

THE TRIBUNAL RESUMED AS FOLLOWS ON

MONDAY 6TH SEPTEMBER 2004 AT 10.30 AM:

10:05:55 1
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10:35:41 5 CHAIRMAN: Good morning. The following is my decision in relation to the
6 application for costs by Mr. Raphael Burke.

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8 On the 30th June 2004, following upon oral and written submissions made to me,
9 I ruled on the principles to be applied in respect of certain applications for
10:36:03 10 costs.

11
12 An application for costs was subsequently made on behalf of Mr. Raphael Burke
13 on 19 July 2004. Based on the principles detailed in this ruling and having
14 regard to the particular circumstances applicable to Mr. Burke's application
10:36:18 15 for costs, my conclusions and my reasons for so deciding are as follows:

16
17 Mr. Burke was granted limited representation by the Tribunal on the 2nd
18 February 1998, and again on 15th September 1998, following the amendment of the
19 Tribunal's Terms of Reference. From the former date until the publication of
10:36:37 20 the Second Interim Report in September 2002, both in the course of private and
21 public hearings, Mr. Burke was represented by solicitors and by senior and
22 junior counsel as was his entitlement.

23
24 In addition, he engaged the services of accountants and tax advisers to assist
10:36:55 25 him in relation to the provision of details of his financial affairs to the
26 Tribunal. Four orders relating to discovery and production of documentation
27 made by Mr. Burke were made by the Tribunal between 12 February 1998 and 22
28 December 1998. Mr. Burke himself gave evidence on oath for 26 days, in
29 additional extensive correspondence passed between the Tribunal and Mr. Burke
10:37:20 30 and/or his solicitors. Mr. Burke's legal representatives cross examined a

10:37:25 1 number of witnesses who were called to give evidence and fully participated in
2 the public hearings. There can be no doubt that Mr. Burke's legal and
3 professional advisers provided him with a committed and professional service
4 over a lengthy period of time.

10:37:40 5
6 Mr. Burke, through his solicitors, submitted an estimate of his claim for legal
7 and associated costs in the sum in excess of 10 million euro. This estimate
8 was not intended to be exhaustive and the ultimate sum sought may have been in
9 excess of this figure. Any award of costs which I may make is subject to
10 taxation by a Taxing Master of the High Court. This means that it is the
11 Taxing Master who fixes the appropriate level of charge and not me. My
12 function is to determine whether the claimant has an entitlement to recover his
13 costs, whether in whole or in part, from the State appropriate for the
14 provision of such legal or other services and not to measure the rate of
10:38:18 15 charge.

16
17 The work of the Tribunal for the period in question leading to its Second
18 Interim Report insofar as Mr. Burke is concerned in this application was
19 divided into separate modules, namely, one, the Brennan and McGowan Module,
10:38:32 20 two, the Century Module and three, the Gogarty Module.

21
22 Mr. Burke was directly and extensively involved in each of these modules. It
23 could be said in each of the modules he played a central role and that his full
24 participation was of crucial importance and relevance to the whole of the
10:38:50 25 Tribunal process.

26
27 In its Second Interim Report, the Tribunal made findings in relation to
28 Mr. Burke, both in relation to the substantive issues under inquiry and in
29 relation to co-operation with the Tribunal in its inquiries. The following
10:39:04 30 summary of these latter findings was set out in the Second Interim Report as

10:39:09 1 follows:
2
3 The Brennan and McGowan Module, issue of co-operation:
4

10:39:14 5 Mr. Burke was found to have obstructed and hindered the Tribunal by:
6
7 (A) failing to provide the Tribunal with a truthful account of the
8 circumstances in which he came to acquire ownership of the property known as
9 Briargate, Malahide Road, Swords in County Dublin.

10:39:28 10
11 (B) Furnishing an account as to how he financing the acquisition of the
12 property which he knew to be false.
13
14 (C) Failing to provide the Tribunal with a truthful account as to why he had
10:39:39 15 opened offshore bank accounts in the Isle of Man and Jersey.
16
17 (D) Falsely maintaining that the offshore accounts opened by him were opened to
18 receive the proceeds of political fundraising events in the UK when he knew
19 that this was not the true source of the funds so deposited.

10:39:56 20
21 (E) Falsely representing that a sum of 15,000 pounds lodged to his Jersey
22 account in April 1985 was a re-lodgement of funds earlier withdrawn from the
23 same account at a time when he knew this to be false
24

10:40:09 25 (F) Colluding with named individuals to give false accounts as to how the funds
26 lodged to his offshore accounts had been paid into his accounts and as to the
27 source of these funds.
28
29 (G) Failing to give a truthful account of the real purpose for which these
10:40:24 30 monies were paid by named individuals and companies related to them.

10:40:28 1
2 The Century Module, issue of co-operation:
3
4 The Tribunal held that Mr. Burke obstructed and hindered the Tribunal by:
10:40:35 5
6 (A) Failing to give a truthful account of the circumstances and considerations
7 which led to his issuing a directive pursuant to Section 16 of the Radio and
8 Television Act 1988 on the 14th March 1989 fixing the level of transmission
9 charges to be paid to RTE by Century Radio.
10:40:52 10
11 (B) Failing to give a truthful account of the circumstances which led to the
12 payment to him of a sum of 35,000 pounds by Mr. Oliver Barry in May 1989.
13
14 (C) Failing to give a truthful account as to the circumstances and
10:41:07 15 considerations which led to the introduction by him of legislation to curb
16 RTE's advertising revenue in 1990.
17
18 The Gogarty Module, issue of co-operation: The Tribunal was satisfied that
19 Mr. Burke obstructed and hindered the Tribunal in this module by:
10:41:21 20
21 (A) Failing to give the Tribunal a truthful account of the circumstances in
22 which he came to receive monies from Joseph Murphy Structural Engineering at
23 his home in June 1989.
24
10:41:32 25 (B) Falsely maintaining that Mr. Joseph Murphy Jr was not present at such a
26 meeting when he knew this to be untrue.
27
28 (C) Offering in evidence an account of events as to what occurred at the
29 meeting at his home with Mr. Gogarty when he knew this to be untrue.
10:41:47 30

10:41:47 1 (D) Failing to give a truthful account of the nature of his relationship with
2 Mr. Michael Bailey and the purposes for which the meeting at his home had been
3 arranged by Mr. Bailey.
4

10:41:57 5 In the course of my deliberations, I have carefully considered both the written
6 and oral submissions made on behalf of Mr. Burke in support of his application
7 for his costs to be paid by the Minister for Finance, the significant amount of
8 time, work and effort expended by Mr. Burke and his lawyers in their efforts to
9 cooperate with the Tribunal was emphasised in those submissions. I have no
10:42:20 10 doubt that a significant amount of time, work and effort was expended by
11 Mr. Burke and his advisers. I am aware that serious criticism was not at any
12 time directed at Mr. Burke's lawyers in respect of their efforts to cooperate
13 with and furnish information and documentation to the Tribunal by Mr. Justice
14 Flood, either at public hearings or in correspondence.

10:42:42 15
16 It was submitted to me that Mr. Burke himself had cooperated with the Tribunal
17 and that he had not, in the course of the public hearings or prior to the
18 Second Interim Report, been criticised or admonished for non-cooperation, it
19 was submitted that he had therefore a reasonable expectation that he would
10:43:00 20 ultimately recover his costs.
21

22 In order to fully apprise myself as to the extent of the non-cooperation of
23 Mr. Burke as found by Mr. Justice Flood in the Second Interim Report, it was
24 necessary for me to consider in detail transcripts of evidence, the relevant
10:43:15 25 correspondence and the documentation made available to the Tribunal which was
26 considered at the public sessions which preceded the Second Interim Report.
27

28 I did this essentially for two reasons: Firstly, although accepting the
29 findings in the Second Interim Report which I have indicated I must and should
10:43:31 30 do, I was anxious to understand the detail of the evidence which led to these

10:43:36 1 various conclusions.

2

3 Secondly, I deemed it important and necessary to ascertain whether there were

4 instances of full or substantial cooperation on the part of Mr. Burke which

10:43:47 5 could reasonably be divorced from those parts of the investigation which

6 ultimately produced the adverse findings in the report in relation to

7 cooperation.

8

9 Having read and considered the said transcripts of evidence, the correspondence

10:44:01 10 and the documentation, I am satisfied that the Tribunal's investigations

11 relating to Mr. Burke were both necessary and reasonable and did relate to

12 matters essential to the work of the Tribunal.

13

14 The extent of these investigations was directly related to the degree of

10:44:18 15 cooperation provided by Mr. Burke. The concept of cooperation has and in

16 Mr. Burke's case did have various requirements including complete discovery of

17 documentation, and the giving of evidence to the Tribunal which was truthful

18 and factual. However, it is abundantly clear, having regard to the findings of

19 the Second Interim Report and having regard to the evidence given by Mr. Burke

10:44:40 20 and other witnesses on oath, and having regard to the relevant documentation

21 made available to the Tribunal, especially when considered in the light of such

22 evidence, that Mr. Burke decided from an early stage not to cooperate with the

23 Tribunal and that this approach and stance was maintained by him throughout the

24 inquiry.

10:45:02 25

26 There was at all times a legal obligation upon Mr. Burke to cooperate with the

27 Tribunal and to give truthful evidence in the course of its public hearings.

28 Cooperation means a great deal more than merely providing documentation,

29 obeying summonses to give evidence under oath and generally conducting oneself

10:45:20 30 in a fashion which has the appearance of cooperation. Far more importantly,

10:45:25 1 cooperation involves telling the truth.

2

3 This includes the avoidance of giving evidence which is either known to be

4 false or otherwise giving evidence or providing information which, if taken in

10:45:36 5 isolation, might be factual or truthful in whole or in part, but which when

6 placed in the context of the investigations being conducted by the Tribunal, is

7 designed to mislead the Tribunal and obstruct and prevent it from arriving at

8 the full truth.

9

10:45:50 10 It is clear that the failure on the part of Mr. Burke to cooperate with and

11 give truthful evidence and information to the Tribunal was of such a degree and

12 such an extent as to cast a shadow over all of the evidence which directly

13 related to the issues being investigated by the Tribunal. This is not an

14 incidence of an individual witness being merely liberal with the truth or

10:46:14 15 occasionally giving false or tardy evidence or withholding the less important

16 aspects of a story in the hope of slowing the progress of the investigation,

17 all of which in themselves amount to non-cooperation under one guise or

18 another, it is rather a case of a crucial witness setting out deliberately to

19 mislead the Tribunal in the hope and expectation that the inquiry would prove

10:46:35 20 inconclusive or would produce erroneous findings.

21

22 Insofar as Mr. Burke did on occasion appear to cooperate with the Tribunal,

23 such cooperation was superficial and was only given to the extent necessary to

24 create the impression of cooperation.

10:46:50 25

26 I have no doubt whatsoever that Mr. Burke knew full well that his evidence and

27 the information being disclosed by him and others to the Tribunal was false and

28 misleading. The contention advanced on his behalf that any failure on the part

29 of the Tribunal to specifically warn him at the time that his evidence was

10:47:08 30 false and to specifically advise him of the consequences of him continuing to

10:47:13 1 participate in the Tribunal on this basis is a matter which should in any way
2 support his application for costs, is completely without merit.

3
4 I do accept that Mr. Burke's legal advisers acted at all times in a
10:47:25 5 professional and cooperative fashion but unfortunately, that is not a matter I
6 can be reasonably expected to take into consideration in determining
7 Mr. Burke's entitlement to costs having regard to the views I have already
8 expressed.

9
10:47:39 10 The fact that Mr. Burke's solicitors themselves may have been used unwittingly
11 as a conduit of false or misleading information furnished to them by their
12 client is not a matter that I can or should take into account in support for an
13 award of costs to Mr. Burke.

14
10:47:54 15 The effect of Mr. Burke's cooperation with work of the Tribunal relevant to the
16 three modules in question, while impossible to measure in absolute terms, is
17 nevertheless clearly of such a magnitude that it fundamentally challenged the
18 very purpose of the creation of the Tribunal and for this reason must be viewed
19 with the utmost seriousness.

10:48:14 20
21 The result of Mr. Burke's non-cooperation was to prolong the work of the
22 Tribunal. It must follow, therefore, that Mr. Burke was responsible for
23 incurring much or all of the costs which he has undoubtedly incurred.

24
10:48:25 25 I have also considered the submissions to the effect that Mr. Burke is not a
26 wealthy individual and has little in the way of savings or investments and that
27 a discharge of even a portion of the costs incurred by him will impose a
28 significant burden on him.

29
10:48:40 30 While I believe this to be a factor to be properly taken into account, it is

10:48:45 1 one on this occasion I must discount because of the degree and extent to which
2 Mr. Burke misled the Tribunal at almost every turn.

3
4 I have also had particular regard to the principles which should be applied in
10:49:07 5 respect of an application for costs and which I enunciated in some detail on
6 30th June 2004. In particular in relation to Mr. Burke's application, I should
7 mention the following principles:

8
9 The nature and extent of any cooperation or failure to assist the Tribunal.
10:49:15 10 I have found that the nature and extent of the non-cooperation and the failure
11 to assist the Tribunal was substantial and affected all three modules to a very
12 significant degree.

13
14 The consequences which flowed from this non-cooperation and the failure to
10:49:28 15 assist the Tribunal. I am satisfied that the direct consequences of the
16 non-cooperation and the failure to assist the Tribunal did prolong and extend
17 the periods of both private and public inquiries undertaken by the Tribunal.

18
19 The conduct of the applicant Mr. Burke. I have found that the conduct of
10:49:46 20 Mr. Burke in giving information and evidence to the Tribunal was in breach of
21 his legal obligation to cooperate with and assist the Tribunal.

22
23 Mr. Burke's reasons for failing to cooperate with the Tribunal and his failing
24 to assist in knowingly provide false information to the Tribunal. I am
10:50:03 25 satisfied from the extent of Mr. Burke's false and misleading evidence and the
26 fact that it permeated almost all of his important evidence that his reasons
27 for so acting in this manner was to mislead the Tribunal to a very significant
28 degree and to frustrate its attempt to seek out the truth.

29
10:50:21 30 The relevant legislation provides that where I am of the opinion that there are

10:50:26 1 sufficient reasons rendering it equitable for me to do so, I may award costs to
2 a party. Of course this discretion must be exercised in a manner which is
3 impartial and fair. I am, however, satisfied that it is fair and reasonable in
4 all the circumstances that I should refuse to award Mr. Burke his costs and I
10:50:46 5 so do.

6
7 I have not considered in any detail the degree to which the substantive
8 findings, including those of corruption, should impact on Mr. Burke's
9 application for costs as I believe that the degree and extent of his
10:50:59 10 non-cooperation was so significant and so substantial as to warrant such
11 consideration unnecessary.

12
13 I am quite certain, however, that had Mr. Burke largely cooperated with and
14 given truthful evidence to the Tribunal, I would be favourably disposed to
10:51:16 15 awarding him at least a portion of his costs, even in the face of the very
16 serious substantive findings of corruption.

17
18 I believe this to be the correct approach and more than justified in the
19 interests of providing an incentive to individuals to cooperate with the
10:51:30 20 tribunals of inquiry, such as this one, and which have been established by the
21 Oireachtas in the public interest.

22
23 That concludes the ruling.

24
10:51:39 25 There will be copies of the ruling made available in the next five or ten
26 minutes. I will rise and sit again at 11 o'clock to deal with an application
27 of Mr. Hugh Owens.

28
29 MR. O'NEILL: May it please you, Mr. Chairman.

10:51:57 30

THE HEARING THEN ADJOURNED FOR A BREAK

AND RESUMED AGAIN AS FOLLOWS:

CHAIRMAN: Mr. O'Neill, Mr. Gleeson?

MR O' NEILL: Good morning, Mr. Chairman. The application currently before you is that of Mr. Hugh Owens and I will briefly outline the background to Mr. Owens' participation in the affairs of the Tribunal which were reported upon in the Second Interim Report of the Tribunal.

Mr. Hugh Owens acted as an accountant to Messrs Brennan and McGowan and certain of their companies from the late 1960s until the early 1980s. In his capacity as an adviser on tax affairs, he devised certain tax avoidance schemes which utilised the services of Beddel and Christen, advocates, in Jersey.

The Tribunal's inquiries established that this firm had been instrumental in paying Mr. Ray Burke's Jersey company, Caviar Limited, the sum of 60 thousand pounds sterling in November 1984. The payment was made from the funds of a Jersey company, Canio Limited, which was owned by Ardcarne Limited, which was in turn owned, as to one third each, by three further companies, Kalabraki Limited, Gash Investments Limited and Foxtown Investments Limited.

The beneficial owners of these companies were Mr. Tom Brennan, Mr. Joe McGowan and Mr. John Finnegan, respectively.

It appears that the original intention of Mr. Brennan and Mr. McGowan was that each of the three owners was to contribute 20,000 pounds so as to make a 60,000 pounds payment to Mr. Burke. Ultimately the payment was made as to 25,000 pounds each by Mr. Brennan and Mr. McGowan, with the balance of 10,000 pounds being paid by Mr. Finnegan.

11:12:09 1
2 Mr. Finnegan maintained that he was unaware that any of his monies were ever
3 paid to Mr. Burke from this company.
4

11:12:16 5 The Tribunal's inquiries of Mr. Owens concerned the particular 60,000 pounds
6 payment to Mr. Burke. The Tribunal sought to establish the reasons for the
7 establishment of a series of Jersey companies and their relationships with the
8 underlying Irish land transactions which gave rise to the formation of the
9 offshore companies in Jersey and the nature of the relationship between
11:12:38 10 Mr. Brennan, Mr. McGowan and Mr. Finnegan.

11
12 Mr. Owens' involvement with the Tribunal included attending an interview with
13 members of the Tribunal legal team in April 2001, the furnishing of a narrative
14 account of his dealings with his clients and companies in May 2001, and his
11:13:01 15 attendance as a witness at the public sessions of the Tribunal spanning two
16 days in October 2001.
17

18 In the Second Interim Report of the Tribunal, the Tribunal reported Mr. Owens
19 had failed to cooperate with the Tribunal by failing to provide a full
11:13:16 20 explanation of the schemes which he had devised for Messrs Brennan and McGowan
21 in relation to the land transactions with which they were involved with
22 Mr. Finnegan and which resulted in the funds being distributed in Jersey from
23 which Mr. Burke received 60,000 pounds in November 1984.
24

11:13:33 25 Mr. Owens now claims his legal costs in respect of the work which he provided
26 to the Tribunal and his attendance before the Tribunal, represented by
27 solicitor and counsel.
28

29 The Tribunal did not make any ruling or adverse finding in relation to
11:13:52 30 Mr. Owens on any of the substantive issues which were the subject of

11:13:58 1 investigation in the Brennan and McGowan Module, its report was confined solely
2 to the issue of his cooperation.

3

4 Mr. Gleeson represents the interests of Mr. Owens at this hearing.

11:14:13 5

6 CHAIRMAN: Right. Mr. Gleeson?

7

8 MR. GLEESON: Thank you, Chairman. I should point out that Mr. Owens is a

9 retired gentleman, he is 74 years of age and he is present before the Tribunal

11:14:22 10

today.

11

12 Chairman, you have already received written submissions from and on behalf of

13 Mr. Owens and I don't want to refer you to those today. Instead I just wish to

14 make a very brief oral application for costs.

11:14:40 15

16 Chairman, you have indicated in your ruling in July on the principles to be

17 applied in respect of certain applications for costs, what those principles are

18 and I would obviously confine myself to those principles, although you did

19 indicate that they are by no means exhaustive.

11:14:56 20

21 You indicated that amongst many matters, you would have regard to the relevant

22 extracts from the transcript of the evidence and I have no doubt, Chairman,

23 that you have done so and you would have read the transcript for days 315 and

24 316. And on reading the two transcripts, one might be forgiven for

11:15:18 25

misunderstanding that Mr. Hayden, senior counsel, appeared for Mr. Owens

26 because at any interjections that were made during the course of, I think,

27 Mr. Hanratty's examination of Mr. Owens, were made by Mr. Hayden, who of course

28 appeared for Messrs Brennan and McGowan and any interjections which he made

29 were made where obviously he believed the interests of Messrs Brennan and

11:15:39 30

McGowan were being dealt with.

11:15:41 1
2 So I think one can safely say that during the course of Mr. Owens' testimony to
3 the previous chairman, no wasting of time occurred, there was no unnecessary
4 interjections on behalf of Mr. Owens' legal team and whilst I am not seeking
11:15:59 5 any bonus or indeed brownie points for not objecting or indeed not delaying, I
6 think it is clear from the transcript that Mr. Owens made a genuine effort to
7 recall events at almost 20 years remove.

8
9 I obviously can't go behind the finding of the chairman who's made a finding of
11:16:20 10 failure to cooperate but as Mr. O'Neill very fairly stated, the chairman did
11 not go so far as to make any ruling or adverse finding in relation to the
12 substantive issues that were being investigated by the chairman at that time
13 and one should not lose sight of the fact, as I have already indicated, that
14 Mr. Owens was being asked in his capacity as a professional adviser, who had
11:16:47 15 devised certain lawful tax avoidance schemes, to recall those schemes and give
16 evidence in detail in relation to them.

17
18 Mr. Owens gave evidence to the chairman over two days, he attended one
19 interview, as Mr. O'Neill stated, with the legal representatives of the
11:17:14 20 Tribunal and he furnished a considerable body of documentary evidence, and that
21 required work by Ms. Fiona O'Sullivan, indeed Ms. Fiona Patton, she was before
22 the Tribunal today, both in Ireland and indeed getting access to documents in
23 Jersey where the financial transactions were set up.

24
11:17:34 25 I think it's clear from the transcript of the evidence that Mr. Owens answered
26 every question that was put to him, it was never suggested by Mr. Hanratty to
27 him that he was, for instance, not cooperating or that he was concealing
28 matters or had failed to disclose a particular document.

29
11:17:55 30 With regard, however, to the consequences of the finding of the failure to

11:17:59 1 cooperate, I would submit that -- that obviously is a principle you will
2 consider -- I would submit that the consequences for the overall work of the
3 Tribunal is nil. I think that's an important matter that goes into the
4 weighing scales when determining whether or not an application for costs should
11:18:16 5 be acceded to.

6
7 Mr. Owens didn't make any allegations that were false against other parties.
8 He made no allegations of wrongdoing on other parties.

9
11:18:27 10 With regard to his personal circumstances, he is not a wealthy man. He is in
11 retirement, living in retirement with his wife and monies which he had set
12 aside for his retirement for the benefit of his wife, his, I suppose the
13 children, and grandchildren, if this application for costs is refused, that
14 money that was earmarked for his retirement will obviously have to be eaten
11:18:53 15 into to a considerable extent.

16
17 Chairman, you have obviously discretion, it's a wide discretion, toward all or
18 part of his costs. I would respectfully submit that Mr. Owens should be given
19 all of his costs. However, if you are against me on that, I would certainly
11:19:14 20 ask for a considerable amount of the costs and could I indicate perhaps,
21 Chairman, that Mr. Owens spent a considerable amount of time and indeed his
22 legal team did in having to read the transcripts of the previous days before
23 Mr. Owens gave evidence and, Chairman, you will recall that I think at this
24 stage when Mr. Owens gave his evidence, the Tribunal had been sitting for 315
11:19:36 25 days and Mr. Owens had to pay for the transcripts of the previous days, so that
26 he could be up to speed at the time he gave his evidence, and those copies of
27 the transcripts cost approximately 10,000 euro. And that is certainly an
28 expense which, I respectfully submit, he would be entitled to, because that was
29 necessary to put him into a situation where he could actually put himself in
11:20:01 30 the witness box and attempt to cooperate, and attempt to answer the questions

11:20:06 1 that were put to him.
2
3 Finally, if I might say and if I could use an expression, Chairman, which you
4 used in relation to the application for Mr. Burke, the cases are entirely
11:20:16 5 dissimilar and I respectfully submit, Chairman, that the evidence overall of
6 Mr. Owens didn't cast a shadow over the entirety of his evidence, and for those
7 reasons, I would respectfully submit he should be awarded his costs and that it
8 would be somewhat oppressive to him in his personal circumstances and the light
9 of his input into the work done by the Tribunal to refuse that application.
11:20:44 10
11 If there is any further -- if I can offer any further assistance, Chairman, I
12 will be happy to do so.
13
14 CHAIRMAN: Right. Thank you very much. Do you wish to --
11:20:52 15
16 MR. O'NEILL: I have no submission to make.
17
18 CHAIRMAN: All right. Well I will endeavour to finalise a decision within,
19 hopefully, a small number of weeks, I can't say at this stage when, but you
11:21:06 20 will be notified in good time before any decision is made.
21
22 MR. GLEESON: Thank you, Chairman.
23
24 CHAIRMAN: Thank you very much for attending.
11:21:15 25
26 MR. O'NEILL: The other matter which was listed for hearing today has been
27 adjourned upon the application of the applicant due to the unavailability of
28 the witness and counsel and accordingly the business of the Tribunal is now
29 concluded.
11:21:28 30

11:21:28 1 CHAIRMAN: Right, and we'll sit tomorrow at half ten?

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MR. O'NEILL: Yes.

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11:21:35 5 CHAIRMAN: Thank you.

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THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,

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TUESDAY, 7TH SEPTEMBER 2004, AT 10.30 A.M.

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