for your parent at one month fixed?
- 17 A. Yes, that's correct.
- 18 Q. 413 Is that correct with an address in Brussels where it says thanks Beverly there,
19 that is you, is that correct?
- 14:50:03 20 A. Yes that is me.
- 21 Q. 414 I think you accept that that cheque of 20,227.99 pounds was lodged at page 451
22 into an account at National Irish Bank in Monaghan?
- 23 A. Yes, that's correct.
- 24 Q. 415 And do you agree that that credit to the, that account number 93062406 is the
14:50:28 25 proceeds of the cheque that we have seen?
- 26 A. Yes.
- 27 Q. 416 Do you think that it's likely that you are therefore the person who having
28 organised the opening of this account would have sent the cheque forward to
29 that account?
- 14:50:37 30 A. Yes I do.

- 14:50:38 1 Q. 417 Notwithstanding that same does not appear and I put it no higher than that, to
2 contain any endorsement on the back of it. Did you have signing, or were you
3 an account holder of that account Ms. Flynn?
4 A. No, I was not.
- 14:50:50 5 Q. 418 All right. I think the second fund was encashed at page 4901 please in
6 December 1994 in a sum of US dollars 37,467.41. If you look at the last line
7 there on the second fund, do you see that the very last line, could it be
8 increased please?
9 A. Yes.
- 14:51:14 10 Q. 419 And there is a cheque and it is a poor quality cheque 4934 please, the cheque
11 is dated 26th January 1995?
12 A. Yes, I see that.
- 13 Q. 420 And it's a cheque to National Irish Bank Limited re: Padraig, Dorothy and
14 Beverly Flynn and it seems to refer to 37,467.41 dollars?
14:51:43 15 A. Yes.
- 16 Q. 421 And that I think translated to pounds was lodged to the Monaghan account of
17 Dorothy Flynn and Padraig Flynn, 93062406, 457 please, do you accept that you
18 are the person who lodged that sum?
19 A. Yes indeed.
- 14:52:02 20 Q. 422 And that is your signature on the lodgement docket?
21 A. No it's not.
- 22 Q. 423 It says --
23 A. It says Beverly but it's not.
- 24 Q. 424 It's not your signature, how did that happen?
14:52:12 25 A. I have no idea, sorry.
- 26 Q. 425 It says paid in by Beverly?
27 A. It is but I think you will also recognise it's the same handwriting that wrote
28 Monaghan and B and D Flynn.
- 29 Q. 426 You say you didn't make that lodgement?
14:52:25 30 A. I sent the instruction but I didn't sign that particular document.

- 14:52:28 1 Q. 427 But the person who signed it have signed with your authority?
2 A. If I sent the cheque, I would have had any great difficulty with it, but it's
3 not my signature.
4 Q. 428 I think we see that sum lodged to the account 4931 please, in February?
14:52:42 5 A. Yeah, that's correct.
6 Q. 429 Now, I think that there were two withdrawals from that account Ms. Flynn, one
7 in the sum of 25,000 pounds and one a sum of 37,553.74, did you have anything
8 to do with those withdrawals?
9 A. Yes, the record indicates I did, I don't specifically remember them but clearly
14:53:04 10 the documents bear my signature.
11 Q. 430 So insofar as the withdrawal, if we can have page 4941 please? Now this is
12 quite difficult to read and if you think I'm incorrect in my interpretation in
13 relation to it please say so. It appears to say "Christina, confirmation of
14 our telephone conversation of today, Beverly Cooper Flynn will withdraw 25,000
14:53:33 15 pound in cash from the above account" and I think it says "Terrenure on the
16 20th of the 2nd 1997. She has signing authority on the account regards". And
17 the signature is illegible?
18 A. I had no signing authority on the account so --
19 Q. 431 I am not asking you that question, I am asking you first of all, that it
14:53:55 20 appears to say she has signing authority on the account?
21 A. Yes. It says that.
22 Q. 432 And also says confirmation of telephone conversation Beverly Cooper Flynn will
23 withdraw 25,000 pound in cash?
24 A. Sorry I can't make that out.
14:54:08 25 Q. 433 We will start with the second line. Do you see Beverly?
26 A. I do.
27 Q. 434 Do you see Cooper?
28 A. I do.
29 Q. 435 Do you see Flynn?
14:54:11 30 A. Yes.

- 14:54:13 1 Q. 436 Do you see will? Can you increase that please?
- 2 A. I can't make out anything.
- 3 Q. 437 Beverly Cooper Flynn -- do you see the words 25,000 pounds?
- 4 A. I do yes.
- 14:54:25 5 Q. 438 Do you see in cash?
- 6 A. I do.
- 7 Q. 439 If you go back from 25,000 pounds, I think the word is withdraw?
- 8 A. I'm sorry I can't make out anything.
- 9 Q. 440 Fair enough, but it says 25,000 pounds in cash from the above account?
- 14:54:37 10 A. I've got from the above and I can't see anything after that.
- 11 Q. 441 I will print you off a copy and come back to that. But in any event I think
- 12 that in fact at 4935 please, this is a debit or a withdrawal docket from
- 13 National Irish Bank?
- 14 A. Yes.
- 14:54:57 15 Q. 442 Is that your signature?
- 16 A. Yes it is.
- 17 Q. 443 Is the sum 25,000 pound?
- 18 A. It is yes.
- 19 Q. 444 And is the account the offshore account that had been opened in Monaghan on
- 14:55:07 20 behalf your parents 93062406?
- 21 A. I haven't checked the number but I presume it is.
- 22 Q. 445 You have seen the number in relation to the original lodgement that was made?
- 23 A. I didn't take any heed of it but I take your word.
- 24 Q. 446 Yes. Taking that document together with the earlier document in which refers
- 14:55:23 25 to 25,000 pounds in cash, do you accept that you withdrew 25,000 pounds in cash
- 26 on that occasion from the account?
- 27 A. Well, I can certainly verify that that is my signature on that particular
- 28 document, but beyond that I'm afraid I can't.
- 29 Q. 447 I see. This is a transaction that's happening in February of 1997?
- 14:55:44 30 A. That's correct, yes.

- 14:55:49 1 Q. 448 Yes. Now, can you recollect withdrawing 25,000 in cash from that account in
2 February of 1997?
- 3 A. No, I can't.
- 4 Q. 449 Can you recollect or can you speculate as to the circumstances on which you
14:56:05 5 came to withdraw 25,000 pound from that account?
- 6 A. I don't really think I should be speculating, I don't recall, Mr. Chairman.
- 7 Q. 450 You are seriously saying that's your evidence to the Tribunal?
- 8 A. I don't recall the encashment.
- 9 Q. 451 Is it that you have amnesia about anything to do with cash, Ms. Flynn, is that
14:56:23 10 the situation?
- 11 A. If I could recall it I would be more than happy but I don't recall it.
- 12 Q. 452 You don't remember the circumstances under which you got 25,000 pounds from
13 your father in 1989, you don't remember the circumstances in which you have
14 10,000 pounds in cash from your father in July 1990. You don't remember the
15 circumstances in which you got 33,000 pound in December 1993 and you don't
14:56:38 16 recollect a withdrawal of 25,000 pound in cash that you made in February of
17 1997?
- 18 A. If I might go back, Mr. Chairman, I think that's a misrepresentation of the
19 fact. I do recall that my father did an investment with me for 25,000 pound,
14:56:56 20 the record reflects that I do recall he did a top of 10,000 and the record
21 reflects that. I do not recall the 33,000, however I accept that the discovery
22 documents provided to me by the Tribunal make it clear I did do that. I also
23 accept that my signature on this particular document but I do not recall either
24 making an encashment for 25,000 pounds or any other amount of money.
- 14:57:18 25 Q. 453 Alright and in so far as the second withdrawal on that account was concerned
26 which cleared the account in effect, that's a withdrawal of 37,553.74 pound did
27 you accept you also are the person that made that withdrawal?
- 28 A. The documents reflect that I did, Mr. Chairman.
- 29 Q. 454 On that occasion you draw a bank draft?
- 14:57:38 30 A. I have no recollection but if that's what the documents say that's what

14:57:42 1 happened.

2 Q. 455 So that in so far as your involvement in all these matters are concerned and

3 insofar as the Tribunal is attempting to get to the bottom of these matter the

4 only assistance you can offer to the Tribunal, is if a document saying

14:57:53 5 something happened you accept it other it wise you have no recollection?

6 A. I don't believe that's the case, I remember a lot but unfortunately I do not

7 recall some of the details you outlined.

8 Q. 456 They all relate to cash, Ms. Flynn, your amnesia seems to be quite selective,

9 if I can put it to you like that?

14:58:07 10 A. Mr. Chairman, I am not sure that they do relate to cash, I'm not in a position

11 to say, I don't recall them.

12

13 CHAIRMAN: Surely, Ms. Flynn, you would remember if you were handling

14 substantial amount of cash in 1997.

14:58:18 15 A. I believe I would but I don't recall, Mr. Chairman.

16

17 CHAIRMAN: Well, are you saying you didn't handle any large amounts of cash

18 during that year or is it that you can't remember?

19 A. I don't recall the 25,000 withdrawal at all, Mr. Chairman. But I accept from

14:58:31 20 the documents that withdrawal of 25,000 did take place.

21

22 CHAIRMAN: If it was withdrawn in cash do you think you would recall it?

23 A. I think I would but I don't. But neither do I recall the withdrawal by draft

24 of 37,000, and that happened also I think in March of 1997.

14:58:50 25

26 CHAIRMAN: Because then, your evidence is that you don't recall any of the

27 withdrawals or lodgements except insofar as they are supported by documentary

28 evidence.

29 A. I am very clear that I did an investment for my father in 1989 for 25,000. I

14:59:11 30 remember writing the report, I remember the fact that there was an investment

14:59:14 1 took place. I also remember there was a top up. I don't recall the 33,000
2 additional investment that took place sometime in 1994, but I fully accept it
3 happened because the documents bear that out.
4

14:59:24 5 With regard to the Monaghan account, I fully accept that the encashments from
6 the investment went into the Monaghan account but I don't recall any of the
7 withdrawals from that account, Mr. Chairman.
8

9 CHAIRMAN: Even though insofar as you were assisting your parents these were,
14:59:41 10 these were very large transactions, very unusual transactions?

11 A. They were certainly very large transactions and very unusual you might say.
12

13 CHAIRMAN: And you have no recollection other than what you have told the
14 Tribunal?

14:59:51 15 A. I have no recollection. All I can say Mr. Chairman is I dealt with hundreds of
16 clients, these client were my parent and yes I would expect to remember more
17 because of that but I don't recall.
18

19 CHAIRMAN: And the amounts of money you say you didn't ask your father as to
15:00:07 20 where the monies came from?

21 A. That's correct, Mr. Chairman.
22

23 CHAIRMAN: Even though he would have been very much relying on your advice
24 about investment and so on, because you were a banker at the time?

15:00:21 25 A. Yes that's correct.
26

27 CHAIRMAN: And you never asked him where did you get the money?

28 A. No, Mr. Chairman.
29

15:00:26 30 CHAIRMAN: You never heard it discussed at, in your home as to where the

- 15:00:31 1 money came from?
- 2 A. Absolutely not. He informed me he had a sum of 25,000 to invest and I drew up
- 3 a report for that, and did recommendations and he went along with that.
- 4
- 15:00:40 5 CHAIRMAN: Right
- 6 Q. 457 MS. DILLON: In summary then, the position is if one adds the 33,000 pounds in
- 7 December '93 to the 10,000 pounds in July of 1990 to the 25,000 pounds in
- 8 November 1989, the total sum invested by you on behalf of your father is 68,000
- 9 pounds, if my mathematics is correct, is that right?
- 15:01:01 10 A. Yes, that's correct.
- 11 Q. 458 And you have no, other than accepting that that's the figure, you can't assist
- 12 as to whether the sum was in cash or otherwise, is that right?
- 13 A. I'm afraid I can't.
- 14 Q. 459 Can I ask you to look now at the hard copy of document 4941 please, this is in
- 15:01:18 15 relation to the 25,000 pounds withdrawal I think it's -- it's on the desk in
- 16 front of you Ms. Flynn, the hard copy?
- 17 A. Sorry. Thank you.
- 18 Q. 460 If we can try and go through that document again at 4941. And just in relation
- 19 to the message, can we have increased the paragraph in the centre please, with
- 15:01:47 20 the four lines of script on it, for the screen?
- 21 A. Do you want me to look at the screen or hard copy.
- 22 Q. 461 No no, if you look at the hard copy. Now, I will ask you to look at the second
- 23 line. Do you accept that what's written there Ms. Flynn is 25,000 pounds in
- 24 cash?
- 15:02:11 25 A. Yes, that appears to be the case, yes.
- 26 Q. 462 And that at the beginning of the line it says Beverly Cooper Flynn?
- 27 A. Yes.
- 28 Q. 463 And do you accept that that probably relates to the withdrawal that you made of
- 29 25,000 pounds on the 20th of February 1997?
- 15:02:28 30 A. I'm sorry, I can't make that out and I can't confirm that that is.

15:02:35 1 Q. 464 If you look at the subject Ms. Flynn where it says first of all subject, if we
2 reduce it back to full size if we go through it line by line.
3 A. Do you want me to go back to the screen.
4 Q. 465 Do you see first of all where it says subject?
15:02:49 5 A. Yes.
6 Q. 466 P and D Flynn. Do you see the account number that's there?
7 A. Yes.
8 Q. 467 3062406, do you see that?
9 A. There is something before the 3 is there.
15:03:00 10 Q. 468 9. Now if we look at your withdrawal docket that you have already confirmed
11 was signed by you at 4935 please? I want you to look only at the account
12 number on this?
13 A. Yeah.
14 Q. 469 Do you confirm the account number is 93062406?
15:03:22 15 A. Yes I do.
16 Q. 470 Do you confirm that's your signature?
17 A. Yes I do.
18 Q. 471 And can we go back now to 4941 please? Do you now agree that where it says
19 subject P and D Flynn, account number 93062406, that the account that's being
20 discussed there is your parent account in Monaghan?
15:03:42 21 A. It appears to be the same account.
22 Q. 472 Right. Now under the heading message it says "Christina, confirmation of our
23 telephone conversation of today". Do you agree that that's what that line
24 says?
15:03:58 25 A. Yes it appears to say that.
26 Q. 473 Then the next line says "Beverly Cooper Flynn".
27 A. Yes.
28 Q. 474 And I'm suggesting the next two words are "will withdraw" but you are not in
29 agreement with that but we'll leave that for the moment. The first three words
15:04:15 30 are Beverly Cooper Flynn?

- 15:04:16 1 A. Yes they appear to be.
- 2 Q. 475 And then "25,000 pound in cash from the above account?"
- 3 A. I can make out 25,000 in cash, yes, from the above.
- 4 Q. 476 And from the above account, isn't that right?
- 15:04:27 5 A. I can't make out, there is something, I can't make out the full word account
- 6 that's blurred in the middle.
- 7 Q. 477 Do you accept it's from the above something.
- 8 A. Yes I do.
- 9 Q. 478 Do you accept as a matter of logic and probability the above something is the
- 15:04:41 10 bank account, the number of which you have just agreed is at the top?
- 11 A. It's possible.
- 12 Q. 479 It's no more than possible.
- 13 A. Well I can't confirm.
- 14 Q. 480 What I am putting to you here, Ms. Flynn, so there is no ambiguity about it,
- 15:04:53 15 are you suggesting that this instruction about 25,000 pounds in cash might
- 16 relate to some other transaction other than the withdrawal you made from your
- 17 parents account in Monaghan?
- 18 A. I don't know.
- 19 Q. 481 Well seeing as the only account number that's referred to on this you have
- 15:05:06 20 already agreed is your parent account number in Monaghan, isn't that right?
- 21 A. It appears to be yes.
- 22 Q. 482 At this appears to be. Were you aware of any other account that your parents
- 23 had in National Irish Bank?
- 24 A. Apart from their investment accounts no.
- 15:05:19 25 Q. 483 Right. Insofar as that account is concerned, I am just going to get you the
- 26 bank statement for that account to show you there was one withdrawal of 25,000
- 27 pounds from that account ever?
- 28 A. Yes.
- 29 Q. 484 You can satisfy yourself on that. If you accept that that is correct do you
- 15:05:32 30 accept that it is likely this is you making an arrangement to withdraw 25,000

- 15:05:37 1 in cash from your parents account?
- 2 A. I don't know. But I do accept there was one withdrawal of 25,000 from the
- 3 account.
- 4 Q. 485 And you accept you made it?
- 15:05:44 5 A. I don't know. I certainly issued the instruction as per the last page you put
- 6 up.
- 7 Q. 486 4935? The actual withdrawal docket?
- 8 A. That's correct.
- 9 Q. 487 Right. Let's look at the withdrawal docket again?
- 15:05:55 10 A. Okay.
- 11 Q. 488 4935. This is the docket the purpose of which you fill in and give to the bank
- 12 and they give you back money, is that right?
- 13 A. That's correct yes.
- 14 Q. 489 That's your signature?
- 15:06:08 15 A. That's correct.
- 16 Q. 490 Do you think the bank handed out 25,000 pounds to somebody else?
- 17 A. I have no idea.
- 18 Q. 491 I see. Are you seriously suggesting to the Tribunal, that you did not withdraw
- 19 that 25,000 pounds?
- 15:06:21 20 A. Mr. Chairman, I am not denying that that's my signature, nor am I denying that
- 21 there was 25,000 taken out of the account. The only thing that I have said
- 22 consistently is that I don't recall it. I don't recall doing it, but I accept
- 23 that the document has my signature on it.
- 24 Q. 492 Do you accept on the basis of the documents that you have seen here today that
- 15:06:40 25 it is probable that you are the person who withdraw 25,000 pounds in cash from
- 26 that account?
- 27 A. I don't recall it. Beyond that I can't say.
- 28 Q. 493 That is not the question I asked you Ms. Flynn, try and concentrate on the
- 29 question.
- 15:06:52 30

15:06:52 1 CHAIRMAN: Ms. Flynn, do you accept you were in the banking business, you
2 would have had good knowledge of these procedures, do you accept as a matter of
3 probability that you withdrew the 25,000 pounds as the docket suggests?
4 A. As a matter of probability? Yes it's possible. I think I have already said
15:07:13 5 that it's possible or probable.
6
7 CHAIRMAN: As a matter of probability.
8 A. Probability. It's probable.
9
15:07:18 10 CHAIRMAN: Yes, that you withdrew the money?
11 A. But I don't recall it Mr. Chairman.
12
13 CHAIRMAN: That's fine. But you accept it probably occurred in the way the
14 docket suggests?
15:07:26 15 A. I suppose it's probable if I don't recall it.
16 Q. 494 Can I have 4895 please there were two withdrawals on this account ever, apart
17 from the lodgements we have already seen and we have already seen that you were
18 the person who organised the opens of this account and the transferring of the
19 other two funds we have already seen that. There are two withdrawals from this
15:07:48 20 account Ms. Flynn the 25,000 pounds that you are having such extraordinary
21 difficulty with and then a sum of 37,553.74, if we look now at the second
22 transaction, you will see from the documentation --
23 A. I am not having extraordinary difficulty with it, I just don't recall it.
24 Q. 495 Yes, insofar as the second transaction is concerned we'll see can the
15:08:08 25 documentation assist you in your recollection to that documentation. The
26 withdrawal docket is at 4937? Do you accept that that's your signature?
27 A. Yes it is.
28 Q. 496 And do you accept that the dates stamp at the side of that is the 24th March
29 1997?
15:08:28 30 A. Yes, that's correct.

- 15:08:29 1 Q. 497 And do you have any recollection of this transaction?
- 2 A. I don't.
- 3 Q. 498 Can I have page 4938 please? This is a requisition for a draft, do you see
- 4 that?
- 15:08:46 5 A. I do, yes.
- 6 Q. 499 Do you see that the amount is 37,553.74 pence?
- 7 A. Yes I do.
- 8 Q. 500 Do you see that the copy of the draft while it's poor that's immediately
- 9 beneath is is dated 24th March 1997?
- 15:08:59 10 A. Yes.
- 11 Q. 501 That the payee is Pdraig Flynn or can you make out, agree that the first word
- 12 is Pdraig?
- 13 A. Yes I can see that.
- 14 Q. 502 And the amount is 37, 553.74 pence?
- 15:09:10 15 A. Yes.
- 16 Q. 503 Do you agree it is probable that the withdrawal made by you is in effect this
- 17 bank draft?
- 18 A. Again, Mr. Chairman, it's probable, but I don't recall it.
- 19 Q. 504 I see. Is there any reason you can think of Ms. Flynn why you have such
- 15:09:26 20 amnesia in relation to transactions in relation to your parents accounts?
- 21 A. Well I wouldn't say that to be quite honest, Mr. Chairman. I deal with a lot
- 22 of client, hundreds and thousands in fact over a number of years to ask can I
- 23 remember top ups and withdrawals going back many many years -- so I don't
- 24 accept that I have amnesia. I have done my bests to recall to the best of my
- 15:09:48 25 ability and I hope that that's satisfactory.
- 26 Q. 505 And not any of your clients, I mean your parents were different clients from
- 27 ordinary run of the mill clients, is that correct?
- 28 A. Of course they were, they are my parents yes.
- 29 Q. 506 To said aid and assist them you put yourself onto the account holder in order
- 15:10:07 30 to minimise administration?

15:10:08 1 A. That's correct.

2 Q. 507 So it's not that they were being treated as every other common or garden client

3 of National Irish Bank, isn't that correct?

4 A. That's correct.

15:10:13 5 Q. 508 And yet notwithstanding all of that and notwithstanding the level of

6 investments you were making on behalf of your parents and the level withdrawals

7 you were making in 1997, you recollect nothing of significance, is that the

8 position?

9 A. Well I thought I recollected quite a lot.

15:10:27 10 Q. 509 I suppose Ms. Flynn it depends on where you are sitting, thank you very much.

11 A. I suppose it does.

12

13 CHAIRMAN: I take it no one -- do you do you wish to ask any questions?

14

15:10:39 15 CHAIRMAN: Thank you very much.

16 A. Thanks, Mr. Chairman.

17

18 **THE WITNESS THEN WITHDREW.**

19

15:10:45 20 MR. QUINN: Mr. Lawlor please. It will be recalled sir that Mr. Lawlor is now

21 about to be examined by his own counsel.

22

23

24

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30

MR. LIAM LAWLOR, HAVING BEEN PREVIOUSLY SWORN, WAS QUESTIONED

AS FOLLOWS BY MR. RUSSELL:

15:10:59 1
2
3
4 Q. 510 MR. RUSSELL: Chairman, I want to start by thanking you for facilitating me this
15:11:24 5 afternoon, I appreciate my difficulties in another forum caused you some
6 difficulties this week and I appreciate the courtesy.

7
8 Mr. Lawlor this module of the Tribunal is concerned with payments you received
9 as a politician. For the Tribunal, could you just recap as to when you first
10 got involved in politics?

11 A. I started on national executive of the Fianna Fail party in the early '70s,
12 prior to standing for the first General Election in 1977, and was elected to
13 the Dail on that occasion and served for until the last General Election. And
14 then in 1979 at the request of the party, I stood for the County Council,
15 although I was in the Dail at the time, reluctantly in order to win an extra
16 seat in the constituency a five seater, myself and the late Tom Boland. I
17 served on the County Council from '79 until '91.

18 Q. 511 And what were you involved in before you became a politician?

19 A. Well when I qualified in the refrigeration engineering sector, I set up a
15:12:37 20 company called Irish Refrigeration. I then formed Irish Insulations and Irish
21 Air-conditioning. And we provided commercial and industrial refrigeration,
22 design, installation and maintaining service throughout the country to the food
23 processing and brewery business.

24
15:12:56 25 And then sometime in the late '60s or early '70s, I merged the company, the
26 main company Irish Refrigeration with Hall Thermo Tank International, which was
27 the world leading industrial refrigeration manufacturer with a world wide
28 contracting organisation. They had a depot here in Ireland for many years, and
29 I merged my company with their UK run operation here and took over their
15:13:25 30 business and took a 40 percent interest and took over offices in Cork and

15:13:31 1 Belfast in Harland and Wolfe dockyards, and ran the refrigeration business
2 until about 1980, having been elected in '77 I wound down my interest in the
3 company and -- we had also decided to get for Irish Insulations a franchise for
4 importation of polyurethane panels and then we decided to set up a
15:14:01 5 manufacturing plant in Mohill in Leitrim and that was opened in 1977,
6 ironically during the General Election campaign by the then Minister for the
7 Environment, Justin Keating, whose seat I took in the '77 election.

8 Q. 512 So in summary you had an extensive business career before you became an elected
9 representative?

15:14:21 10 A. Yes, directly and indirectly, I had a couple of hundred engineering personnel
11 working throughout the country.

12 Q. 513 Now, this module of the Tribunal is concerned with your role as a County
13 Councillor. How would you define your role as a County Councillor?

14 A. Well a County Councillor I suppose, you didn't divorce it when you were in a
15:14:44 15 dual mandate situation, but County Council operation out in the west side of
16 Dublin in those days was quite a busy area because the west side of Dublin was
17 rather unique in western Europe at the time, because we were trying to Dublin
18 three satellite towns, projected population of a 100,000, well they are there
19 for everybody that knows Dublin now, and so during that time it was a
15:15:08 20 tremendous amount of activity on all fronts, local authority house building,
21 private sector house being building, industrial investment, amenity facilities,
22 so local authority member in County Dublin on the west side in particular, had
23 a rather active area compared with other parts of the country.

24 Q. 514 And you have lived in the constituency for a long number of years, is that
15:15:29 25 correct?

26 A. Yeah, I have lived first in Clondalkin and stood in Clondalkin, was elected in
27 Clondalkin, then the constituency was revised and they used the Grand Canal as
28 a boundary, an artificial boundary between Clondalkin and Lucan, so I lost the
29 Clondalkin part of my constituency, the village and it's environs and left
15:15:53 30 behind a couple of filing cabinets to Mary Harney who took over the seat I was

15:16:00 1 vacating and I ran in a revised constituency, well in '77 the constituency was
2 a three seater and ran from the Children's Hospital at Crumlin to beyond Lar
3 Brian in Maynooth, taking in north Kildare and then there was a revision and is
4 it went to a five seat constituency and went from Mount Brown out to the county
15:16:22 5 borders taking in Lucan/Clondalkin, Palmerstown and effectively what is today
6 Dublin 15.

7 Q. 515 So for the period that the Tribunal is looking at in this module you were an
8 active councillor, TD and constituent in the area we were talking about, is
9 that correct?

15:16:37 10 A. Yeah sure.

11 Q. 516 Now this period of 1977 to the mid, I suppose to early 1990 was a pretty
12 momentous period in Irish politics, isn't that correct?

13 A. Yes it was, yeah it was quite different from, if you were to compare it with a
14 previous 20 years, it was quite a different 20 years. The 20 years I served as
15:16:59 15 against any of the previous periods in Irish politics, yes.

16 Q. 517 Now in several features of this module, you have been described almost as an
17 enmity from Mr. Haughey, would that be correct?

18 A. No the reverse would be the case. I was very friendly with Charles Haughey in
19 the '70s when I was canvassing for the national executive and he was clawing
15:17:23 20 his way back up the greasy political poll, and he served as Minister for Health
21 after the '77 election and I was on health committees in the Dail and had quite
22 a working relationship and medical issues, hospital issues, Health Centres were
23 quite an issue in my constituency at the time looking for investment and as
24 Minister for Health, I travelled with a delegation of senior civil servants
15:17:51 25 senior medical personnel, park personnel from Aer Rianta and visited a number
26 of countries at the time.

27 Q. 518 What was your working relationship like with Mr. Haughey?

28 A. It was good yeah, I got on well with him in those days and the election came
29 and he won a parliamentary vote by 44 to 38 votes for the late George Colley
15:18:12 30 and despite the comments in the this and that and the other, I voted for the

15:18:18 1 man, but some perception in the media picked up that I was supposed not to
2 have, it didn't really matter. When he took over as party leader, Taoiseach, I
3 had some rather acrimonious contacts and discussions with him over matters in
4 my constituency.

15:18:35 5 Q. 519 And were you considered politically close to him?

6 A. Yeah, I was very friendly with him in those days, but as Taoiseach when he
7 wanted to acquire the Clondalkin paper mills, I was vehemently opposed to it
8 and I was proven totally right and there was reaction to the workers party,
9 MacGiolla Brigade at the time and it wasn't the right thing to do. During that
10 period the Talbot workers and concessions being given, so I had my differences
11 with him on the leadership issues and --

12 Q. 520 Did you ever act for him as an agent or intermediary for him?

13 A. No, but Charles Haughey, if you didn't agree with him, he interpreted it as a
14 lack of loyalty and if I didn't agree with what his ideas were I would tell him
15 so, so we did have -- and then when I lost my seat in '81 he appointed me
16 national organiser of the Fianna Fail party, so I had a good healthy political
17 working relationship with Charles Haughey.

18 Q. 521 I want to ask you about an organisation you were involved in called ERDO
19 Eastern Regional Development Organisation. Can you tell the Tribunal what that
20 was and what your role was in it?

21 A. The Eastern Regional Development Organisation was an umbrella non-statutory
22 body that was nominated from the Dublin Corporation, County Council, Wicklow,
23 Kildare and Meath Councils, and on there was public representatives, senior
24 management, senior planners, senior engineering personnel, and some advisers of
25 the DOE's forward planning division, Mr. Ward was a member. It's task was as
26 mandated by the authorities in the east region.

27
28 First brief I recall, was to organise the study of water quality management
29 report for the Liffey Valley and -- Liffey and Dublin Bay which was a very
30 comprehensive undertaking at the time. It was completed and then --

- 15:20:36 1 Q. 522 When was that completed?
- 2 A. Sometime in the early '80, mid '80s. But then the biggest tasks mandated to
- 3 the ERDO was the necessity to forward plan population placement in the east
- 4 region of the country. Which would have been follow up to the Myles Wright
- 15:20:59 5 Report of the late '60s, which was given effect by the first ever County
- 6 Development Plan in County Dublin and now the local authorities were looking
- 7 broader than within their own boundaries because the east region is one unit
- 8 now and there is sort of County boundaries were evaporating away to the stage
- 9 where they are today, that they are invisible when it comes to development or
- 15:21:24 10 community living.
- 11 Q. 523 Did it report look at the west of Dublin specifically?
- 12 A. It looked at the whole east region. And the mandate we got was to look, to
- 13 project, it was mentioned here this morning ironically, to the year 2011 and we
- 14 did the first draft report and I as Chairman, couldn't see how we could predict
- 15:21:50 15 that far ahead because of what had happened in the period while we were working
- 16 on the report, in that in the '70s we had emigration, and in the '80s we had
- 17 immigration and we were trying to project to 2011.
- 18
- 19 So at my initiation we decided to bring back the target date to 2001 and we
- 15:22:12 20 produced a report recognising that there was going to be population growth in
- 21 the east region of this country, that the figure was around 350,000 projected
- 22 and we came up with recommendations as to where that population might be placed
- 23 and then that report was going to go back to the constituent local authorities
- 24 for them to either accept or reject and the forward planning section and the
- 15:22:40 25 Minister for the Environment.
- 26 Q. 524 What were your recommendations in relation to the catchment area for
- 27 Quarryvale?
- 28 A. Well the recommendations in the totality of the report which I signed in 1988
- 29 suggested that we should put a 100,000 population into Swords, I think 15,000
- 15:22:56 30 population add in to Blanchardstown because of the under ground infrastructure

15:23:03 1 was capable of taking it, 10,000 extra population in Clondalkin/Lucan, which
2 would be the bigger picture of Quarryvale, Tallaght to remain as it was, 50,000
3 population in north Kildare and various figures like 10, 5,000 to Newbridge, to
4 Navan etcetera. So in total we came up with a form of recommendations and the
15:23:26 5 report was an advisory document.

6 It wasn't fully endorsed and warmly accepted because politically, again I
7 remember Ray Burke at a council meeting say he wasn't going to let Swords
8 become another Tallaght, but eventually everything that was in the '88 report
9 has come to pass, if you took the paint off the Bacon Report, it's the same
10 report under a different guise.

11 Q. 525 Would this have given you expertise in the strategic planning of west Dublin?

12 A. Well it would just give you an overview, you had the senior planning officers
13 to advise, all the senior planning officers from the constituent local
14 authorities sat on the board. You had monthly or bi-monthly meeting, you had
15:24:15 15 working groups set up under the heading of the body and I would have delegated
16 senior planning officers from the four constituent authority to serve on
17 working group, and pick the personnel to study infrastructural requirements.
18 They would come back with working papers and gradually it works it's way into a
19 report which was signed in 1988 I recall.

15:24:40 20 Q. 526 Would you agree that you had a particular insight to the strategic development
21 of west Dublin?

22 A. Well yeah, you had to because if you were confronted with having to take these
23 working papers and give effect to them and give voice to them or reject them or
24 whatever, so yes you would, having an engineering background anyway you have an
15:24:59 25 understanding of infrastructure to start with, even though engineering was a
26 different brand of engineering I was involved with, but you had an
27 understanding of the underground infrastructural aspects of, and that also
28 reflected in the water quality management report because Ringsend waste water
29 treatment works was a part of that study.

15:25:19 30 Q. 527 Let's come to the period you were on the County Council, I think you told us

15:25:23 1 you were on the County Council from '79 to '91, is that correct?

2 A. '79 to '91 yes.

3 Q. 528 And, in or around the time Mr. Gilmartin came to town with his project, what
4 was the decision making process for such projects in your experience?

15:25:37 5 A. Well there was, I suppose you categorise in two headings, one was monthly
6 meeting of the council, where the agenda was clogged with a certain amount of
7 section 4 motions and then the bigger planning decisions, while entered as a
8 section 4 in the eyes of the executive management in planning if they thought
9 it was called a material contravention they would put it to the material
10 contravention process and the only difference was that they would put in a
11 special advertisement in the newspapers to say that the council proposed to
12 consider such-and-such a planning application and giving people I think 31 days
13 to make objections. Whereas the section 4 motion was just put in in the
14 newspaper as the section 4 motion with the signatures of the elected members
15 that were tabling it.

16
17 Now that repeatedly came up every month at the monthly meeting. Sometimes we
18 used to have to have fortnightly meeting to try and clear the agenda and then
19 if you wanted to give effect to Mr. Gilmartin's project in the interim between
15:26:06 20 the reviewing of the County Development Plan, that would have been the vehicle
21 by which it could be considered.

22 Q. 529 And all of this was against the back drop of the County Development Plan is
23 that correct?

24 A. Yes well the county development plan was the sort of planning Bible, the
15:27:00 25 elected members made it, signed did, sent it to the Minister, to the
26 department, and then the executive arm of local authorities implemented it
27 until there was a new plan, revised and adopted. So you came in wanting to do
28 something like what Mr. Gilmartin wanted to do, you could either wait and have
29 it reviewed as part of the review process or if the elected members were
15:27:24 30 prepared to table a material contravention on the existing plan, you could

- 15:27:28 1 handle it in that way.
- 2 Q. 530 What state was the County Development Plan in at the time Mr. Gilmartin came on
3 the scene?
- 4 A. Well the plan was adopted in '72, five years, '77 -- fortunately it took six
15:27:43 5 years six years to complete a five year period, which was in itself an issue
6 and a problem, and then we recommenced our second review in 1988 and as you
7 know from the dates that's when Mr. Gilmartin was entering the scene, somewhat
8 prior to the commencement of the review of the plan and we took until 1993 to
9 complete the second review.
- 15:28:09 10
- 11 So in 21 years you had two, five year reviews, and that was causing serious
12 bottleneck of planning, forward planning in the County Dublin area
- 13 Q. 531 So you were beginning a second review around 1998 is that --
- 14 A. That's correct.
- 15:28:25 15 Q. 532 So, Mr. Gilmartin's project came at a bad time in terms of the County
16 Development Plan, is that correct?
- 17 A. Well no, it just came at the time that if you wanted to give effect to it or
18 revised version of what the man wanted to do, you would have to go through the
19 due process and await the outcome.
- 15:28:40 20 Q. 533 How long would that have taken?
- 21 A. Well it actually, it took until 1993 to adopt the new plan and the zoning that
22 we put on Quarryvale didn't have legal effect until the 1993 plan was signed
23 off by the then Chairman and the manager.
- 24 Q. 534 And how much influence would you have had as a County Councillor on this
15:29:01 25 Development Plan and it's formulation?
- 26 A. Well you had the influence of one of 78 members, but you had a lot more
27 influence if matters were being considered from your electoral area because
28 your colleagues would listen to you anyway, they mightn't always agree with
29 you. And in that way both Councillor Hanrahan and myself were the two Fianna
15:29:24 30 Fail councillors in the Quarryvale area and there was a Fine Gael and Labour

15:29:29 1 councillor there, there was four of us elected for that electoral area, so
2 anybody wanting to do anything in that immediate area would make their case to
3 those four elected members and then broaden it out to the rest of the elected
4 council.

15:29:44 5 Q. 535 So your first port of call would be a cross party agreement?

6 A. Anybody ever came to me and said well you know, I agree with your project I
7 think it's good or this, you should increase it or decrease it or whatever the
8 comments were, and make sure you go and put your case to the elected members
9 and if they didn't know, give them the photostat out of the County Council
10 diary which had the names, addresses, home office and any other phone numbers
11 that elected members had.

12 Q. 536 So for the scheme that Mr. Gilmartin was promoting who would be the ultimate
13 decision makers who decided or who would decide?

14 A. The ultimate decision makers made their decision on 16th May 1991 that they put
15 a, well it was a district centre zoning on the Quarryvale lands which wasn't
16 what Mr. Gilmartin ideally wanted but it was the decision that was reached in
17 the form of a compromise that worked up towards that throughout the period of
18 time that the Tribunal has been investigating this matter.

19 Q. 537 We will come back to that, was there any other major projects similar to this
20 that came on the agenda around that time?

21 A. Actually I think we did, probably the biggest material contravention in the
22 country was processed just prior to the commencement of the review of the 1988
23 plan and that today is the City West business park, which was a project that I
24 personally strongly pioneered and recommended, various investment people from
25 the company that promoted and took up that idea and as you go out the Naas Road
26 today the finest business park in Europe, if not the world is there, and we
27 have dealt with that by way of material contravention.

28 Q. 538 An that was successful?

29 A. It's very successful.

15:31:33 30 Q. 539 You support it?

- 15:31:34 1 A. I actually brought, it was my idea in the first place and the reason being was
2 that 300 acre landowner came to me, turned up at my home on a Saturday evening
3 at half five and mobile phones weren't around then the poor man had to wait
4 until nearly 7 o'clock, when I got to meet him, I had been out on a
15:31:57 5 constituency -- he explained he had 300 acres on the Naas dual carriageway, he
6 had 6 sons and he had been diagnosed with cancer and was wondering could
7 something be done with the land so he could get it sorted out, I went and saw a
8 leading stockbroker and the rest is history, it's a fine project and there
9 today.
- 15:32:16 10 Q. 540 That intervention did you do that as a politician?
- 11 A. Yeah.
- 12 Q. 541 Why?
- 13 A. Because the whole west side of Dublin was badly in need of a base for quality
14 industrial investment.
- 15:32:25 15 Q. 542 How did that help you?
- 16 A. It wasn't intended to help me, it was intended to do what was right by what you
17 could do, it's an industrial job creation, number of my constituencies.
- 18 Q. 543 Was there an electoral benefit for you in that?
- 19 A. Indirectly there might be, they might set up an Anco office on the site and
15:32:51 20 might take names of people from satellite towns and Clondalkin, probably
21 Tallaght as well, there was a big west Dublin County potential benefit that
22 spun off.
- 23 Q. 544 So that's a success story?
- 24 A. Yes, yeah.
- 15:33:02 25 Q. 545 Have any of the promoters came back and made allegation of that project against
26 you?
- 27 A. No they are here behind me, papers printed out there every day, but they don't
28 make any complimentary comments about it, but that's how it is there. It is
29 just a very successful project.
- 15:33:17 30 Q. 546 Okay let's move on. Before Quarryvale or the Liffey Valley centre as it's now

- 15:33:23 1 known came on stream, what were the main retail centres serving your
2 constituency?
- 3 A. The village of Lucan which wouldn't be a big retail centre, small super market
4 and retail shops, Palmerstown had a cross between a neighbourhood and district
15:33:42 5 shopping centre and in North Clondalkin we had what were called neighbourhood
6 centres which were a bit of a disaster, then the village of Clondalkin, paper
7 mills, converted to shopping and then in Blanchardstown there was the problem,
8 the old village, Superquinn in the Main Street the former cinema, not all
9 catering adequately for the growing population and you had a sort of lead lag
10 growing period where you were trying to get town centres built, you had half
11 the population in, 50 to 60,000, high unemployment, so forth, so there was
12 quite a sort of glove fit problem we had with getting the County Development
13 Plan town centres off the ground and it was at that time that Mr. Gilmartin or
14 slightly at the end of that phase that he came on the scene.
- 15:34:09 15 Q. 547 Did you support the location of a town centre in your constituency?
- 16 A. Well I inherited the two town centre locations from the elected council of '72
17 and we were working towards trying to give effect to those two town centres and
18 the Tallaght town centre of course, and the government had to make a major
19 decision to get the first town centre off the ground in Tallaght where we had
15:34:57 20 70 odd thousand population, it wasn't my constituency it was a neighbouring
21 constituency but it was the priority at the time and in order to do so they had
22 to break with the tradition of creating the urban tax renewal scheme for inner
23 city renewal and grant to a Greenfield site in Tallaght and the government of
24 the day lobbied severely by Deputies Rabbitte and Taylor and opposition,
15:35:23 25 private members in the Dail etcetera, eventually the government the Minister
26 for the Environment, Pdraig Flynn, got the government to approve the putting
27 of a tax designation on Tallaght town centre and that's how that financially
28 got --
- 29 Q. 548 Were you involved in that?
- 15:35:37 30 A. Not really, I knew Phil Monaghan well from my refrigeration days in Dundalk.

- 15:35:42 1 Q. 549 Did you support it?
- 2 A. I didn't have to it was a government decision, so it didn't come to the floor
- 3 of the council.
- 4 Q. 550 Where did Balgaddy fit into all this?
- 15:35:49 5 A. Balgaddy was the site waiting to happen and well, we have been through all of
- 6 why it might and might not, it was the official designated town centre site, it
- 7 was the pick of the planners, it was strategic between the populated centres of
- 8 Lucan and Clondalkin. North Clondalkin is a man made creation from mid '70s
- 9 onwards, we had a big build up of local authority housing, lot of social
- 15:36:19 10 problems because of high unemployment, in that satellite town Balgaddy was
- 11 designated to be the satellite town to serve that 100,000 population.
- 12 Q. 551 Did you support that?
- 13 A. Again it was part of the '72 plan, so we were just, we didn't have to accept or
- 14 reject it we were working towards trying to give effect to it.
- 15:36:39 15 Q. 552 Did you meet Mr. O'Callaghan in this period when you were trying to give effect
- 16 to this?
- 17 A. I met Mr. O'Callaghan after he had tried to put the district centre up at
- 18 Cooldrinagh location. I explained to him that the priority was Balgaddy all
- 19 the energies, to get shopping and a centre.
- 15:36:58 20 Q. 553 Before you dealt with Mr. Gilmartin what was your relationship with
- 21 Mr. O'Callaghan?
- 22 A. My only recollection of Mr. O'Callaghan prior to that was that when I took over
- 23 Hall Thermo Tank Ireland, I took over an office in Cork with some engineering
- 24 staff I remember visiting Cork and meeting Mr. O'Callaghan who had bought the
- 15:37:20 25 British margarine company's building on the South Mall, and he was looking for
- 26 an engineering survey of the building to see if the refrigeration system could
- 27 be converted to accommodate the storage of intervention products which was very
- 28 big pressure point at the time and that was the only --
- 29 Q. 554 Did you have any business relationship with him?
- 15:37:44 30 A. The engineering possibilities of the property he had didn't really lend itself,

15:37:52 1 the ceilings were too low, insulation was inadequate, he really had bought this
2 property from what I can recollect for development but he was wondering could
3 it be temporarily used but it didn't advance, I think we might have provided
4 him with a report saying that the cost was exorbitant it's and he didn't
15:38:09 5 proceed, no.

6 Q. 555 So no relationship, commercially?
7 A. No.

8 Q. 556 Let's come on to Mr. Gilmartin, he comes on the scene, when did you first meet
9 him?
15:38:16 10 A. Mid, late May 1988 in the Deadman's Inn.

11 Q. 557 This was the meeting that was set up by Mr. Fassnidge, isn't that correct?
12 A. Yeah Mr. Fassnidge's phone call set about that meeting.

13 Q. 558 We will come back to that meeting again, but Bachelor's Walk what was your
14 involvement there?
15:38:36 15 A. Well the only, at that meeting Mr. Gilmartin outlined Bachelor's Walk. I
16 wasn't aware that there was anybody intending to do what Mr. Gilmartin outlined
17 to me, which was seemed the most desirable project. Going to do a major
18 rebuilding of very prominent part of the city, quays there, in a pretty --

19 Q. 559 Did he canvas your support for that?
15:38:58 20 A. He didn't need to because it was outside my constituency and at that stage he
21 outlined he was representing this major UK property company and he was very
22 enthusiastic about their past record and excited about getting them into
23 Dublin.

24 Q. 560 This is Arlington?
15:39:13 25 A. Yes.

26 Q. 561 Did you know anything about them?
27 A. Not until that day, that evening.

28 Q. 562 Did you know anything about Mr. Gilmartin's background?
29 A. No, I didn't even know.

15:39:22 30 Q. 563 How did he represent himself to you?

- 15:39:24 1 A. To be fair, the man presented himself and told a very progressive outline of
2 what he wanted to do and --
- 3 Q. 564 What did he want to do, Mr. Lawlor?
- 4 A. I was under pressure for time so we reconvened the next day, what he wanted to
15:39:40 5 do was in co-operation with the British company, to acquire from the Half-penny
6 Bridge, down to not quite O'Connell Street, but there is a little lane I think
7 South Lotts Lane and he wanted to acquire that block of running out on to Abbey
8 Street, fronting it on the quays and fronting on Abbey Street and put up this
9 600,000 centre, square foot centre. He had, he was somewhat more advanced than
15:40:09 10 that, he also talked about --
- 11 Q. 565 Was that a realistic proposal to your knowledge?
- 12 A. Well a big retail centre in the centre of a capital city would always seem to
13 be a project with potential, but I think the capital outlay and the bus station
14 on top and various other technical matters that were introduced tended to
15:40:31 15 frustrate it, coupled with later the exorbitant prices that Mr. Gilmartin has
16 stated people claimed for their holdings and that.
17 But if they could have assembled the site and got around and dealt with if
18 there was Preservation Orders on any of the particular buildings, if they could
19 have dealt with all that it could have been a very viable centre city property.
15:40:53 20 Just further up the Jervis Street centre is a monument to what could have been
21 done and I suggest it was even a better location.
- 22 Q. 566 In the end nothing happened?
- 23 A. No, nothing happened and it's been well trawled here in the Tribunal that there
24 are commercial reasons.
- 15:41:06 25 Q. 567 So you have this meeting with Mr. Gilmartin, how did he appear to you, what did
26 you make of him?
- 27 A. Well, I have to say I was quite impressed by the man and his claims of
28 achievement in the UK and explained that he was in the engineering business and
29 property development and you took him at his face word and he was talking about
15:41:29 30 doing the two projects he wasn't talking about Quarryvale in the context of

15:41:34 1 what emerged, he was talking about wanting to invest in my constituency and he
2 wanted to advance this centre city project. So I outlined in some detail there
3 and the next day what he should and shouldn't do and how he should proceed and
4 it's my recollection that he gave me a phone number, a name, Mr. Dadley, who
15:41:52 5 was coming to Dublin, he was a prominent new man heading up a retail property
6 investment division of his Arlington company, and would I meet him.

7 Q. 568 And you did?

8 A. I did yeah. I don't know whether I met him in Dublin or spoke to him by phone
9 and then met him in London.

15:42:07 10 Q. 569 And what did you make of Arlington's involvement, did that give it credibility?

11 A. Absolutely, because I remember in the foyer of their Head Office of Arlington,
12 their annual reports, so while reception was making contact with Mr. Dadley I
13 picked up the annual report and was reading their past achievements and it was
14 very impressive. Some very impressive brochure colour photographs of projects
15:42:38 15 I remember one in Reading and one in -- I think they developed one of the
16 finest business parks in Europe.

17 Q. 570 So these were a substantial PLC?

18 A. Yeah they were, they seemed to be, I wouldn't have -- just superficially I
19 would have been impressed.

15:42:51 20 Q. 571 Mr. O'Callaghan this morning described Mr. Gilmartin as a man going around with
21 a briefcase, would that be your impression?

22 A. Mr. Gilmartin came to Dublin and didn't have any base or office and Arlington
23 rented office in Stephen's Green, I think he used to use that as a facility but
24 I don't think it had anything directly to do with himself, so he never really
15:43:12 25 set his flag down permanently here, although he did to be fair to him, talk
26 regularly about wanting to acquire property, a house.

27 Q. 572 What did you do for Mr. Gilmartin?

28 A. Well Mr. Gilmartin was coming to me somewhat advanced in the political system
29 in that he met with the Minister for Environment back in November I think of
15:43:32 30 1987 and afterwards he would have suggested to me that he was told to come and

15:43:40 1 see me by the Minister for Finance I recall, who was a county man of his or
2 maybe not actually to see me for the first time, but to consult with me. That
3 was Mr. Gilmartin telling me that the Minister for Finance asked he seen or met
4 me and he should consult and outline --

15:43:57 5 Q. 573 Did the Minister for Finance ever contact you about Mr. Gilmartin?

6 A. No I don't -- I think his own evidence was he never met Mr. Gilmartin, but
7 because of the Sligo connection, Mr. Gilmartin regularly suggested that both
8 Ministers McSharry and Flynn were very enthusiastic and supportive of his
9 project, a bit like Mr. O'Callaghan this morning, and I have to say to be fair
10 to him, I met Mr. Gilmartin through the corridors of Leinster House on three or
11 four occasions, when I wasn't aware he was coming in to the Dail, he wasn't
12 there at my invitation, but he was in regularly, because he had connections
13 with Senator Willie Farrell, he had numerous meetings with the Minister for the
14 Environment, so he was very active in that period of time and did, you know,
15 walk through the corridors of power fairly effectively.

16 Q. 574 Did Mr. Flynn put any pressure on you to assist him?

17 A. No, that wouldn't be possible. If he put -- we had discussions I met this man
18 Gilmartin what do you think, what's he going to do when -- do you think is it
19 for real, I would have explained to the Minister, you know the plan and review
20 of the plan and we have to go through the due process and -- the dilemma I have
21 for Mr. Gilmartin is that whether the ministerial support which was real, was
22 for his project or for a project to be compatible with the planning requirement
23 of County Dublin Development Plan which A, it was not going to be but there was
24 the potential to change our plan to fit a project, which we eventually did for
25 Mr. Gilmartin, but it wasn't Mr. Gilmartin's project.

26
27 Now I don't know and it's up to the Minister or former Minister when he comes
28 in here to explain, but I am reading through Mr. Gilmartin's evidence and I am
29 seeing all the time that Mr. Gilmartin was a 100 percent convinced that the
30 government wanted his scheme.

- 15:45:54 1 Q. 575 Was that your information?
- 2 A. No, it wasn't. Nobody in government ever suggested that what Mr. Gilmartin
3 wanted to do should be done.
- 4 Q. 576 Mr. Gilmartin seems to have tried to create the impression that he had friends
15:46:07 5 in high places, did he do that to you?
- 6 A. Yes he did, but I mean, I take it that somebody goes and sees a Minister and
7 explains a project and the principal then comes to see a deputy on the ground
8 and says I was with your colleague the other day the Minister for the
9 Environment and he is very supportive of my project and so forth, you take that
15:46:26 10 at face value, but you also assume this the Minister's support is qualified by
11 the requirements of meeting what are the local planning authority's
12 requirements and if the promoter can't make his scheme compatible with their
13 requirements all the ministerial support in the world can't assist you and that
14 was the dilemma that appears to have --
- 15:46:49 15 Q. 577 How did you evaluate Mr. Gilmartin's scheme in terms of it's likelihood of
16 success?
- 17 A. Well that's where the slight altercation, he says I recall and I recall him
18 getting somewhat upset when I tried to explain that this particular brochure
19 and what's proposed in that cannot happen.
- 15:47:08 20 Q. 578 This was Westpark?
- 21 A. Yes. And I tried to explain the reason why I was telling him that and he went
22 on to explain to me, fairly vigorously to be fair to him, that he had
23 ministerial support and he was very disappointed and annoyed that I, the local
24 Fianna Fail Deputy, wasn't compatible with the thinking of my ministerial
15:47:29 25 colleagues and went as far as to suggest --
- 26 Q. 579 In your opinion as a councillor at the time, was it possible to do what he
27 wanted to do?
- 28 A. No.
- 29 Q. 580 Why?
- 15:47:38 30 A. Well if Mr. Gilmartin lodged his Westpark proposal as we have seen here with

15:47:46 1 his EIS report and all of the necessary planning requirements to lodge a proper
2 planning application for his Westpark scheme, the executive arm of the local
3 authority had the decision-making function and as it wasn't compatible with the
4 County Development Plan, they would automatically issue a refusal.

15:48:09 5 Q. 581 Could that be overridden by the government?

6 A. No, it could be appealed to An Bord Pleanala. An Bord Pleanala then not having
7 a statutory requirement but having a planning requirement to take account of
8 County Council Development Plans and the Ministerial Directive that guided the
9 size of centres, I would predict, would refuse the Westpark proposal, however
10 that's only supposition, it never actually happened like that.

11 Q. 582 But I mean you had certain expertise in this area?

12 A. Well that's why I tried to talk to Mr. Gilmartin about scaling back his scheme
13 to make it more compatible.

14 Q. 583 How did he react to that?

15:48:47 15 A. That's -- the reaction was that my ministerial colleagues were in favour of the
16 scheme and really I should be toeing the line a bit like what Finbar Hanrahan
17 found to more extent, because him suggesting that I should be responding to
18 what the Minister for Finance or Minister Flynn was suggesting in my
19 constituency would just have the reverse effect.

15:49:10 20 Q. 584 So you were telling him this wouldn't fly, is that correct?

21 A. I was telling him that as he envisaged it but we did want something done out in
22 north Clondalkin badly, if he was prepared to try and find solutions and
23 negotiate with O'Callaghan Properties who held the official town centre site,
24 between the two of them if they could work out some sort of intelligent
25 compromise then the politicians could get behind the project.

26 Q. 585 Is this where your relationship with Mr. Gilmartin fractured?

27 A. Well you know, I genuinely feel to this day, without being acrimonious about it
28 that he would see myself, Finbar Hanrahan can speak for himself, he sees as the
29 two local elected Fianna Fail councillor that would not support his project, I
15:49:59 30 suppose the answer is, yes. I suppose he does see if Lawlor and Hanrahan on

- 15:50:03 1 the ground had supported what the Ministers were telling him --
- 2 Q. 586 Would it not have been easier for to you support him and plamas him?
- 3 A. Well no -- well I suppose --
- 4 Q. 587 Insinuations from Mr. Gilmartin that you were after money, if that was the case
- 15:50:19 5 would it not have been easier to slap him on the back and say let's go on Tom?
- 6 A. Well you know, I never got to talk about money to the man because I explained
- 7 the situation to him, his project wasn't going to go anywhere to the
- 8 discussions and allegations he made since about looking for 100s or 200s or 5
- 9 millions or shareholdings or that, Mr. Gilmartin's discussions with me and the
- 15:50:46 10 potential of his project never got beyond me saying I couldn't support his
- 11 project, so I don't know how I could have ever got to the stage of discussing
- 12 other matters.
- 13 Q. 588 If he made Liam Lawlor a shareholder in Westpark could it have flown then?
- 14 A. Absolutely not, no.
- 15:51:01 15 Q. 589 Why?
- 16 A. Because the council and the An Bord Pleanala would have rejected the project
- 17 because the impact that the 1.5 million square feet of retail, as has been
- 18 trawled here by myself in studying the Lichfield report, highlights that the
- 19 viability of Westpark would have been fantastic and huge but its effects on
- 15:51:25 20 other centres that are worthy of having their centres, would have been very
- 21 detrimental and --
- 22 Q. 590 So just bear with me here. From inception was there any possibility of
- 23 Westpark being realised?
- 24 A. Never.
- 15:51:42 25 Q. 591 No matter who the shareholders were?
- 26 A. No matter if God himself was trying to promote it. And 1.5 million square feet
- 27 it never could politically fly, unfortunately.
- 28 Q. 592 No allegations against God, but certainly Mr. Lawlor, it's insinuated you were
- 29 looking for a share?
- 15:51:56 30 A. I was looking for a share of a project that could never go anywhere it was a

- 15:52:02 1 bit of a waste of time talking about it and even suggesting it. And if such an
2 issue was to be addressed it had would be putting your declaration, you would
3 be a share holder, this was a million pounds, I would have always thought the
4 promoters would have had to risk about 25 percent of that.
- 15:52:20 5 Q. 593 How many times did you meet Mr. Gilmartin?
6 A. I would guess about 7 or 8.
- 7 Q. 594 And do you believe you were cooperative with him and helpful?
8 A. I believe I gave him good solid constructive critical advice but he didn't
9 quite interpret that, he didn't accept what I was trying to convey to him about
10 his project.
- 11 Q. 595 And did he believe he had influence above yours?
12 A. Yes he did, yes, yes. Most definitely he did. How it t could be given effect
13 I could never figure out but he did believe he had this access anyway and he
14 had support.
- 15:52:54 15 Q. 596 I will come back to the allegations about Arlington later on, but what was your
16 relationship with Arlington?
17 A. They were very good. I got on terribly well with this man Dadley, he was quite
18 a gregarious character, he came and went, dined and wined, and he socialised
19 and he sponsored and he was cock of the hoop and he was going to rebuild --
- 15:53:16 20 Q. 597 Was he supportive of Mr. Redmond, or Mr. Gilmartin?
21 A. Yes he was yeah, because Mr. Gilmartin had brought him in and I always
22 interpreted that this was going to be Mr. Dadley's new impact in his new
23 position.
- 24 Q. 598 Had Mr. Dadley any knowledge of the Irish planning scene?
15:53:33 25 A. No. Mr. Dadley's background was site identification for the Tesco organisation
26 I gather, before he joined Arlington, so his role in the property business had
27 been identifying forward planning UK sites for Tesco super markets.
- 28 Q. 599 So his expertise would be operational rather than construction?
29 A. Managerial and operational, and they would have employed most prominent
15:53:59 30 international planners and I know they had a very very competent planning team

15:54:02 1 as I recall, you know, international planning names.

2 Q. 600 Did Mr. Gilmartin give you any money?

3 A. No never, and I never asked him for any money and he never gave me any money.

4 Q. 601 Did Arlington ever give you any money?

15:54:16 5 A. They did yes.

6 Q. 602 Can you explain to the Tribunal for what and how much that was?

7 A. Well, it emerged as I have already given evidence to the Tribunal with

8 Mr. Dadley and myself in London, and unfortunately there is three or four

9 different versions of the meeting.

15:54:32 10 Q. 603 What's your version?

11 A. My version is that I met the man, had -- introduced.

12 Q. 604 Not the meeting Mr. Lawlor what's your version on the money. Explain how much

13 you got and what you got it for?

14 A. Well came around after an hour chatting about the scheme and the excitement he

15:54:49 15 felt towards doing this big centre city scheme in Dublin and talked about other

16 projects they were pursuing in the UK, and how much he looked forward to being

17 successful with the Dublin scheme, I told him I thought it was a wonderful

18 idea, I think we talked about the statistical briefing documentation that I

19 would provide with which I did, which gave him a better insight into why Dublin

15:55:13 20 was the right site he wouldn't have had a great knowledge of the demographics

21 of Dublin at the time, he was just beginning to find his feet on the project.

22 Q. 605 Who suggested that he make a donation to you?

23 A. It sort of mutually emerged in the discussion.

24 Q. 606 Did you canvas him for a donation?

15:55:29 25 A. I talked about elections and having been in the commercial sector and now

26 devoting one's time to politics and so forth, I was on -- three times the

27 salary as a managing director as I was on Dail Deputy's salary, so I left that

28 behind me, we talked in that general way and he had got his big break with

29 Arlington and was doing very well. So the subject came around about political

15:55:57 30 life and cost of elections and constituency offices and that and he volunteered

15:56:01 1 it. I wasn't in a position, the first final meeting this man to be getting
2 into that detail, so as he volunteered it there was an arrangement made that he
3 would liaise with Tom Gilmartin, leave it to him and he would look after it, he
4 sort of set a figure out over a period of time and pay it through Tom Gilmartin
15:56:21 5 in his Dublin account and I was somewhat surprised by his generosity and by his
6 attitude, and he gave effect to it and Tom Gilmartin to my knowledge never
7 objected or said anything to me or was upset or opposed by it, that's what
8 happened.

9 Q. 607 You are saying this payment was a corporate political donation?

15:56:37 10 A. To be paid by Arlington through Tom Gilmartin.

11 Q. 608 And Arlington was the source?

12 A. Arlington was the source, because they recompensed Mr. Gilmartin, whatever
13 monies Mr. Gilmartin paid me.

14 Q. 609 Was there ever a planning application in relation to either Bachelor's Walk or
15 Quarryvale?

16 A. No, there was no right to, legal right to lodge on Bachelor's Walk because they
17 only assembled I think 30 or 40 percent of the site, to make a formal planning
18 application you have to have either contract to purchase or ownership of the
19 totality of the lands to apply.

15:57:13 20 Q. 610 But did you ever, ever vote for any planning related matter for Arlington or
21 Mr. Gilmartin?

22 A. For Mr. Gilmartin, yes.

23 Q. 611 What did you vote for?

24 A. I voted to put the restricted district centre zoning on the Quarryvale lands on
15:57:29 25 the 16th of May which is really the basis of the next module I presume, but
26 there is that confirmation.

27 Q. 612 That wasn't what he wanted was it, he wanted a much bigger scheme than
28 restricted area?

29 A. Well yes, but I mean -- you had to attend meetings in Blanchardstown and
15:57:50 30 Clondalkin and Lucan and Palmerstown and here the objections to the scheme, the

15:57:53 1 only way I could see something built in North Clondalkin was take the
2 initiative and scale it right back, and put it on public display, that was the
3 decision --

4 Q. 613 So this was a compromise proposal?

15:58:04 5 A. Very much and the vote to put it, it was a vote to the put it on public display
6 for three months to allow all parties to make their views known on it.

7 Q. 614 Okay what we are saying here is Mr. Gilmartin comes along with a grandiose
8 scheme of 1.5 million square feet, he enlists the advice of the local
9 representative, Liam Lawlor. He through his company or his company, his
10 supporter, makes political donations and the net result is you support a
11 restricted version of his plan?

12 A. Well the contributions were for, from Arlington which had nothing whatsoever to
13 do with.

14 Q. 615 I accept that?

15:58:42 15 A. With Liffey Valley.

16 Q. 616 But they were to be a financial partner weren't they?

17 A. Yes but I never discussed money with Mr. Gilmartin other than the Arlington
18 arrangement, the giving effect to it. As regards his Westpark Quarryvale
19 project, I never had any discussion about monies with Mr. Gilmartin,
15:59:03 20 percentages.

21 Q. 617 But Mr. Gilmartin is clear isn't he, that the restricted version that Liffey
22 Valley became was nothing akin to what he wanted to do, isn't that correct?

23 A. No, his evidence here was he thought he got on the site what he was looking
24 for, but I mean it's not correct. He is wrong in that assertion. He claimed
15:59:20 25 that we had zoned 180 acres for retail for him when we voted for him, he didn't
26 even know I voted for it, which sounded incredible after all the trauma and
27 troubles and so forth.

28
29 But no, the elected members took an intelligent decision based on my initiation
15:59:40 30 with the movers of the motion Messrs McGrath and Gilbride. I told them if they

15:59:46 1 wanted to get a motion to the Council they would have to scale back what was
2 intended by Mr. Gilmartin and then I went about trying to get compromise on the
3 north side of the constituency and as a result we had a letter shown here this
4 morning, where we reassured Mr. Corcoran who reassured the elected members for
16:00:03 5 Blanchardstown that he was happy to allow --

6 Q. 618 We have seen that. But the net result I put to you Mr. Lawlor is that after
7 meeting you, forget about all the accusations, allegations, insinuations the
8 net result is, that all you supported was a scaled down version of
9 Mr. Gilmartin's dream?

16:00:19 10 A. Yes.

11 Q. 619 Chairman, it's now 4 o'clock, I reckon I have only another 20 minutes to go
12 with Mr. Lawlor, I think maybe for continuity sake if the Tribunal is willing
13 to sit on I have only one more section to go through with specific allegations.
14

16:00:36 15 CHAIRMAN: If it's about 20 minutes then we would prefer --

16 Q. 620 Give or take sir, I think would be helpful.

17 I have a couple of other questions about Mr. Gilmartin before I get into a
18 substantive allegations about you. Did you bring him to the County Council?

19 A. Yes, I think maybe he was brought to the County Council I think I might have
16:00:54 20 been in the council and he was collected at the airport, it's now transpires it
21 is six or eight weeks after the date Mr. Gilmartin recalls it, the 28th --

22 Q. 621 But you did affect an introduction to the Council?

23 A. I did.

24 Q. 622 How many people would you have done that for over the years?

16:01:11 25 A. Those that I thought it could be of assistance, could be housing officers,
26 could be managers, could be engineers, park Superintendents.

27 Q. 623 Was that consistent with your role as County Councillor and TD?

28 A. Absolutely yeah and in the Planning Department I used to facilitate -- because
29 just if I could be given a moment to explain to the Chairman and his two
16:01:35 30 colleagues, the tragedy of this subject in County Dublin was how far behind

16:01:41 1 forward planning fell as against the growth of the county and the reviews of
2 the County Development Plan were a horrendous operation because the forward
3 planning was inadequate and it was mainly inadequate because the Dublin
4 Corporation owned so much land out in west Dublin and wanted to protect the
16:02:00 5 asset rather than allow flexibility in the planning.

6 And they didn't want any population placement on the north fringe and Swords,
7 Chairman, where there was big pressure because of the economic hub of the
8 airport, so we ended up with material contraventions and section 4s, we then
9 ended up that the construction industry federation, industry of planning,
16:02:22 10 landowners, developers, delivered submissions three and four-foot high by way
11 of written submissions trying to get the plan changed.

12
13 As a result of that unfortunately the politicians got sucked into a major
14 planning role in County Dublin, which I believe to the die day I die should
16:02:41 15 never have happened but it did happen. So we got involved in the whole
16 planning process because the planning process itself, and to be fair to the
17 Minister coming in to give evidence here tomorrow or the next day he broke up
18 the big monolithic 78 member Dublin County Council and it's working very
19 effectively since, South Dublin, Fingal and Dun Laoghaire were given their
16:03:03 20 autonomy and reviewing plans in 3 or 4 years in the space of a year, we were
21 way behind and we talk all this time to review the plans.

22
23 So the planning manager would have facilitated elected members with officials
24 nominated to meet people when requested by elected members and because
16:03:23 25 Mr. Gilmartin had referred to roads to me and as Mr. Redmond had responsibility
26 for roads at the meeting of the Deadman's it was my suggestion I would arrange
27 for him to meet the manager with responsibility for that particular part of the
28 local authority.

29
16:03:39 30 If he had said to me he was looking at a big town centre I would have explained

- 16:03:43 1 Balgaddy thing to do him but would have probably said I will bring you in to
2 meet Mr. Prendergast and you can explain your project to him.
3
4 So yes meeting with officials was a formula of openness and transparency and
16:03:56 5 that's the way it operated.
- 6 Q. 624 Did you give Mr. Gilmartin other contacts in Dublin Corporation besides
7 Mr. Redmond?
- 8 A. Not -- not council I presume, no not really the only thing I would have, I
9 don't know whether I did or not, but I have already said in evidence in dealing
16:04:14 10 with that sort of thing I would have faxed Mr. Gilmartin's office the internal
11 pages of the council's diary which had everybody listed, direct lines fore
12 managers, engineers, planners, all of those people.
13 So if somebody was looking for information about the council and needed to go
14 and consult with other people, you just gave them the couple of pages of fax
16:04:40 15 and solved the whole lot they it all in front of them and could go about their
16 business.
- 17 Q. 625 Let's move on to Mr. Gilmartin's specific allegations he has come to the
18 Tribunal here and insinuated various things about your performance as a
19 councillor, a TD and a person indeed. First of all let's go back to the
16:04:59 20 meeting of the Deadman's Inn. Did you represent yourself as being a
21 representative of the Irish government?
- 22 A. No.
- 23 Q. 626 Are you clear about that?
- 24 A. One 1,000 percent clear because, well I just didn't because it didn't warrant
16:05:13 25 any such sort of -- I new nothing about the scheme until the man explained to
26 me.
- 27 Q. 627 Had Mr. Gilmartin indicated to you at that meeting that he had previous
28 meetings with Ministers?
- 29 A. I don't think so no I don't think so.
- 16:05:25 30 Q. 628 He met Mr. Flynn before that meeting?

16:05:28 1 A. It transpired in the brief that he met him in November of '87 and I don't know
2 whether the Chairman of Arlington met the then Taoiseach Charles Haughey but I
3 see correspondence there, letters of Tony Ryan arranging a meeting with Lord
4 Keith who was a the Chairman and Mr. Mould the managing director.

16:05:51 5 Q. 629 If you represented yourself as representing the Irish government would that
6 have had any credibility?

7 A. None whatsoever because Mr. Gilmartin could say what are you talking about I
8 met the Minister for Environment 7 month ago, or go and ask the Minister for
9 Environment, I met this man Lawlor who purported to represent the government,
16:06:04 10 Mr. Gilmartin knew that Mr. Flynn was representing the government, so to
11 suggesting that I was representing the government is just wrong.

12 Q. 630 So your role was as the local man, the that on the ground?

13 A. My role when he outlined Arlington thing was to support it on a wider Dublin
14 basis, whatever he wanted to do in North Clondalkin I would stand on my head to
16:06:24 15 help him, I brought him in to meet the manager thinking that was the best thing
16 to do for him.

17 He seemed to think that was productive, he wrote back a nice letter to the
18 manager and since concocted this version of the meeting that there was a map
19 given and money sought, his letter totally belies that.

16:06:40 20 Q. 631 Let's deal with that Mr. Lawlor was there any map given?

21 A. There was no map given the man didn't know why I was bringing him in.

22 Q. 632 Did you seek money at that meeting?

23 A. Not in the slightest, never. Never happened, the meeting as outlined.

24 Mr. Gilmartin tried to say there was two meeting and there was not two meeting
16:07:00 25 and Mr. Redmond's evidence and the evidence on record here was that there was
26 only the meeting I arranged with Mr. Redmond and the meeting he had with
27 Mr. Redmond and his team of planning staff.

28 Q. 633 Let's go back to the Deadman's again, did Mr. Gilmartin tell you about an up
29 coming meeting in Arlington at that meeting?

16:07:16 30 A. No my recollection is that he spoke about Mr. Dadley and what his role was

16:07:21 1 would I speak with him, give him every encouragement to sort of say that he was
2 doing the right thing, and Dublin was an exciting city to invest in etcetera.
3 That's the way it evolved. It evolved to a stage where Mr. Dadley invited me
4 and three other prominent people to go back and address a very important group
16:07:39 5 of people from the company's point of view, there are investors, fund managers,
6 15 or 20 people there at a little seminar, and we were explaining why they
7 should --

8 Q. 634 Are you sure you were invited to this meeting?

9 A. Absolutely.

16:07:53 10 Q. 635 You didn't barge in?

11 A. No the first meet building Gilmartin, there is different versions I was
12 supposed to be in attendance when he arrived, I was supposed to have barged in
13 when he was there, and you know, it happened as a I recall it very clearly as I
14 that I that was the only time I was at this Brewer's Gate, Head Office of
16:08:14 15 Arlington, I can fairly clearly recall on both occasions.

16 Q. 636 What happened on the first occasion?

17 A. First occasion was Ted Dadley and I became acquainted with each other and spoke
18 at some length about things and then Mr. Mould joined us and we had a chat
19 there for 10, 15 minutes and left the building and went out to lunch locally,
16:08:33 20 after that I went about other business I had in London. Second time I went --

21 Q. 637 Was there Gilmartin there the first time?

22 A. No, he was never there and he wasn't at the briefing session, I asked
23 Mr. Dadley why he wasn't at the second session, I thought he should have been
24 as principal of the project we were speaking about and he made a sort of snide,
16:08:52 25 not complimentary remark about well he wouldn't want him in this company or
26 whatever.

27 I was surprised he wasn't in attendance because the purpose of that
28 presentation was to convince the investors that they should support Arlington
29 in acquiring and redeveloping the Bachelor's Walk site and that was the group
16:09:11 30 of people that were going to put the finance up if it was going to fly.

- 16:09:14 1 Q. 638 Now in these meetings with Arlington did you look for money?
2 A. No never other than the discussion I had with Ted Dadley.
3 Q. 639 And that was for a corporate political donation?
4 A. That's the way it emerged.
- 16:09:25 5 Q. 640 Did you ask Arlington for a share in the project?
6 A. Not -- never, in public company, no. The answer is absolutely not.
7 Q. 641 Did you seek a consultancy agreement?
8 A. No.
9 Q. 642 Was there is a consultancy agreement?
16:09:36 10 A. There was no such agreement no, it never arose.
11 Q. 643 Has such an agreement ever been put to you?
12 A. No because -- I mean Arlington were going to appoint a professional team, they
13 were going to interface with the city council officials the land, the site I
14 presume in downtown Dublin was zoned it didn't need any political input from
16:09:56 15 any quarter.
16 Q. 644 On the donations they made to you, have you seen any information or financial
17 records from Arlington or Tom Gilmartin showing how these payments were
18 accounted for?
19 A. No, but I believe the Tribunal is still about it's business, I don't know has
16:10:11 20 it, Chairman, I think you were going to make efforts to try and establish how
21 Mr. Gilmartin treated these financial matters in his accounts but no, I haven't
22 seen any evidence of how it was dealt with.
23 Q. 645 Now there was a donation cheque for 33,000 pounds sterling, how did that come
24 about?
16:10:27 25 A. That came about as a result of a phone call from Mr. Dadley to say that
26 reluctantly the board had decided they weren't proceeding with the Bachelor's
27 Walk project. Now, I didn't get the full jist of the reason was that things
28 were gone sour here for them, I didn't know enough about the nitty gritty of
29 the project, and the reason I recall he put forward to me was that British
16:10:53 30 Aerospace had taken over Arlington Properties PLC and that they very

16:11:00 1 substantial land bank around airports in the United Kingdom and as a result
2 they had so many development possibilities that they were winding back this
3 possibility in Dublin, and I think he might have said that the site was too
4 expensive or they were having trouble assembling it or whatever the reasons
16:11:18 5 were. He said he was sorry it wasn't going ahead and look him up the next time
6 I was in London and he would make a contribution and he didn't say the amount
7 or anything else. The conversation ended along those lines and this cheque
8 arrived some, maybe week later.

9 Q. 646 Mr. Dadley in his evidence to the Tribunal was quite clear when he said that
16:11:37 10 there was no consultancy agreement?

11 A. No, sure there wasn't because there was no need to it. I couldn't give them
12 any consultancy advice, they didn't need it they had access to everybody they
13 wanted to and all they had to do was have resources and the financial or
14 planning team and could have built what they wanted to do.

16:11:56 15
16 But Arlington and unfortunately it was Mr. Dadley, maybe it went to the heart
17 of their failure, it was his perceived idea, as I recall in chats with him, he
18 got an idea if he could get a bus station on the top of the building on the
19 third floor that all the shoppers entering the city via public transport would
16:12:15 20 end up at the terminus above the centre, and then obviously the retailers would
21 hope to have a better opportunity of holding onto the customers who would do
22 their shopping in the centre having disembarked from the buses.

23
24 That then necessitated an investment by CIE or Arlington on their behalf and
16:12:33 25 renting it back, that seemed to generate itself into a major financial
26 stumbling block at a later stage, so I always was of the opinion that that was
27 Arlington's own mistake, Mr. Gilmartin concurred with that, that he never
28 agreed that idea.

29 Q. 647 There has been slightly conflicting information from Mr. Dadley and Mr. Mould
16:12:54 30 on November 1989, when they spoke to Assistant Commissioner Hugh Sreenan, I

16:12:59 1 understand they said, there was no offer by Mr. Lawlor to act as consultant and
2 no fee, money or any benefit was given to him nor was the same suggested by the
3 other side. That doesn't concur with Mr. Gilmartin's recollection, what do you
4 say to that?

16:13:14 5 A. Or with their own direct evidence here, they were rather selective with their
6 information they were giving to the police officer, the Garda officer as we
7 call him. But they were right in saying there was one no consultancy
8 agreement, which there wasn't and if there was there should be something in
9 writing to give effect to it and what your duties and responsibilities were and
16:13:33 10 number two, they didn't make any contributions. I suppose it's a bit like John
11 Bruton they weren't asked the right question, if they had said did anybody on
12 behalf of the company make any contributions they might have had to say yes
13 then, they were able to say no, on the basis that it was Mr. Gilmartin as far
14 as they were concerned were making contributions.

16:13:57 15 Q. 648 Let's go back to Mr. Gilmartin obviously we are operating at a slight
16 disadvantage because we don't have all the allegations that Mr. Gilmartin made,
17 that's the subject of proceedings, but did you ever ask Mr. Gilmartin for a
18 share or money in Quarryvale?

19 A. I never did, I never got on to that subject with Mr. Gilmartin ever.

16:14:15 20 Q. 649 Did you ever walk the lands with Mr. Gilmartin as he claims?

21 A. No I never did. Never, never, never.

22 Q. 650 Did you ever ask him for anything when he met you at your home with Mr. Forman,
23 his colleague, your home?

24 A. Not at all, no.

16:14:30 25 Q. 651 Just to get onto the meeting with Mr. Redmond, Tom Gilmartin says there were
26 two meetings, is that correct?

27 A. All I can do is go by what I can remember and what has been discovered it
28 appears to me that and it's confirmed although denied by Tom Gilmartin that
29 Mr. Hartnett's letter puts me at the heart of the arranging of the meeting with
16:14:52 30 the manager and that's fact, it's there, Mr. Hartnett acknowledged

16:14:56 1 Mr. Gilmartin's nice letter back thanking the manager for meeting him etcetera
2 etcetera. No sign of any animosity there, no sign of any demands or maps or
3 whatever and Mr. Gilmartin then went on to try to suggest that wasn't an
4 official meeting, whatever an official or unofficial meeting, you arrange a
16:15:15 5 meeting with manager and bring him in it's a meeting, call it what you like,
6 that's the only meeting Mr. Gilmartin had with Mr. Redmond at that time.

7 Q. 652 Was it the only meeting you were at?
8 A. Yes, yeah.

9 Q. 653 That was on the 20th June 1988?
16:15:28 10 A. It was now discovered my secretary arranged that with Mr. Redmond's secretary,
11 yes.

12 Q. 654 Was there a map produced at that meeting?
13 A. There was no map because we didn't know what the whole subject matter was
14 about.

16:15:38 15 Q. 655 Did you ask for money at that meeting?
16 A. Not at all never.

17 Q. 656 Let's go onto the Buswells meeting of 28th December 1998, were you there?
18 A. No.

19 Q. 657 Are you sure?
16:15:48 20 A. I am absolutely sure, and again how farcical the meeting could be if it ever
21 happened for a brief second if we suggest it might have happened, to suggest
22 that Finbar Hanrahan walked into Buswells Hotel and saw Liam Lawlor and asked
23 for a 100,000 pounds from a black stranger, who he would have assumed Liam
24 Lawlor knew would be just political madness on his part, and he and I were
16:16:14 25 getting the brunt of the opposition to Mr. Gilmartin's project.
26
27 And I never agreed with a whole lot in political life with Finbar Hanrahan but
28 I have to agree that he was consistent in explaining to Mr. Gilmartin what I
29 had been trying to explain to him and we were now and I would further say that
16:16:32 30 as Mr. Gilmartin went about lobbying for his project even though he claimed he

- 16:16:37 1 didn't, everybody he went to would have asked what's Lawlor and Hanrahan doing
2 are they for this things or not? He was of the knowledge that we weren't, so
3 the animosity towards Finbar Hanrahan and Liam Lawlor by Mr. Gilmartin in
4 hindsight is vicious because he now views us as having blocked the project that
16:16:57 5 the government wanted and that we out there on the ground blocked.
- 6 Q. 658 Did you give Mr. Gilmartin the names of other councillors who would support
7 him?
- 8 A. No, I recall on a general basis that if I did ever give him names it would have
9 been the extracts from the diary with the full names and if I -- I wouldn't
16:17:16 10 have given it to him I would have said we'll put it in the post or put on a fax
11 to you.
- 12 Q. 659 Alright, just again to finish on the Buswells meeting. Did Mr. O'Callaghan
13 Mr. Deane and Mr. Callaghan all say you weren't there, are they correct?
- 14 A. Mr. Kelly was supposed to be there and I never met the man until September,
16:17:35 15 October, November 1991. And this meeting was back in the '80s I never met the
16 man, I'm very friendly with him since but never met the man in my life. The
17 28th of December in Buswells Hotel, downtown Dublin a couple of days after
18 Christmas, that date is wrong. It is definitely correct that Mr. Gilmartin,
19 Mr. O'Callaghan and Mr. Deane and Mr. Hanrahan had a meeting in Buswells at
16:17:56 20 some other date but putting me into that date is totally wrong and I was not
21 there and never met Mr. Gilmartin in the circumstances that he has sworn here
22 out of this box.
- 23 Q. 660 Okay I want to take you onto the media highlight of this section of the module.
24 The alleged meeting in the Dail of 1st of February 1989. Did you meet
16:18:17 25 Mr. Gilmartin in Buswells and take him to meet Mr. Haughey an the cabinet?
- 26 A. No.
- 27 Q. 661 Are you sure?
- 28 A. I'm absolutely positive.
- 29 Q. 662 Would Mr. Haughey have asked you to arrange such a meeting?
- 16:18:26 30 A. No.

- 16:18:26 1 Q. 663 Now we have had evidence of Mr. Gilmartin's recollections of the layout of the
2 Dail and I believe you addressed them in cross-examination on this?
- 3 A. I don't have the slightest doubt, Mr. Tom Gilmartin met the then Taoiseach and
4 five or six Ministers and it's a pretty much as the Taoiseach today and former
16:18:50 5 Minister O'Rourke explained and it was my, just putting it to the Tribunal for
6 consideration that Mr. Gilmartin was in meeting the Minister for the
7 Environment very likely there was a vote called and as the Taoiseach former
8 Taoiseach, now Taoiseach and other Ministers were going back to their offices,
9 Mr. Gilmartin was in Mr. Flynn's office or a small little meeting room in the
16:19:15 10 ministerial corridor and Mr. Flynn would have in his gregarious way, rounded up
11 everybody, brought them in shake hands with this man, he is going to invest
12 millions and create jobs and so forth and that meeting, I would suggest took
13 place. Mr. Gilmartin has put me at bringing him over, bringing him up to the
14 top floor, the Taoiseach had have asked me to arrange a meeting, I would have
16:19:37 15 been at the meeting and I wasn't at the meeting.
- 16 Q. 664 You were definitely at no meeting?
- 17 A. I was at no meeting, that didn't happen the way Mr. Gilmartin explain it had
18 but as I say the man was in around Leinster House very frequently and could
19 very well have met, and the way he explains going across the glass corridor,
16:19:56 20 whatever you call it, that's over the ministerial block he would have met them
21 all over there.
- 22 Q. 665 That's canvassed in other evidence, let's get to another question are you the
23 five million pound man?
- 24 A. No, and graciously he has withdrawn that allegation, I don't know how --
- 16:20:09 25 Q. 666 He did make it earlier didn't he?
- 26 A. Well he did.
- 27
- 28 CHAIRMAN: It's recorded that he made it. He says he never --
- 29
- 16:20:17 30 JUDGE FAHERTY: That he never made it

16:20:18 1 A. Well maybe Noel Smith's statement might help, Chairman.

2

3 CHAIRMAN: Sorry?

4 A. Maybe Noel Smith's statement might help.

16:20:28 5

6 CHAIRMAN: The fact is that Mr. Gilmartin says he didn't make it, but he was
7 recorded as having made it.

8 Q. 667 MR. RUSSELL: Okay let's move on Mr. Lawlor, one of the primary tenets of
9 Mr. Gilmartin's evidence is that somehow you were being obstructive, that's his
10 primary complaint, and I want to just run through a few dates with you if you
11 don't mind, just to put this obstruction or alleged obstruction in context.

16:20:46 12

13 In November 1988 there was a summit meeting of the City Manager, assistant City
14 Manager and government Ministers, Mr. Flynn included and they were told of a
15 meeting between Gilmartin and O'Callaghan. They believed the way was open for
16 the sale of the Corporation land at Quarryvale, would that be correct?

16:21:08 17

17 A. Yes the managers --

18 Q. 668 I am going to go through a few dates just to set the context I will ask you the
19 question at the end.

16:21:23 20

21 On the 17th November, Mr. Tom Doherty instructed the chief valuer to enter
22 negotiation with Mr. Gilmartin on Quarryvale. On the 2nd December '88, there
23 is a draft letter from Mr. McLoone offering the lands to Mr. Gilmartin, subject
24 of course to terms and conditions. On the 13th of the same month,

16:21:38 25

26 Mr. Morrissey in a letter to Mr. McLoone rejects the extended length of time
27 for payment. On the 19th, Mr. McLoone sends a letter to Mr. Gilmartin
28 recommending disposal of land issued subject to conditions and terms. On the
29 20th December 1988, Mr. McLoone in a letter to Mr. Gilmartin recommends
30 disposal on the same basis. On the 17th January the following year 1989 after
the holidays, Mr. Gilmartin sends a letter to the Corporation accepting the

16:22:01

16:22:05 1 purchase of the lands on the terms set out on Mr. McLoone's letter of the 19th.
2 On the 30th of January, Mr. McLoone sends a letter to Mr. Doherty advising him
3 of the agreement with Mr. Gilmartin for the disposal of the lands, on terms
4 that are fair and reasonable, I quote. And on the 2nd February Mr. McLoone
16:22:22 5 sends a letter to Derek Brady recommending procedures to be put in place for
6 disposal of the lands to Mr. Gilmartin. On the 2nd of February there is a
7 letter from Mr. McLoone to Mr. Gilmartin saying he is making submissions to his
8 principals and looking for approval.
9

16:22:36 10 Now, in your experience of the Corporation at that stage what was
11 Mr. Gilmartin's position on the 2nd of February 1989?
12 A. Well I think to be fair to all concerned in the Corporation including
13 Mr. McLoone, that I have been highly critical of in other areas, there was
14 agreement the manager was accepting and happy with the proposal the valuer had
16:22:59 15 now got acceptance from the intended purchaser and he was going through the
16 principal officer and law agent to send out the contract on the 2nd of
17 February.
18 Q. 669 Would that be a very speedy process from November 1988 late November, sorry mid
19 November 1988 to 2nd of February 1989 for a disposal of that magnitude was that
16:23:20 20 not a very fast track --
21 A. Well I think it just proves that Mr. Gilmartin's evidence is, that there was
22 nobody on his back as he repeatedly said, I wasn't interfering I think
23 Mr. Redmond has given his own evidence to say his position on the matter the
24 allegation of Mr. Gilmartin has made about my having any ability to interfere
16:23:43 25 in the sale of Dublin Corporation land is wholly spurious and has no basis in
26 fact.
27 Q. 670 Did you interfere anywhere there in November, December or January 1988/89 to
28 prevent Mr. Gilmartin getting these lands?
29 A. No, and if I wanted to interfere what would I do? Ring up McLoone and tell him
16:24:02 30 not to recommend it or ring Mr. Morrissey and tell him no to sell, I would be

- 16:24:09 1 totally out of order and totally rejected, it would be foolish to be even
2 suggesting that you could interfere in anyway like that.
- 3 Q. 671 So on the 2nd of February 1989, Mr. Gilmartin has total agreement to proceed,
4 is that correct?
- 16:24:20 5 A. That's correct.
- 6 Q. 672 So why didn't he?
7 A. He didn't have the money and he then put in an option agreement and I think
8 it's very unfair to Mr. Sean Haughey to suggest it was at his recommendation,
9 if it was it's a serious matter.
- 16:24:36 10 Q. 673 Let me just go beyond that a little bit, I have a couple of other dates to put
11 to you on the 22nd February there was a supposed aborted meeting with
12 Mr. Redmond, Mr. Gilmartin and his advisers according to Mr. Gilmartin. On the
13 23rd February Mr. Feeley notes that Mr. Gilmartin had a meeting with the
14 assistant manager, Sean Haughey to complain about you, was that made known to
16:24:58 15 you at the time?
16 A. No, it wasn't I knew nothing about it.
- 17 Q. 674 Okay so just hear me out, on the 24th February we have a note of Mr. Feeley
18 confirming interview with Mr. Gilmartin. Nowhere is there evidence identified
19 regarding interference with the lands going to tender, however Mr. Gilmartin
16:25:13 20 made allegations concerning you, isn't that correct?
21 A. Well now really Mr. Feeley's statement that's contributed, Mr. Feeley noted
22 that time about the five million pound issue which now turned out to be a ball
23 of smoke.
- 24 Q. 675 So, Mr. Gilmartin meets Mr. Feeley and makes certain allegations about you on
16:25:31 25 the 24th February, what happens then, what's the result of that?
26 A. Well the result is obviously that Mr. Feeley now is going to dot every I and be
27 very wary of dealing with Mr. Gilmartin in the context of making sure that if
28 there is going to be any business dealings with him, that it's going to be all
29 past the smell test etcetera etcetera.
- 16:25:51 30 Q. 676 So he put it to public tender?

- 16:25:54 1 A. Well, Mr. Gilmartin was the maker of his own downfall on that if he had been
2 capable of acting on the 2nd of February proposal and not interjected with a
3 change to an option agreement in my opinion he could have gone ahead and
4 acquired the land and what he was complaining about and the facts don't marry
16:26:14 5 any longer. He now has everything going well for him in the acquisition of
6 land and yet he is in complaining.
- 7 Q. 677 Right let's go forward to the 6th of March we have a letter from Mr. Forman to
8 McLoone looking for an option on the land after discussions with Mr. Sean
9 Haughey, why we want an option if he had an agreement to buy it?
- 16:26:35 10 A. The option was subject to planning maybe 3 years later if you got everything
11 you want you play the Corporation for the land it was very very specific for
12 Mr. Morrissey, the reason they were hastily selling this land --
13
14 MR. QUINN: Sorry, I don't want to interrupt I wonder is Mr. Lawlor reading
16:26:51 15 from something?
- 16 A. I have done out a schedule of dates here yeah. All those schedules, trying to
17 make sense of this evidence, I gave these dates in on another occasion you
18 decided not to circulate it because I believe it succinctly, Chairman --
- 19 Q. 678 It's an aid memoir to the dates I am now, I don't see the problem we'll
16:27:11 20 certainly give the Tribunal a copy?
- 21 A. A letter from Forman to McLoone looking for option on the land after
22 discussions with Sean Haughey. I could verbalise it no trouble but I just
23 wanted to try and convey, Chairman, that Mr. Gilmartin's problem with his
24 complaints and the facts of what was happening with the officialdom and trying
16:27:30 25 to do business with him.
- 26 Q. 679 I can inform the Tribunal that in a closing submission that we'll prepare this
27 will be an appendix, but I think.
28
- 29 CHAIRMAN: But it's just you would know a witness shouldn't be referring to
16:27:42 30 detailed notes.

- 16:27:42 1 Q. 680 It's an aid memoir and given the succession of dates in a very short period of
2 time I don't think it's unreasonable if Mr. Lawlor has to refer to it?
- 3 A. I have no problem with not reading I can sing them at this stage.
- 4 Q. 681 I will continue. We are up to the tender process then begins on the 19th May
16:28:05 5 and we are into a tender process which is caused by Mr. Gilmartin's allegations
6 to Mr. Feeley, is that correct?
- 7 A. Well coupled with Mr. Corcoran's beating the drum around to know what's going
8 on over there and wanting to protect his company's property interests in
9 Blanchardstown. And now we have a, now we have a match on because he hears
16:28:34 10 that Mr. Gilmartin wants to build Westpark, he hears from the grapevine and
11 from all his sources that this big project is looming large, that could destroy
12 his town centre possibilities. So he entered the fray. Properly up front,
13 make it difficult for the competitor.
- 14 Q. 682 The cat is out of the bag, is that correct?
- 16:28:53 15 A. Well it was back to Judge Keys the dogs in the streets were barking about what
16 Mr. Gilmartin wanted to do by this time now.
- 17 Q. 683 Okay so we then end a tender process which begins on the 19th May, is that
18 correct?
- 19 A. Yes.
- 16:29:06 20 Q. 684 And by the 26th of May the elected members of Dublin Corporation had given
21 their approval to the tender process, is that correct?
- 22 A. That's correct yeah, that went swimmingly and Joe Burke's evidence here was
23 when he was asked by the now Taoiseach to look in to see was everything going
24 okay was there any issue he discovered there was no issue and Mr. Gilmartin's
16:29:29 25 land was swimmingly through the system.
- 26 Q. 685 Right, I want to take you to a specific date and this is crucially important to
27 this module of the Tribunal Mr. Lawlor, on the 2nd of June, a ten day notice
28 was issued by the council explain to the Tribunal what a ten day notice is?
- 29 A. It's a statutory requirement to inform the elected members of the then city
16:29:49 30 council that they have to get that period of time, so that if somebody wants to

- 16:29:54 1 object to the disposal or interject or have an input that is just the formal
2 statutory proposal and that was forwarded out to the elected members with their
3 agenda for the subsequent monthly meeting of the Corporation.
- 4 Q. 686 So that's from the officials of the council is the formality to the elected
16:30:14 5 members of the council that they have agreed a sale for the lands, is that
6 correct?
- 7 A. That's correct yes.
- 8 Q. 687 So on the 2nd of June 1989 the ten day notice goes out, it means Mr. Gilmartin
9 has the land, is that correct?
- 16:30:25 10 A. He has the land subject to the elected members reaching the disposal of
11 properties heading on the agenda and agreeing it and disposal of properties
12 came up every month under the following headings: Sale of local authority
13 houses to individual families, sale of property such as.
- 14 Q. 688 So effectively the property were in the Mr. Gilmartins gift subject to certain
16:30:52 15 conditions?
- 16 A. Yes subject to some elected member in Dublin City Council giving some valid
17 reason why the manager's recommendation should be objected to and maybe making
18 an argument on the floor of the chamber.
- 19 Q. 689 That would be done in open forum?
- 16:31:05 20 A. Yes, absolutely yes.
- 21 Q. 690 Now on the same day Mr. Gilmartin makes a payment of 50,000 pounds to
22 Mr. Flynn?
- 23 A. Well Mr. Gilmartin at the time is claiming --
- 24 Q. 691 That's right isn't it just bear with me?
- 16:31:18 25 A. That's correct.
- 26 Q. 692 But he explained in his evidence the reason he gave Mr. Flynn the money was to
27 get you and Mr. Hanrahan off his back, you and Mr. Redmond sorry?
- 28 A. Yeah we weren't within a hundred miles of his back unfortunately for him.
- 29 Q. 693 But he also said it was to stop the interference in him acquiring the land?
- 16:31:38 30 A. But the dates and sequence and speed of swift of foot there is no interference.

- 16:31:43 1 Q. 694 If you were interfering by the 2nd of June 1989, the game was up wasn't it?
- 2 A. Yes if there was the ability to interfere, then it wouldn't have got to the
- 3 stage where the ten day notice was in the works to be sent out.
- 4 Q. 695 Now, Mr. Burke councillor gave evidence that there was no interference, is that
- 16:32:02 5 correct?
- 6 A. There was no interference you know, I -- well he was a member of the, Chairman
- 7 I think of the committee that had nodded the thing through to go to the full
- 8 council.
- 9 Q. 696 At this time or contemporaneously, did anybody go to you and say Liam stop
- 16:32:20 10 interfering?
- 11 A. Never, didn't even know anything about this land disposal, I didn't know about
- 12 Mr. Gilmartin's dealings on the land issue it was a very official only function
- 13 that, as we can see principal officers, orders to negotiate, orders to sell,
- 14 signed orders etcetera etcetera, it was purely an administrative executive
- 16:32:41 15 function of local authority to dispose of properties up to the stage where it
- 16 went on the agenda for the elected member to approve it.
- 17 Q. 697 Okay. Now let's get back to this payment to Minister Flynn. Could Minister
- 18 Flynn if that was a bribe as has been insinuated, could he have delivered on
- 19 what Mr. Gilmartin wanted?
- 16:33:01 20 A. Well he could have attempted to abolish the directive on retail shopping
- 21 centres, which is what Mr. Gilmartin's professional team of advisers advised
- 22 him was the impediment between him and success.
- 23 Q. 698 These are the so called six directives, is that correct?
- 24 A. The directive and other suggestion about abolishing the need for an
- 16:33:24 25 environmental impact statement and so forth but the fundamental directive that
- 26 it impinged on the success or otherwise of the Westpark proposal was the
- 27 Ministerial Directive that sat in every planning authority office in Ireland,
- 28 to be given effect to, and the effect of that was the size of the Westpark
- 29 proposal could not be considered because of it's impinging effect on other
- 16:33:44 30 centres as we have seen here.

- 16:33:45 1 Q. 699 So this would be a monument all shift in government policy, is that correct?
- 2 A. Yes.
- 3 Q. 700 Would you have had any influence on that other than as ordinary TD?
- 4 A. No, other than when it came to the floor of the house the parliamentary party
- 16:33:58 5 would discuss future legislation the whip would bring it to our attention, the
- 6 ministers and the Taoiseach, the cabinet would be there, an exchange of views
- 7 about next week's business, and if there was -- actually it's only an order so
- 8 it wouldn't even be legislation the Minister can make a new order, sign an
- 9 order and send it out to the local authority.
- 16:34:17 10 Q. 701 Okay now, those directives was that a runner to anybody that knew anything
- 11 about planning?
- 12 A. Never.
- 13 Q. 702 Now --
- 14 A. I think Mr. O'Callaghan's evidence.
- 16:34:27 15 Q. 703 He dealt with that this morning?
- 16 A. He said he had been strengthened in the 2000 Act to give it a more rigid
- 17 interpretation because of the necessity to protect towns like Navan, Port Laois
- 18 etcetera.
- 19 Q. 704 Right but you would have had no influence there?
- 16:34:41 20 A. No, none at all.
- 21 Q. 705 I want to come to the allegation about percentages. I have here six different
- 22 versions of percentages you were supposed to get. Mr. Gilmartin statement said
- 23 20 percent, another one of Mr. Gilmartin's statements said 10 percent, half of
- 24 his 20 percent stake, there was another again mention of 20 percent stake in
- 16:35:03 25 Quarryvale, 5 percent stake in Arlington, 10 percent stake in Arlington, five
- 26 percent came from Mr. Feeley's written statement, Commissioner Sreenan
- 27 mentioned 10 percent in Arlington. Did you canvas any of those percentages?
- 28 A. No, I never had that suggestion with Mr. Tom Gilmartin. My understand
- 29 something that Mr. Tom Gilmartin in whatever commercial fall out he had with
- 16:35:25 30 his partner here of this morning and Allied Irish Banks into the mid '90s, '96

16:35:32 1 went home to Sligo to attend a funeral came back, was driven in around Liffey
2 Valley centre under construction, felt that this was his project, he had been
3 robed and denied of the project, he got very upset about it all and he started
4 making allegations and on recall he started saying who can I blame, well if
16:35:52 5 that Lawlor had supported me and Hanrahan and various other people I would own
6 all of this.

7 Q. 706 Okay Mr. Lawlor I have just a few short matters just to tidy up before I bring
8 to it a conclusion. Did you ever go to AIB bank centre with Owen O'Callaghan
9 and Frank Dunlop?

16:36:09 10 A. Never.

11 Q. 707 Are you sure?

12 A. I have a letter from the Chairman of the bank saying he queried it I sent it
13 into to the Tribunal and asked it be circulated Chairman, and I am now told
14 that it's very private correspondence between me and Dermot Gleeson of AIB, I
16:36:24 15 went about that after Mr. Gilmartin made that false allegation from the box
16 here why the bank's letter is not capable of being put on the screen here this
17 evening I don't know, but I was never in bank centre and never met or saw Tom
18 Gilmartin ever.

19 Q. 708 You deny that absolutely?

16:36:40 20 A. Yes and the Chairman of the bank concurred.

21 Q. 709 Just to finalise the allegations of Mr. Gilmartin there was a bit of a gossipy
22 one he thrown in at the end about your relationship with Bradys garage and your
23 payment of your bills. Can you just clarify that once and for all for the
24 public record?

16:36:57 25 A. I believe it's borne out of begrudgery from a former councillor who
26 represented the Blanchardstown area.

27 Q. 710 Just give us the truth of the matter and put it on the public record?

28 A. Well the truth of the matter is, that the man that made these allegation that
29 is Mr. Gilmartin picked up is symptomatic of a good turn never goes unpunished,
16:37:18 30 situation is that I negotiated a deal with Gerry Brady and I honoured the deal

16:37:23 1 and there was never any implications, tails on it or otherwise, told him I
2 would pay him, didn't give a date, he didn't demand a date and I paid him
3 that's the end of the matter.

4 Q. 711 So you bought a car and you paid for it?

16:37:35 5 A. To indulge in having it here Chairman --

6 Q. 712 Mr. Lawlor you bought a car and paid for?

7 A. Yes I did.

8 Q. 713 There was mention of a McDonald in Palmerstown did you do anything to help
9 planning on a McDonalds in Palmerstown?

16:37:48 10 A. I don't even know where it was supposed to be because there is no such facility
11 there.

12 Q. 714 There is no McDonalds in Palmerstown was there ever a proposal?

13 A. Not that I can recall.

14 Q. 715 Let's leave that it is of no particular consequence, just in conclusion,
16:38:02 15 Mr. Gilmartin as we all know, has come to town to make certain allegations and
16 insinuations against you, why should he do that?

17 A. Because of disappointment, bitterness, whatever, the man had the dream and it
18 was shattered for him by his own inability to deliver it, but he blames other
19 people and blamed people very very widely, he started with calling the
16:38:30 20 Taoiseach a liar, he is not going to stay in office another week.

21 Q. 716 Let's stick with you, he has insinuated on the public record, in interviews and
22 in media leaks and interviews and so on, that you firstly sought money or
23 financial gain from him, is that correct?

24 A. I never did no the situation never arose.

16:38:51 25 Q. 717 That you obstructed him?

26 A. No, I advised him give him good advice but he didn't have the intellect to take
27 it.

28 Q. 718 Now Judge Keys, just before lunch made a very interesting point to
29 Mr. O'Callaghan when he referred to the public feeling that there was no good
16:39:11 30 going on in the planning process and that Mr. Gilmartin to quote himself has

- 16:39:16 1 been a victim of this, what do you say to that?
- 2 A. Well the evidence doesn't support it. We voted for Mr. Gilmartin's land to
- 3 give him retail facilities on it, without ever asking or getting a penny from
- 4 the man; and Mr. Gilmartin was sent off after the 16th May decision of the then
- 16:39:37 5 Dublin County Council with his zoning under his arm to build his centre of
- 6 acceptable proportions. What commercial arrangements he had with
- 7 Mr. O'Callaghan or Mr, and Allied Irish Banks I don't know. It appears to have
- 8 gone terribly sour for Mr. Gilmartin, according to Mr. Gilmartin, and everybody
- 9 is to blame; and all I know is that what I did when I met the man, the advice I
- 16:40:02 10 gave him, the help I tried to give him and so forth, his Quarryvale project is
- 11 a limited success known as Liffey Valley today, I don't know why he is not
- 12 still a 40 per cent or whatever shareholding he was supposed to have in it. It
- 13 had nothing whatsoever to do with the political system. Mr. Tom Gilmartin
- 14 should be and was until 1996 it appears from the evidence, a participant in the
- 16:40:28 15 project and I don't know what happened in his commercial life, but politically
- 16 here in this city and County, Mr. Gilmartin, unbelievably, got us to change a
- 17 town centre of 20 years standing on to land that he had acquired. And that's
- 18 the truth and the facts, and it's there on the record.
- 19 Q. 719 Very good Mr. Lawlor. Just one small issue just before we finish, there is
- 16:40:54 20 serious insinuation in this module of the Tribunal that the money you received
- 21 from Arlington/Gilmartin was not a political donation, it was a consultancy
- 22 agreement. Now in your evidence you have denied that, you still deny that, is
- 23 that correct?
- 24 A. I do; and if anybody can bring out the consultancy agreement --
- 16:41:10 25 Q. 720 Please Mr. Lawlor, just answer my questions. You deny that was a consultancy
- 26 agreement?
- 27 A. Yes, I do.
- 28 Q. 721 Have you ever been sued for breach of contract on any consultancy agreement by
- 29 Arlington or Mr. Gilmartin in the intervening years?
- 16:41:24 30 A. No.

16:41:24 1 Q. 722 Why?

2 A. Because it didn't arise. There is no evidence of any consultancy and there is

3 no even suggestion as to where one could consult for them.

4 Q. 723 So if these commercial people, Mr. Gilmartin and Arlington, had come into

16:41:38 5 Ireland and retained you as consultant and paid you a hundred thousand in

6 consultancy fees, do you think they would have some cause to sue for breach of

7 contract for not delivering?

8 A. I presume they would if that was the arrangement, but that wasn't and therefore

9 it never arose.

16:41:53 10 Q. 724 So as a political donation, do you believe that you acted at all times with

11 propriety?

12 A. I do. Yes, Arlington's track record there as to how they failed is known and

13 it was well trawled here in the Tribunal and all I can say is that exactly as I

14 outlined is what occurred.

16:42:09 15 Q. 725 Thank you Mr. Lawlor.

16

17 CHAIRMAN: Thank you.

18

19 JUDGE FAHERTY: I just want to clarify one point with you please, it goes back

16:42:21 20 to when you yourself were cross examining Mr. Gilmartin and it was about the

21 meeting of the Deadman's Inn, and you were, in fairness to you you were cross

22 examining Mr. Gilmartin about his allegation that a map was produced at the

23 later meeting when he met Mr. Redmond. This was on I think, Day 470 -- the

24 question you put to him was Day 470 question 161 and you are referring back to

16:42:47 25 yourself meeting Mr. Gilmartin in the Dead Man's and you said, you were talking

26 to Mr. Gilmartin "You had explained to me you were interested and I can't

27 recall but I would have said that Des Bruton owned the land across, we were

28 just across the road in the Dead Man's Inn I would have known that possibly

29 Frank Sharpe had lands and probably would have been a lot of local authority

16:43:08 30 land because it was predominantly a local authority owned area". You were

16:43:14 1 putting that to Mr. Gilmartin; are you in agreement that that discussion
2 between yourself, that there was a discussion about land ownership between
3 yourself and Mr. Gilmartin in the Dead Man's Inn?
4 A. Yes. And I have would have been sort referring to Brendan Fassnidge and saying
16:43:31 5 "sure Brendan you know Des Bruton, I don't know him, I know his name and where
6 he lives, in the red brick house over there". Because the Corporation had
7 built so much housing there they had a big land bank still remaining.
8
9 JUDGE FAHERTY: The reason I was asking you Mr. Lawlor was, when you were
16:43:46 10 answering Mr. O'Neill I wasn't sure whether or not you were concurring that
11 there was discussion between yourself and Mr. Gilmartin about land ownership at
12 the Dead Man's? I am just saying you yourself when you were asking
13 Mr. Gilmartin questions, was referring back to what I took as your recollection
14 of your discussion with Mr. Gilmartin.
16:44:04 15 A. Yes, because coincidentally when we were in the premises we were in, the lands
16 just the far side and there was that sort of general reference. The other
17 problem we had there and that's why it would be so knowledgeable to everybody
18 was that there was massive illegal itinerant halting sites in the area because
19 the Corporation weren't managing their land very well. Private owners tend to
16:44:27 20 look after their boundaries and farming or whatever even though it was zoned
21 for industry, Corporation weren't quite so diligent and as a result we always
22 were in aggro with the management over the Corporation lands in the County.
23
24 JUDGE FAHERTY: Thank you very much.
16:44:45 25
26 MR. RUSSELL: Chairman, Could I make one small point to the Tribunal before we
27 conclude for the evening?
28
29 It is our intention as part of our limited representation to make a written
16:44:55 30 submission to the end of this module of the Tribunal. I assume that that can

16:44:58 1 be received by the Tribunal under the terms of the legal representation myself
2 and Mr. Delaney have.

3
4 And secondly we are still pursuing the disclose of Mr. Gilmartin's statement, I
16:45:12 5 just want to put that on the record.

6
7 CHAIRMAN: You will be entitled to put in a written submission. Just one
8 thing before you go Mr. Lawlor, did you ever meet Mr. Gilmartin in Buswells? I
9 accept your evidence that you didn't meet him on this occasion, that he has
16:45:31 10 spoke about, but on some other occasion would you have met him in Buswells?

11 A. I would think I probably did Mr. Chairman, yes.

12
13 CHAIRMAN: Would you have met Mr. O'Callaghan; again not on this occasion we
14 have heard about, but on some other occasion?

16:45:47 15 A. I don't actually recall, wouldn't be absolutely certain because when people
16 were coming to see you in the Dail you tended to say "look I might be tide up,
17 I will pick you up in Buswells and bring you through" rather than have them
18 standing at the gate and coming up through the hall. So you tended to say to
19 people that might be coming in to you "I will see you in Buswells" and they
16:46:08 20 can sit and have a cup of coffee while waiting for you if you were stuck at
21 votes and that, so I can't be certain about meeting Mr. Gilmartin. I would
22 suggest I probably did meet Mr. Gilmartin in Buswells; and Mr. O'Callaghan, I
23 would be less certain of that but I couldn't say absolutely that I never did,
24 no.

16:46:27 25
26 CHAIRMAN: All right, thank you very much. We'll sit at half ten tomorrow.

27
28 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,**
29 **THURSDAY 22ND JULY 2004 AT 10.30 AM.**

13:16:57 30