

THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY,

8TH DECEMBER, 2006, AT 10.30 A.M.:

CHAIRMAN: Good morning Mr. O'Neill.

MR. O'NEILL: Good morning, Mr. Chairman, members of the Tribunal.

Mr. Hickey, please, would you return to the witness box.

BRENDAN HICKEY, PREVIOUSLY SWORN, CONTINUED TO BE

QUESTIONED AS FOLLOWS BY MR. O'NEILL:

CHAIRMAN: Good morning, Mr. Hickey

A. Good morning.

MR. O'NEILL: Good morning, Mr. Hickey

A. Good morning.

Q. 1 Towards the end of yesterday's evidence we were turning to deal with the evidence totalling 62,500 pounds, which were made to the company Shefran. And first of those payments in time was a payment of 20,000 pounds, which you indicated was a legitimate political donation in respect of which there was an audit trail as long as my arm or as long as your arm, isn't that so? And just recapping on where we were, where we left off yesterday afternoon.

A. I think I said, Mr. O'Neill, that we always believed and made no bones about the fact that it was a legitimate political donation. We've never tried to disguise the fact. On first being asked by the Tribunal, we indicated that we thought that it was a perfectly legitimate donation.

Q. 2 The audit trail reference you made was subsequently qualified by saying of

- 10:36:53 1 course you're not an accountant but that as far as you're concerned there was
2 records of this payment, isn't that so?
- 3 A. I think I qualified by saying that in no circumstances or did I in any way try
4 to hide that we made a legitimate political donation and we made no bones of
10:37:10 5 the fact that we did.
- 6 Q. 3 Nor would there be any reason to hide a legitimate political donation?
- 7 A. No.
- 8 Q. 4 No. You indicated in response to queries as to why it was that this was done
9 in the manner in which it was done, and that manner was that you paid the money
10:37:29 10 to a company called Shefran. And Mr. Dunlop was in turn to pay that money on
11 to politicians, isn't that right?
- 12 A. Absolutely.
- 13 Q. 5 Right. And your explanation for so doing was that you were a young company at
14 that time, you effectively, I think, were the only person directly employed,
10:37:48 15 other than your secretary. That as far as you knew you hadn't made political
16 donations before or indeed I think you went on to say that you wouldn't be
17 quite sure how you'd go about it. But that was the explanation or an
18 explanation for the inter-position of Mr. Dunlop between you and the recipients
19 of the funds, isn't that right?
- 10:38:12 20 A. Yes, he suggested this is what we should do. And as I say, we trusted Mr.
21 Dunlop. He was a partner. And it seemed perfectly legitimate to me.
- 22 Q. 6 Yes. But your explanation for using him was that you were a new company, you
23 had not done this before and he asked you for the money and you determined that
24 that was appropriate and that you hadn't made, as far as you knew, any payment,
10:38:42 25 any light payment before nor would you know how to go about making such a
26 thing?
- 27 A. That's right.
- 28 Q. 7 Isn't that right?
- 29 A. That's right, yes.
- 10:38:50 30 Q. 8 And we were then going to move on to deal with the documentation which was

10:38:55 1 generated in relation to the payment. That is the records?

2 A. That's right.

3 Q. 9 Within your company?

4 A. That's right.

10:39:00 5 Q. 10 Of how it was that the payment was made. So if we look, first, to document
6 1443 on screen. We'll see that this is if we blow that up. The first
7 paragraph is the one that we're concerned with. At the top it says "City West
8 payments to Frank Dunlop/Shefran Limited identified as political
9 contributions". And there are two references beneath that. The first on the
10:39:34 10 6th of June 1991 and the second on the 11th of November 1992.
11
12 And we'll deal with them chronologically.
13
14 So the first of them then is the 6th of June 1991. And we see it detailed as a
10:39:47 15 payment to Shefran Limited in the amount of 20,000 pounds.
16
17 Now, this has been described in this document as being a payment identified as
18 a political contribution, isn't that so
19 A. That's right, yes.

10:40:04 20 Q. 11 And therefore, somebody had carried out that process of identification because
21 the payment itself, I take it, doesn't necessarily carry with it any identifier
22 that it was a political donation, isn't that so?
23 A. That's right.

24 Q. 12 How did it come about that this payment was identified to whoever prepared this
10:40:26 25 document as being a political contribution?
26 A. Well, I -- simply that I do recall that we did make a political donation.
27 Whether I told the person who was compiling it. But I recalled that donation
28 was, you know, was a reasonably substantial sum of money and I recall that it
29 was, you know, that we were requested it. So I would have recalled that. So
10:40:53 30 whether I instigated or told him to put it down I'm not quite sure. But I

- 10:40:59 1 certainly wanted to be very frank with the Tribunal as they asked to make sure
2 that we were as detailed and as meticulous as possible.
- 3 Q. 13 Well the process then was one that you had remembered making a payment of
4 20,000 pounds, isn't that right.
- 10:41:14 5 A. That's right, yes, yes.
- 6 Q. 14 And because you'd made a payment in and around that day you no doubt went to
7 check your own records to see whether or not that payment was in fact the
8 payment for political contribution, isn't that right.
- 9 A. Well, I don't remember the exact conversation but I would have instructed my
10:41:36 10 staff at the time. My financial controller, to go through as thoroughly as
11 possible every single conceivable payment that could have been made that may
12 have been of relevance to the Tribunal. I would have been aware that the
13 Tribunal particularly would have been looking for contributions that might have
14 been made to politicians or any other related parties and that's why we give
10:41:56 15 information probably way in excess and beyond of what the Tribunal was looking
16 for but might be of interest to them. But I was aware of that particular one
17 and I wanted to make sure that we saw it as a very legitimate donation and
18 wanted to make sure that that was highlighted rather than in any way disguised.
- 19 Q. 15 Yes. And I presume that your first port of call would be to check the
10:42:17 20 companies bank statements for the period in question so as to isolate
21 non-political donations from the donation which was the political donation,
22 isn't that right?
- 23 A. No, I didn't actually compile this information. I mean, I gave a request to my
24 financial controller. I had a financial controller, I think, when this
10:42:36 25 information was drawn up to pull out every conceivable payment either made to
26 Shefran, Frank Dunlop, political parties, politicians, anything that I thought
27 might be of relevance. So I wouldn't actually have trawled, put that
28 information together.
- 29 Q. 16 Right. Well we'll see what documentation there is, firstly.
10:42:54 30

10:42:54 1 There is a bank statement at page 2981. Which is the current account of
2 Newlands Industrial Park Limited. At Bank of Ireland Private Banking. You see
3 that on screen
4 A. I do, indeed, yes.

10:43:11 5 Q. 17 These were the, I take it, monthly statements were they, this seems to be
6 quarterly mind you. In May 1991 this account runs from the end of May until?
7 A. July.
8 Q. 18 The middle of July?
9 A. Uh-huh.

10:43:26 10 Q. 19 It's not quite month on month but maybe there weren't many transactions coming
11 out of this account at the time?
12 A. I don't recall. It is what it is.

13 Q. 20 What we see there is a cheque No. 121 for 20,000 pounds. And the person who
14 prepared the document identifying this as a political donation gives a
10:43:48 15 reference No. 121 to the particular payment and that corresponds with this
16 cheque, isn't that so?
17 A. It would appear so.

18 Q. 21 Now, obviously, on that particular cheque or in this particular statement
19 there's nothing to indicate who the recipient of these funds were. So insofar
10:44:08 20 as this document could be used as a means of identifying the payment as being a
21 political donation, it is of no assistance in that regard, isn't that right?
22 A. No, it's not going to give you any further information than what I provided.

23 Q. 22 Exactly. So that the bank records as far as you're concerned were not likely
24 to be the, of assistance in relation to establishing whether this was or was
10:44:36 25 not a political donation because they didn't identify the recipients of the
26 cheque, isn't that right?
27 A. No, it didn't no,.

28 Q. 23 Right. And equally, as you knew, the payment was one which you didn't make to
29 the politicians individually. So the cheque itself was unlikely to be of
10:44:54 30 assistance either. Because as much as it would do would record it as being a

10:44:58 1 payment to Shefran?

2 A. That's right.

3 Q. 24 Or to Frank Dunlop, isn't that right?

4 A. Uh-huh.

10:45:03 5 Q. 25 So to that point there is no identifying feature available to confirm in paper
6 that it is in fact a political donation, isn't that right?

7 A. Only to the fact that the first time we're asked to provide information on
8 donations to political parties. We're the ones that actually identified that
9 this is a donation to -- a legitimate political donation. That's where the
10 information came from.

10:45:35 10

11 Q. 26 Well, no, that's not where the information came from. That is a conclusion
12 which was reached by whoever prepared this document and gave it to the
13 Tribunal. In other words, it's a statement saying this is a political
14 donation. It has not identified it as a political donation.

10:45:46 15

16 Now, if we leave aside the bank documentation. Because none of the bank
17 document is of assistance in establishing what the purpose of this payment is.
18 You'd agree with that because we've seen that documentation, it's confined to
19 the bank statement at the time and on your account of events, the cheque itself
10:46:07 20 would not advance matters further because it didn't have anything to do with
21 politics on the face of the cheque, isn't that right?

22 A. No, the cheque was made out to Shefran.

23 Q. 27 Exactly. So we turn to the next document then, which is at 2980. You might be
24 able to assist us, as to what the origin of this document is. It appears to be
10:46:28 25 a cheque journal. In other words, an internal account prepared within your
26 firm recording the expenditure during a period commencing on the 22nd of May
27 1991. And I think it ends in -- I think it's July 31st of July the last entry
28 in that?

29 A. Uh-huh.

10:46:48 30 Q. 28 Can you tell us what this document is and what its origin is?

- 10:46:52 1 A. Well, it just records all of the -- under various headings what payments are
2 made to various parties.
- 3 Q. 29 Right. And were they payments made by cheque, is that?
- 4 A. Everything was made by cheque.
- 10:47:03 5 Q. 30 Okay?
- 6 A. We never paid by cheque anything.
- 7 Q. 31 Is this a cheque payments journal then as you would understand it?
- 8 A. I'm not an accountant and I didn't do the journal, I'm sorry, Mr. O'Neill. You
9 could be correct there and you probably are correct.
- 10:47:19 10 Q. 32 All right. Who did prepare it?
- 11 A. I think we had a temporary person coming in from Deloitte who used to do our
12 books for us.
- 13 Q. 33 Was this on a weekly basis, the end of the week somebody would come in?
- 14 A. I actually don't recall, Mr. O'Neill. But it would have been classified. It's
10:47:35 15 classified under. As I stated before, all payments to do with Frank Dunlop
16 were obviously classified in the same arena.
- 17 Q. 34 Well, this is a cheque payments journal, is that right? As far as you know?
18 It is a record prepared?
- 19 A. It's a reported record. I'm not sure of the technical term but it is a record
10:47:54 20 of the payments.
- 21 Q. 35 All right. Can we agree that it's a record that was probably prepared not much
22 later than the 31st of July, which is the last entry shown on the page?
- 23 A. Well, you know, I actually don't know that when it was prepared. You know, I
24 think the circumstantial evidence would suggest that be the case but I don't
10:48:14 25 know.
- 26 Q. 36 A company such as your's has an obligation then and now to prepare its accounts
27 for the purposes of VAT returns?
- 28 A. That's right.
- 29 Q. 37 Bi-monthly basis. And there would be, in other words, a need to keep, I'm not
10:48:38 30 saying a day by day record of expenditure, but certainly for every two month

- 10:48:43 1 period of expense by the company and receipt of funds by the company, there
2 would have to be a balancing exercise between the vatable outgoings, the
3 vatable, VAT allowable charges, in order to prepare the VAT returns, isn't that
4 right? Isn't that so?
- 10:48:59 5 A. It's long - I think it's twice monthly now.
- 6 Q. 38 Well it's once every two months?
- 7 A. Was it once every two months.
- 8 Q. 39 Yes. So every two months accounts have to be analysed as regards identifying
9 the expenditure which is made by the company to see what deductions can be made
10 in respect of the vatable element of those payments and that is offset against
11 the receipt of funds upon which VAT has to be paid, isn't that so? That's the
12 purpose of the?
- 13 A. Mr. O'Neill, perhaps I should explain again. I'm not an accountant. I was
14 running my company. And I would know the generality of who is owed what. What
10:49:41 15 it's going to cost and I would hand over to my accountant, and we would be
16 absolutely religious of keeping our tax affairs in order. If anything happened
17 inadvertently it definitely would not be the intention. But it would be the
18 duty of the accountant coming in to do everything in an absolutely appropriate
19 and proper way.
- 10:50:02 20 Q. 40 Yes. That would include ascertaining what the nature of each payment from the
21 company through its cheque book was to establish whether or not he should make
22 the appropriate entry in the VAT return every two months in relation to each
23 one of the payments. He would have to know what you spent the money on, isn't
24 that right?
- 10:50:22 25 A. And I.
- 26 Q. 41 Is that right?
- 27 A. Well, I would give him all of the information that I would.
- 28 Q. 42 Very good. Can we take it therefore that what we see recorded on this page is
29 the information that you gave to the person who prepared this document?
- 10:50:34 30 A. I would definitely be responsible for all of the information provided.

- 10:50:38 1 Q. 43 Okay. Well if we look to the entry in question. On the 6th of June we'll see
2 that it reads "F Dunlop & Associates PR" if we move across the line there I
3 think the two is a subsequent annotation which has been made for the purpose of
4 a recent exercise conducted by your accountants, isn't that right?
- 10:51:02 5 A. Yes.
- 6 Q. 44 We can ignore that as being information that you gave. That came after the
7 event?
- 8 A. I suspect so.
- 9 Q. 45 What was there was 20,000 pounds?
- 10:51:11 10 A. That's right.
- 11 Q. 46 So we have down here Frank Dunlop & Associates PR 20,000 pounds?
- 12 A. Yes.
- 13 Q. 47 How does that entry identify the payment of 20,000 pounds as being a political
14 donation?
- 10:51:30 15 A. Well, I would have recalled that we made a donation of 20,000 at that time
16 because there was a general -- there was a Local Election going on. And when
17 all of the information would have been compiled I would have gone through the
18 information to see and make sure that it would have been categorised as
19 correctly to the extent of the knowledge or memory that I had of the situation.
- 10:51:50 20 Q. 48 I was asking you how this entry identifies this payment as being a political
21 donation. Is there anything?
- 22 A. No it doesn't.
- 23 Q. 49 On the face of this document which identifies it?
- 24 A. No, it doesn't.
- 10:52:02 25 Q. 50 It doesn't. Does it identify what the purpose of the payment was?
- 26 A. No, except it identifies who the payment was made to.
- 27 Q. 51 Well, what do you say about the reference PR, is that not an indication to the
28 accountant that this is expenditure incurred in relation to public relations,
29 is that not what it says?
- 10:52:29 30 A. Well it says PR there. I agree with you there it says PR.

10:52:33 1 Q. 52 Yes?

2 A. Uh-huh.

3 Q. 53 Do you agree, therefore, that the information which the accountant was given

4 was that this was a payment made for PR purposes?

10:52:48 5 A. I don't recall the conversation I had fifteen years ago. All I can say to you,

6 Mr. O'Neill, is that there was a payment made to Shefran. It was a substantial

7 sum of money. It was the first time I ever done it. It obviously would have

8 stuck in my mind that we were making a political donation. And that is the

9 extent of it you know, you're trawling me through something. I didn't write

10:53:12 10 this letter or these notes. I take full responsibility for the information

11 that would have been provided. Because, I mean, obviously as Chief Executive

12 of the company I am responsible.

13 Q. 54 Right?

14 A. But I'm not sure what point you're trying to make.

10:53:25 15 Q. 55 I'm trying to elicit from you facts, Mr. Hickey, as to why it is this payment

16 is recorded in this manner which you have indicated to the Tribunal identifies

17 it as being a political donation because on its face it wouldn't appear to do

18 so and therefore I'm seeking an explanation for what is actually recorded here.

19 A. Yeah well --

10:53:45 20 Q. 56 The question I asked you was whether or not the information which we see on

21 this page here is consistent with you indicating to the accountant that the

22 purpose of the payment of 20,000 pounds on the 6th of June 1991 was for PR. Do

23 you understand the question, firstly, before you answer it? Because I would

24 like would like an answer to the question rather than a general statement.

10:54:14 25 I'll put it specifically?

26 A. If you put it again so that I can help you. Sorry.

27 Q. 57 Specifically. Does this entry, made in this record here, record accurately, as

28 far as you're concerned, what you've told the accountant. That's the first

29 question. As far as you're concerned, does this entry record accurately what

10:54:36 30 you told the accountant?

10:54:38 1 A. I can't recall specifically what I told the accountant. But I do know that all
2 payments that we made to Frank Dunlop was for his own costs or expenses or
3 political donations were grouped and under the same heading rather than
4 separated. I can't say specifically whether I told the accountant at the time
10:55:00 5 that she should have two classifications under Frank Dunlop. Ones that were
6 done for expenses and ones that were done for political donations. I don't
7 recall having that conversation.

8 Q. 58 Right. Do you agree that had you indicated that the payment was for PR
9 purposes that the accountant would have recorded the payment as a PR payment?

10:55:26 10 A. Well, I don't know according to that written there whether it's talking about
11 the payment as PR.

12 Q. 59 Yes?

13 A. Or whether Frank Dunlop is a public relations consultant.

14 Q. 60 Right. By that are you suggesting that you might well have told the person
10:55:41 15 that this is a payment for political purposes. I made it to our PR person but
16 it's not for PR, it's not a fee for PR, is that what you're suggesting?

17 A. No, I would be -- it would be wrong for me to tell you or try to describe a
18 conversation I had that I don't recall. I would have made sure we were
19 requested for a payment at a time of an election. I considered -- I was
10:56:12 20 told -- well I considered it a legitimate political donation to a particular
21 person. We grouped it and the accountant who were doing the book-keeping
22 grouped them under particular classification. Did I tell them it was for
23 expenses or whatever, I don't recall the conversation. But I do recall the
24 fact that it was for a political donation and I immediately if when I was asked
10:56:35 25 and I would have asked anybody at the time that we had made political
26 donations. But I don't recall what conversation I had with an accountant
27 fifteen years ago.

28 Q. 61 The only person who would have asked you about this payment in June 1991 was
29 the accountant who you were paying to keep your books and he would have asked
10:56:55 30 you who is this payment for and why, isn't that right?

10:57:02 1 A. I don't know. Did he just go through the records book and put it under Frank
2 Dunlop Shefran and do that himself or did he have a conversation with me.

3 Q. 62 Well he didn't put Shefran down on the record at all. He put down Frank Dunlop
4 & Associates PR. There is no reference to Shefran here. Have another look at
10:57:19 5 it, Mr. Hickey?

6 A. No, I see that, yeah.

7 Q. 63 I'm just trying to establish how you can have told the Tribunal that this was
8 identified as a political donation made in respect of City West to Frank Dunlop
9 Shefran. It doesn't appear so in the records prepared at the time?

10:57:39 10 A. But why, Mr. O'Neill, when you're trying to establish who made donations to
11 political parties. When I'm actually -- when it's not obvious that we did it
12 and I'm saying that we did and I'm trying to explain to the Tribunal that we
13 did it. I did it in the context that there was a legitimate political
14 donation. It's classification in our records mightn't be as explicit as what
10:58:03 15 I'm trying to be here.

16 Q. 64 The term mightn't be explicit, is that intended to cover the fact that it
17 doesn't refer to it at all. Is that what you believe to be a deficiency in
18 that it mightn't be explicit. Is it not perfectly explicit here what the
19 payment was for but it does not reflect what you say the payment was actually
10:58:22 20 for?

21 A. I think it's perfectly explicit who the payment was made to. It was under a
22 Frank Dunlop. I actually don't know but I'm sure it could be checked, whether
23 all payments through Frank Dunlop Shefran were put down under Frank Dunlop or
24 perhaps Frank Dunlop Shefran. I am not sure of the classification. I think it
10:58:38 25 was made as a classification not as a description.

26 Q. 65 Oh, I see. Do you really believe that, Mr. Hickey?

27 A. Well, I'm trying to tell the truth here, Mr. O'Neill.

28 Q. 66 Fine. If we look to the next line immediately underneath what you have seen
29 there. It qualifies what the payment above was for; it was for fees. Frank
10:58:58 30 Dunlop & Associates PR fees. Do you see that?

10:59:01 1 A. I do.

2 Q. 67 That couldn't be a political donation if it's being paid as fees, isn't that

3 right?

4 A. Well it says fees there. It doesn't say political donation.

10:59:15 5 Q. 68 No. So it can't be for political donation if it is a payment to Frank Dunlop &

6 Associates PR fees, isn't that right?

7 A. That's what it says there all right.

8 Q. 69 Yes. Does that qualify or assist you in any way in telling the Tribunal now

9 what the payment was for and why it was recorded in this manner?

10:59:35 10 A. Well, I'll try to be as explicit as possible. That payment was made as a --

11 there was a Local Elections on, there were 75 councillors. Frank Dunlop came

12 and said that we should make -- it would be appropriate that we would make

13 political donations to all of these people. He suggested that I make it in a

14 certain format. I didn't see anything wrong with it. I did it in that way. I

11:00:01 15 don't recall how it was actually notated in the ledger but I wouldn't have done

16 the ledger myself. But I've never ever tried to disguise the fact that it was

17 for the purposes even if you say and I agree with you that it is misdescribed

18 in the ledger as fees.

19 Q. 70 Why didn't --

11:00:21 20 A. I could have left it at that and told the Tribunal it was fees when it wasn't

21 for fees.

22 Q. 71 Why didn't you put down that it was for the Local Election if that's what it

23 was for?

24 A. I didn't draw up the ledger, Mr. O'Neill. I would have spoken to the person

11:00:35 25 and provided information. I'm not sure that I would have gone through any of

26 those things in detail on each cheque as to what they should be.

27 Q. 72 But you see the accountant who prepared this document did so on the basis of

28 information provided by you. The information you provided is that you paid

29 fees to a PR company of 20,000 pounds and that's recorded. Now it wouldn't

11:00:55 30 have been recorded in that fashion if you hadn't told the accountant that that

11:00:59 1 was what it was for, isn't that right, as a probability. I know that we can't
2 recall each conversation we've had over the years but we can draw certain
3 conclusions from the fact that if we pay people to record information for us,
4 and if that information is sourced from us, that they record it accurately and
11:01:21 5 you certainly never qualified this entry with your accountants then or later as
6 being incorrect, isn't that so?
7 A. Well, I could categorically say that I would not have told the accountant that
8 it was fees because never at any stage did I believe that there were fees, they
9 were legitimate political donations. So I would not have told them that they
11:01:44 10 were fees.
11 Q. 73 So the accountant got it wrong? Is that the conclusion that is open to the
12 Tribunal to conclude, that you gave an explanation to the accountant, the
13 accountant misinterpreted that as being that this was a payment to Frank Dunlop
14 & Associates PR company for fees?
11:02:05 15 A. Well, I don't know how we came to that conclusion. Perhaps he misinterpreted
16 it. I don't know and I don't want to surmise why I wrote it. What I can say
17 is that I would not have said it. There was no reason I would say it was for
18 fees if it was for a political donation.
19 Q. 74 Not unless you wanted to disguise the fact that it was such a payment. Unless
11:02:26 20 you wanted to make sure that this went through the books of your company as a
21 payment to a PR company whereas in fact it was for another purpose?
22 A. And why would I wish to disguise it, Mr. O'Neill.
23 Q. 75 Because you didn't want to reveal. I'm putting forward the proposition that if
24 somebody does not accurately record their actual expenditure, it is because
11:02:47 25 they are unhappy with the fact that the true purpose of the payment would be
26 recorded and that is the reason why they don't record it accurately. It had to
27 be accounted for because it's a payment out of a company account?
28 A. Yes.
29 Q. 76 The company accountants have to look at it. They have to prepare annual
11:03:08 30 accounts. They have to prepare accounts every two months as to what the

11:03:13 1 expenditure is. They therefore require an explanation from the person who made
2 the payment. You were the only person making payments out of this particular
3 company. They, therefore, had to ask you what did you do with the 20,000 and
4 you had to give them an answer. You could give an answer which was truthful.

11:03:32 5 This is a political donation which I have made through Frank Dunlop or you
6 could give another explanation. The explanation which you would give would
7 form the basis of the company's accounting for that year as prepared by the
8 accountants and would be signed off at the end of the year by the accountants
9 initially and by you subsequently, isn't that right? That is what the purpose
11:03:53 10 of the accounts are for. You had to account for this amount since it had not
11 been paid personally from your own funds?

12 A. And as I would. I mean, everything that I pay. Everything that I do I try to
13 do everything in a legitimate way. It is not my way of doing business to do
14 otherwise. I think the people whom I act for would not thank me in doing
11:04:15 15 anything untoward way or anything in an underhand way and it certainly was not
16 the intention. If there is a ledger that is not as explicit as was the
17 intention, there is nothing more to it than it was just misrepresented in the
18 ledger. But to anybody who asked it was always a political donation and
19 something that we weren't ashamed of. We were asked and we did something. And
11:04:37 20 I presumed that was something the norm that nearly every business company in
21 the country makes political donations.

22 Q. 77 Yes. And has no difficulty in recording it in its books as a political
23 donation. It doesn't say this is payment to a PR company for fees, which is
24 what happened here?

11:05:03 25 A. And I would doubt that there is that many business companies who had extensive
26 use of somebody like Frank Dunlop or who in turn using somebody like that would
27 have come along and said this is the appropriate way to pay it. I did not,
28 never paid to a political party before. I didn't know what it was,
29 appropriate, inappropriate. It didn't seem inappropriate at the time to me.

11:05:20 30 Q. 78 That's your evidence?

- 11:05:21 1 A. That's the truth as much as I can know the truth is, Mr. O'Neill.
- 2 Q. 79 Very good. Would you look to the second last entry on the page of the recorded
3 payments by your company, Mr. Hickey. It's to Mr. P Madigan, who you may know
4 to be a Councillor. And it's for the Council election. Do you see the second
11:05:46 5 last thing there. It's for 500 pounds?
- 6 A. I do, yes.
- 7 Q. 80 Is that a political donation?
- 8 A. If it's an election it's definitely a political donation.
- 9 Q. 81 Is it recorded in your books as a payment for the Council election?
- 11:06:04 10 A. It is, yes.
- 11 Q. 82 Do you say that the 20,000 pounds is also a payment for the Council election?
- 12 A. No, I don't.
- 13 Q. 83 You don't?
- 14 A. I don't. I didn't write the ledger but it doesn't say that.
- 11:06:16 15 Q. 84 I'm asking you whether the payment is for the council election Mr. Hickey?
- 16 A. The 20,000.
- 17 Q. 85 Yes. Were we talking of any other figure?
- 18 A. No, I'm sorry, I thought you were talking about Mr. Madigan's figure.
19 Mr. Madigan's figure is obviously for the Local Election. And the 20,000 is
11:06:33 20 absolutely for the Local Elections also.
- 21 Q. 86 Can you offer any explanation now as to why it is not set out as being for the
22 Council election as you recorded Mr. Madigan's payment in precisely those
23 terms?
- 24 A. Well I think Mr. Madigan's payment is made directly to, I don't know who
11:06:50 25 Mr. Madigan is. I presume he was a politician at the time, was he?
- 26 Q. 87 Yes. He is a councillor. Making a payment for Council elections, that's why
27 you recorded it in those terms?
- 28 A. And that was made to him directly. Whereas we recorded the other one as to who
29 we made the payment directly and that was Mr Dunlop.
- 11:07:06 30 Q. 88 As professional fees for PR?

- 11:07:09 1 A. I see it's recorded there, Mr. O'Neill. But I'm telling you that it was always
2 my knowledge and awareness that it was made for legitimate political donation.
- 3 Q. 89 The explanation that you offered yesterday for using Mr. Dunlop for the conduit
4 to politicians was that you had not made to your knowledge any political
11:07:27 5 donations. You were a young company. You didn't know how indeed how to make
6 such a payment. That was your explanation. Do you still hand over that,
7 Mr. Hickey?
- 8 A. Well, I'm not so sure I had. I think I made and I had a look at the files. I
9 think I made one payment to a Fine Gael politician perhaps before that. I'm
11:07:47 10 not so sure that I had made anything before that 20,000. But I stand to be
11 corrected. I would have been very, very -- before setting up my company I
12 certainly had no dealings with it so ... any matters like that.
- 13 Q. 90 The identification which led to you calling this a political donation in the
14 document provided to the Tribunal, which is the first document on screen this
11:08:19 15 morning, is not assisted by the document that we're currently looking at. At
16 a minimum, it makes no reference to this 20,000 pounds being a political
17 contribution, isn't that so?
- 18 A. I acknowledge that it makes no.
- 19 Q. 91 Very good?
- 11:08:33 20 A. Reference to a political donation in that ledger.
- 21 Q. 92 We will see then that the payment itself was analysed. And we'll see at page
22 2982. And this is an accountant's analysis provided recently by you to the
23 Tribunal. And I'm not quite sure when it was carried out. That is the
24 analysis. But it is seeking to establish how the 20,000 pounds was treated in
11:09:02 25 the accounts of your company to year end June 1992, which was your financial
26 year, isn't that right?
- 27 A. That's right.
- 28 Q. 93 Right. Did you provide the information to the person who conducted this
29 analysis, Mr. Hickey?
- 11:09:19 30 A. No, I would have asked them to go through the books.

11:09:22 1 Q. 94 Okay?

2 A. And provide as full and fulsome details to the Tribunal as is possible.

3 Q. 95 Well, I'm not -- are you saying that this was generated as a document for the

4 purposes of the Tribunal or is it a reconciliation?

11:09:36 5 A. I don't know actually.

6 Q. 96 Of PR expenses?

7 A. I'm not sure where that document came from, Mr. O'Neill. I don't know whether

8 it was done at the time or whether it was compiled recently. I'm not sure

9 actually.

11:09:52 10 Q. 97 We'll see on the bottom of the page the date the 28th of November 2006 on the

11 bottom line. So certainly the copy that is available to us at the moment is

12 one which was prepared very, very recently, isn't that right?

13 MR. GORDON: I wonder, Chairman, if I could assist Mr. O'Neill.

14

11:10:06 15 MR. O'NEILL: It would be most helpful.

16 MR. GORDON: I am instructed that this document that we're now looking at was

17 prepared several weeks ago by Joe Nelson, who is in the accounts department of

18 the company's solicitors, generated for the Tribunal.

19

11:10:17 20 CHAIRMAN: All right.

21

22 MR. O'NEILL: Well the information obviously contained within it represents

23 the available information to your accountants which allowed them to calculate

24 what the PR expenses of your company were for the year in question, isn't that

11:10:33 25 right?

26 A. That's right. That's how it's notated.

27 Q. 98 Exactly. And if we look to the 20,000 figure, which is the one that we're

28 following at the moment through the audit trail?

29 A. Yeah.

11:10:44 30 Q. 99 We see that it is shown as payment 121, that's the cheque No.?

- 11:10:47 1 A. Uh-huh.
- 2 Q. 100 And to Frank Dunlop & Associates with (Shefran) and it is for an amount of
- 3 20,000 pounds, isn't that so?
- 4 A. That's right, that's right.
- 11:10:58 5 Q. 101 So this again is an indication that the political donation of 20,000 pounds is
- 6 reflected in your books as a payment for PR services and not for political
- 7 donation, isn't that what it records?
- 8 A. I accept that.
- 9 Q. 102 Fine. So it is in error in that regard, is that right?
- 11:11:19 10 A. Well it's down under PR. It was a political donation. Whether political
- 11 donations are under marketing, PR, goodwill, I'm not sure. That's the
- 12 classification, Mr. O'Neill, and I agree with you that's how it was notated.
- 13 Q. 103 I was asking you whether you agree that it's accurate or inaccurate. Are you
- 14 saying that you treated payments to politicians as PR?
- 11:11:41 15 A. Well, it is to keep good relations I'm sure that's why we do it. And dealing
- 16 with public people I'm presume is good public relations.
- 17 Q. 104 I'm asking you whether you treated the payments of your company to politicians
- 18 as PR payments?
- 19 A. Not every where, obviously.
- 11:11:58 20 Q. 105 How do you mean not everywhere?
- 21 A. Well I'm only of -- I mean, I was only seeing a lot of this information and how
- 22 it was compiled. As I say I, I was not an accountant. I'm not somebody who
- 23 would have gone through the books or actually put them together. So I know
- 24 that there are separate -- I think there were separate but I'm not sure if
- 11:12:20 25 there are separate classifications for other politicians. Frank Dunlop
- 26 obviously all payments to him was put under the one classification.
- 27 Q. 106 We'll see that this exercise which is carried out for the purpose of the
- 28 Tribunal is an analysis of the City West partnership's accounts for the year
- 29 1992, which we'll see at page 2983. Could I suggest that this is not a
- 11:12:52 30 document which was prepared for the Tribunal but is a contemporaneous document

11:12:56 1 showing the accounts of the company in 1992 and '93 and the items of expense of
2 the company at the time, isn't that so?

3 A. I think that was done contemporaneous at that particular time.

4 Q. 107 Yeah. And you'll note that the figure 21,638 corresponds exactly with the
11:13:15 5 analysis done recently by your accountant?

6 A. That's right.

7 Q. 108 As to what the actual PR expenses attributed to the company were in that year,
8 isn't that right?

9 A. That's right.

11:13:25 10 Q. 109 And we know that certainly from the payment to Councillor Madigan of 500
11 pounds. It was not added to that PR list of expenditure as a PR payment, isn't
12 that right?

13 A. I'm not sure. Where does it appear?

14 Q. 110 You tell me. But it doesn't appear as part of the 21,638 which is attributed
11:13:45 15 to PR expenses. We see that broken down at page 2982 which we saw a little
16 earlier, which is a payment to Frank Dunlop of 598.43. Frank Dunlop 20,000
17 Shefran. Frank Dunlop 861.65 and 177.75. None of those records the payment
18 made in July or perhaps at the end of May. I'm not sure how we decipher that
19 figure but made to Councillor Madigan of 500 pounds. It's not included in that
11:14:21 20 tot, isn't that right?

21 A. No, these were all the payments that were made under the classification of
22 reconciliation of public relations expenditure and I am merely putting to you
23 that you did not treat all politicians payments as PR payments because had you
24 done so we would see at a minimum another 500 added to the tot which is on
11:14:26 25 screen before you, isn't that so?

26 Q. 111 These are all the payments that were made under the classification of
27 reconciliation of public relations expenditure. And I'm merely putting to you
28 that you did not treat all politicians payments as PR payments because had you
29 done so, we would see, at a minimum, another 500 added to the tot which is on
11:14:45 30 screen before you, isn't that so?

- 11:14:48 1 A. As I say, Mr. O'Neill, all of the payments to Mr. Dunlop were put under a
2 certain classification and that classification was public relations. Whether
3 you classify a legitimate political donation as good public relations or not.
4 Perhaps that could be debated, that may be so or maybe not. But that was the
11:15:07 5 classification that was put in.
- 6 Q. 112 Right.
- 7 A. I've said quite a number of times. I don't understand why you come back. I've
8 always said that this was a legitimate political donation, Mr. O'Neill.
- 9 Q. 113 Yes. If it was a legitimate political donation it would be treated
11:15:29 10 legitimately in the books of the company unless some terrible error had taken
11 place, isn't that right?
- 12 A. It was treated in the books as it was put down as a payment to Frank Dunlop.
13 That's how it was treated in the books.
- 14 Q. 114 But that was not a legitimate treatment of this payment, Mr. Hickey?
- 11:15:46 15 A. But I don't know, is it not a legitimate?
- 16 Q. 115 It is not an expense of the company. It is treated in the company's accounts
17 as an expense. It entitles the company to claim it as an expense against its
18 profits, if it ever made them. To attribute it as being a legitimate business
19 expense. It is not. It is 20,000 pounds that has gone to politicians, is not
11:16:11 20 tax deductible. It is not entitled to be put into your accounts in the
21 company. It is illegitimately recorded and dealt with?
- 22 A. Well, I can say, Mr. O'Neill, that if it was put under classification and
23 that's how it was grouped, it was definitely not to avoid tax. I mean, I
24 certainly, I mean, I would think the most foolish thing to be trying to avoid
11:16:37 25 20,000. We're involved in a very large company. A start up company. And I
26 start first thing I do is trying to illegitimately avoid tax. If it was done
27 so it was done in error. It was not done in any way deliberately.
- 28 Q. 116 I have not suggested that it is for the purpose of avoiding tax. This is a
29 company which made a loss on paper in the year in question. It didn't assist
11:17:00 30 it in any way to have it in as a business expense from the taxation point of

- 11:17:05 1 view. It did, however, ensure that the audit trail was not capable of being
2 accurately followed to establish that this was a business -- a payment to a
3 politician?
- 4 A. And is it all the more credible then that I would actually make sure that it
11:17:23 5 was clear that what it was for rather than some fees for some other purpose.
- 6 Q. 117 Yes. How is it clear Mr. Hickey?
- 7 A. Because I made it clear to the Tribunal. Because they are the first people who
8 inquired about it. And I would have made it clear to anybody at the time that
9 it was, that we had made a political donation.
- 11:17:41 10 Q. 118 Yes?
- 11 A. It was not something that I kept a secret or was ashamed of. It was something
12 that I did and part of business.
- 13 Q. 119 The audit trail that would be followed by the Tribunal would trace a payment
14 made by you of 20,000 pounds to Mr. Frank Dunlop. It would find that it did
11:18:01 15 not go to any account of Shefran, which was the person to whom you'd written
16 the cheque. It would find that because Shefran did not have a bank account.
17 It would find that Shefran was not a company which was trading. It would find
18 that Shefran was not a company which was VAT registered. All of those matters
19 would cause the Tribunal, and did cause the Tribunal, to conduct the type of
11:18:26 20 investigation that it is conducting at present as to why this payment was made
21 and for what service. And it would then be indicated that it was a payment
22 made to politicians. And then the next question is why.
- 23 A. Well, I hear what you're saying that Shefran is a non-trading company. That
24 Shefran is a company that doesn't pay VAT. That Shefran doesn't hold a bank
11:18:55 25 account. Which comes as a great surprise to me. Considering Shefran was the
26 name of the company that take the partnership share in City West. I'm
27 astonished when you say those things. Yet at the time they took its
28 partnership share was in the name of Shefran.
- 29 Q. 120 Yes. So?
- 11:19:12 30 A. So I, I would not have been dealing with a company -- a person who was carrying

11:19:21 1 on his affairs like that if I had known that was the case. And I had
2 absolutely no reason to believe that he was carrying on his affairs like that.

3 Q. 121 We have spoken already about the circumstances in which you came to pay this
4 money to Mr. Dunlop. He has given evidence that he indicated that persons
11:19:44 5 would be coming to him looking to him for money and they would say that, look,
6 we assisted you in relation to City West. There's an election coming up. That
7 he imparted all of that information to you in the context of asking you for
8 money to satisfy those requests. Is that a fair summary of what?

9 A. I think that's a reasonable summary of the situation. I don't know explicitly
11:20:10 10 the words. But it's a reasonable summary.

11 Q. 122 Yes. On that summary and we'll leave that aside now because I really want to
12 understand what you believed you were doing at the time that you made the
13 payment rather than my analysis of it?

14 A. Sure.

11:20:27 15 Q. 123 You believed that there was going to be a connection of sorts between the fact
16 of City West having had to deal with politicians to that point in time and the
17 fact that money would be paid to them, albeit after the event. Is that so?

18 A. City West was a project that had overwhelming support from every single party,
19 person. Not just political. I'm talking about residents associations. I'm
11:21:00 20 talking about the Chief Executive of the IDA. I'm talking about Ministers.
21 City West was when I spelt out the concept of what we were trying to do. We,
22 as I say, the burning issue at the time was unemployment. We were proposing to
23 build a world class business park in one of the probably the biggest
24 unemployment black spot in Ireland as a very novel and expensive way of
11:21:28 25 addressing these issues. By the way, we were doing it for commercial reasons.
26 But the side effect would have been for extremely good social benefit. It was
27 a very complex project. It was something that the only way that we could
28 succeed would be the last beneficiary in it. In that we would buy the land, we
29 would build infrastructure, a bridge over the Naas Road. We would build a link
11:21:54 30 road, N 82 linking the Naas Road to the Tallaght bypass. We would be involved

11:21:59 1 in part of the embankment road. We would landscape it. The first thing we did
2 was put 70, 000 trees on the site. We built lakes, we built streams, all of
3 those things. At the end of that, having created the environment we would then
4 go about building buildings. And at the end of that, if we succeeded in
11:22:21 5 getting a company into those buildings, jobs were created and then we might be
6 a beneficiary. It was a very torturous, very long difficult process. And it
7 was seven years before our shareholders got a single penny of return. Because
8 of this project, because this was not a quick buck. Everybody knew that and
9 everybody we spoke to supported this. There was no need to go about doing
11:22:49 10 anything untoward or underhand. It was so overwhelming in its acceptance by
11 everybody, from residents associations to everybody. If you are suggesting
12 that we were doing something because we had to keep people sweet, that is
13 furthest from the truth. We were doing it because of the strength of the
14 project.

11:23:09 15 Q. 124 The question I was asking you Mr Hickey was whether or not there was a
16 connection between the fact that councillors had achieved what they did in
17 relation to City West and the demands for payment which were subsequently
18 advised to you as being likely to be made of Mr. Dunlop. Did you make any
19 connection in your mind when you were paying this money to Mr. Dunlop to the
11:23:35 20 fact that he indicated to you that politicians would be coming to him looking
21 for money and he wanted to be in a position to pay them?

22 A. Yes.

23 Q. 125 If we can perhaps confine the response to payments and the connection between
24 councillors?

11:23:52 25 A. Yes.

26 Q. 126 I'd appreciate that 70,000 trees were planted there. If we could try and
27 narrow the issues to the connection?

28 A. I think in fairness, Mr. O'Neill. What I'm trying to do is to put it into
29 context of the time so that you can understand not only what I'm saying but
11:24:10 30 whether the veracity of what I am saying is consistent with what was

- 11:24:12 1 happening. That's all I'm trying to do, trying to put it into context.
- 2 Q. 127 I'd like you to put into context how you felt it was necessary to make payments
3 to politicians in connection with City West, albeit after the event. Can you
4 explain that, please?
- 11:24:37 5 A. Yes. I would have met nearly all of the local politicians, not just the local
6 ones but nearly all of the County Councillors. I don't know whether I met 40
7 of them or whether I met all 77. But I would have met nearly every one of
8 them. I would have met some of them quite a number of times. I would have
9 briefed them on what we were doing. I would have said to them look it, we are
11:24:55 10 looking to rezone a large tract of land. We know it's a big ask but I know
11 what I'm talking about. I believe this is the type of development you need to
12 do. I said that if you support us we will honour what we're saying we're doing
13 and we will deliver what we say, which we did do. It was in the context of all
14 of those meetings with those people who did trust us and voted through by every
11:25:21 15 single party. And every person in the chamber bar one voted for it. And in
16 that context Frank Dunlop said these people have been very supportive of you,
17 they're coming up to a Local Election. It's a very expensive time. It is
18 normally expected that businesses would support politicians by making
19 legitimate donations. And it was in that context that I thought that was a
11:25:43 20 very fair and reasonable argument and I acquiesced to what he was saying.
- 21 Q. 128 Yes. Did you think that it would be of assistance to you in any ongoing
22 projects that you had at the time to have paid politicians 20,000 pounds in the
23 Local Elections in 1991 through Mr. Dunlop?
- 24 A. Well, I don't think I was as Machiavellian as that. I mean, they had supported
11:26:14 25 us. And I was aware that politicians look for donations at times of elections
26 and we were supporting them back. I mean, I don't think I was any more
27 Machiavellian than that.
- 28 Q. 129 You did, of course, have whatever limited, as you say, interest you had in
29 Baldoyle. And I know that you've told us that that was a perspective one which
11:26:55 30 would only -- which was conditional, would only have come into play had you

- 11:27:01 1 been satisfied of your feasibility studies to become involved. I'm putting
2 these qualifications ahead of the involvement that you had or the participation
3 that you had in Baldoyle at that time. You were in June of 1991 in the early
4 stages of your involvement and I'm use that word in the qualified way that you
11:27:32 5 say that you were involved. You were in your early stages of your involvement
6 with Baldoyle at the time of this payment in June 1991, isn't that so?
- 7 A. I would think by June of '91, from the evidence documentation that I had nearly
8 concluded my negotiations with John Byrne and I was very watery on the whole
9 concept of being involved in Baldoyle at that stage.
- 11:28:00 10 Q. 130 Insofar as you were ever warm on the subject, could I suggest that it would
11 have been in the early stages and before you had conducted what you say was
12 your feasibility study which you concluded towards the end of the summer of
13 1992 which allowed you to say we definitely are not going ahead. Could I
14 suggest that in the early stages whatever interest you had, subject to whatever
11:28:23 15 conditions you say existed at the time. You did have that interest and it was
16 at its highest probably at the time when you were endeavouring to negotiate the
17 option from Mr. Byrne and that would have been in June 1991?
- 18 A. No, I.
- 19 Q. 131 Do you disagree with any of that?
- 11:28:41 20 A. Oh, I do, yes.
- 21 Q. 132 Okay?
- 22 A. My highest point of interest in this would have been when Frank Dunlop came and
23 said he could have got an option on 400 acres for 5,000. That would have been
24 the pinnacle of my interest in Baldoyle.
- 11:28:55 25 Q. 133 Had that come to fruition that scheme of things, it would have been as a result
26 of Mr. Frank Dunlop's interface with the councillors in the first instance to
27 achieve the rezoning of the lands, isn't that right?
- 28 A. You're talking about Baldoyle now are you.
- 29 Q. 134 Yes?
- 11:29:16 30 A. Could you ask me the question again, please.

- 11:29:18 1 Q. 135 I'm asking you whether or not it was the case that if Baldoyle was to be
2 rezoned the person who was going to have the interface with the councillors in
3 the expectation or hope of achieving that would have been Mr. Frank Dunlop?
4 A. That's right.
- 11:29:29 5 Q. 136 Exactly. The person to whom you had given the money to pay the politicians,
6 isn't that right?
7 A. That's right.
- 8 Q. 137 Yes. And that undoubtedly would have increased his standing, no doubt, with
9 politicians as being a person who had made a donation to them in that amount,
11:29:46 10 on your behalf, isn't that so?
11 A. Well I'm not sure how much it would have increased. He seemed to have an
12 extremely high standing with the politicians as it was. Before we had made any
13 political donations he was able to organise meetings with all of the
14 councillors in the early part of '91 before any of this was done. He had a
11:30:05 15 very high standing with politicians, local politicians, TDs and Ministers.
16 Q. 138 Yes. I'm going to move now, Mr. Hickey, to the second payment in time. Which
17 was a payment made six months after the payment that we've been considering on
18 screen here. And again, it is a payment made to Shefran Limited. And we'll
19 see at page 2879. It is so accounted for in a ledger prepared on behalf of
11:30:35 20 your company or the parties involved in your company in August of 1993, isn't
21 that right? You can see the date there in the top corner. 18th of the 8th
22 1993. In manuscript. Can you see that? It's in the top right hand corner.
23 There's PD ...
24 A. Oh, yes, sorry, yes/
- 11:31:00 25 Q. 139 We can take this again as a contemporaneous document rather than one generated
26 for the purposes of the Tribunal and the first entry that is there is for
27 Shefran Limited 10,000 pounds. And that's the 10,000 pounds which was paid in
28 relation to Baldoyle, isn't that so?
29 A. That's right, yes.
- 11:31:17 30 Q. 140 And is the only Shefran payment in relation to Baldoyle?

- 11:31:21 1 A. That's right.
- 2 Q. 141 As far as you're aware?
- 3 A. That's right, yeah.
- 4 Q. 142 And can be distinguished from the other payments to Mr. Dunlop because they are
- 11:31:27 5 made to Frank Dunlop & Associates, isn't that right? It can be distinguished?
- 6 A. Which other payments are you looking at.
- 7 Q. 143 If you look at the list there in front of you. Fourth down. 1,530 pounds?
- 8 A. I'm not sure that was ever paid Mr. O'Neill. We have no record. I think there
- 9 was an invoice raised. We've done an extensive trawl through our records and I
- 11:31:54 10 believe East View as well. It was categorised under East View account and I
- 11 presume that was provided to us but I'm not so sure that was ever paid. I
- 12 stand to be corrected. We can find no evidence that it was paid.
- 13 Q. 144 It may not have been paid, but who knows. But this accounting exercise was
- 14 recording it as a liability to be paid if it hadn't been paid?
- 11:32:15 15 A. Perhaps, perhaps, yeah.
- 16 Q. 145 It gives the date the 6th of the 5th '92 Frank Dunlop & Associates. It
- 17 suggests that what was being recorded here was a payment made rather than
- 18 something which was in the nature of a creditor to be paid?
- 19 A. Sorry isn't that a question.
- 11:32:36 20 Q. 146 Yes.
- 21 A. Well.
- 22 Q. 147 It suggests since it records it with other payments and since it gives it a
- 23 specific date it suggests given that the heading is Baldoyle payments?
- 24 A. Uh-huh.
- 11:32:50 25 Q. 148 That the author of this document believed it to be a Baldoyle payment?
- 26 A. That's right.
- 27 Q. 149 Right.
- 28 A. And even though I don't think that the payment was made. But I stand to be
- 29 corrected. We can find no record that it was paid.
- 11:33:03 30 Q. 150 The author then was wrong in recording it as a payment if it wasn't a payment?

- 11:33:08 1 A. Well I think the author was wrong. Whoever did this. A number of other
2 things. Because I see the payment to Gore Grimes I don't think took place
3 either because that was a payment that was made by East View by David
4 Shubotham. So I think that's also an error. So I think there are a few errors
11:33:27 5 in that document.
- 6 Q. 151 Again, the payment -- sorry. The payment in respect of that 10,000 pounds is a
7 payment to Shefran Limited, isn't that right?
- 8 A. That's right, yes.
- 9 Q. 152 At this point in time you're not in a position to indicate why it was that you
11:33:55 10 paid Shefran as opposed to Mr. Dunlop, is that right?
- 11 A. No.
- 12 Q. 153 And as you know, or as you may know, there is no accounting exercise that is
13 capable of being found within your company to deal with this 10,000 pounds
14 payment, isn't that so?
- 11:34:17 15 A. We didn't make the payment.
- 16 Q. 154 Sorry. When you say "we" I think you're distinguishing?
- 17 A. I'm talking about Davy Hickey because I'm a director and Chairman of Davy
18 Hickey.
- 19 Q. 155 It's paid by East View Partnership?
- 11:34:31 20 A. That's right, yes.
- 21 Q. 156 East View Partnership being Mr. Shubotham, and whoever it was who constituted
22 that partnership, isn't that right?
- 23 A. There was no partnership. It was David Shubotham's account.
- 24 Q. 157 Right. A partnership inevitably in its ordinary meaning of the word meaning of
11:34:50 25 the word means a combination of persons acting in unison for a joint venture
26 called partnership rather than an individual who sets up and deals with matters
27 as an individual, isn't that right? In its ordinary meaning partnership?
- 28 A. Well, I think Mr. Shubotham will actually deal with that. I think what he will
29 say and I probably shouldn't be pre-empting it but that why it was his in his
11:35:20 30 personal account was because there was no partnership. I think it was in a

- 11:35:20 1 personal account that he opened.
- 2 Q. 158 Yes. In the name of partnership he determined that he would open a partnership
3 account and that the details of that should be sent to him. You'll see it at
4 page 1646. East View Partnership current account send to D Shubotham. The
11:35:37 5 account is that of East View Partnership with its own account number. The
6 details of it are to go to Mr. Shubotham. You say that that is a matter which
7 was not of concern to you, is that right?
- 8 A. Well, I can't talk explicitly because it wasn't an account that I set up. But
9 there was no partnership at that stage. I think what Mr. Shubotham will say is
11:36:01 10 that's why he had to open his own name. I think that's probably something he
11 should answer. It was not my account. It was not an account that I had a
12 signature or had control of.
- 13 Q. 159 Yes, you were aware of the payment of 10,000 pounds made to Mr. Dunlop which is
14 reflected in this document as a 10,000 pounds payment, isn't that so? You were
11:36:24 15 aware of the payment made?
- 16 A. I don't and I think I said yesterday, Mr. O'Neill, I don't explicitly recall a
17 conversation regarding the 10,000. But I do believe that if David Shubotham
18 was writing a cheque regarding Baldoyle that he would have discussed it with
19 me. So I'm sure I would have been aware of it even though I don't specifically
11:36:45 20 recall the incident or the conversation.
- 21 Q. 160 Right. You equally because you're not the person who signed the cheque you
22 don't know why it was made to Shefran as opposed to Frank Dunlop or Frank
23 Dunlop & Associates, isn't that right?
- 24 A. Well I didn't write the cheque but again, I make no great distinction at any
11:37:10 25 stage between whether Frank Dunlop said an invoice for himself or Shefran. I
26 didn't see a particular significance but I can't comment on this particular
27 cheque.
- 28 Q. 161 Do you think it's likely to have been a payment that was evidenced or followed
29 upon an invoice having been issued?
- 11:37:28 30 A. Well, in all cases in relation to Davy Hickey. We only pay on the basis of

11:37:34 1 invoices. And I would presume that was the case here. But I can't say.

2 Q. 162 You don't know?

3 A. Well, I wouldn't know.

4 Q. 163 Again, while the other expenses that we see here on -- sorry. At page 2879.

11:37:58 5 2879. These were expenses which were incurred by Pennine Holdings in relation

6 to, firstly, if we work down to the first reference E F Collins. That is the

7 solicitors fees for setting up the company Pennine Holdings Limited. And for

8 the option, isn't that right?

9 A. That's right, yes.

11:38:21 10 Q. 164 Yes. And that is 10,488 pounds, which is paid by East View Partnership, isn't

11 that so?

12 A. That's right, yes.

13 Q. 165 The next payment is to McCarthy & Partners. They are the consulting engineers,

14 isn't that right?

11:38:36 15 A. That's right, yes.

16 Q. 166 And they are paid 5,164.27. Again, by East View?

17 A. That's right, yes.

18 Q. 167 Had you any prior dealings with McCarthys, by the way? Before this venture?

19 A. Well, I don't -- I don't recall whether I had. I don't think I had,

11:38:56 20 Mr. O'Neill. I don't think I had. I mean, I would have had a lot of dealings

21 with a lot of firms of consulting engineers.

22 Q. 168 Sure?

23 A. I wouldn't have any great dealings with them. But I don't specifically recall

24 having business dealings with them.

11:39:09 25 Q. 169 While I am on that subject if we just look to the last of those payments on the

26 column there to Grainne Mallon. Had you used Grainne Mallon Before?

27 A. No.

28 Q. 170 Mr Dunlop has said that both of these persons were recommended for use by

29 Mr. Liam Lawlor and that's why they were engaged. Do you have any reason to

11:39:24 30 disbelieve that?

- 11:39:26 1 A. Well, I'm not sure whether he is suggesting that they were recommended to Frank
2 Dunlop or whom. He didn't recommend them to me.
- 3 Q. 171 These are the persons who carried out the project analysis and made the
4 submissions and I think that you indicated that in your feasibility study you
11:39:46 5 considered their reports as part of that process, isn't that right?
- 6 A. Well, I paid their fees and I engaged with them and I met with McCarthys at
7 least once and I would have discussed it with them. That's the extent of my
8 recollection of my dealings with him.
- 9 Q. 172 In any event, they weren't persons chosen by you for this particular task,
11:40:09 10 isn't that right?
- 11 A. I don't recall whether it was Frank Dunlop that appointed him or whether I
12 appointed him, to be honest with you, Mr. O'Neill.
- 13 Q. 173 Did East View ever account to you for the expenditure of the 10,000 pounds paid
14 here to Shefran?
- 11:40:38 15 A. No, but as I said before, we would have had a -- I would have had a close
16 working relationship with Mr. Shubotham. And whilst I can't explicitly recall
17 having a conversation with him, I would have doubted if he -- he didn't discuss
18 with me or tell me that he was going to do it or was asked for it or had done
19 to. So I suspect that he did discuss it is really what I'm saying.
- 11:40:55 20 Q. 174 The totality of expense here, it's just short of 50,000 pounds, isn't that
21 right.
- 22 A. That's right, yes.
- 23 Q. 175 Who funded it had at the end of the day. I'm not now concerned with the manner
24 in which it was put through East View Partnership in some instances.
11:41:09 25 Mr. Shubotham signing cheques from East View Partnership or you signing cheques
26 from Davy Hickey Properties?
- 27 A. Uh-huh.
- 28 Q. 176 But who at the end of the day as between ...
- 29 A. Sure.
- 11:41:22 30 Q. 177 The individuals, the human beings rather than the companies?

- 11:41:25 1 A. I know.
- 2 Q. 178 What was the divvy out because there was no profit on this venture. All of
3 this is a loss, isn't that right? All of this 50,000 is wasted money?
- 4 A. Yeah, these were abortive costs on a project that didn't proceed.
- 11:41:38 5 Q. 179 Who bore those abortive costs?
- 6 A. Davy Hickey paid approximately 30,000. And David Shubotham paid approximately,
7 I think paid exactly 5,000. And there was the remainder left in the East View
8 account and it was rolled up and ultimately cleared off by City West. So the
9 balance of the 35 I think the 48,000 after or before VAT would have been more
10 like 45,000. So I think it was approximately 12,000 that was rolled up to be
11 accumulate to whatever it was when it was cleared by City West. So that's how
12 it was funded.
- 13 Q. 180 Well I think we know that. What I was asking you was who as individuals you
14 personally, Brendan Hickey, he personally, David Shubotham?
- 11:42:29 15 A. No, no, I --
- 16 Q. 181 As between --
- 17 A. Sorry. Personally I'm not involved in anything personally here. I'm only
18 acting in the capacity as director of Davy Hickey Properties. So personally I
19 didn't write any cheques for anything.
- 11:42:43 20 Q. 182 Right. And the East View Partnership is that personally Mr. Shubotham?
- 21 A. Well it was in his own name, in his own account.
- 22 Q. 183 Well it was not. It was in the partnership account of East View Partnership,
23 the details of which are to be sent to Mr. Shubotham. I'm just wondering if
24 there's the accounting. There are a number of corporate entities that are
11:43:05 25 referred to here?
- 26 A. Yeah.
- 27 Q. 184 Expenditure by some attributed to the East View Partnership?
- 28 A. Uh-huh.
- 29 Q. 185 Expenditure by others to Davy Hickey Properties?
- 11:43:13 30 A. Yes.

- 11:43:14 1 Q. 186 There had to be a sorting out at the end of the day when this venture came to
2 the conclusion as to who ultimately was going to be billed for this. And we
3 know, as you've told us, at the end of the day, the overdraft which had been
4 incurred?
- 11:43:27 5 A. Uh-huh.
- 6 Q. 187 By East View Partnership and allowed to run for some years was paid off by City
7 West, isn't that right?
- 8 A. That's right, yes, yes.
- 9 Q. 188 So does it mean that at the end of the day if you're not personally involved
11:43:40 10 that City West effectively was going to meet a proportion of the Baldoyle
11 incurred expenses and losses?
- 12 A. No, I think how it occurs. And if I breakdown Davy Hickey paid 30,000. And
13 David Shubotham paid 5,000. And ultimately, the balance when it was cleared
14 was approximately 12,000 plus accumulated interest was paid by City West. I'm
11:44:09 15 not sure if that's what you're asking.
- 16 Q. 189 It was what I was asking and the conclusion that I'm asking to draw at the end
17 of that is if the overdraft was paid at the end of the day by City West, it
18 means that City West met some of the losses incurred in respect of the Baldoyle
19 project. Do you understand the question?
- 11:44:29 20 A. That's right, yes.
- 21 Q. 190 And do you dispute it or agree with it?
- 22 A. No no,.
- 23 Q. 191 So to that extent, at the end of the day, financially City West and Baldoyle
24 are linked to that extent?
- 11:44:40 25 A. Well, they were linked, Mr. O'Neill, because I think it was six years later the
26 East View account had accumulated, had rolled up. And David Shubotham would
27 have come to me and said look, we need to clear this account. And City West
28 were a significant beneficiary from the goodwill that was generated with Frank
29 Dunlop. He was doing work for City West for nothing at the time. And it was
11:45:23 30 put to that, look this was reasonable that City West benefit from that, from

11:45:23 1 his diligence at the time of the written statement of the Development Plan.
2 And that City West should pay it. There was no linkage at the time. It was
3 six years after the event. This account should be cleared and who would be the
4 the appropriate entity.

11:45:32 5 Q. 192 Uh-huh. The next payment I'd like to deal with is again a Shefran payment.
6 And in this instance it's made ultimately through the company Newlands
7 Industrial Park Limited. If we look to page 1765.

8
9 On screen Mr. Hickey, you'll see that there is in the top corner a cheque.
11:45:53 10 Photocopy of a cheque with your signature on it, isn't that right?

11 A. That's right, yes.

12 Q. 193 And the paying company is Newlands Industrial Park Limited but I think you've
13 explained earlier that that is City West effectively, is that right?

14 A. It became City West back in, I think, it was May '93.

11:46:10 15 Q. 194 Right. And I don't think we're going to dwell on the difference between the
16 names?

17 A. No, same basic entity.

18 Q. 195 This is a City West payment again made to Shefran Limited and it's made in the
19 sum of 2,500 pounds, isn't that right?

11:46:26 20 A. That's right.

21 Q. 196 And again, that is a sum which you sent to Mr. Dunlop as we'll see from the
22 letter beneath it. It's on foot of an invoice of the 6th of August and it says
23 "Dear Frank please find an attached cheque sum of 2,500 pounds in payment of
24 the above invoice. I would be obliged if you would reissue this invoice
11:46:51 25 addressing it to Newlands Industrial Park Limited. It follows from that, that
26 whatever invoice you received, which was dated the 6th of August did not have
27 Newlands Industrial Park Limited as the party to be charged on that invoice,
28 isn't that right.

29 A. That would appear so.

11:47:08 30 Q. 197 Right. Have you any recollection as to who the invoice was sent to in the

11:47:12 1 first instance and why it was that you were not content to accept an invoice in
2 those terms?

3 A. I can't be categoric but I think it was sent to Davy Hickey.

4 Q. 198 Yes. And why is it that you wouldn't have met the Shefran invoice to Davy
11:47:31 5 Hickey because as far as we know in, so far as you had had dealings before with
6 Shefran, they were on the basis of payments being made to them by City West,
7 didn't that?

8 A. So Davy Hickey is a shareholder in City West. City West is responsible for its
9 own affairs and its own accounts and expenses. So obviously this invoice was
11:47:55 10 as a result of work he'd done for City West. Not for Davy Hickey. I don't.
11 So that's basically why it would have been the City West account, not Davy
12 Hickey.

13 Q. 199 Right?

14 A. I have to say I can't. That would be my reconciliation of what happened. I
11:48:10 15 can't be categorical because I don't have the original.

16 Q. 200 We'll see the invoice itself at page 1764.
17
18 This is probably the duplicate that was sent to you following upon your wish to
19 have one identifying Newlands Industrial Park Limited

11:48:27 20 A. Yes.

21 Q. 201 As the payee. And again, it's an invoice for refresher facilities vis-a-vis
22 professional strategic communications and education. It has no VAT element in
23 it. It's a composite sum of 2,500 pounds. At the time.
24

11:48:48 25 Do you have any recollection as to how it is or what it was paid for or how
26 this payment was treated in the books of account of Shefran

27 A. Well,.

28 Q. 202 Newlands I should say.

29 A. What I do know is that we would have had very extensive dealings with Frank
11:49:08 30 Dunlop at the time. As I say, he was a trusted member of the team. And I

11:49:15 1 suppose three particular instances would stand up in mind that were happening
2 around that time. We were, we tried to attract a major US surgical company
3 into Ireland in the late spring March. Well it actually went from March right
4 through until September where they were wanting to build a million square feet
11:49:35 5 facility. The IDA were very concerned to attract this company because they
6 were also looking at Scotland. This company wanted to make sure that if they
7 came here that they would have the full and active support of the Government.
8 We were very hopeful. The IDA were very supportive that they would come to
9 City West. And Frank Dunlop was able to give the assurance to the Chief
11:50:00 10 Executive of this company by arranging a meeting with the Taoiseach of the day
11 at 24 hours notice.

12
13 That was one thing that he did as a particular service. He did lots of things.
14 I know that there was another thing that I mentioned. Towards the end of June
11:50:20 15 where we had planning permission to do our sewer outfall to go through a public
16 park. And we had had meetings and meetings and letters back and forth with the
17 Council and the Parks Department and naturally the Parks Department were very
18 protective of their public park. We wanted to put a big sewer through it and
19 they were concerned of how it might be done. We were very anxious because we
11:50:38 20 had planning permission that we would acquiesce to any reasonable needs they
21 had. They were looking for a payment not just to reinstate but also a payment.
22 There was the negotiations went on for a long, long period of time. And I
23 couldn't get a meeting with the Head of the Parks Department to try and
24 eventually get this resolved, get it on-site. This would be the end of June
11:51:01 25 that Mr. Dunlop organised that meeting, attended that meeting and we had the
26 issue resolved. In addition we had --

27 Q. 203 Just, I don't mean to cut you short on all of the various work that he did for
28 you. I'm trying to relate it to this specific invoice and ask you whether or
29 not you can identify any particular work which is reflected in this invoice. I
11:51:22 30 mean, if we cut to the chase on it do you believe this to be a legitimate

11:51:26 1 invoice?

2 A. Well, if you'd let me finish.

3 Q. 204 Of course?

4 A. Mr. O'Neill, sorry. In May of '92 the County Council requested that I make a

11:51:38 5 presentation to them on City West. The progress we were making. And that the

6 concept that we were envisaging and all the details and exactly the whole

7 concept etc. I had to do a presentation to the company. Frank Dunlop would

8 have briefed me, helped me. I'm not so sure I wouldn't have been particularly

9 used to giving public speeches. And he would have been very, I think he

11:52:04 10 probably even wrote my speech and he told me what to expect. So there would

11 have been a lot of PR I suppose like the Carr Communications, that type of

12 assistance for that particular presentation.

13 Q. 205 I'll now ask you whether you believe the invoice which is on screen to be a

14 legitimate invoice for services. That's capable of a yes or no answer. And

11:52:29 15 I'd appreciate the yes or no answer?

16 A. I took it as legitimate.

17 Q. 206 You took it as legitimate?

18 A. Yes.

19 Q. 207 You heard the evidence of Mr. Dunlop that it is a bogus invoice that no such

11:52:40 20 services were provided. That its recital of detail is verbiage and meaningless

21 and it was generated solely to have something on the accounts of the donors as

22 it having been paid to a company. You, I take it, disagree with all of that?

23 A. Well I think if you listen to my, as you would call it, long-winded explanation

24 I don't think that's consistent with what Mr. Dunlop was saying.

11:53:04 25 Q. 208 I certainly didn't accuse you of having made a long winded statement. I

26 endeavoured to reduce your response, direct response to the issue you were

27 questioned on.

28

29 You say that this is a legitimate invoice

11:53:16 30 A. I took it as a legitimate invoice Mr. O'Neill.

- 11:53:19 1 Q. 209 You would have been charged for, firstly it would have emanated from Frank
2 Dunlop & Associates Limited, which is the PR company you were dealing with, not
3 Shefran. You don't agree with that?
- 4 A. I'm not sure where it emanated from. It came from Shefran. But Frank Dunlop
11:53:36 5 would have initiated it obviously.
- 6 Q. 210 The legitimate invoices that came from Frank Dunlop in respect of services
7 provided by him were from a limited company called Frank Dunlop & Associates
8 Limited which charged VAT in respect of the services that it provided and it is
9 only payments that were going to what he described as his stash of cash, his
11:53:57 10 slush fund, his accumulation or culmination or confluence of funds that this
11 money went into. But you say that you knew nothing of that and knew nothing of
12 it until you heard the evidence of Mr. Dunlop on that issue, is that right?
- 13 A. Well, I can't be any more categorical, Mr. O'Neill. If I thought that we were
14 engaging with somebody who was doing something untoward, unethical or illegal,
11:54:23 15 we would have nothing further to do with him. And I think Mr. Dunlop would
16 have known that if we had any inclination that we thought that he was doing
17 that, he would have known that would have been the case also.
- 18 Q. 211 You think that the words, therefore, on this invoice of refresher facilities
19 vis-a-vis professional strategic communications and education accurately
11:54:54 20 reflected the service that he had provided to you, you've already recited
21 exactly what it was so far. But do you believe that that accurately reflected
22 the service he provided to you and for which you were going to pay 2,500 pounds
23 to Shefran?
- 24 A. Well, I don't ever and I think I said yesterday when you asked me, spend a lot
11:55:10 25 of detail on exactly what the company or entity that is requesting the money or
26 even the verbiage that is on it. I mean, I would be aware if I owe somebody
27 money and they send me an invoice. I think it would be sufficient for them to
28 pay the invoice. In this particular context he certainly did help me with
29 communication and he certainly did help me with strategic advice as to how I
11:55:35 30 should handle it. If I want to dissect it and try to marry it with what he did

- 11:55:41 1 it was not inconsistent on some of the things that he helped me on, but I have
2 to emphasise it would not be something that I spent a lot of time analysing.
- 3 Q. 212 No, it certainly doesn't require a lot of time to analyse any way. You just
4 have to read it and you can immediately determine what it is for, isn't that
11:55:56 5 right? It is self evident on its face?
- 6 A. I don't think that payment was sent out it was inconsistent with what the
7 advice and support and help he had given me.
- 8 Q. 213 Right. I now ask to you look at page 1789, which is an identical document save
9 that it is for a different amount and it's on a different date. This document
11:56:19 10 is an invoice. It's to Newlands Industrial Park Limited care of 27 Dawson
11 Street. It's the 11th of November 1992. It is an invoice from Shefran Public
12 Affairs consultants. It is in the amount of 10,000 pounds and it is for
13 refresher facilities vis-a-vis professional strategic communications and
14 education, isn't that right? Isn't that so?
- 11:56:48 15 A. That's what it says, Mr. O'Neill.
- 16 Q. 214 That's what it says, yeah. And that is a an invoice which is paid by cheque
17 No. 1, isn't that right? You see it's written on?
- 18 A. That's right, yes.
- 19 Q. 215 And if we turn to page 1790. We'll see that this is a cheque payable to
11:57:12 20 Shefran Limited 10,000 pounds only signed by you and sent to Mr. Frank Dunlop
21 of Shefran Limited Public Affairs Consultants on the 9th of May 2000. Sorry.
22 It's received by us on the 9th of May 2000. But it's in payment of the above
23 invoice, isn't that right?
- 24 A. That's right.
- 11:57:38 25 Q. 216 Now, what is that payment for?
- 26 A. There was a General Election going on. And again Mr. Dunlop came and said that
27 we should, it would be appropriate that with the General Election that we would
28 make a political donation to the various parties. I saw it as a legitimate
29 political donation.
- 11:57:56 30 Q. 217 Yes. To whom was it to be paid?

- 11:57:59 1 A. It was paid to Frank Dunlop for him to pay out in the appropriate manner. And
2 I wasn't aware whether he would give equally to the parties or proportionately
3 according to the strength or how exactly he was going to do it.
- 4 Q. 218 Is any aspect of that professional strategic communication or education, to
11:58:25 5 your knowledge?
- 6 A. No, as I said, Mr. O'Neill, I received -- he asked for a payment and he asked
7 for it to be paid in a certain way. And I didn't take any particular
8 cognisance of either the company or the verbiage. It was the fact that would I
9 pay it or not was the question.
- 11:58:44 10 Q. 219 Well, why bring in an invoice?
- 11 A. Because I don't pay out cheques to anybody without invoices.
- 12 Q. 220 You could get a receipt from Fianna Fail, Fine Gael, Workers Party, whoever it
13 might be, thank you very much for your 10,000 or a proportion of it, that's a
14 receipt of for the purposes of your records. It allows you to account for it
11:59:09 15 to your auditors, external and otherwise, the company expenditure is recorded.
16 It doesn't require an invoice. It requires a receipt?
- 17 A. No, I would agree with you. I mean, if Frank Dunlop had have come along and
18 said please write a cheque to Fianna Fail for 5,000 or 3,000 to Fine Gael or
19 whatever portion I'd have done it that way or if he said that I think you
11:59:34 20 should do X amount to the local politicians and X and Y and A, B, C I'd have
21 done it that way also. I did it in a manner he suggested.
- 22 Q. 221 If he wrote to you and said I need 10,000 for payments on to politicians please
23 send it to me. You would have sent the money to him with the letter saying
24 "Dear Frank, I enclose herewith 10,000 pounds as requested by you for onward
12:00:04 25 payment to politicians, yours sincerely Brendan Hickey. Isn't that so?
- 26 A. Not necessarily.
- 27 Q. 222 Not necessarily?
- 28 A. As you can see it's quite a brief letter.
- 29 Q. 223 It is, yeah?
- 12:00:11 30 A. I'm just -- it's a covering note to cover the cheque. It's not setting out a

- 12:00:16 1 description of what it's for. I agree with you, it would have assisted me much
2 better now if I had have been a little bit more fulsome and made a statement of
3 what it was for. But.
- 4 Q. 224 But you did?
- 12:00:28 5 A. I think we'd be sitting here fifteen years later trying to analyse something
6 that I thought was a perfectly legitimate thing to be doing.
- 7 Q. 225 Yes. The day after this letter was written by you. If you were asked by
8 somebody for an explanation it would be the same explanation as you'd be giving
9 now, isn't that right? Nothing has changed?
- 12:00:47 10 A. I'd have said to them I made a political donation. And I think that's what I
11 would have done.
- 12 Q. 226 Right?
- 13 A. Frank Dunlop to be done in a way that he thought was fair and appropriate.
- 14 Q. 227 Okay. What you say in the letter is please find attached a cheque in the sum
12:01:05 15 of 10,000 pounds in payment of the above invoice, isn't that so?
- 16 A. That's right.
- 17 Q. 228 It wasn't in payment of an invoice that you made this payment, isn't that so?
- 18 A. Sorry, I missed the distinction there.
- 19 Q. 229 You're not paying for professional advices vis-a-vis strategic communications
12:01:28 20 and education Mr. Hickey. The payment wasn't for that, was it?
- 21 A. The payment was for a political, legitimate political donation.
- 22 Q. 230 Right. Does it follow then as night follows day that it wasn't for
23 professional, strategic communications and education?
- 24 A. No, it was a political donation as I'm saying.
- 12:01:47 25 Q. 231 So the payment whereas it's expressed to be made as a cheque in payment of the
26 above invoice. It's not for payment of the above invoice. It's for something
27 entirely different. It's for political donations, isn't that right?
- 28 A. Well I probably should be more accurate and say it's a payment of 10,000 above
29 invoiced amount.
- 12:02:07 30 Q. 232 It's not a case of being more accurate or less accurate. This is a statement

12:02:11 1 which is wholly untrue. The payment was not being made to meet an invoice. It
2 was being made on your evidence, to pay for a political donation. Isn't that
3 so?

4 A. I'm not sure how I can say this. I mean, Mr. Dunlop was invoicing us to make a
12:02:35 5 payment to him so he could make legitimate political donations on our behalf.
6 The method of doing so was the method that he described to us would be the
7 proper way to do it. I would never make payment to somebody without having an
8 invoice. He sent me in an invoice. I sent in a sum of money and I presumed as
9 a partner, if you had a partner in a legal firm or business that he would
12:03:00 10 honour what he said he was going to use the money for and that's exactly what I
11 did.

12 Q. 233 It could not be a proper payment in any circumstances if you are paying a
13 cheque for a service which is billed to you which was not provided to you,
14 isn't that right,?

12:03:18 15 A. It wasn't a service.

16 Q. 234 Right. But that's what you're being billed for?

17 A. But it wasn't a service, Mr. O'Neill. It was a sum of money for a particular
18 end which was to make a legitimate political donation. I've said to you. And
19 I would write hundreds of cheques every year. I don't read what's on the
12:03:35 20 verbiage. I know if I'd said I owed somebody the money and I paid them the
21 money. But I don't pay particular attention to the company, the entity or
22 necessarily the verbiage.
23

24 CHAIRMAN: But surely, Mr. Hickey, you would query an invoice which was
12:03:52 25 completely incorrect. I mean, if you sought an invoice for a car you had
26 purchased and you got an invoice for an airplane you would surely query the
27 fact that this totally misdescribes what you've just purchased

28 A. Well, I agree it was a political donation and the invoice didn't say political
29 donation on it.

12:04:17 30

12:04:17 1
2 Q. 235 Nor does it say anything remotely similar
3 A. No, I appreciate that.
4
12:04:22 5 CHAIRMAN: It's twelve o'clock so we'll take a short break for about ten
6 minutes.
7
8 MR. O'NEILL: Very good.
9
12:04:27 10
11
12 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
13 **AND RESUMED AS FOLLOWS:**
14
12:04:45 15
16
17 MR. O'NEILL: If we could have document 1790 on the screen, please.
18
19 This cheque and letter, Mr. Hickey, were communications from you to Mr. Dunlop,
12:19:35 20 isn't that right?
21 A. That's right, yes.
22 Q. 236 And obviously, we've explained in the circumstances in which you came to pay,
23 make the payment and to express it in the terms that you did in the letter
24 here. You say that the payment is understood by you to be a payment for
12:19:51 25 political purposes in the amount of 10,000 pounds. And obviously, it's a
26 payment that would have to be accounted for within your own books of account,
27 isn't that right?
28 A. That's right.
29 Q. 237 Is there any reason why you didn't record it as a payment of a political
12:20:06 30 donation of 10,000 pounds in your books of account at the time?

- 12:20:10 1 A. Again, I think it's the same as what I said before, Mr. O'Neill. I'm not sure
2 what it says in the books but I believe they are all put under the same
3 classification for Mr. Dunlop.
- 4 Q. 238 But if that is so. Again, that is a case of putting a matter in under one
12:20:27 5 heading, which is not the legitimate heading for it, isn't that right?
- 6 A. Well it was --
- 7 Q. 239 PR payment is not a political donation and vice versa?
- 8 A. It was under the classification of payments made to Frank Dunlop. That was the
9 classification, Mr. O'Neill.
- 12:20:44 10 Q. 240 Right. And we'll see that at page 2968. There is a chart, if we can just turn
11 that around. The third item down. 122 Shefran Limited cheque No. 1. 10,000
12 pounds. And then if we turn to the next page, which is 2969. This I should
13 say is a bar chart and we're moving across it to get to the heading. PR, which
14 is about two-thirds across there. Public Relations. You'll see that the
12:21:26 15 10,000 features there, isn't that right?
- 16 A. That's right, yes.
- 17 Q. 241 So this political donation, as you say, has been entered as a PR expense in
18 your books of account, isn't that right?
- 19 A. That's right, yes.
- 12:21:37 20 Q. 242 There is no column heading here to deal with political donations. Because
21 obviously they're not a frequent matter to be accounted for. But there is a
22 column dealing with other expenses, other unspecified extensions. It's the
23 very last column to the right there. You see and that would have been the
24 appropriate column in which to enter this matter, isn't that right? It should
12:22:03 25 have gone in there as another PR, political donation, isn't that right?
- 26 A. Well I suppose it was a fairly large amount. It was put under a classification
27 of public relations whether making legitimate donations is classified as public
28 relations, you know, perhaps is open to debate, perhaps not. But I'm sure we
29 could have had more classifications, Mr. O'Neill.
- 12:22:27 30 Q. 243 Indeed?

12:22:28 1 A. But it wasn't intended to disguise anything. It was made at a political time
2 when there was elections. It was easy, you know, correlated to what was
3 happening to the political environment.

4 Q. 244 There were in fact political payments made and they were not accounted for as
12:22:45 5 PR expenses, isn't that right.

6 A. No, I've said quite a number of times that all payments made to Frank Dunlop
7 were put under a particular classification for ease of reference.

8 Q. 245 Well, how is it easy or in any way in ease of reference to mix political
9 donations with you legitimate expenses paid for PR services? How is that in
12:23:06 10 ease of anything?

11 A. Well, it was, there was only two, as I think there was only two political
12 donations made to Frank Dunlop in relation to City West.

13 Q. 246 Uh-huh?

14 A. So every everything else was other items.

12:23:20 15 Q. 247 I see. Thanks, Mr. Hickey.

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18 CHAIRMAN: All right. Mr. Gordon, do you want to ask?
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THE WITNESS WAS QUESTIONED BY MR. GORDON AS FOLLOWS:

12:23:29 1
2
3
4 MR. GORDON: Thank you, Mr. Chairman.

12:23:30 5
6 If I can just ask you about a small number of matters, please, Mr. Hickey.
7
8 First of all, if I could ask you about the company Shefran Limited.
9 Mr. O'Neill has characterised the company in various disparaging ways over the
12:23:51 10 last number of days.
11
12 You've told the court this morning, or not the court rather, the Tribunal this
13 morning, that Shefran Limited is the company through which Mr. Dunlop took his
14 stake in this City West enterprise

12:24:05 15 A. That's right, yes.
16 Q. 248 And does he hold that stake through that company to this day?
17 A. I believe that is the case, I checked it this morning and that was the case.
18 Q. 249 Yes. And insofar as he received any payments or dividends from that
19 investment, are they paid to this day to a company called Shefran Limited?

12:24:28 20 A. That's right, yes.
21 Q. 250 I think in addition, we see from documents which Mr. O'Neill has made reference
22 to, that when Mr. Dunlop made his investment in the Saggart lands, that he made
23 that investment through Shefran Limited?

24 A. That's right.

12:24:46 25 Q. 251 And I wonder if we could have a look, please, at pages 445, 446.
26 A. Yes, it's ...
27 Q. 252 Yes, it's the right hand page. And if it could be magnified a little more. We
28 have Place Property Limited (Saggart) transactions with Frank Dunlop Shefran
29 Limited 30th of May 1991. Received from Shefran Limited 15,670 pounds. Can
12:25:37 30 you explain the circumstances in which that transaction occurred to your

- 12:25:40 1 recollection, Mr. Hickey?
- 2 A. Well, I would think probably David Shubotham would have dealt with it so he'd
- 3 probably have a greater understanding of it. But we, City West got involved
- 4 and Davy Hickey in the Saggart lands. And the lands had to be bought. So all
- 12:25:57 5 of the shareholders or should I say partners in City West had to pay for the,
- 6 for their shareholding in the Saggart partnership. And that it would be Mr.
- 7 Dunlop's company, Shefran, who was a partner in City West making his
- 8 contribution for the Saggart partnership.
- 9 Q. 253 Yes. I think that was, as you say, that was a second parcel of land?
- 12:26:24 10 A. That's right.
- 11 Q. 254 Which the same partnership bought. It was immediately adjacent to the first
- 12 parcel?
- 13 A. It was 230 acres of zoned land immediately adjacent to what we know as City
- 14 West.
- 12:26:36 15 Q. 255 And what we're looking at here would have been Mr. Dunlop's contribution to
- 16 that which was being made with his company, Shefran Limited?
- 17 A. That's right, yes.
- 18 Q. 256 Yes. If I can ask you to look briefly at another document which Mr. O'Neill
- 19 has referred to a short time ago. And that's the letter or the invoice for
- 12:27:02 20 10,000 pounds of the 11th of November 1992.
- 21
- 22 I think it's got a reference No.
- 23
- 24 MR. O'NEILL: 1789
- 12:27:20 25
- 26 MR. GORDON: 1789, yes.
- 27
- 28 I think that invoice is on company notepaper?
- 29 A. That's right, yes.
- 12:27:29 30 Q. 257 And I think the company is described in the top right hand corner as Shefran

- 12:27:37 1 Limited?
- 2 A. That's right.
- 3 Q. 258 And underneath that it is stated public affairs and part of the word is
- 4 indistinct but it seems to be public affairs consultants?
- 12:27:50 5 A. That's right, yes.
- 6 Q. 259 So that would appear to indicate to a person receiving a communication from
- 7 Shefran Limited that it is holding itself out as a public affairs company?
- 8 A. That's what I took it to be.
- 9 Q. 260 Yes. It's the kind of endorsement that you would put on notepaper if you were
- 12:28:10 10 representing yourself to be a trading company?
- 11 A. Well I presumed it was a legitimate trading company and I'd have no reason to
- 12 believe otherwise.
- 13 Q. 261 Yes. Is now, one of the documents which Mr. Dunlop referred to, and which I
- 14 will be dealing with when I speak to Mr. Dunlop next week, is a document No.
- 12:28:45 15 3058, a file note of the 29th of July 1992. This is not a document that you
- 16 would have seen at the time, of course, Mr. Hickey. But this is an account
- 17 apparently of an interview with Mr. Dunlop when he went to his then bank
- 18 manager Mr. Ahern seeking a facility for Shefran Limited, isn't that right?
- 19 A. Yes, that's right.
- 12:29:12 20 Q. 262 He's actually seeking to borrow 100,000 pounds for Shefran?
- 21 A. It would appear so, yes, from this.
- 22 Q. 263 And I think that the top of that document records that Shefran at that time had
- 23 a current account with a credit balance of 32,843 pounds?
- 24 A. That's what it says on the document.
- 12:29:34 25 Q. 264 If I can then ask you to turn to the second last paragraph of that document.
- 26 Where Mr. Dunlop explains the purpose of Shefran Limited to his Bank Manager.
- 27 And we see the following observation. This company enjoys a good core client
- 28 base with other fee income challenged through Shefran Limited bearing in mind
- 29 Murray Consultants Limited hold 40 percent stake in the business.
- 12:30:06 30

- 12:30:06 1 A. That's right.
- 2 Q. 265 Is that on the face of it, a representation by Mr. Dunlop to his Bank Manager
- 3 that he is channelling some of his fee income through Shefran Limited?
- 4 A. Well I think it's -- it serves that to prove that not only did I believe it was
- 12:30:23 5 a legitimate company but he was purporting that the company was a legitimate
- 6 company to the bank also and carrying on legitimate affairs.
- 7 Q. 266 Now, if I can bring you back a little bit in relation to the story of City
- 8 West.
- 9 A. Uh-huh.
- 12:30:47 10 Q. 267 You dealt yesterday, rather briefly, in answer to questions by Mr. O'Neill,
- 11 with how the project was formulated and ultimately promoted. We begin, as I
- 12 understand it, in June or July of 1990 when you are recruited to lead the
- 13 project at City West?
- 14 A. That's right.
- 12:31:11 15 Q. 268 And as I understand it, Davy Hickey Properties Limited, which was incorporated
- 16 in July of 1990, took a significant interest in City West amounting to
- 17 approximately 25 percent?
- 18 A. That's right.
- 19 Q. 269 At 75 percent of City West was then held by other investors in the partnership,
- 12:31:32 20 as I will call it?
- 21 A. That's right.
- 22 Q. 270 So there were two things that Davy Hickey had. It had a 25 percent interest in
- 23 City West. But in addition to that, it was the entity which was to take charge
- 24 of and manage the project going forward?
- 12:31:48 25 A. That's right.
- 26 Q. 271 And you were the leader of that?
- 27 A. I was, indeed.
- 28 Q. 272 You described how it was that the particular type of business park came to be
- 29 put forward at the end of 1990?
- 12:32:06 30 A. Yes. I mean, it was -- at the recession in the 80s in Ireland were very very

12:32:12 1 deep, very very little development had taken place. And because of that what
2 was considered prime industrial and the best of industrial locations in Ireland
3 at the time were unsuitable for modern industry. In the 70s most industry was
4 production led and by the 90's there were services and marketing led. And
12:32:35 5 they'd gone from blue collar to white collar. The whole business park
6 phenomenon imported from the US into Britain had gone through four generation
7 changes in that and we had done nothing to create those environments for these
8 companies coming from the States who wanted similar environments to what they
9 had in the States. I was the investment director, commercial director in the
12:33:02 10 Rohan group at the time. Responsible for developing industrial estates in
11 Airways Industrial Estate, Cherry Orchard Industrial Estate and Sandyford
12 Industrial Estate. I would have been very aware despite the little turnover
13 that there was a huge change taking place in industry and that there was no
14 suitable environment to receive these incoming companies. And an opportunity
12:33:25 15 existed to try and create this environment that would attract these companies.

16 Q. 273 Can you tell the Tribunal Mr. Hickey, whose idea was it to promote the scheme
17 for which planning permission was sought at the end of 1990?

18 A. Well, it was my idea because it was my observation that there was there was a
19 lot of intrinsic problems with the existing environments. The nature of the
12:33:54 20 industry was changing from blue to white collar. There was no landscaping.
21 There was no creation of environments. There was no sense of place. We -- I
22 knew that there was an opportunity simply because and the IDA knew that there
23 was this opportunity being missed also. And it was my experience in this whole
24 area where I'd worked previously as an engineer, consulting and contracting and
12:34:17 25 ten years with the biggest industrial developer in Ireland at the time it was a
26 plc. And I was aware of these changes and I knew that there was nobody in a
27 position, either in a position or with a knowledge to respond to that
28 opportunity.

29 Q. 274 And was it you who recruited the professional team that put this project
12:34:37 30 together by the end of 1990?

12:34:39 1 A. I would have recruited all of the professional team.

2 Q. 275 Yes?

3 A. The architects, the engineers, the planners, etc.

4 Q. 276 Yes. Did you recruit Mr. Dunlop?

12:34:48 5 A. No, I didn't recruit Mr. Dunlop. Well I -- I think David had met him

6 previously.

7 Q. 277 Yes?

8 A. And suggested we should consider him because it was going to be such a complex

9 issue and the whole concept was so new and novel that communication of that was

12:35:06 10 going to be essential to its success and we would have needed somebody to help

11 us with the communication of that concept. And Mr. Dunlop made a presentation

12 to us, put forward his proposals, which were as I say, very impressive, very

13 well thought out. He came across as very urbane, intelligent, well connected,

14 very influential individual and he suggested that he would be the best person

12:35:32 15 to help us with this commune project to communicate and meet all of the people

16 we would need to meet to get all of our ideas across.

17 Q. 278 Was it on the basis of that presentation by Mr. Dunlop to you that he was

18 ultimately recruited?

19 A. Absolutely.

12:35:57 20 Q. 279 And at that time, as I understand it he was recruited on a fee paying basis?

21 A. That's right, Yes.

22 Q. 280 And that was ultimately changed in the course of 1991?

23 A. That's right, yes.

24 Q. 281 And can you explain the circumstances in which that change came about to your

12:36:03 25 recollection?

26 A. Well, to my recollection it would have been around April and it looked like we

27 were going to get -- the material contravention had been passed and it looked

28 like we were -- we would get our material contravention and therefore hopefully

29 get planning through An Bord Pleanala, which we did. And it was suggested that

12:36:22 30 he had actually done an excellent job for us at the time and that I'm not sure

12:36:28 1 whether we suggested to him or he suggested to us that that would be converted
2 from his fee into a shareholding. But certainly the idea of it recommended it
3 to me. Because we were -- we were in a very, very difficult time in Ireland.
4 The Gulf War had just broken out about three months previously. And we would
12:36:50 5 have had difficulty in raising finance from banks. And the idea that this
6 large sum of money would not have to be expended but would be converted to a
7 shareholding I thought was an excellent idea. Overall, besides that he ended
8 up with a shareholding of 2 percent. He added much more than 2 percent of
9 value to our project in a very legitimate way.

12:37:15 10 Q. 282 So cash was tight?

11 A. Cash was very tight. And as we found out actually twelve months maybe less
12 later when we had bought the land with equity and we had got full planning
13 permission and we went to Bank of Ireland and AIB to try and get funding to
14 carry out this infrastructure and both of these banks turned us down in early
12:37:37 15 '92. Money was very tight. It was almost impossible to fund new projects and
16 this was land that we wholly owned. So it was very difficult.

17 Q. 283 How long was it before any of the investors in the City West project received
18 any return on their investment Mr. Hickey?

19 A. Well, we would have spent the first three years just building the
12:38:01 20 infrastructure. And then we would have started building buildings and going
21 for planning permission and by the time we built the buildings and got a tenant
22 and sold them it was at least seven years after the commencement of when they
23 paid for it that they got a single penny. This was not, there was no fast buck
24 about this. It was hard, hard slog. A lot of money was invested up front, a
12:38:23 25 lot of endeavour, a lot of worrying and ultimately it bore success.

26 Q. 284 You also dealt yesterday at a little length with the ongoing issues that
27 occupied you and other members of the team and Mr. Dunlop in relation to City
28 West right up to and throughout 1993. Can you give us a little more detail on
29 precisely how intense the work was in relation to those issues and how Mr.
12:39:05 30 Dunlop was involved?

12:39:07 1 A. Well, there were so many issues because everything we were doing in City West
2 was new. We were extraordinarily thorough in everything that we did. I will
3 give you an example of something that would have happened in April May '93.
4 For instance, even the naming of City West. It may surprise some but we would
12:39:33 5 have had six or seven sessions alone with wordsmiths, facilitators, design
6 consultants coming up with name that we felt would appropriately reflect what
7 we were trying to do, which was a modern technology park with an Irish
8 landscape environment based on a Victorian garden city. And that's where the
9 name City West came along. Five or six people for six or seven sessions. So
12:40:00 10 that was the level of thoroughness. Baldonnel was a huge, huge issue.

11 Q. 285 If I can just interrupt you for a moment. Was Mr. Dunlop involved in the
12 project to rename the complex City West in 1993?

13 A. He would have been involved at all times in helping us bouncing ideas off. He
14 wouldn't have been at all of those meetings but everything we would have done
12:40:19 15 as a public relations consultant we would have consulted with him. Again, a
16 lot of these issues we were flying blind and he was a man with good judgement
17 and we would have respected his judgement and would have taken it on board.

18 Q. 286 Now, you were about to tell us about Baldonnel?

19 A. Baldonnel was an extremely practical problem. It involved so many different
12:40:43 20 parties, the -- the Air Corps in Baldonnel itself, everybody accepted that the
21 flight restrictions that they had in place were appropriate for the 50s but not
22 for the 90s towards the end of the 20th Century. The number of meetings of
23 what it should be changed to, who you should meet. We eventually established
24 and Frank Dunlop would have set up a lot of these meetings and attended most of
12:41:09 25 these meetings. We had to meet numerous, maybe five or six different meetings
26 just with the Air Corps alone. And they would then advise us in matters of air
27 safety they would consult with Aer Rianta. We'd have had meetings with Aer
28 Rianta. Then Aer Rianta would have advised us when there's matters that have a
29 technical nature that they don't have sufficient expertise. They would bring
12:41:30 30 in external consultants. I think they were Alan Stanford Associates who were

12:41:34 1 based in the UK. We would have visited them in the UK, we would have bought
2 them back. They would have done an analysis of all of the different criteria
3 for airports throughout Europe. Looked at Dublin Airport, Heathrow and
4 Baldonnell. We'd then have to meet people in the Ministry for Defence. Frank
12:41:55 5 Dunlop would have helped me set up those meetings with appropriate people and
6 attend them. He would have set up meetings with the Minister for Defence at
7 the time and back and forth all the time just trying to close in what would be
8 acceptable. What was perfectly legitimate from a safety point of view and what
9 would be acceptable to all the concerned parties. And then you would have to
10 come back to the County Council because their Development Plan had certain
11 restrictions based on advice from Baldonnell. And everybody was supportive but
12 everybody, on issues of air safety particularly, everybody was very cautious.
13 So a huge amount of diplomacy, a huge amount of groundwork. And that went on
14 for months, right into '93. And it never really, really stopped until the
12:42:13 15 end of '93. And that was just one issue.

16 Q. 287 So you've heard it said by Mr. Dunlop that as of April 1991 his involvement
17 with City West was more or less at an end with the exception apparently of some
18 project about a bridge over the Naas dual carriageway. What would you say to
19 that?

12:42:59 20 A. Well I think he does himself a disservice. I mean, between September of '92
21 and the 22nd of February '93 I had written five letters alone to the local
22 authority Planning Department looking for the meetings to try and get
23 compliance with the conditions associated with City West planning permission.
24 These were building. There was about ten or eleven conditions and I was trying
12:43:26 25 to get particularly dealing with the uses that would allow us to build office
26 buildings in a science park. I was, as I say, four or five month period
27 written about five letters and I could not get meeting with the planning
28 department. Yet I can see from Frank Dunlop he has met them a couple of times
29 in the month of March. He had access to people. He could have access so that
12:43:48 30 we could put our thoughts and our proposals and try to seek and reach

12:43:53 1 agreement. And try and create an imperative where agreement would be reached.
2 It's not that I think people were, there was any badness or malice. Everybody
3 is so busy, how do you get them to the boil where you can get them to make a
4 decision. And he was very important in helping us do that.

12:44:06 5 Q. 288 So was Mr. Dunlop in fact consistently involved in providing services to the
6 City West project right through into 1993?

7 A. Absolutely.

8 Q. 289 Yes.

9 A. There was other issues on the Development Plan besides Baldonnell and the
12:44:25 10 written statement and the flight cones which could have sterilized us. There
11 was the uses for the -- that we could build office buildings in a science park.
12 That was absolutely critical for us. There was the location of the Embankment
13 Road that the Council originally had shown the Embankment Road that would
14 divide the residential from industrial We wanted to move it slightly north of
12:44:53 15 it this, beyond pylons. Again, the implication for us would have cost millions
16 because we ended up having to build two parallel roads. There was other issues
17 of -- the Council had now agreed that the industrial zoning was not going to
18 solve the problem of the awful you know social deprivation on the west side of
19 the city. That they needed access and profile from the motorway. And they
12:45:17 20 were now proposing to rezone a public park Corkagh Demense which would have
21 completely undermined our position. They acknowledged that this would have
22 been the way forward. That would have been a huge concern to us. The issues
23 were just endless. They were intractable and weren't easy to solve. But he
24 was very influential and he was somebody quite powerful and people listened to
12:45:40 25 him and he had an ability to, if you had a good case, he had an ability to get
26 it over the line.

27 Q. 290 And there was constant contact with Mr. Dunlop and involvement by him in all of
28 these issues?

29 A. Absolutely.

12:45:56 30 Q. 291 Now, in relation to Davy Hickey Properties Limited. We know that it took

12:46:03 1 approximately a 25 percent stake in the City West project?

2 A. That's right.

3 Q. 292 Were you on the lookout in 1991 into 1992 for possible other projects for Davy
4 Hickey Properties Limited? Did you have a fund?

12:46:20 5 A. I was set up with a certain quantum of money. And I was really looking for
6 four/five projects to split my money in four/five ways. I would manage those
7 and it would leverage up on my expertise to create wealth for the company. And
8 I was on the lookout for propositions. But there was plenty of proposition
9 around. Very, very good propositions at that time because it was the country
12:46:49 10 was in recession basically. And the banks were not lending money. And I think
11 I had a relatively good name that I had for someone to deal with but also a
12 certain expertise. So I had that and I had money. And I was looking at lots
13 of opportunities and I had lots of opportunities that were coming to me.

14 Q. 293 Yes. And the City West project. Did that involve the greater part of the
12:47:14 15 capital available to Davy Hickey Properties Limited?

16 A. I'd say City West and Saggart partnership would have taken a majority of my
17 money. And then I had a certain quantum of money that I was earmarking for
18 another project. Because at that time I was also chief, appointed Chief
19 Executive of another property company. Not City West or City West or Saggart.
12:47:43 20 Another property company which I was looking after. C.E.O. But I was looking
21 for another project to get involved in. And that is why when I really had
22 given up any realistic chance that we would get involved in Baldoyle that I
23 started looking for a property in the UK. And one of the reasons that I wanted
24 for a mature investment was because I realise how attractable the problems were
12:48:05 25 to do with City West and how all consuming it was. And I really didn't want to
26 get involved in another problematic development one that engaged with planners
27 and all sorts of attractable issues because I was, as I said, one person in a
28 company. And I think by '93 I had another person as project managing. I
29 didn't want a time-consuming project. I wanted something that would be a good
12:48:30 30 investment but also that would be mature and did not consume my time.

- 12:48:36 1 Q. 294 So in 1990 Davy Hickey Properties puts some of its capital into the original
2 City West project?
- 3 A. That's right.
- 4 Q. 295 In 1991 the Saggart lands are bought?
- 12:48:47 5 A. That's right, yes.
- 6 Q. 296 When in 1991 did that happen that?
- 7 A. Would have been in April '91.
- 8 Q. 297 April 1991?
- 9 A. Yes.
- 12:48:54 10 Q. 298 And did that involve another substantial contribution by Davy Hickey
11 Properties?
- 12 A. It did. It involves another substantial contribution.
- 13 Q. 299 On this occasion you were buying a large parcel of land already zoned?
- 14 A. We were -- I was buying into 230 acres of zoned lands and we bought
12:49:11 15 approximately 25 percent of that also.
- 16 Q. 300 Yes. And so having made those two investments, there was still some money left
17 in the kitty for another investment or investments?
- 18 A. That's right, yes.
- 19 Q. 301 By Davy Hickey Properties Limited?
- 12:49:27 20 A. That's right, yes.
- 21 Q. 302 And when did you identify the next investment for Davy Hickey Properties?
- 22 A. It would have been sometime around October of '92 that I appointed an agent in
23 London to source a property in the UK market. And he identified the property
24 in January of '93. And we signed contracts in, I think, it was the 2nd of
12:49:50 25 April of '93 and closed the sale in May of '93. We still own that property.
- 26 Q. 303 And that third investment in the UK, did that exhaust the capital fund
27 available to you in Davy Hickey Properties at that time?
- 28 A. It exhausted the vast, vast majority. We would have had still some float
29 because they obviously wanted to keep some quantum of money for expenses or you
12:50:19 30 know extreme situation. So I didn't go down to the bare bone but it exhausted

- 12:50:25 1 the vast majority of my sums at that stage.
- 2 Q. 304 Yes. So can we take it that once you had made this investment in the UK, Davy
3 Hickey Properties, as of the spring of 1993 didn't in fact have any significant
4 capital available for any other venture?
- 12:50:41 5 A. That's true.
- 6 Q. 305 Can you give the Tribunal some indication of the amount of your personal time
7 that the City West project took up throughout 1991, 1992 and into 1993?
- 8 A. Well, it was all consuming. It was literally eat, sleep and drink. It was --
9 I'd obviously started up a new company on my own. It was a wonderful
10 opportunity for me. I was at last doing something, I was in control of my own
11 career. I was working with very, very good people. It was a very exciting
12 project. It was innovative. And I suppose it was, I wanted to give it my best
13 shot. I was at a good time in my life where I had lots of experience and piles
14 of energy and I really wanted to make a success of it. And you know, I would
12:51:14 15 think even now we would have -- difficult I suppose to explain how complex a
16 project it was. But in the last three years we would have had 25 Government
17 delegations from around the world visiting City West to see exactly how do you
18 start up a science park from scratch, how do you attract 130 world class
19 companies from nothing. We would have had three or four visits from the
12:52:04 20 Chinese Government. We'd have had the Minister for Finance from Hong Kong and
21 three or four delegations from Hong Kong. The Socrians (SIC) would have
22 hounded us and all coming to see exactly how do you start a high technology
23 park from scratch. So it's, you know, it is not an easy thing to do and
24 particularly we were trying to blend lots of different experiences I had but
12:52:32 25 observation, what was happening in the world. And everything about it was new.
26 Even the lease structures was a hybrid between shopping centre leases and
27 industrial leases. Everything about it was new. It was all consuming.
- 28 Q. 306 The Saggart lands which were acquired in the early part of 1991. Did you also
29 take charge of that parcel of land?
- 12:52:55 30 A. I did. It was less complex Saggart because it was fully zoned. I was going to

12:53:04 1 develop it as a different model. It was going to be residential and it was
2 going to be a high class traditional industrial estate as I would call it. If
3 you go out and look at it now, that's exactly what it is. It's just a very
4 high class traditional industrial estate.

12:53:20 5 Q. 307 So as of the spring of 1991 you were not only in charge of the City West
6 project as had been applied for at the end of 1990 but in charge of the
7 development of this other large tract of land in Saggart?

8 A. And I was solely responsible for all of these.

9 Q. 308 You've told us that in July of 1991 you also became the Chief Executive Officer
10 of another property company?

11 A. That's right, yes.

12 Q. 309 Yes. And what did that involve as far as you were concerned?

13 A. Well, it was a major major property company that was jointly owned by one of
14 the largest construction companies and seven of the pension funds and they had
12:54:04 15 shopping centres in Dublin, Waterford, Limerick, Cork and had properties in
16 office buildings in Stephen's Green and properties in Manchester. And I was
17 approached because the company had gone into difficulties and I was basically
18 given three years to turn this company around. I was very happy to do that
19 because again most of the shareholders were pension funds and I thought if I
12:54:31 20 did a very, very good job for this company that those pension funds would have,
21 having interfaced with me perhaps might follow me for future investments into
22 City West further down the line and that's exactly what did happen.

23 Q. 310 In fact, I think you preempted my next question. Which was why did you take on
24 that particular responsibility on top of City West?

12:54:52 25 A. Well, it was earning money from me. I knew that it would create opportunities.
26 It would establish relationships on an ongoing basis. These pension funds had
27 a very tricky difficult problem. I felt if I went in and helped them solve the
28 problem and getting paid, by the way, to do it. That that would create a
29 confidence in me and I was in turn trying to do something very new, very
12:55:19 30 untested and very untried and that they would follow me. And as it turned out,

12:55:25 1 the first third party investment. The first third party endorsement of City
2 West was by a pension fund investing in there which would be unheard of.
3 Normally pension funds are very cautious. They only come after a location has
4 been established so for them to be the first investor was quite unusual.

12:55:52 5 Q. 311 Now, if I can bring you on a little bit and revisit with you a little bit of
6 Mr. Dunlop's evidence. You're aware that the thesis is being advanced by Mr.
7 Dunlop with the apparent support of Mr. O'Neill that Pennine Holdings Limited
8 was in fact owned by Davy Hickey Properties or a combination of them and David
9 Shubotham or some such association. Thank Mr. Dunlop was no more than a front
12:56:27 10 for that company up to an event in April 1993. What do you say to that
11 assertion?
12 A. It's absolutely not true. We had no legal, we had no connection whatsoever
13 with Pennine Holdings. It was a company that was always in the ownership of
14 Frank Dunlop. It was a company that had an option on lands. But and something
12:56:53 15 that we looked at. We considered very, very seriously. But we never at any
16 stage had any ownership of that company.

17 Q. 312 Now, I think we know and again it's a matter which would be explored perhaps in
18 more detail next week when Mr. Dunlop comes back. That in April of 1994
19 Pennine Holdings Limited sold this option. We've seen that documentation,
12:57:20 20 isn't that right?
21 A. That's right, yes.

22 Q. 313 Yes. And we've also seen from the material furnished to us as part of this
23 Module, that Mr. Dunlop asserts that he received a sum in excess of 1 million
24 pounds for the option in April of 1994?

12:57:34 25 A. That's right.

26 Q. 314 Did you or any company that you're associated with receive any money from Mr.
27 Dunlop at that time?
28 A. No, we never had any money for that. We weren't even informed that he was
29 going to sell it and we didn't get any money. As was his right. He owned the
12:57:54 30 company. We got nothing from the sale. No reimbursement of expenses or

- 12:57:58 1 anything. We weren't even aware that he had done it and as was the case, as he
2 was perfectly entitled to.
- 3 Q. 315 As I understand it and again I'm relying on documentation furnished. In April
4 of 1994 the Baldoyle lands had not yet been rezoned ?
- 12:58:16 5 A. I don't think they had been rezoned, no.
- 6 Q. 316 I understand from what I've seen that in fact the rezoning didn't happen until
7 1997?
- 8 A. That's right, yeah.
- 9 Q. 317 Yes. So when he sold the option in April of 1994 the status of the lands was
12:58:31 10 the same as it be in April of 1993. It hadn't changed?
- 11 A. It hadn't changed. And I would have presumed that whoever was buying the
12 option or buying out the option would have done a due diligence to make sure
13 that they knew who exactly were the owners of that option. Obviously they were
14 completely satisfied that Frank Dunlop had full authority to sell that company
12:58:52 15 and take a million pounds for it.
- 16 Q. 318 I think it was clarified yesterday but you may or may not be able to help me on
17 this, Mr. Hickey. That Mr. Dunlop's equity stake in City West was given effect
18 to an October of 1991. Do you have any particular information about that?
- 19 A. Well, I think it was agreed in April of '91. I'm not sure when it actually
12:59:34 20 took effect. But the matter was definitely agreed in April '91.
- 21 Q. 319 Yes. Now, if I can ask you to turn to the two articles. First of all, the
22 Irish Independent article of the 27th of April 1993.
23
24 And that's to be found at page 2107.
- 12:59:58 25
26 How did that article come to your attention that day?
- 27 A. I think I got a phone call from -- I either saw it when I came in or I got a
28 phone call from Ciaran McLoughlin but I'm not sure exactly whether I read it or
29 whether I got the phone call first.
- 13:00:29 30 Q. 320 And what was your reaction to it?

13:00:31 1 A. Well, I was very surprised at not only were we being associated with it but all
2 of these other people were being associated with it. I was quite taken aback
3 by it. Very taken aback to be honest.

4 Q. 321 It appears that this was an article which was maliciously fed to the
13:00:50 5 newspapers, isn't that right?

6 A. Well, I'm not so sure I would go so far as to be malicious or whether or not
7 somebody thought by trying to associate us with it would give credibility or
8 associating with us -- I'm not sure what the motives were. But it certainly
9 had an effect that it upset quite a few people who were named in it or who had
13:01:15 10 no knowledge or association. That's what it had the effect ...

11 Q. 322 Who had no involvement at all?

12 A. No involvement or knowledge of it.

13 Q. 323 Now, subsequently an apology was printed on the 30th of April?

14 A. That's right, yes.

13:01:30 15 Q. 324 And if I can just bring you to that briefly.

16

17 Again, it's at 2137.

18

19 I would like to refer to the language used in relation to the position of Davy
13:01:46 20 Hickey.

21

22 And that reads as follows "we would like -- we would also like to make it clear
23 that it was Davy Hickey, the property arm of the stockbroking company Davy's,
24 that had expressed an interest in the development but only if it was rezoned.

13:02:05 25 Neither Davy Hickey -- sorry. Neither Davy Stockbrokers nor Davy Hickey were
26 prepared to get involved in the rezoning process."

27

28 So that states that Davy Hickey had expressed an interest in the development
29 but only if it was rezoned. Mr. O'Neill sought to take you to task about that
13:02:27 30 language yesterday. Is that an accurate reflection of the position of Davy

13:02:33 1 Hickey in April 1993

2 A. Well, I think Davy Hickey had no confidence or faith that it would get rezoned

3 by fair means. And I don't think, and if it had got rezoned I did not believe

4 from my own experience that it would even get planning permission. I think we

13:02:50 5 had expressed an interest quite a few times. I must say that I had difficulty

6 in ringing up a reporter to ask her to retract something at all in the first

7 place. I think my primary concern was that other people were upset and wrongly

8 being positioned with something that they had no association. I think at that

9 stage Davy Hickey had given it a realistic chance. It had considered and

13:03:17 10 looked at this project quite a few times but had given up any realistic chance

11 it would get involved. It's hard to say that anything is absolute.

12 Q. 325 Yes. Now, one of the other matters that Mr. O'Neill took up with you

13 yesterday.

14

13:03:30 15 CHAIRMAN: Sorry, Mr. Gordon. It is past one o'clock.

16

17 So I think we'll resume at two o'clock.

18 MR. GORDON: Yes.

19

13:03:37 20

21

22

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

24

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13:03:54 1

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

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14:07:41 5

6

CHAIRMAN: Mr. Gordon.

7

MR. GORDON: Thank you, Mr. Chairman.

8

9 Q. 326 Just a few other matters that I'd like to address with you briefly Mr. Hickey.

14:07:51 10

11 Can you give the Tribunal some sense of the amount of money that was committed
12 to the City West/Saggart project by April of 1993?

13 A. Well, we would have invested approximately 10 million pounds in both
14 developments. That's between all the various shareholders and in addition, we
15 were in the process of expending a further approximately five million on
16 infrastructural works. This would have been before we even started building
17 any of the buildings.

14:08:19 15

18 Q. 327 And in 1993 did you have ready finance available or what was the position?

19 A. Well, finance was very, very difficult at the time. As I explained, we were
20 turned down sometime around the summer of '92 by Bank of Ireland. And AIB, to
21 finance the infrastructure for City West. Notwithstanding that the land was
22 owned wholly with equity, that we had full planning permission on it. We were
23 still turned down by those banks. We eventually got finance from ICC, the
24 Industrial Credit Corporation. I think perhaps they had a greater
25 understanding of what I was trying to say and understood the risks that we were
26 talking about. And they were more receptive to it. But they did so on very
27 strict understanding that only the monies would only be spent on infrastructure
28 and we had to give invoices for all of our expenditure.

14:08:47 20

29 Q. 328 Now, if I can move on to something else, Mr. Hickey. This morning Mr. O'Neill
30 was asking you about the various payments that had been made and I think you've

14:09:39 30

14:09:47 1 referred a schedule of information which had been furnished on behalf of Davy
2 Hickey to the Tribunal which identified certain payments both in relation to
3 City West and Baldoyle as political contributions?

4 A. That's right, yes.

14:10:02 5 Q. 329 Yes. I think that information was furnished to the Tribunal in the year 2000?

6 A. That's a fact.

7 Q. 330 If I can then move, Mr. Hickey, to the option. Yesterday --

8
9 MR. O'NEILL: I'm loathe to interrupt my friend. There's just one matter I
10 think since it is vital and should be corrected.

11
12 There is no information from Davy Hickey indicating that any political donation
13 was made in respect of the Baldoyle project.

14
15 The only evidence in relation to political donations is that in relation to
16 City West. And I just didn't want it to be on the record that it was suggested
17 otherwise.

18
19 CHAIRMAN: I think that's accepted.

14:10:45 20 MR. GORDON: Yes, I think so.

21 Q. 331 If I could ask you to turn to the option agreement itself Mr. Hickey.

22
23 It's a document which is to be found at page 1584.

24
14:10:57 25 Signed on the 4th of November 1991. And you've already told the Tribunal that
26 this is a document which was in large part negotiated between you and Mr. Byrne
27 I think, isn't that right?

28 A. That's right, yes.

29 Q. 332 And you have indicated in your statement that you perceived this as being an
14:11:17 30 onerous option and one which would have involved about a million pounds in

14:11:23 1 expense on the part of the grantee of the option before a right to buy could
2 have been triggered.

3 A. That's right, yes.

4 Q. 333 And you will recall that Mr. O'Neill challenged you on that yesterday
14:11:36 5 suggesting that you came or not you came but certainly Mr. Dunlop came close to
6 a rezoning of this land in April of 1993 when there was only roughly 50,000
7 pounds had been spent on the project, if you like?

8 A. Uh-huh.

9 Q. 334 And I'd like you to turn to the option document. And can you explain to the
14:11:59 10 Tribunal by reference to the text of the option why you believe that in fact it
11 was onerous and would have been quite expensive to comply with ultimately by
12 any party?

13 A. Well, I don't have it on that. It's on one of the pages. It say that is --

14 Q. 335 If I can ask you to turn to page 1596, I think, you may find what you're
14:12:22 15 looking for. This is the second schedule?

16 A. That's right.

17 Q. 336 To the option which sets out a list of tasks which the grantee of the option
18 must perform before he will ever be entitled to exercise it, isn't that right?

19 A. That's right. So the option can only be exercised after the perfection or
14:12:50 20 performance of two aspects. The payment of 5,000 which was paid up front.

21 Q. 337 Yes?

22 A. And then the seeking of planning permission for the lands.

23 Q. 338 Yes?

24 A. We're talking about enormous amount of lands here. We're talking about 250
14:13:04 25 acres would be residential, industrial, and golf course, hotels, etc. And in
26 addition to that so the costs of that alone, the costs on the industrial alone
27 could have been a million pounds.

28 Q. 339 Yes?

29 A. But certainly I wouldn't have thought it would have been less than a million.
14:13:27 30 In addition to that what concerned me was that you couldn't go for planning

14:13:30 1 permission or zoning without the written consent of the owner. So that there
2 is no way that you would be able to apply for a planning permission that was on
3 the cheap or it was going to be up to his reasonable expectations. So it left
4 him very much in control of what you were going to go for planning for.

14:13:49 5 Q. 340 I think that the consideration is to be found at page 1585.

6
7 At clause two of the option, which provides. 1, payment of the sum of 5,000
8 pounds, as you have indicated, which is acknowledged in the face of the
9 document. And then the performance of the several tasks in the second
10 schedule. And that second schedule begins on page 1595.

11 A. And item three there says that the option shall not be exercisable ... sorry.
12 Item three shall not be exercisable until both payments have taken place.

13 Q. 341 Yes. If we move then to the second schedule we see the very first paragraph
14 provides the grantee will have total responsibility for the application for
15 rezoning in respect of the lands and in consultation with the planners,
16 planning consultants, road engineers and the sanitary services engineers. Will
17 Designate 150 acres for hotel and golf course. So there's very concise
18 obligations being imposed on the granting of the option in this schedule?

19 A. That's right. So what looked like a very cheap option was in fact a very
20 expensive option.

21 Q. 342 And I think the next paragraph then provides that an Action Plan must refer to
22 a hotel, golf course, open spaces, residential business park and leisure?

23 A. That's right.

24 Q. 343 And I think the provision which gives Mr. Byrne very significant influence over
25 matters is to be found at paragraph six where it is provided all applications,
26 whether for rezoning or planning, will require the written approval of the
27 owner where such approval shall not be unreasonably withheld provided always
28 that the owner hereby acknowledges that the grantee shall have the right and
29 sole discretion without seeking or obtaining the prior approval of the owner to
30 (CHECK) minor amendments and/or variation to any applications, proposals are

14:15:47 1 submissions with any of the persons referred to at clause four.

2

3 And I think clause four refers to elected representatives, local community
4 groups and others.

14:15:56 5 A. That's right.

6 Q. 344 What impact did clause six have on the manner in which the grantee of this
7 option might be able to go about his business?

8 A. Well, as I say, the cost was not the 5,000. The cost was for before you could
9 exercise the option was actually having to go for planning permission. For
10 essentially for 400 acres of land and that planning permission could not be a
11 very, I suppose, flippant application. It had to be a serious one. Because it
12 had to reach with the written approval of the owner of the land whose interest
13 was always going to be retained in the remaining 150 acres. If not, the lands,
14 the full lands because it could revert back to them if it wasn't exercised. So
15 it was quite an expensive and very short time frame to try and address the
16 major infrastructure problems which did not look like they were ever going to
17 be solved in the short time.

14:16:49 18 Q. 345 Thank you very much, Mr. Hickey.

19

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THE WITNESS WAS QUESTIONED BY MR. O'NEILL AS FOLLOWS:

14:17:06 1
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4 MR. O'NEILL: Just one matter arising out of that, just for detail,
14:17:10 5 Mr. Hickey.
6
7 The option agreement was one that was exercisable in parts, isn't that right?
8 A. That's right, yes.
9 Q. 346 There was no obligation upon the option holder to take on the burden of
14:17:20 10 developing 250 acres, there was a minimum tranche of 50 acres which had to be
11 exorcised, isn't that right?
12 A. But none of it could be exercised without going for planning for all of it.
13 Q. 347 Yes?
14 A. That's how I understood it.
14:17:34 15 Q. 348 That's how you understood it. Where does it say that one has to apply for
16 planning for all of it?
17 A. Well, it says that you have got to go for planning permission.
18 Q. 349 Of course?
19 A. It talks about all of the lands. I think it's -- I would not like to be
14:17:45 20 arguing a case that we could get by with going for less than all. Particularly
21 when we needed written approval. The last thing you want to get involved is
22 more litigation and further complexity on a complex project.
23 Q. 350 Thank you.
24
14:17:59 25 I did indicate. Sorry. I'm sure you may have questions.
26
27 CHAIRMAN: No, I understands, Mr. Hickey, will be returning briefly on Tuesday
28 morning.
29
14:18:12 30 MR. O'NEILL: There is an issue which has just come to light and requires

14:18:16 1 clarification.

2

3 MR. CHAIRMAN: If we have anything to ask we will do it on Tuesday.

4

14:18:21 5 MR. O'NEILL: It's intended that it would take place immediately upon the

6 resumption of the hearing on Tuesday morning.

7

8 CHAIRMAN: Half past ten.

9 A. Thank you.

14:18:31 10

11 CHAIRMAN: Thank you, Mr. Hickey.

12

13 MR. O'NEILL: The next witness will be Mr. David Shubotham.

14

14:18:36 15 Mr. Shubotham, if you could come to the witness box, please.

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14:18:41 1 **MR. SHUBOTHAM, HAVING BEEN SWORN,**

2 **WAS QUESTIONED BY MR. O'NEILL AS FOLLOWS:**

3
4 CHAIRMAN: Good afternoon, Mr. Shubotham

14:19:10 5 A. Good afternoon, Chairman.

6
7 MR. O'NEILL: Good afternoon, Mr. Shubotham

8 A. Good afternoon.

9 Q. 351 The Tribunal sought your assistance in the course of its inquiries to date and
14:19:21 10 has been in communication with your solicitors and has received written
11 information from you in connection with the East View project otherwise the
12 Pennine Holdings project in Baldoyle. And the most recent information has been
13 received by means of a written statement provided through your solicitors on
14 the 19th of October of 2006. And I'll just read that into the record, if I
14:19:45 15 may, because it puts matters into perspective.

16
17 I'll start with the statement itself.

18
19 It reads: "To the best of my knowledge some time ago, probably in 1991,
14:19:58 20 Brendan Hickey and myself were approached by Frank Dunlop regarding the
21 property development, a property development opportunity in north Dublin,
22 Baldoyle Race Course. We knew Frank as he had worked as a lobbyist for the
23 City West project. The proposed investment would be substantial. He had
24 estimated at a 15 million pounds plus and he needed to show --

14:20:21 25
26 CHAIRMAN: We don't have this on the screen.

27
28 MR. O'NEILL: Oh, I beg your pardon.

29
14:20:25 30 It's page 663.

14:20:27 1
2 CHAIRMAN: Okay.
3
4 MR. O'NEILL: I'll take up
14:20:30 5
6 CHAIRMAN: That's on the screen there if you wish to
7 A. Oh, I see. Thank you.
8 Q. 352 I'll resume where I stopped if that's all right Mr. Shubotham?
9 A. Sure, sure.
14:20:41 10 Q. 353 You are probably familiar with the could be content of this statement.
11
12 He needed to show the vendors that he had possible access to institutional
13 monies or high net worth investors. He believed that initially the transaction
14 could be carried out by way of option and asked for a cheque for 5,000 pounds
14:21:01 15 payable to Endcamp in February 2001 to indicate our possible interest. I wrote
16 this cheque from my personal account.
17
18 A meeting took place in Davy's offices in Dawson Street, date no idea,
19 presumably called by Frank Dunlop to introduce John Byrne. It is likely at
14:21:21 20 this initial meeting that I suggested using Anthony Collins as solicitors for
21 any legal matters as I know him and also know him to be friendly to Anthony
22 Gore Grimes. I attended a meeting in A Collins & Co. with a view to discussing
23 the project. I would have had little or no input into the discussions on the
24 option.
14:21:45 25
26 It was agreed by Davy Hickey Properties and myself that an account would be set
27 up by myself at Bank of Ireland in the name of East View Partnership, account
28 number 97819804, to account for the expense of the initial studies and to keep
29 a record of the costs if the project progressed. These would be aborted costs
14:22:02 30 in the event of the project not proceeding. Details of the bank account have

14:22:06 1 been sought from the bank East View Partnership but the only records remaining
2 are the statements. As a result of the Davy Hickey properties studies the
3 project and partnership did not proceed and the costs were aborted.
4

14:22:18 5 There are a series of numbered paragraphs now and I think each of those is in
6 reply to a specific numbered request of the Tribunal.
7

8 1. Mr. Dunlop approached Brendan Hickey and myself regarding an investment in
9 the Baldoyle lands in early 1991. My role would have been to secure investors
10 for the investment had it proceeded. I attended an introductory meeting at
11 which J Byrne was also present. I am not certain as to who else was present or
12 as to who convened the meeting; where it took place or the specific date on
13 which it took place. I've no records with regard to this matter and I am
14 relying upon memory. At that stage Mr. Dunlop did not have an option over the
15 lands, simply an ability to obtain such an option.

16
17 My understanding was that an option was to be negotiated over part of
18 Mr. Byrne's land at Baldoyle. I was not involved in the detail of these
19 negotiations.

14:23:12 20
21 3. I believe Mr. Lawlor had no involvement with these lands. Mr. Dunlop would
22 have been expected to sound out reaction to the plan proposed for the area from
23 all interested parties. I believe that Mr. Dunlop was paid 10,000 pounds by
24 the East View Partnership, through his company Shefran Limited, to provide
14:23:34 25 these services. I believe Mr. Hickey had no role in this regard.
26

27 4. I was never involved in such discussions as to how each of the listed
28 parties was to benefit. As far as I am aware Liam Lawlor had no involvement at
29 all. As detailed below discussions did take place on the apportionment of the
14:23:56 30 costs of the initial feasibility study/plan and Davy Hickey Properties Limited

14:24:02 1 agreed to discharge these costs.
2
3 5. Pennine Holdings Limited were to take the negotiated option and my
4 understanding was that Frank Dunlop was the beneficiary.
14:24:13 5
6 6. As far as I'm aware, Frank Dunlop was the beneficial owner of Benign
7 Holdings Limited.
8
9 7. I have no knowledge of how the beneficial ownership was structured.
14:24:24 10
11 8. It is likely that I proposed Eugene F Collins as solicitors as I know
12 Anthony Collins and would have used him to prepare documents in the event that
13 a partnership was formed. Although there is reference to a partnership
14 agreement in an invoice from Eugene F Collins, I do not believe that any such
14:24:42 15 partnership agreement was ever executed. I certainly did not sign any such
16 partnership agreement.
17
18 9. To the best of my knowledge, Davy Hickey Properties and myself agreed to
19 open a bank account so that in the event of the partnership progressing the
14:24:56 20 appropriate expenses would be noted. They would be charged as set up costs or
21 aborted in the event that they were aborted. I requested all account details
22 from the bank which are attached.
23
24 10. There were no details as no arrangement was entered into involving myself
14:25:14 25 or any entities connected to myself. For the avoidance of doubt, neither I nor
26 any corporate entity in which I am involved or any trust or any other vehicle
27 in any way, received or was due to receive any proceeds from this land, option
28 or any other arrangement. For the sake of clarification, it should be pointed
29 out that I never attempted to raise finance for this project, as it never
14:25:41 30 reached that stage.

14:25:42 1
2 11. I am not aware of the actions in this regard.
3
4 12. Davy Hickey Properties agreed to fund a feasibility study.
14:25:50 5
6 13. There was no partnership. It was decided not to proceed with plans to
7 acquire the lands due to a number of issues identified in the feasibility
8 study/plan.
9
14:26:08 10 Signed David Shubotham dated the 19th of October of 2006.
11
12
13 Q. 354 That is your statement, Mr. Shubotham, is that right?
14 A. Yes.
14:26:12 15 Q. 355 And I don't think you've any additions to make to that or clarifications at
16 that point, isn't that right? Or maybe you do?
17 A. Not particularly. But I'm sure you'll get through the different points. I
18 just noted as we went through it. We talked about services as opposed to costs
19 in relation to the Shefran monies but maybe when you're asking me the questions
14:26:35 20 I'll explain as we go along.
21 Q. 356 Very good. The first issue I'd like to deal with, Mr. Shubotham, is the extent
22 to which, if at all, you believe Mr. Liam Lawlor had any involvement either in
23 the initial concept of the Baldoyle lands or otherwise. And to that extent,
24 perhaps you could assist the Tribunal in indicating what your knowledge of and
14:27:03 25 relationship was with Mr. Liam Lawlor as of let's say January of 1991, which
26 was in and around the time when the first meeting is discussed here?
27 A. Yeah. Though we could probably go back a bit further if you'd like.
28 Q. 357 Well?
29 A. Or do you want me just to be ...
14:27:22 30 Q. 358 I would like to go back that bit further. I just wondered as and from the date

14:27:27 1 that this first meeting in connection with Baldoyle took place as between
2 Mr. Byrne and yourself on the one hand and?
3 A. Sure.
4 Q. 359 And what was Mr.-- what was your relationship with Mr. Liam Lawlor at that
14:27:40 5 time? I appreciate that you've indicated twice in your statement here that he
6 had no involvement whatsoever in this?
7 A. That's right, that's what I believe.
8 Q. 360 Yes?
9 A. Well I knew Liam Lawlor because we would have been in contact with Liam Lawlor
14:27:54 10 previously in relation to City West. And I've seen obviously the various
11 transcripts that have done the rounds that seem to suggest that he was at a
12 meeting in Davy Stockbrokers. And he may well have attended a meeting in Davy
13 Stockbrokers and that may well have been the meeting. I can focus on a meeting
14 that I met John Byrne. He is quite a formidable man. You would remember
14:28:17 15 physically seeing him at a meeting. Who else was at that meeting at the time
16 and there were more people than myself and Mr. Byrne, I'm just not certain. So
17 that's the genesis of the answer I was giving you. So if Mr. Lawlor was there
18 or Mr. Hickey or Mr. Dunlop as has been suggested. It could be any number of
19 those people.
14:28:34 20 Q. 361 Yes?
21 A. Although, sorry. I would suggest that it was more than myself and Mr. Byrne at
22 that meeting.
23 Q. 362 Sure. My query really was directed towards establishing what your relationship
24 with Mr. Liam Lawlor was in January 1991. You've indicated I think that your
14:28:52 25 relationship with him extended back some years prior to that. So perhaps we
26 might start at the beginning?
27 A. Yeah.
28 Q. 363 And say how did you and Mr. Liam Lawlor come to meet, what was your
29 relationship?
14:29:02 30 A. Yeah, I'd find that easier.

14:29:04 1 Q. 364 Okay?

2 A. Because I can recall that the start of the, and again, this is to correct

3 something that I saw in the transcripts. The City West project, as it became

4 known, actually would have had its genesis from Jim Bolger, who is a well known

14:29:24 5 race horse trainer. I've seen references to Mr. Lawlor in that regard. I

6 wouldn't agree with that. I think Mr. Bolger was probably the first person.

7 And it came as a sort of a general discussion of a number of people being

8 together. Davy's were doing some work on Tallaght and there was something

9 going on. Anyway, this is where it came. And during the course of that time

14:29:48 10 when Mr. Bolger, and I believe Mr. Bolger negotiated the purchase of the lands

11 as well, by the way. In fact, he did, with the Killeens. I would have met

12 Mr. Lawlor because he was a regular race goer at the time. He would pop in

13 around the place. So that would have been my first introduction to him.

14 Q. 365 Can you date that at all for me?

14:30:09 15 A. No, hard to say.

16 Q. 366 Right.

17 A. I'll give that matter a bit of thought. I can't put a precise date on it.

18 Q. 367 Did Mr. Lawlor have a commercial or business or professional relationship or

19 investor/stockbroker relationship with you?

14:30:31 20 A. No. No, absolutely not.

21 Q. 368 Uh-huh. Are you absolutely sure about that Mr. Shubotham?

22 A. Yeah.

23 Q. 369 Because I will be asking you about a company called Gandon Holdings which is a

24 company which owned Davy Stockbrokers?

14:30:51 25 A. Oh, yes.

26 Q. 370 I'm going to put to you that Mr. Liam Lawlor was an investor in that project

27 and was invited to be so by you?

28 A. I had completely forgotten that. Gandon was a very long time ago.

29 Q. 371 It was 1988. It was about three years before the investment we're now talking

14:31:04 30 about in 1991?

- 14:31:06 1 A. Sure. I didn't recall that. I'm sorry but I just didn't recall it.
- 2 Q. 372 Not to worry. We'll just progress a little further in establishing what that
3 relationship was.
4
- 14:31:17 5 Mr. Liam Lawlor was a part owner of Davy's through Gandon holdings, which owned
6 45 percent of Davy's, isn't that right?
- 7 A. Gandon Securities and Gandon Holdings. I'd have to go and check. To be
8 honest, you know ...
- 9 Q. 373 I'm not trying to?
- 14:31:38 10 A. I know. I realise that. And also the Tribunal has not asked me these
11 questions before.
- 12 Q. 374 Yes?
- 13 A. So I'd have to go back and check to give you the answer. Jesus, I don't even
14 remember. I don't even remember who the shareholders were in Gandon so if
14:31:54 15 Mr. Lawlor was one.
- 16 Q. 375 Yes?
- 17 A. Yeah, fine.
- 18 Q. 376 He was an investor in Gandon, which was a company which owned 45 percent of
19 Davy's at the time?
- 14:32:06 20 A. Yeah. Do you happen to know how big an investor he was in Gandon.
- 21 Q. 377 He had 15,000 shares. That might be its capital value rather than?
- 22 A. I don't know. If he was I would have to suggest that he was a tiny, tiny
23 shareholder.
- 24 Q. 378 Albeit, that that is so?
- 14:32:23 25 A. Sure, sure, it's more relevant that he was a shareholder. But it has to be
26 absolutely tiny.
- 27 Q. 379 Yes. If it assists you and you might be able to tell us just what the
28 relationship was between these various shares. You had written to him?
- 29 A. Uh-huh.
- 14:32:44 30 Q. 380 Indicating that following a discussion which you had with him he was being

14:32:51 1 invited or permitted to subscribe for 1500 A shares in Gandon at 5 pounds per
2 share and seven and a half thousand pounds of 6 percent subordinated loan stock
3 1991 carrying subscription rights into 1500 A shares at 5 pounds per share.
4 That gives us, I think, some idea of what was involved?

14:33:18 5 A. Okay.

6 Q. 381 But leaving the capital value of that aside. This was not a public
7 flotation --

8 MR. GORDON: I wonder Chairman if I can intervene briefly here. It's already
9 clear that Mr. Shubotham is not on notice of this line of questioning at all.

14:33:34 10

11

12 CHAIRMAN: Yes.

13 MR. GORDON: In addition, Mr. O'Neill is now referring to documentation which
14 has not been circulated to us at all. It is the very essence of this inquiry
15 that nobody is taken unfairly by surprise.

14:33:45 15

16

17 I suggest that while Mr. O'Neill can of course pursue these questions he ought
18 to put us on notice of the area that he wishes to discuss with Mr Shubotham and
19 circulates any documents and gives Mr Shubotham gives Mr Shubotham an
20 opportunity to consider those before he is put in the position of having to
21 deal with it.

14:33:58 20

21

22

23 CHAIRMAN: That's fine. I think Mr. O'Neill's initial question to
24 Mr. Shubotham was could the Tribunal have some idea as to how you first, what
25 was your early relationship with Mr. Lawlor.

14:34:11 25

26

MR. GORDON: Of course.

27

28 CHAIRMAN: And I think perhaps Mr. O'Neill, I don't know, assumed that
29 Mr. Shubotham would then talk about the relationship through Gandon. It's not
30 in itself an issue as I understand it. It's just a means of establishing the

14:34:27 30

14:34:33 1 degree of the earlier relationship between Mr. Lawlor and Mr. Shubotham.
2 MR. GORDON: We wouldn't be having the difficulty we are having now given that
3 Mr O'Neill is clearly prepared in some detail for this line of questioning
4 having the documents with him here this afternoon for instance. If they had
14:34:47 5 been circulated to us in advance and Mr. Shubotham wouldn't be put in the
6 embarrassing position that he has just been put in.
7
8 CHAIRMAN: But it was open to Mr. Shubotham. And I fully accept that
9 Mr. Shubotham doesn't have a recollection when the matter was raised. But it
14:35:04 10 was open to him. And I think Mr. O'Neill probably would have assumed that
11 Mr. Shubotham would have, by way of general introduction in relation to the
12 issue as to the relationship between himself and Mr. Lawlor, would have made
13 reference to the Gandon link and that in itself then would not have required
14 any further questioning on that particular issue.
14:35:25 15 MR. GORDON: Mr. Shubotham, for instance, has posed the very reasonable
16 question how big a shareholding did Mr. Lawlor have in it. It may be that it
17 was frankly De minimis
18
19 I would be frankly concerned if Mr. O'Neill seeks to invite you to draw some
14:35:46 20 adverse inference from the fact that when Mr. Shubotham was asked about his
21 knowledge of Mr Lawlor initially he didn't refer to the Gandon Holdings issue.
22
23 CHAIRMAN: No, I don't think it's at that level.
24 MR. GORDON: If I'm assured that there is going to be no adverse inference
14:35:58 25 drawn --
26
27 CHAIRMAN: No. And if there is to be any issue arising in relation to it.
28 Mr. Shubotham will have ample opportunity to deal with the matter on another
29 day.
14:36:07 30 MR. GORDON: Oh, of course.

14:36:09 1
2 CHAIRMAN: You know, if there is anything left in midair and Mr. Shubotham
3 wants time to consider it, any aspect, then he will be given every opportunity.
4 He will probably be back on Tuesday in any event.

14:36:22 5 MR. GORDON: Over the weekend it would be of help to me and indeed I'm sure to
6 Mr. Shubotham, if Mr. O'Neill was to share with us the documentation he has
7 here this afternoon, the documentation.
8

9 MR. O'NEILL: I have absolutely no problem about providing documentation to
10 Mr. Gordon in relation to the dealings which Mr. Lawlor had with Gandon
11 Securities, Gandon Holdings and Mr. Shubotham.
12

13 But it's not an issue as such before the Tribunal. It was a query which was
14 directed towards establishing what relationship, if any, existed between these
15 parties given that there has always been apparent from the documentation
16 circulated a difference in the available evidence to the Tribunal as to the
17 attendance or otherwise of Mr. Liam Lawlor at a meeting which might have been
18 the genesis of the interest of Davy's in the Baldoyle Lands and there is an
19 obvious conflict in the accounts being given by both Mr. Lawlor and Mr. Byrne
14:37:01 20 about the attendance at that meeting. And the evidence being given from
21 Mr. Hickey and Mr. Shubotham on that issue.
22

23 And it was really just to try and establish what background there is.
24

14:37:39 25 Obviously, there is a lot of information that the Tribunal has that is
26 irrelevant in any evidential sense. But it's just background information. I
27 wasn't trying to establish anything more than that Mr. Lawlor and Mr. Shubotham
28 had had dealings for some years before they ever became involved in 1991 in
29 Baldoyle.
14:38:01 30

- 14:38:01 1 I think that is the position, isn't it, Mr. Shubotham, you'd had dealings with
2 Mr. Lawlor
- 3 A. I suspect, first of all, Chairman, I would not actually have remembered the
4 Gandon incident if you had not brought so I think my answer probably would have
14:38:15 5 been the same because I had forgotten it. It is a tiny investment. Might,
6 again, my suspicion that would have arisen out of some race meeting where I
7 came across him, where he was looking to invest but he was in no sense a
8 regular client of Davy's and I would be amazed if he had any other dealing other
9 than that single transaction. Again, I could be wrong.
- 14:38:36 10 Q. 382 And you've made mention of Mr. Jim Bolger as a well known race horse trainer?
- 11 A. Yes.
- 12 Q. 383 He also is a close friend of Mr. Lawlor's, isn't that right?
- 13 A. He was a friend of Mr. Lawlor's. Yes, he was a friend of Mr. Lawlor's. That's
14 where I met him, at the races.
- 14:38:51 15 Q. 384 Yes. Mr. Bolger I think was your trainer and also Mr. Lawlor's trainer insofar
16 as Mr. Lawlor had race horse interests but you mightn't have been aware of
17 that?
- 18 A. No, no sure.
- 19 Q. 385 Okay. Coming through to the early '90s or perhaps we'll finish with the late
14:39:11 20 80s. Do you remember having had any dealings whereby you would have paid
21 Mr. Lawlor monies, for example, by way of political donations, he attributes a
22 payment to you of 5,000 pounds?
- 23 A. As a political donation.
- 24 Q. 386 Yes?
- 14:39:29 25 A. From me or from Davy's or from both?
- 26 Q. 387 He writes -- he puts you down as the payer but he puts Davy's in the title of
27 that?
- 28 A. Yeah, I've more a recollection that it was Davy's but again, you know, I
29 haven't had the opportunity to check it but ...
- 14:39:52 30 Q. 388 I'll just get you a reference now?

14:39:54 1 A. Sure.

2 Q. 389 It's page 1064 on screen.

3

4 About the fourth or fifth item down there you see David Shubotham

14:40:09 5 A. Uh-huh.

6 Q. 390 Davy 6th of the 6th 1989. Tuesday lodged to APL, that's a company of

7 Mr. Lawlor's called Advance Proteins Limited. 5,000 pounds. You see that?

8 A. By any chance did you ask Davy's.

9 Q. 391 Yes. Yes, it's in the brief?

14:40:30 10 A. And did they say that it was them.

11 Q. 392 It's in the brief?

12 A. Sorry, I didn't pick it up.

13 Q. 393 The letter is at 2615. In 2000 from Davy Stockbrokers.

14

14:40:54 15 "Dear Ms Howard, I can confirm that I have searched our records for an account

16 in the name of or for the benefit of Mr. Liam Lawlor TD either individually or

17 jointly and that I found no record of any such account. In the light of the

18 second direction in the order that accounts be construed as including

19 transactions of any type whatsoever I confirm that we have a written record of

14:41:10 20 a payment to Mr. Lawlor on the 1st of June 1989 in the amount of 5,000 pounds.

21

22 The payment represented a contribution to his General Election campaign. There

23 is no supporting documentation for the donation merely a written record of a

24 cheque dated 1st of June 1989 to Mr. Lawlor". That was from Noreen McKeown,

14:41:33 25 Head of compliance.

26

27 The other document that we saw a little earlier, that's a manuscript document

28 at 1064 is Mr. Liam Lawlor's own record of the receipt of these funds

29 A. Sure.

14:41:46 30 Q. 394 Rather than yours.

- 14:41:48 1 A. Yeah.
- 2 Q. 395 He, as I say, on its face is recording the fact that he received 5,000 pounds.
- 3 It conforms in an amount with the sum referred to in the Davy record 5,000
- 4 pounds. And it is approximately the same time insofar as the Davy's cheque was
- 14:42:10 5 the 1st of June and its entry here as a receipt by Mr. Lawlor is the 6th of
- 6 June of 1989. So it certainly would appear that that cheque that is the Davy
- 7 cheque for 5,000 in June of 1989 was probably provided by you to Mr. Lawlor.
- 8 Would that be a fair conclusion to draw from those documents that we've just
- 9 seen?
- 14:42:40 10 A. I would say to you that I guess Davy's sent it to him if that's what you're
- 11 suggesting. I would have said that cheque was sent from Davy's to Mr. Lawlor,
- 12 correct.
- 13 Q. 396 Are you the only signatory on cheques for Davy's or would you have been a
- 14 signatory at all?
- 14:42:57 15 A. I don't think I probably, you know, no, I think I was a signatory all right so
- 16 I could be a signatory but 1989 was I a signatory I'm just not sure.
- 17 Q. 397 In any event?
- 18 A. In any event, yeah.
- 19 Q. 398 Whatever individual in Davy's was actually responsible for the decision making
- 14:43:16 20 process which led to this cheque being paid to Mr. Lawlor, he made the
- 21 connection with you in his record, isn't that right?
- 22 A. That's right.
- 23 Q. 399 And the probability then is that you were either the signatory or else you
- 24 handed him the cheque, one or the other?
- 14:43:33 25 A. Or it was sent to him.
- 26 Q. 400 Or it was sent to him, signed by you or some way of associating you with the
- 27 payment. He records it in his record as David Shubotham, Davy 5,000?
- 28 A. Well, for example, and I don't know this. But he could have approached me
- 29 looking for a political donation from Davy's.
- 14:43:48 30 Q. 401 Yes that's possible. And if Davy's were giving political donations we could

14:43:56 1 have given one to Liam Lawlor. So that's the connection. But it's, but you
2 didn't recollect. You don't recollect even now making this payment to him,
3 isn't that right.

4 A. Oh, no I don't.

14:44:08 5 Q. 402 You don't?

6 A. No, no.

7 Q. 403 Moving from 1989 up until the involvement of the City West project. You
8 indicate that you believe that the origin of that project as regards the
9 acquiring of that land for the purpose of development, possibly by Davy's, was
10 Mr. Bolger, isn't that right?

11 A. Yes, that's right.

12 Q. 404 Yes. Not Mr. Hickey?

13 A. Not Mr. Hickey, no, definitely.

14 Q. 405 No. And is it possible that given your connection with Mr. Bolger and his
14:44:48 15 connection with Mr. Lawlor and your connection with Mr. Lawlor, that all of
16 you, all three of you, were engaged initially in discussing this as a potential
17 investment by all three, I mean Mr. Lawlor, yourself and Mr. Bolger?

18 A. No, I couldn't say that but, again, as I did say to you earlier. It's very
19 hard to know where the genesis of the idea came together. All I know was that
14:45:22 20 we would have had discussions, whether Liam Lawlor again was in one or other of
21 those discussions, the nub of the idea to purchase came from Jim Bolger. I'm
22 sure of that. And I am absolutely certain that he carried on all the
23 discussions and negotiations with the Killeen family.

24 Q. 406 Right.

14:45:44 25 A. That's as he told it to me so I've no reason to believe otherwise.

26 Q. 407 Okay. You know that Mr. Lawlor says otherwise?

27 A. I do, indeed. I do, indeed.

28 Q. 408 At page 509 on screen we'll see a statement which Mr. Lawlor provided to the
29 Tribunal in response to an order to produce documents in relation to his
14:46:11 30 business dealings. And in the context of yourself and Mr. Hickey he stated

14:46:11 1 that through a mutual contact a meeting was arranged with the above personnel.
2 Due to the lack of an International type of business park to provide jobs on
3 the west side of Dublin, and as Council management were suggesting, the
4 substantial area of Corkagh Demesne, a regional park should be promoted as a
14:46:27 5 job creation location. I suggested the above executives should explore the
6 possibility of setting up an International business park on lands owned by the
7 late Dick Killeen who had approached me outlining difficult family
8 circumstances. The parties went forward and provided what is today City West
9 Business Park.

14:46:47 10
11 Now, you know also that Mr. Dunlop has given evidence that this project, that
12 is the City West project, was the genesis of Liam Lawlor. And I take it that
13 you don't agree with that

14 A. No, I don't agree with that, no.

14:47:02 15 Q. 409 Had you any reason to, any particular understanding or reason to advance as to
16 why Mr. Lawlor should claim the credit for this particular concept in his
17 dealings with the Tribunal and why he should be back in that regard by Mr.
18 Dunlop if it is untrue?

19 A. Sure. Well, obviously, I don't know. In my meetings with Liam Lawlor he
14:47:31 20 had -- he liked to claim a lot of things.

21 Q. 410 Yes?

22 A. And as a politician he liked to believe I suppose that he was responsible for
23 lots of activities within the county. So and I think Brendan yesterday
24 suggested to you that there was a little bit of the Corkagh Demesne is out of
14:47:53 25 sequence here I think. Corkagh Demesne comes later. So this put together I'm
26 not sure is totally accurate in what it says here. Aside from the fact that
27 does it refer to City West?

28 Q. 411 It doesn't?

29 A. Yeah.

14:48:08 30 Q. 412 It doesn't particularly name it as Newlands Business Park?

- 14:48:12 1 A. Okay oh, no it does say City West. Yeah.
- 2 Q. 413 City West Business Park?
- 3 A. Again, if it's of help to you, my fairly clear recollection was that Jim Bolger
- 4 knew about these lands. He knew Dick Killeen. He appeared to know him. I
- 14:48:29 5 won't say well but reasonably well. He was a man, because I know that either
- 6 he travelled with him to Scotland to see a cancer expert or he organised for
- 7 him to go to Scotland. So he seemed to have quite a relationship with him.
- 8 So, you know, as far as I know that's as far as it went.
- 9 Q. 414 Right. But certainly before Mr. Hickey ever became involved in this matter?
- 14:48:54 10 A. Uh-huh.
- 11 Q. 415 Discussions had taken place between yourself and Mr. Lawlor I take it in the
- 12 context of City West or do you have any memory of him being involved or do you
- 13 say it's purely with Mr. Bolger that you had this arrangement?
- 14 A. Again, very hard to put a time line on it. But certainly somewhere along the
- 14:49:15 15 way you would say that if Liam Lawlor was around you were discussing the idea
- 16 of what you were about. Liam Lawlor would be there, wonderful idea, great
- 17 idea, supportive, whatever else. So I can't tell you whether that was before
- 18 we bought the lands, while we were buying the lands, but it's most unlikely to
- 19 have been before we bought the lands.
- 14:49:38 20 Q. 416 Mr. Lawlor also claims to have been the party who initiated the contacts in
- 21 relation to the Baldoyle land?
- 22 A. I saw that.
- 23 Q. 417 You saw that. And that again is something that you are not in agreement with
- 24 because you say really he had no involvement in it at all, isn't that right?
- 14:49:54 25 A. That's right. I think the contact there was from Frank Dunlop. I don't think
- 26 I know it was sorry.
- 27 Q. 418 We'll see at page 510.
- 28
- 29 That when Mr. Lawlor was seeking to explain his relationship with Mr. John
- 14:50:09 30 Byrne to the Tribunal he provided this brief statement here which says:

14:50:14 1
2 "I have known John Byrne for over 20 years. I had discussions with him in the
3 1980s regarding the findings of the ERDO, that's the Eastern Regional
4 Development Study relating to the population placement in the eastern region of
14:50:29 5 the country and other general information.
6
7 Mr. John Byrne for many years was the owner of the Baldoyle Race Course. He
8 sought my views as the lands were lying vacant and in the interests of safety
9 he had to demolish the old stand and other derelict buildings on the site. I
14:50:47 10 would have met John Byrne socially and had general discussions with him over
11 the years. I arranged lunch/meeting at Davy Stockbrokers and in attendance was
12 Mr. David Shubotham, Mr. Brendan Hickey, Mr. Frank Dunlop, Mr. John Byrne and
13 myself.
14
14:51:03 15 Arising from that lunch the parties entered into some form of a business
16 relationship of which I was not a party to. To the best of my knowledge the
17 business relationship never advanced to finality by the parties".
18
19 And that was his statement in relation to the Baldoyle lands.
14:51:22 20
21 And whilst you say that you don't have a recollection of him being at that
22 meeting where you first met with Mr. Byrne. You do remember meeting Mr. Byrne,
23 isn't that so?
24 A. I definitely remember meeting Mr. Byrne. And also, I remember that there was
14:51:37 25 more people in the room than myself and Mr. Byrne. You know, in other words,
26 it was a largish meeting of people.
27 Q. 419 Right. And Mr. Anthony Gore Grimes might have been there. Do you know him?
28 A. I doubt it. I doubt it, you know, look, I couldn't, Chairman, I couldn't say
29 whether he was there or whether he wasn't.
14:51:55 30 Q. 420 Fine?

- 14:51:56 1 A. I'm not sure I've ever met Anthony Gore Grimes.
- 2 Q. 421 One of the matters which has been explored by the Tribunal so far has been
- 3 Mr. Lawlor's connections with Mr. Byrne in the years prior to the Pennine
- 4 Holdings option agreement. The Pennine Holdings option agreement started
- 14:52:18 5 effectively in January 1991 with the payment of the 5,000 for the option.
- 6 That's the first formal step?
- 7 A. Uh-huh.
- 8 Q. 422 But the Tribunal has heard evidence in relation to Mr. Lawlor's involvement in
- 9 introducing another option holder to these lands in 1986. And the efforts of
- 14:52:40 10 Mr. Lawlor over a number of years between 1986 and 1991 in connection with
- 11 advancing the planning permission for those lands. That I should say is the
- 12 100 acres that was not including in the 400 acres of the Pennine Holdings
- 13 option. I'm not sure the extent to which you may have read the transcripts of
- 14 the evidence of --
- 14:53:05 15 A. I was actually just going to say to you. I apologise I didn't realise that I
- 16 had to read all of the transcripts. I actually didn't bother with all of that
- 17 stuff to be honest.
- 18 Q. 423 All of that is covered in documentation which is within the brief of
- 19 documentation circulated in advance of
- 14:53:21 20 A. I'm sure it is and I didn't read it.
- 21 Q. 424 In any event it would appear to be established from that documentation that
- 22 Mr. Lawlor had had an involvement with these lands extending for at least five
- 23 years prior to the entry of the Pennine option in 1991. And that that was a
- 24 relationship where he had introduced a Mr. Jim Kennedy and ultimately his
- 14:53:47 25 company Bauval Limited to taking an option over 100 acres of the land at
- 26 Baldoyle where which is closest to?
- 27 A. It's the same land as the 400 acres or different part?
- 28 Q. 425 It's contiguous but not the same land?
- 29 A. Okay.
- 14:54:03 30 Q. 426 It is the land which can be distinguished, I think, from the other land.

- 14:54:06 1 Because I think in the main there was -- it was zoned for development as
2 opposed to unzoned land?
- 3 A. Uh-huh.
- 4 Q. 427 Certainly most of it was not green belt as was the majority of the land the
14:54:20 5 subject of the 400 acres?
- 6 A. Okay.
- 7 Q. 428 So we may take it that as of 1991 there was an established relationship between
8 Mr. Byrne and Mr. Lawlor in relation to the Baldoyle lands. Mr. Byrne owned
9 some 511 acres of land there. He had entered into an option agreement in 1988
14:54:43 10 for 100 acres of those lands. And in 1991 he enters into a second option for
11 the remaining 400 odd acres, which is the Pennine Holdings option we're
12 examining at the moment. You understand?
- 13 A. Sure. Okay.
- 14 Q. 429 So that when it came to the negotiations commencing for the second option, that
14:55:04 15 is the Pennine Holdings option, Mr. Dunlop -- sorry. Mr. Lawlor already had a
16 track record of dealing with Mr. Byrne in relation to options. And whilst
17 Mr. Lawlor and indeed Mr. Dunlop say that they were, that there was an initial
18 contact in relation to the Pennine options between Mr. Byrne and yourself and
19 himself?
- 14:55:30 20 A. Uh-huh.
- 21 Q. 430 At this time. It's not something that you recollect. Is that right?
- 22 A. That's correct, yes, yeah.
- 23 Q. 431 And you know or well possibly again not having read the transcript or indeed
24 possibly read the documents in the brief, you may not know that Mr. Dunlop has
14:55:48 25 maintained that throughout the next two and a half year period when he was
26 involved in the Pennine option lands he was in contact with you in relation to
27 it both by telephone and at meetings of the East View project which were held
28 in the premises of Davy Stockbrokers.
- 29 A. Yes.
- 14:56:09 30 Q. 432 Can we deal possibly firstly with the meetings?

14:56:23 1 A. Okay.

2 Q. 433 Were there such meetings that you recall about East View?

3 A. Well, what I can say to you about the meetings in East View. We had reasonably

4 regular meetings. You'll see that from the diary.

14:56:23 5 Q. 434 Yes?

6 A. And they were pretty structured meetings. You'll see generally speaking they

7 were held first thing in the morning. Generally, we would have had a series of

8 points, many of which and many more that Brendan mentioned to you earlier on

9 today. And from time to time at the end of those meetings and very much at the

14:56:46 10 end of those meetings and I mean from time to time, certainly not at every

11 meeting, Frank might raise a question of Brendan or might discuss it. And it

12 was of Frank's nature to round off a meeting with a bit of conversation. So I

13 would say to you that at some meetings he might have discussed it but they

14 would have been the minority of meetings because our big project, as I think is

14:57:15 15 fairly clear to you, was City West and getting that to be successful.

16 Q. 435 Right. Your project, as you call it, City West?

17 A. Uh-huh.

18 Q. 436 Predated the involvement by about 16 months or so of any possible involvement

19 in Baldoyle, isn't that right? It had advanced in tandem?

14:57:37 20 A. Sure.

21 Q. 437 But it had started earlier?

22 A. Yeah, it's probably again for the benefit of everybody here, useful to explain

23 my role in this. Again, I'm not sure whether the Chairman understands that I

24 am not a partner of Davy Hickey. I'm a partner in Davy Stockbrokers. And my

14:57:57 25 role in putting together partnerships and there would have been Berland,

26 Saggart, City West and now you're discussing the possible partnership which in

27 Baldoyle, I would have been the corporate financier in relation to that. So my

28 role would be to find the investors that were required to go into a particular

29 project. So if a project were related. And these would be sometimes -- sorry.

14:58:29 30 Not, no, all times. Would be multiple partners. So there would a lot of

- 14:58:33 1 people. Now it would include myself. But it would include many others as
2 well, both internal and external to Davy's.
- 3 Q. 438 Right. But in addition to perhaps business groupings that are involved in
4 corporate acquisitions and that type of thing, this is more a property directed
14:58:52 5 operation, isn't it?
- 6 A. Yes, definitely, yes, yeah.
- 7 Q. 439 And the reason for bringing Mr. Hickey on board was effectively to have an
8 in-house person in the Davy organisation who could do the practical or
9 technical side of the building business rather than pure financiers and
14:59:15 10 stockbrokers, as you were?
- 11 A. No, actually. Again, just so that I think again it's useful to explain so that
12 you all know. We looked at that as a prospect in Davy's at the time. We
13 looked at the possibility of buying an Estate Agents. We looked at the
14 possibility of having something in-house in relation to that type of
14:59:37 15 arrangement. And at the end of the day, we didn't do that. Davy Hickey was a
16 formulation, it's a partnership. I think Brendan went through in reasonable
17 detail the structure. But Davy Stockbrokers itself didn't have an investment
18 in Davy Hickey. It wasn't located in the same building. It was a separate
19 opportunity -- a separate business with investors that would be -- that would
15:00:08 20 in some sense be common to Davy's and other external investors.
- 21 Q. 440 The expression the property arm of Davy Stockbrokers has been?
- 22 A. I've seen it means many times.
- 23 Q. 441 Indeed, in print at the time?
- 24 A. Sure.
- 15:00:25 25 Q. 442 That this venture was finding itself in the media, isn't that right?
- 26 A. Sure. I'm just correcting for the purposes of whatever so that you understand
27 what it was.
- 28 Q. 443 Yes. But even though the apology that was published by the newspaper was, and
29 I should say that that was in April May 1993. Where they set out to undo the
15:00:48 30 harm which it is alleged was caused to individuals by being named as

15:00:53 1 perspective investors in this scheme. Even in the apology the quote is that
2 Davy's is the stockbroking?
3 A. I saw that and I was just correcting that for you.
4 Q. 444 Sure. It wasn't corrected at the time though when it was published in the
15:01:07 5 newspaper?
6 A. Well.
7 Q. 445 It wasn't felt that the newspaper should have their attention drawn to the fact
8 that they were wrong in making the conclusion that Davy Hickey's had that
9 relationship with Davy's, isn't that right?
10 A. Well, again, the point was that they had made an apology. I don't think we
11 were going to have them correct an apology again. And I don't think we were
12 particularly taken by it.
13 Q. 446 Sure. The side of the business that was of interest to you and fell within
14 your particular expertise was the setting up of the corporate structures which
15:01:43 15 ultimately would hold whatever investment there might be in a project you were
16 considering, isn't that right? I'm not confining myself now to Baldoyle?
17 A. No, but perhaps more just the raising of the money as opposed to the
18 structures.
19 Q. 447 I see?
15:01:58 20 A. So the money was the essence relating to a project.
21 Q. 448 Right. When it comes to this particular project. We see from the document?
22 A. You're talking about Baldoyle now.
23 Q. 449 Yes. I'm talking about Baldoyle.
24
15:02:12 25 When we look to Baldoyle we see as and from a date in early February
26 A. '92.
27 Q. 450 '91. '91?
28 A. Okay.
29 Q. 451 February '91 Eugene F Collins are engaged in the process of seeking to register
15:02:29 30 the company called Pennine Holdings Limited. And that is a process which takes

- 15:02:35 1 a little time. It was completed with the incorporation of the company by a
2 date in April of 1991. But that process had started. Our earliest record is
3 on the 5th of February of 1991 when the solicitor in Eugene F Collins who was
4 to become one of the first directors of that company and a nominee shareholder
15:03:00 5 completed the documentation for the Companies Office to have that company
6 incorporated. And from that moment on, it seems that Eugene F Collins were
7 engaged as the solicitors in the project, isn't that right, or can you?
8 A. Well, all I can recall was there was a meeting in Collins' but they seemed to
9 deal with everything so if that's it, yes they were.
15:03:30 10 Q. 452 Sure. In the normal course, Eugene F Collins would not have been your
11 solicitors, isn't that right?
12 A. Well, no. I never used Eugene F Collins before. My brother is a partner in
13 William Fry. My brother in law is a partner in Hanby Wallace. We've used
14 Arthur Cox. We've used McCann Fitzgerald.
15:03:56 15 Q. 453 Yes?
16 A. Anthony is a good friend of mine and I'm going to dinner there next Saturday
17 night. He's just one of those people I know who was always joking about the
18 amount of business that I gave him or we gave him. So I think that was really
19 why Anthony got involved.
15:04:16 20 Q. 454 So you engaged him effectively, is that right?
21 A. Well I wouldn't say we engaged him. I or Brendan, we're not sure which of us,
22 rang him and said we wanted to come down and have a discussion with him, which
23 is what we did.
24 Q. 455 Right. Equally, he wasn't the personal solicitor to Brendan Hickey who, had
15:04:36 25 his own solicitor, isn't that right?
26 A. Yes, he had Patrick Cahill, I think he said that yesterday.
27 Q. 456 The partnership agreement which was envisaged at one stage as being a means or
28 method of holding the respective interests in this venture. Who were the
29 partners to be in that venture?
15:05:01 30 A. We don't know is the simple answer to that. We never got to that stage. So

15:05:09 1 had we proceeded we -- as we have done in other partnerships, we would have
2 gone out to try and raise whatever money we believed was necessary and put the
3 partners together.

4 Q. 457 Yes. The necessity of drawing up a partnership agreement before you'd even
15:05:26 5 decided who the partners were, is one that causes me a little bit of surprise
6 that?

7 A. All right.

8 Q. 458 Because obviously the interests of the individuals who were to form the
9 partnership would have to be discussed between all of them before they could
15:05:43 10 decide on what the nature of their partnership would be. In other words, if
11 two persons have the same interest and they know that they are not going to
12 have any dispute between themselves, I can see how in those circumstances one
13 can draw up a relatively straight forward partnership agreement. On the other
14 hand, if you don't know who you're going to be a partner with, you don't know
15:06:05 15 what their aspirations are and you can hardly reflect them in a document
16 without knowing who they are in the first instance, do you understand where I'm
17 coming from?

18 A. I absolutely understand you. And I see the point that you make. But it can be
19 done in both ways. You can decide, as we did in this instance, that basically
15:06:25 20 if you proceed along a particular path you will have at the back of a
21 partnership agreement a schedule of investors, which is actually the way that I
22 did it in City West. Or in Saggart. Or in Berland. It's the same procedure.
23 And in fact, I went to the trouble of checking this with Anthony Collins since
24 he attended the Tribunal, that the instruction or the discussion that I had
15:06:55 25 with him was that we would follow the City West model. So he was taking a
26 partnership agreement. You'd have to adjust it to effect the circumstances of
27 whatever you were trying to do. But actually you only have the partnership put
28 together when you go out to raise the money and you identify who you believe
29 would be the appropriate partners. So you can do it both ways really is what
15:07:20 30 I'm saying to you. I know it troubles you.

- 15:07:24 1 Q. 459 No, no, I can see a circumstance where if you have a precedent for exactly the
2 same type of arrangement it is a simple matter of adopting that precedent, as
3 lawyers often do?
- 4 A. No two are going to be the same. For this particular instance there was a
15:07:40 5 particular option agreement. There was no option agreement in City West. So
6 they're all going to vary somewhat. So you are not just going to be able to
7 take a partnership agreement and lay it down. Again, I'm not a lawyer, so, you
8 know, you have to use legal counsel to take advice on these matters and they
9 advise you as to how you put it together.
- 15:08:01 10 Q. 460 Yes?
- 11 A. And again, one solicitor will vary from another in the way that he will
12 approach it.
- 13 Q. 461 I think you may know that from consideration of the limited information which
14 is available to the Tribunal and that is the invoices for the work itself sent
15:08:08 15 by Eugene F Collins, that it is apparent from that, that whatever precedent
16 they did receive was one which would not have suited the partnership envisaged
17 in this instance, isn't that right?
- 18 A. I don't understand that question.
- 19 Q. 462 Subsequently amended -- sorry. Well perhaps we'll look at the invoices
15:08:36 20 themselves. Where the solicitors set out the work that they did?
- 21 A. Sure.
- 22 Q. 463 It commenced in December of 1991. This is in relation to the work contained
23 within the first invoice which was sent by Eugene F Collins to the company.
24
- 15:08:53 25 It started in December 1991 and it ran until the 24th of November of 1992. And
26 that was the work which followed upon the completion of the option agreement
27 work. The option had been signed in the 4th of November 1991. So that it
28 didn't involve renegotiating the terms of the option. Its terms were clear
- 29 A. Okay.
- 15:09:25 30 Q. 464 What now remains to be dealt with was the partnership agreement itself?

- 15:09:29 1 A. Okay.
- 2 Q. 465 And you'll see I think on screen on page 1791. A copy of the invoice for the
3 work that was carried out by the solicitors at that time. It was in relation
4 to the partnership agreement between the 17th of December 1991 and the 24th of
15:09:50 5 November '92, including considering draft of a similar partnership agreement.
6
7 Now, that is the -- at the beginning that would have been the 17th of December
8 1991. I think I may be right in saying that the partnership agreement in City
9 West had perhaps just been completed in that, maybe the month before, is that
15:10:14 10 right?
- 11 A. I don't remember. To be honest with you. But when I see the words there
12 "consideration of draft of similar partnership agreement."
- 13 Q. 466 Yes?
- 14 A. I would definitely believe that to be the City West partnership agreement.
- 15:10:27 15 Q. 467 Right. And what was being considered was a draft rather than the original?
- 16 A. I don't know.
- 17 Q. 468 Right, 'discussing same with you'. This is not identifying who you is.
18 Although a bill was sent I think to Brendan Hickey named personally?
- 19 A. Sure.
- 15:10:45 20 Q. 469 'Discussing same with you and redrafting the agreement, subsequently discussing
21 same and providing a further draft together with commentary'. So it was
22 jiggling around the original one. Okay?
- 23 A. Yep.
- 24 Q. 470 And we'll see that that work continued for quite a relatively long time?
- 15:11:02 25 A. I mightn't have had that much involvement in this but I really don't know but
26 sure ...
- 27 Q. 471 I appreciate that that is so?
- 28 A. Sure.
- 29 Q. 472 There is a second invoice then which was issued for the period commencing on
15:11:16 30 the 25th of November 1992. And running until the 28th or 29th of March 1993.

15:11:24 1 And that again involves consideration of partnership agreement and further
2 amendments and I'll put it on screen for you now.
3
4 It's 2314. Partnership agreement and other ancillary matters between the dates
15:12:00 5 of the 25th of November '92 and 31st of March '93 including considering of memo
6 of sometime before discussing same with Brendan Hickey re drafting the document
7 and advising generally in relation to it.
8
9 So it's an ongoing process at this point extending from December 1991
15:12:08 10 A. Well, actually it's not.
11 Q. 473 No?
12 A. It's not.
13 Q. 474 It's so expressed in this document. Do you have a memory of it being a more
14 fixed as to particular dates rather than those which are shown on the invoice?
15:12:23 15 A. Well, I mean, as I think Brendan pointed out yesterday. We saw this too.
16 Ancillary matters could have been. It's only 800 pounds. But the partnership
17 agreement wouldn't have been discussed beyond 1992. I mean, it was dead in the
18 water then. So whatever work they did and I can't identify what it was. I
19 mean, apart from shredding it and throwing it away. I mean, we weren't doing
15:12:48 20 any work beyond November of '92 so that's a matter of fact.
21 Q. 475 And it is undoubtedly, I'm suggest the case, Mr. Shubotham, that if there was a
22 partnership involved in the project here or to be a partnership in the project,
23 Mr. Dunlop would have been involved in that partnership, would he?
24 A. Well, I don't know I suppose is the answer. But he owned the option.
15:13:14 25 Q. 476 Yes?
26 A. I would believe that when he came to us back in, whenever we agreed he came to
27 us, in 1991. He had an asset which was something in small inverted commas,
28 Baldoyle. I would have to say that my own view was that he had this. I don't
29 know how he had got to the stage that he had it. But that's what he came with.
15:13:41 30 So my guessing is that he would have been perhaps a significant partner but I

- 15:13:46 1 have to say it just never got to that level of discussion. He owned Pennine
2 Holdings so you were going to take it from him so, I don't know. We never
3 really got to that discussion. I can assure you of that.
- 4 Q. 477 Sure. You do know that the initial dealings with Eugene F Collins apparently
15:14:06 5 commenced with yourself and Mr. Hickey meeting with Mr. Collins who apparently
6 took instructions in relation to the setting up of the company. He set up the
7 company. He expressed the view or he confirmed in his letter I should say that
8 he was holding that company through solicitors in his firm for Mr. Hickey. And
9 that the shares were being held for Mr. Hickey and his nominees. You may be
10 aware that that is what?
- 11 A. I heard that in the discussion that you had here yesterday or whatever, sure.
- 12 Q. 478 And on that basis then it obviously was an error on his part to believe that if
13 in fact it was Mr. Dunlop's company all along, isn't that right?
- 14 A. Well, yes, I think that -- I think that the sequence. As I saw it, as a
15:15:00 15 financier if you like. I saw it that Mr. Dunlop had an asset. He had acquired
16 this asset from Mr. Byrne, if that's who with it was. And he was now trying to
17 effect value to the asset that I had. Now, how he was going to go about that
18 or what was going to happen. Who he was going to bring in or how we were going
19 to finance it was something that we never got going. I couldn't do anything
15:15:23 20 unless Brendan Hickey told me we have decided that we are going to act as
21 developers in this. So I have to wait. And I have to wait. And eventually
22 when it's going no further it's going no further.
- 23 Q. 479 Yes. I can understand exactly how that would deal with your own involvement if
24 you were to be the ultimate financiers in the project. But what we're dealing
15:15:45 25 with here is the option holding, the option taking company, Pennine Holdings
26 Limited?
- 27 A. Uh-huh.
- 28 Q. 480 Which on your account of events was not intended to be the ultimate developer
29 and wasn't intended to be anything to do with you, isn't that right?
- 15:16:00 30 A. No, exactly.

- 15:16:01 1 Q. 481 Well, you see, it is that company that Mr. Collins set up. He wasn't setting
2 up the company which ultimately was going to take the asset. He was setting up
3 the company which was going to take the option?
- 4 A. I understand that.
- 15:16:13 5 Q. 482 You'll appreciate that?
- 6 A. Yeah, but the two were the two important legs of this, of the transaction. The
7 partnership agreement and an option agreement and you presumably have to marry
8 the two together that but that marriage never took place, obviously.
- 9 Q. 483 But they would be two separate interests on the basis of your evidence. One
10 would be exclusively Mr. Dunlop's, that is Pennine. And your own entity would
11 be whatever corporate structure you put behind the East View Partnership, isn't
12 that right? They would be two separate things?
- 13 A. They would be two separate things. I wasn't involved in the option agreement.
14 I wasn't involved in the negotiation of it and so on. You would be coming to
15:16:53 15 me to say we're ready to go, we're ready to proceed with this. And then I
16 would try and see what shareholders we would have.
- 17 Q. 484 Yes. I can understand completely how that could happen. In fact, it
18 transpires that you and Mr. Hickey were involved in the Pennine Holdings side
19 of things as well as the East View Partnership side of things?
- 15:17:13 20 A. No, no, no in Pennine's, no.
- 21 Q. 485 Okay. That involvement, to put it briefly, was the initial engagement of
22 Mr. Collins which took place through yourself and/or Mr. Hickey, isn't that
23 right?
- 24 A. Again, I don't remember exactly what happened.
- 15:17:30 25 Q. 486 All right?
- 26 A. And I don't whether, for example, Frank Dunlop was at the first meeting that we
27 had, maybe he was, maybe he wasn't, I don't know.
- 28 Q. 487 Well not according to Mr. Collins?
- 29 A. Fine.
- 15:17:41 30 Q. 488 Who says at page 76. Eugene F Collins were instructed by Brendan Hickey and/or

- 15:17:47 1 David Shubotham?
- 2 A. Sure.
- 3 Q. 489 That is his evidence. He also says that I did meet Frank Dunlop but I don't
- 4 believe that I met him in the early stages of the matter?
- 15:17:57 5 A. Okay.
- 6 Q. 490 So it seems that the initial involvement of Eugene F Collins was by yourselves
- 7 and it wasn't for the purpose of setting up a partnership agreement which might
- 8 ultimately take the lands from the option holder. It was to set up the option
- 9 holding company?
- 15:18:15 10 A. No, I wouldn't. I wouldn't say that. I would say that the initial
- 11 conversations that we had with Anthony would have been outlining exactly what
- 12 was happening. In other words, that there was an option and that we would look
- 13 to form ultimately a partnership, that would carry or hold it or whatever. So
- 14 that would have been the initial conversations with. I would be surprised if
- 15:18:42 15 we got to a level of detail in that particular meeting. But I don't know.
- 16 Q. 491 Fine. The inception of your involvement with the option itself is one where
- 17 you say that Mr. Dunlop came to you and he said look, I can get an option over
- 18 these lands, are you interested and we can move forward on that basis.
- 19 A. Well you use the word "get". I don't know whether he said I have or I can get.
- 15:19:10 20 Q. 492 Right?
- 21 A. But he, he gave you the impression of some proprietorial claim over this, I
- 22 have to say that.
- 23 Q. 493 It became immediately apparent to you that he didn't in fact have anything.
- 24 Because that had to be negotiated. And it was negotiated by Mr. Hickey?
- 15:19:28 25 A. Sure.
- 26 Q. 494 Who brought it to fruition, albeit through Eugene F Collins so Mr. Dunlop
- 27 wasn't coming to you with a signed document saying here is the option now let
- 28 us fix our relationship between each other?
- 29 A. No, but I wouldn't have known if he'd had an arrangement with Mr. Byrne because
- 15:19:45 30 he wouldn't have disclosed that to me.

- 15:19:48 1 Q. 495 Sure?
- 2 A. So otherwise he presumably would have just introduced Mr. Byrne to us.
- 3 Q. 496 It may assist to know what Mr. Byrne says in relation to this. Because he has
- 4 an entirely different view on things.
- 15:20:00 5 A. Sure.
- 6 Q. 497 Than your own. That's at page 31 of the brief.
- 7
- 8 You'll see that at paragraph five of the document in front of you there.
- 9 Mr. Byrne says "I recall that in 1991 or possibly 1990 an approach was made to
- 15:20:14 10 me by Brendan Hickey of Davy Hickey Properties who were interested in acquiring
- 11 an option over part of the Baldoyle lands. The company was a joint venture
- 12 between Brendan Hickey and Davy Stockbrokers".
- 13
- 14 Now, the first point arising from that is that Mr Byrne is saying that the
- 15:20:32 15 contact was made with him by Mr. Brendan Hickey. Whereas you say that Mr.
- 16 Dunlop came to you already having concluded some form of relationship with
- 17 Mr. Byrne which would allow him to say to you I have or I'm entitled to get an
- 18 option from John Byrne and there's no doubt about that
- 19 Q. 498 Right. But Mr. Byrne seems to have considerable doubt about?
- 15:20:56 20 A. I see that.
- 21 Q. 499 He attributes the origin to Mr. Hickey and not to Mr. Dunlop, isn't that right?
- 22 A. So he does.
- 23 Q. 500 That's what he does. And he also goes on, as you'll see in paragraph six to
- 24 say that "I believe I attended at a meeting sometime in 1991 at the offices of
- 15:21:25 25 Davy Stockbrokers in Dawson Street which was attended by Liam Lawlor and
- 26 Brendan Hickey, David Shubotham of Davy Stockbrokers, Frank Dunlop and Anthony
- 27 Gore Grimes at which discussions took place in relation to my company granting
- 28 an option to Davy Hickey Properties in respect of approximately 250 acres at
- 29 Baldoyle. It was intended that the purchasers would attempt to have the zoning
- 15:21:37 30 of the lands changed to residential/leisure/business park use and that

15:21:43 1 approximately 158 acres being part of the lands would be used for the
2 construction of an hotel and golf course".
3
4 So --

15:21:51 5 A. Do I recall reading somewhere that Mr. Gore Grimes says that he thinks that he
6 never met me? I think I might have read that in the papers somewhere.
7 Q. 501 I could check it for you?
8 A. Yes.
9 Q. 502 Now, Mr. Gore Grimes referred to here is Mr. Anthony Gore Grimes?
15:22:07 10 A. Oh, are there two?
11 Q. 503 The witness who gave evidence is Mr. John Gore Grimes?
12 A. Okay there's two. Okay. I didn't realise that there were two.
13 Q. 504 Okay. Certainly on this version events. I know that you dispute it in its
14 entirety. Well you dispute it on two grounds. You say firstly that Brendan
15:22:27 15 Hickey and Davy Stockbrokers were not joint venturers. That's the first thing?
16 A. Sorry, just one second.
17 Q. 505 He says that this company was a joint venture between Brendan Hickey and Davy
18 Stockbrokers. This is Mr. Byrne's analysis in paragraph five?
19 A. Oh, sorry I was looking at paragraph six. Okay.
15:22:43 20 Q. 506 Paragraph five he says that he was dealing with Davy Hickey Properties, which
21 he understood to be a joint venture between Davy Stockbrokers and Brendan
22 Hickey. Now, you say he's wrong in that?
23 A. Well he is wrong in that, yes. But, I mean, you know, to be fair to him. It's
24 only wrong but it's not a mortal sin if you know what I mean.
15:23:10 25 Q. 507 Sure. Well one of the reasons why he said that he was prepared to involve
26 himself in the project, and we know this through his solicitor, John Gore
27 Grimes rather than Mr. Byrne who hasn't been able to give evidence so far, was
28 that the financial standing and reputation of Davy Stockbrokers being the
29 backers of this project made it attractive for him to tie up his lands on a
15:23:34 30 five year option. That he wouldn't have done so had John Smith walked in off

- 15:23:39 1 the street and said give me an option over your lands for the next five years
2 for 5,000 and I'll see what I can do to get rezoning, you understand?
- 3 A. I do, indeed.
- 4 Q. 508 It would explain the logic?
- 15:23:50 5 A. I might be able to explain the logic a bit further. I don't know again this to
6 be true but I'll suggest to you that that I think it might have happened. That
7 when Frank Dunlop came to me first. This was over the 5,000 whatever. I think
8 that Frank might have said could I get a cheque for 5,000 from Davy
9 Stockbrokers. I've a feeling he said. It's just my recollection was that it
10 was important to him to show John Byrne something of importance or standing and
11 I said you couldn't do that. You know, in other words, I think he was looking
12 to have somebody who was credible as opposed to Frank if you like. I'm not
13 saying Frank wasn't credible but something of some substance so that would
14 support what he thought. Of course that isn't a joint venture.
- 15:24:16 15 Q. 509 It wouldn't really require that cheque to create that impression because the
16 meeting took place in Davy Stockbrokers offices with all of the parties present
17 in Dawson Street in the first instance?
- 18 A. Okay. But on the other hand it might have required a cheque to get him to
19 Dawson Street so I don't know that. Maybe the cheque was after that. You see,
15:25:01 20 we don't know exactly the time. The cheque may have already gone to Mr. Byrne
21 at that stage.
- 22 Q. 510 Well could I suggest that things would have had to have moved at a considerably
23 advanced pace if the solicitors were capable of setting about setting up the
24 company by five days after your cheque was written?
- 15:25:22 25 A. As I say.
- 26 Q. 511 I know we're speculating on that?
- 27 A. Sure, sure, yeah.
- 28 Q. 512 But certainly from the point of view of adopting positions as to how this
29 project started. There is a fundamental difference between your recollection
15:25:39 30 and that of Mr. Hickey on the one side and the other participants insofar as we

- 15:25:46 1 can identify them. One being the version of events given here by Mr. Byrne
2 which you don't accept, isn't that right? You don't accept, for example, that
3 the approach was made to Mr. Byrne by Mr. Hickey?
- 4 A. Oh, no.
- 15:26:01 5 Q. 513 You say that it was an approach?
- 6 A. Exactly.
- 7 Q. 514 So he's fundamentally wrong there?
- 8 A. Correct.
- 9 Q. 515 And he's also wrong, although you say it's not a mortal sin, in his belief that
15:26:22 10 there was a joint venture between Hickey, Brendan Hickey and Davy Stockbrokers,
11 isn't that right?
- 12 A. Again, I think you know that to be the case as well. So I agree.
- 13 Q. 516 Equally, there is a fundamental dispute as to Mr. Lawlor's role as being
14 somebody who might have introduced the parties to it?
- 15:26:34 15 A. Sure.
- 16 Q. 517 And whilst Mr. Lawlor has not said that he had any knowledge or interest of the
17 project going beyond the introductory meeting?
- 18 A. Uh-huh.
- 19 Q. 518 He does claim the credit for the introductory meeting, isn't that so?
- 15:26:48 20 A. Well you're telling me. I haven't seen it or maybe you did you show it to me.
- 21 Q. 519 No need to go back. We have seen those documents and that's what they appear
22 to say?
- 23 A. Fine, yes.
- 24 Q. 520 Now, Mr. Dunlop goes that much further because he says yes, Mr. Lawlor set it
15:27:01 25 up. But it was always Mr. Lawlor's idea. He brought Mr. Byrne to the table
26 and he continued, that being Mr. Lawlor, continued to be involved throughout
27 and until such time as the option was sold on sometime in 1994. You understand
28 that position?
- 29 A. I understand that clearly.
- 15:27:26 30 Q. 521 And you will see that there are numerous references to a very high level of

- 15:27:34 1 contact which is almost daily as between Mr. Lawlor and Mr. Dunlop throughout
2 this period, isn't that right?
- 3 A. Well.
- 4 Q. 522 I'm not asking you to say what its content was?
- 15:27:46 5 A. Well, I didn't bother looking at that but if you tell me that's the case, sure.
- 6 Q. 523 I mean, whatever about Mr. Lawlor's relationship with you and Davy's?
- 7 A. Yeah.
- 8 Q. 524 He certainly had a very close relationship if we are to judge the diaries and
9 telephone entries of Mr. Frank Dunlop during that period, isn't that right?
- 15:28:02 10 A. Well if you say so. I mean, you've -- you spent a lot more time looking at
11 this than I have.
- 12 Q. 525 Unfortunately.
- 13 A. I'd say you have been here for a few years.
- 14 Q. 526 Now, we will also see or you may be aware of the fact that not only are these
15:28:18 15 contacts recorded by Mr. Dunlop and Mr. Dunlop's secretary. But that Mr. Gore
16 Grimes, who is acting for Mr. Byrne records?
- 17 A. This is the other Gore Grimes or is this Anthony Gore Grimes?
- 18 Q. 527 This is John Gore Grimes who is the conveyancing?
- 19 A. Are they the same family, the same firm.
- 15:28:37 20 Q. 528 Yes. The firm is Gore & Grimes. The principals are Gore Grimes. John,
21 Anthony and there are other solicitors involved?
- 22 A. Okay. Sorry, sorry.
- 23 Q. 529 In any event, the attendances taken by Mr. John Gore Grimes record an
24 involvement of Mr. Liam Lawlor in the project to the extent that the motions
15:29:00 25 which were being brought before the Council?
- 26 A. Yeah.
- 27 Q. 530 Had an input from Mr. Liam Lawlor?
- 28 A. Yes. Again, I saw there was some -- I didn't read any of that stuff so but I'm
29 sure whatever was there.
- 15:29:16 30 Q. 531 What I'm going to put to you, Mr. Shubotham is this. That irrespective of as

15:29:23 1 to whether you knew it or otherwise, it is the case that Mr. Lawlor and Mr.
2 Dunlop were jointly involved in this project. I'm talking about East View,
3 Baldoyle?

4 A. Uh-huh.

15:29:35 5 Q. 532 From its inception until its conclusion in 1993?

6 A. But are you asking me a question?

7 Q. 533 Yes?

8 A. And what is that?

9 Q. 534 The question is whether or not you accept that that is the position?

15:29:49 10 A. No, definitely not.

11 Q. 535 You don't?

12 A. No.

13 Q. 536 Now, a further stage in that, of course, is to say that you were involved
14 yourself with them and you were aware of what they were doing?

15:30:00 15 A. Uh-huh.

16 Q. 537 And it follows that since you don't believe that they were involved at all,
17 that the other question is really superfluous, isn't it?

18 A. You may still ask it and the answer is no.

19 Q. 538 The reason I'm putting it to you is that another witness before the Tribunal,
15:30:17 20 that is Mr. Dunlop?

21 A. Uh-huh.

22 Q. 539 Has stated that he kept you advised at all stages throughout this process of
23 how the attempts to effect the rezoning of Baldoyle were progressing and that
24 he received information and advice from you on that subject. And that you were
15:30:38 25 all in effect together as co-adventurers ain this project?

26 A. Well, I don't accept that.

27 Q. 540 You don't accept that?

28 A. No.

29 Q. 541 Now, in relation to the project. Obviously, any project requires to be
15:30:57 30 financed, isn't that so?

15:31:00 1 A. Well.

2 Q. 542 Well you did in fact provide the finance for this project so we might be more
3 specific?

4 A. Okay, fine.

15:31:07 5 Q. 543 Finance came to this project through two sources. Davy Hickey Properties
6 Limited?

7 A. Uh-huh.

8 Q. 544 And the East View Partnership account, isn't that right?

9 A. Correct.

15:31:16 10 Q. 545 And the East View Partnership?

11 A. And you left out the little bit about City West do you remember at the end.

12 Q. 546 They came in at the end. Well just for correctness, yes, okay.

13 A. Absolutely. Yeah.

14 Q. 547 At the end of the day, the City West partnership picked up the overdraft of
15 indebtedness?

16 A. Yes.

17 Q. 548 Which had been incurred by the East View Partnership in the expenditure
18 involved, isn't that right?

19 A. Yes, yes. And effectively, as you know, they were actually paying me but
15:31:42 20 that's the reality.

21 Q. 549 The funding of this started with the payment of the 5,000 pounds for the
22 deposit, isn't that right?

23 A. That's right.

24 Q. 550 And exactly how that's done hasn't been established through either the return
15:32:03 25 of the cheque or the accounting for it, isn't that right?

26 A. That's right.

27 Q. 551 But it's believed by you that that money was advanced by you personally?

28 A. Yes.

29 Q. 552 And you were ultimately going to be reimbursed from the East View Partnership,
15:32:19 30 isn't that right?

- 15:32:21 1 A. Somehow and reimbursed as the case may be. I wouldn't have paid a lot of
2 attention to it.
- 3 Q. 553 Right. But as regards the relationship between Davy Hickey Properties Limited
4 and East View Partnership. Is there any reason or there obviously is a reason,
15:32:37 5 perhaps you can explain what it is. As to why payments on the one project were
6 coming from these two sources or accounts?
- 7 A. Well, there's two parts to that exercise.
- 8 Q. 554 Uh-huh?
- 9 A. The first part is that whatever the period is when the East View account was
15:32:58 10 opened, which I think is around about the start of 1992.
- 11 Q. 555 Yes?
- 12 A. To the time ...
- 13 Q. 556 December 1991 monies are transferred into the savings account?
- 14 A. Yeah, I remember that.
- 15:33:10 15 Q. 557 They come from that into current account?
- 16 A. Yeah, okay.
- 17 Q. 558 And the expenditure starts then?
- 18 A. Sure, sure, sure. So there's this particular time period when I guess Brendan
19 and I had a discussion about whether or not this, we could possibly get
15:33:26 20 involved in this. Was there a process. He was going to be doing work on it
21 and so on. So that account was set up for the purposes of keeping a record of
22 whatever payments were being made in relation to that project.
- 23 Q. 559 Yes?
- 24 A. And it would be my view. And I think I may well have said it in my statement
15:33:47 25 and I'll say it to you now if I haven't. That's why I would have a clear time
26 line as to when we no longer believed that this was a project that would, that
27 we would be involved in. Or could get involved in. And that is somewhere
28 around about October of September/October '92 I think. I think there were no
29 further payments after that.
- 15:34:11 30 Q. 560 Right. Well certainly as I understand it, if the project had gone to the point

- 15:34:18 1 of involvement by yourselves?
- 2 A. Let's call it the East View Partnership.
- 3 Q. 561 Yes?
- 4 A. Sure.
- 15:34:23 5 Q. 562 If that had gone to the point where you'd decided that this is going to be
6 something that we will go with?
- 7 A. Uh-huh.
- 8 Q. 563 It would probably be done through Davy Hickey Properties limited as had been
9 the situation in City West, isn't that right?
- 15:34:39 10 A. I'm not sure I quite understand you. Just go again .
- 11 Q. 564 I'm trying to understand how it's necessary to create a separate East View
12 Partnership arrangement where you have an existing structure called Davy Hickey
13 Properties Limited which is a company apparently set up to invest in property,
14 develop property, bring it to a conclusion, bring partners in to the
15 development?
- 15:35:04 15 A. Sure, yeah, I can see your point.
- 16 Q. 565 I'm just wondering why one goes to set up East View Partnership when there is
17 already a vehicle available through which this type of venture could be dealt
18 with and had been in City West?
- 15:35:18 19 A. Absolutely. I mean, I think the purpose of it is exactly what you see and that
20 was that it was to clearly identify and separate cost elements. I mean, Davy
21 Hickey, as Brendan has said to you, were doing lots of things.
- 22 Q. 566 Yes?
- 23 A. And therefore he wanted to make sure and I would make sure that the expenses in
24 relation to the East View Partnership if it proceeded were clearly
15:35:41 25 identifiable. So that's the purpose of doing it. And that's why the payments
26 lasted from when they lasted. And you know they don't staccato. They actually
27 go continuous and then stop in October of '92 or September, whenever it was.
- 28 Q. 567 Well, I know when they're made and why they're made?
- 15:36:04 29 A. Sure. That's the reason. It's really just to create a separate identity.

- 15:36:09 1 Q. 568 I mean, was there a separate identity set up for all of the other ventures that
2 we've heard Mr. Hickey speak about which involved Davy Hickey Properties?
3 A. Yes, there were.
- 4 Q. 569 They had separate bank accounts?
15:36:29 5 A. Sure.
6 Q. 570 As partnerships?
7 A. Yes.
8 Q. 571 Even in the investigative and early stages of?
9 A. It you see, remember Brendan wasn't involved in. Well, no, even in the case of
15:36:30 10 City West. But in Berland's case, for example, which Brendan would not have
11 been involved in you would have had separate bank accounts.
12 Q. 572 I can understand that because it's not the same parties. But you were
13 involved. You were going to be involved in the project in Baldoyle, isn't that
14 right. Why another entity. Why not Davy Hickey proceeding through this
15:36:57 15 project?
16 A. It's a pretty easy solution. It's just to have a separate account and to know
17 what exactly what it was. So that if you were telling people you're getting
18 involved. This is expenses that have already been incurred.
19 Q. 573 Right. And in relation to those expenses. We've seen a breakdown of them
15:37:13 20 divided as between payments which are attributable to East View and then
21 payments which were made by Davy Hickey's at page 2879.
22 A. Uh-huh.
23 Q. 574 This was an exercised performed in August of 1993 recording Baldoyle payments,
24 you see that?
15:37:31 25 A. I do.
26 Q. 575 And in that series of documents there. Or payments rather. The first is the
27 Shefran payment of 10,000 pounds?
28 A. Yes.
29 Q. 576 And that was a payment which was made by you. We have just got the cheque in?
15:37:47 30 A. Yes.

- 15:37:47 1 Q. 577 Which bears your signature on it?
- 2 A. Oh, yes. I would think that all East View cheques must bear my signature
- 3 because it's my account. East View Partnership on it. There wasn't a
- 4 partnership agreement. You know, in other words you have to go to bank, you
- 15:38:01 5 have to open an account. There was no agreement. So I couldn't produce a
- 6 partnership agreement to the bank.
- 7 Q. 578 Yes?
- 8 A. Therefore, it was held in my name but they allowed me designate that title to
- 9 it.
- 15:38:12 10 Q. 579 Now, that particular payment, that first payment?
- 11 A. Uh-huh.
- 12 Q. 580 In a series we see here?
- 13 A. Uh-huh.
- 14 Q. 581 It is 10,000 pounds payable to Shefran Limited, isn't that right?
- 15:38:22 15 A. Uh-huh.
- 16 Q. 582 And were you aware of Shefran's role or function in the Baldoyle project? What
- 17 did you understand it to be?
- 18 A. Shefran now I would understand as being Frank Dunlop.
- 19 Q. 583 Yes?
- 15:38:35 20 A. Yes, that's fine.
- 21 Q. 584 Although you're also aware of him being Frank Dunlop & Associates, a company
- 22 which was writing to you?
- 23 A. I'm sure he has many different guises. But Shefran would have been, I would
- 24 have been familiar with Shefran so it's not the first time I'd ever seen
- 15:38:51 25 Shefran. So I would know it to be Frank. His shareholding in City West was
- 26 held in Shefran. And I think I even recall where the registered office of
- 27 Shefran was, believe it or not.
- 28 Q. 585 Yes?
- 29 A. I think it was in St. Stephen's Green.
- 15:39:05 30 Q. 586 Right. May well. It is a company. It is on the register?

- 15:39:10 1 A. I heard you this morning chatting about this as something that didn't exist. I
2 mean I take it obviously you guys have done the research. You know, it
3 definitely had an address as well as a name.
- 4 Q. 587 I'm not suggesting and never have suggested Mr. Shubotham that it didn't exist?
- 15:39:31 5 A. Oh, no sure it was just when you were going through it this morning. It
6 appeared to me to be the suggestion that this was some bogus ...
- 7 Q. 588 It was a non-trading company. That's the point that I was putting to the last
8 witness?
- 9 A. Yeah, well I wouldn't have seen that at all.
- 15:39:46 10 Q. 589 Mr. Dunlop who was the proprietor of that company and the shareholding which is
11 owned by himself and his wife has given evidence that this was not a company
12 which performed any PR services. It may well have had that in its logo on its
13 notepaper?
- 14 A. Sure.
- 15:40:06 15 Q. 590 It was not registered with the VAT authorities. It did not make returns of
16 income?
- 17 A. Yeah.
- 18 Q. 591 But that was the issue I was raising with Mr. Hickey that in contra-distinction
19 to the Frank Dunlop & Associates account which was being conducted nominally
15:40:28 20 for a trading company. The Shefran payments were different?
- 21 A. But did I pick up this morning and correct me again if I'm wrong. Did I pick
22 up this morning that one of his companies and I'm not sure which one it was.
23 He owns 40 or somebody else owns 40 percent of and you know in other words is
24 there.
- 15:40:46 25 Q. 592 No, that was. The explanation for that is that when Mr. Dunlop went in to
26 business first he did so with funds provided by Murray Communications which was
27 another firm?
- 28 A. Right.
- 29 Q. 593 And they had a profit sharing arrangement in relation to the business?
- 15:41:06 30 A. Okay.

- 15:41:07 1 Q. 594 And of the profits they were entitled to 40 percent because they had funded the
2 operation?
- 3 A. That's in Frank Dunlop now obviously not in Shefran.
- 4 Q. 595 No in, Frank Dunlop?
- 15:41:22 5 A. So he would get 100 percent of anything into Shefran and only 60 percent into
6 anything of Frank Dunlop so he would have a much greater interest in putting
7 things into Shefran.
- 8 Q. 596 Exactly?
- 9 A. Okay, okay, I understand now.
- 15:41:29 10 Q. 597 That's the explanation for?
- 11 A. It sure.
- 12 Q. 598 But in any event, this particular payment of Shefran's, could I suggest to you
13 that the only other payment that you were involved in or had knowledge of to
14 Shefran was the 20,000 pounds payment made six months earlier by Davy Hickey
15 Properties in connection with City West and for the purpose of distribution to
16 politicians?
- 17 A. This was the -- this was the Local Election payment.
- 18 Q. 599 This was the Local Election payment in June?
- 19 A. Yeah.
- 15:42:00 20 Q. 600 Of 1991?
- 21 A. Okay.
- 22 Q. 601 I just want to put it to you that that is the only other payment that was made
23 to Shefran?
- 24 A. Uh-huh.
- 15:42:07 25 Q. 602 By either you or associate of yours and I'm associating Mr. Hickey with you in
26 that project?
- 27 A. Sure. Before that time or after that time or any time?
- 28 Q. 603 Well the time firstly I'm fixing for the moment is the payment by you of the
29 Baldoyle 10,000 pounds paid by cheque in January 1992. That's payable to
15:42:34 30 Shefran. What I'm suggesting to you is that the only other payment to Shefran

15:42:38 1 before this date was the 20,000 pounds attributable to the political payments
2 in 1991?

3 A. Okay.

4 Q. 604 That is in June 1991. That's the first Shefran payment.

15:42:51 5 A. Okay. You're asking me that question.

6 Q. 605 Yes?

7 A. But this is the only cheque that I wrote.

8 Q. 606 Yes?

9 A. So I am -- you're asking me. You know in, a way you're asking me about the
15:43:03 10 Davy Hickey. I mean, I have given you any payments so I can't give you the
11 details of any Davy Hickey payments other than what I've read it here at the
12 Tribunal. I'm pretty sure that they were all given to you. I can't remember
13 when the different payments were.

14 Q. 607 Can I suggest to you that no payment would have been made by Brendan Hickey of
15:43:22 15 20,000 pounds out of the City West/Newlands Industrial Estate Park/any one of
16 those companies, without him informing you of the fact that he was going to pay
17 20,000 pounds as a political donation, isn't that correct?

18 A. Absolutely. But he wouldn't have necessarily told me that he was paying
19 Shefran, Frank Dunlop, so on so I wouldn't have. That distinction I wouldn't
15:43:49 20 know because I wouldn't have seen the cheques.

21 Q. 608 Okay. Are you saying that to the best of your recollection you don't have any
22 memory of Mr. Hickey informing you of the fact that 20,000 pounds had been paid
23 as a political donation in 1991?

24 A. No, no, no, oh no. Sorry, I'm just saying that I wouldn't have known whether
15:44:08 25 the cheque, who the cheque, is it the payee you call it on front of the cheque.

26 Q. 609 Yes?

27 A. I wouldn't have known that.

28 Q. 610 So do you have a memory in 1991 of being told that the company Newlands
29 Industrial Park or estate, intends to pay 20,000 pounds as a political
15:44:29 30 donation?

- 15:44:29 1 A. Sure, I would have definitely have known that, yes.
- 2 Q. 611 And were you informed as to how this was intended to be achieved? Do you
3 remember Mr. Hickey saying we're not actually going to send these payments?
- 4 A. No, no. I can stop you here, no, not particularly.
- 15:44:45 5 Q. 612 Well, what is your memory of it? What were you told? Only that it was a
6 political donation?
- 7 A. For the Local Elections, yes. That City West, yes.
- 8 Q. 613 From which you, I assume would have thought that individual politicians were
9 going to be paid or were you told that Frank Dunlop was going to be the
10 conduit?
- 11 A. I couldn't tell you either way. I genuinely couldn't tell you either way.
- 12 Q. 614 So when we get to this second payment it didn't register with you that this is
13 a company that we've already paid in respect of a political donation six months
14 ago?
- 15:45:05 15 A. No, no, no.
- 16 Q. 615 Okay. So when you make the payment to Shefran, obviously, you'd have no
17 dealings with that company before, isn't that right?
- 18 A. I had. No, I had.
- 19 Q. 616 Oh, what were they?
- 15:45:31 20 A. The dealings with that was they were a partner in City West.
- 21 Q. 617 I see. Yes?
- 22 A. Yeah.
- 23 Q. 618 That company took the asset?
- 24 A. Yes.
- 15:45:40 25 Q. 619 Isn't that right?
- 26 A. Yeah. You remember they were telling you that this morning.
- 27 Q. 620 Yes?
- 28 A. Sure, sure.
- 29 Q. 621 It was one of a number. There are a large number of corporate entities that
15:45:50 30 are represented in the partnership agreement, isn't that right?

- 15:45:52 1 A. Yes, there's a mixture of corporate and individuals.
- 2 Q. 622 Yes. Exactly. And generally and I think you'll know this from business
3 activities. You don't use your trading companies to buy your assets that are
4 liable to be, let's say, ceased in the event that your trading company goes
15:46:12 5 wrong, isn't that right?
- 6 A. People do very funny things and they do them in very different ways. So I
7 couldn't make that generalisation.
- 8 Q. 623 It mightn't be a generalisation, would it be a surprise to you, I think, if
9 somebody who had a trading company would use that company to buy an asset for
15:46:32 10 them personally?
- 11 A. I wouldn't have given it a thought.
- 12 Q. 624 Okay. Well in any event, to that extent Shefran was known to you?
- 13 A. Yes.
- 14 Q. 625 And when it came to paying 10,000 pounds to Shefran?
- 15:46:44 15 A. Uh-huh.
- 16 Q. 626 In relation to Baldoyle, what did you think that you were getting for that
17 10,000? Why was there an obligation, as you understood it at the time, to pay
18 Mr. Dunlop at all? Because he was the option holder as far as you're
19 concerned?
- 15:47:00 20 A. Okay. I believed at the time that this was the cost of services that he was
21 going to employ or expenses that he was going to incur. And I wouldn't again,
22 you might take this as slightly flippant as an answer. But it was fine by me.
23 Frank, as Brendan has told you, was, you know, a partner. We trusted him. And
24 that was, that was what I did. I would have just passed the cheque up to the
15:47:34 25 Davy Hickey offices or whatever. Or maybe even given it to Frank himself, I
26 couldn't tell you. But you took it at face value.
- 27 Q. 627 Yes. You know that in respect of the other payments made here?
- 28 A. Uh-huh.
- 29 Q. 628 They are the payments for the actual expenses incurred?
- 15:47:48 30 A. Well, again, the other payments that are there, I wouldn't say, for example,

- 15:47:53 1 even have known had Frank submitted invoices against the monies or whatever
2 else. Because I'm not doing any contract accounting here. All I'm doing is
3 simply writing cheques. I'm not even keeping receipts, because I don't have
4 receipts. Say McCarthy & Partners.
- 15:48:13 5 Q. 629 Yes?
- 6 A. I would have been asked to send a cheque up to Davy Hickey's offices for
7 whatever the amount of money was, signed on the East View account. I would
8 sign it and that's what I would do. You take it as it is and you accept the
9 instructions.
- 15:48:27 10 Q. 630 You understand the concept of a float, don't you? Somebody be given cash to
11 meet?
- 12 A. Absolutely, sure.
- 13 Q. 631 In some cases it's the lounge boy having a pound or two. But in this instance,
14 did you consider that the 10,000 pounds was being given to Mr. Dunlop by way of
15 a float so that he could meet expenses that would be incurred?
- 16 A. Yes.
- 17 Q. 632 And if that were the circumstance, of course, you'd expect that he would
18 account to you or to whoever is providing these monies for that expenditure,
19 isn't that right?
- 15:49:00 20 A. Well as you will see, he never accounted at all for these monies.
- 21 Q. 633 For these 10,000?
- 22 A. No, no no, for all of these monies.
- 23 Q. 634 Well, the other monies were all backed up by invoices?
- 24 A. I know they were but not to me.
- 15:49:14 25 Q. 635 Yes?
- 26 A. None of those were ever. I never received any invoices for anything.
- 27 Q. 636 Well, can I say that the invoices left Mr. ?
- 28 A. Oh, no I've been listening to the conversation so I know what was going on.
- 29 Q. 637 Yes?
- 15:49:27 30 A. I'm just saying that at the time they never came back to me.

- 15:49:31 1 Q. 638 You personally didn't consider those items and therefore you had a belief that
2 the 10,000 was expended in the same manner as the others?
3 A. Sure.
4 Q. 639 Is that right?
15:49:40 5 A. Sure, sure.
6 Q. 640 But I think that you accept that that is not the case and that there are
7 invoices in respect of the other expenditure?
8 A. I know that. I'm listening to what's going on.
9 Q. 641 Yes. And so this 10,000 pounds expenditure here is in effect an expenditure
15:49:57 10 which cannot be traced beyond Mr. Dunlop, isn't that right?
11 A. It can't be traced beyond Mr. Dunlop and I don't know again. I haven't seen
12 whether or not Mr. Dunlop has been asked did he in fact occur -- incur
13 expenses. But, no, I can't trace it back any further. No more than I could
14 have traced any of the expenditures.
15:50:17 15 Q. 642 What Mr. Dunlop says is that this 10,000 pounds represented a sum which was
16 lodged to what he called his stash of cash?
17 A. I heard that.
18 Q. 643 For the purpose of paying politicians for their support?
19 A. Sure sure.
15:50:32 20 Q. 644 Now, be it knowingly or unknowingly. He is making the link between the payment
21 made to him by you as being the source of the funds that he went on to use to
22 bribe politicians do you understand?
23 A. Sure, I understand.
24 Q. 645 You do?
15:50:55 25 A. But it's unknowingly in my case. It's definitely knowingly in his case.
26 Q. 646 Yes. And he says that although the payments in question were not made for a
27 period of some 14 to 16 months after the date upon which the payment was made
28 by you to him. That he attributes the payments to this particular source?
29 A. But what did he do with the money in that time if he'd no bank account.
15:51:15 30 Q. 647 He cashed the cheque?

15:51:17 1 A. And held the cash.

2 Q. 648 And he did what he did with the cash, this is his evidence?

3 A. So he just held. So we're led to believe that he just held 10,000 in cash?

4 Q. 649 No, he spent it. He said that it was the confluence of funds?

15:51:32 5 A. No, sorry, I thought you said that he didn't discharge this money for some

6 months afterwards.

7 Q. 650 No?

8 A. Okay, I'm sorry.

9 Q. 651 He says two things?

15:51:41 10 A. Listen, I'm sorry.

11 Q. 652 Not at all. He says many things?

12 A. Yes.

13 Q. 653 Amongst the things he says is that he receives a cheque from you for Shefran

14 Limited?

15:51:55 15 A. Yeah.

16 Q. 654 He goes with that cheque to his Bank Manager, Mr. John Ahern who is prepared to

17 cash cheques for him which are made out to entities such as Shefran?

18 A. Uh-huh.

19 Q. 655 And he cashes the cheque and transmits it into cash form?

15:52:08 20 A. Yes, sure.

21 Q. 656 With that cash he says he uses that as the confluence of funds or his slush

22 fund account?

23 A. Okay.

24 Q. 657 Which he then uses to pay politicians etc.?

15:52:20 25 A. I understand.

26 Q. 658 Now, he then says that that fund, that 10,000 is the money which he uses

27 through his confluence of funds to pay the politicians?

28 A. Uh-huh.

29 Q. 659 Albeit that his attention is drawn to the fact that there is a 16 month, 14 to

15:52:43 30 16 month gap between receiving the cheque from you and cashing it. And the

- 15:52:48 1 onward transmission of funds to somebody else?
- 2 A. So if I am right, just so that 16 months when he holds the 10,000 in cash.
- 3 Q. 660 Yes. I don't think he's saying that. He says he spends it but by the same
- 4 time he is attributing his later payments of the funds?
- 15:53:06 5 A. Okay.
- 6 Q. 661 To this?
- 7 A. It sounds more like he spent it though doesn't it.
- 8 Q. 662 He obviously must have spent it because there is a through put of funds through
- 9 that account, through those cashed cheques which runs to hundreds of
- 10 thousands?
- 11 A. Sure, sure, understood.
- 12 Q. 663 Okay. When it comes to the actual payment of the monies to the politicians in
- 13 March of 1993?
- 14 A. Three, yes.
- 15:53:35 15 Q. 664 March of 1993?
- 16 A. Yes.
- 17 Q. 665 Again, reference is made to a payment made by you to him at that time from
- 18 which he suggests or seems to acknowledge that logically the money which he
- 19 actually paid to the politicians came from that second payment to you?
- 15:53:57 20 A. Sure.
- 21 Q. 666 I might turn to deal with that payment now?
- 22 A. Okay. Sure.
- 23 Q. 667 The chronology of events is such that in relation to the bringing of the
- 24 rezoning application before the Council. It was done by way of a motion. A
- 15:54:16 25 motion paper signed by the councillors, accompanied by a map?
- 26 A. Right.
- 27 Q. 668 That had to be lodged by a certain date. In this instance, the 12th of March
- 28 of 1993.
- 29 A. Uh-huh.
- 15:54:29 30 Q. 669 It was lodged in anticipation of there being a special meeting at which the

15:54:35 1 rezoning applications for Baldoyle Portmarnock would be considered. And that
2 meeting was set for the 20th of April of 1993. And what Mr. Dunlop says to the
3 Tribunal is that the monies which he paid to the councillors were paid at a
4 time when the councillors were considering the motions before the Council in
15:55:04 5 relation to rezoning Baldoyle. And whilst he's no more specific on dates, he
6 says that or agrees that the window of opportunity for payment of councillors
7 would have started on a date not before the 1st of March 1993. And that their
8 last consideration of events would have been in September 1993?

9 A. Uh-huh.

15:55:32 10 Q. 670 So we're talking about a maximum period of six months?

11 A. Six months or six-weeks ,

12 Q. 671 Six months?

13 A. Okay.

14 Q. 672 March to September?

15:55:40 15 A. Oh, I'm sorry, sorry yes.

16 Q. 673 In fact I think he?

17 A. I thought you were saying March to 20th of April. Okay.

18 Q. 674 No, there are various motions. But the period in question commences in and
19 around the 1st of March?

15:55:54 20 A. Yeah.

21 Q. 675 And we'll see that you made a payment to him by cheque which was debited to
22 your personal account in Bank of Ireland?

23 A. Yeah.

24 Q. 676 Private banking?

15:56:07 25 A. Yeah.

26 Q. 677 I'll get the page for you on that.

27

28 Sorry, it's 2619, please.

29

15:56:40 30 Could we just turn to that, please.

15:56:42 1
2 This is a redacted copy of your bank account at the time Mr. Shubotham. And
3 you'll see that there is an entry for the 16th of March 1993
4 A. Yep.
15:56:56 5 Q. 678 It records two events. Firstly, the deposit of a cheque from J&E Davy to you?
6 A. Uh-huh.
7 Q. 679 And that's for 51,458.33. That's on the credit side. And on the debit side
8 the entry immediately below it for 20,000. Again, it's made payable to
9 Shefran?
15:57:16 10 A. Uh-huh.
11 Q. 680 And Shefran as we know is the entity that you paid in relation to the 10,000
12 pounds in January of 1992?
13 A. Yes.
14 Q. 681 Now, this particular payment is made in circumstances where you have given a
15:57:35 15 statement to the Tribunal. I'll just read it. It's short and it may narrow
16 things somewhat. But you might remember?
17 A. Don't worry.
18 Q. 682 You might remember providing this statement to the Tribunal.
19
15:57:46 20 It's at page 657. It reads as follows:
21
22 "On or about the 16th of March 1993 Mr. Shubotham made a payment from his
23 personal account to Mr. Dunlop in the sum of 20,000 pounds. The payment arose
24 in circumstances where Mr. Dunlop had raised the issue of a payment for work
15:58:05 25 carried out in respect of City West. At that point in time he had agreed to a
26 return through a shareholding he had received in City West. It is
27 Mr. Shubotham's recollection that in early 1993 the question of whether or not
28 City West might be a success was far from assured and the value of Mr. Dunlop's
29 shareholding was questionable. Mr. Shubotham, on his own account, formed the
15:58:31 30 view that Mr. Dunlop had done good work in respect of the project but, given

15:58:36 1 the pressure on financing, he did not believe that any request made to City
2 West for additional payments would be well received. In the circumstances, he
3 made a decision to make a personal payment to Mr. Dunlop as a gesture of
4 goodwill". I think you're happy with that

15:58:53 5 A. Yes, I'm happy with that.

6 Q. 683 That was the position held at the time?

7 A. Yes.

8 Q. 684 Now, to place that payment in the chronology of events. I've already indicated
9 to you that the deadline for signing of the motion?

15:59:09 10 A. Uh-huh.

11 Q. 685 Before Dublin County Council to rezone Baldoyle was the 12th of March and I
12 know that?

13 A. This is four days afterwards, yes.

14 Q. 686 This is four days afterwards that it's debited to your account?

15:59:23 15 A. Yeah, sure.

16 Q. 687 Now, I know that you don't relate those two incidents at all in your mind?

17 A. No, thankfully not, no, I do not.

18 Q. 688 And we know from the documentation generated in or around that time. Firstly,
19 at page 1885. This is a record of the telephone exchanges and recorded in Mr.
15:59:46 20 Dunlop's offices. You endeavoured to contact him on the 12th of March, which
21 was a Friday?

22 A. Uh-huh.

23 Q. 689 At 12:50 on that day you left a message with his secretary for Mr. Dunlop to
24 call you?

15:59:59 25 A. Uh-huh.

26 Q. 690 Isn't that right?

27 A. Uh-huh.

28 Q. 691 I don't expect that you remember what the content of that exchange is?

29 A. I'm pleased to hear that.

16:00:06 30 Q. 692 But it happens to be the date by which there had to be a signed copy of a

16:00:12 1 motion available for filing in Dublin County Council by five o'clock that day,
2 if the matter was to come on to the agenda. You understand?

3 A. All right. Are we talking exclusively here Baldoyle.

4 Q. 693 Well, it's Baldoyle, Swords and one other?

16:00:28 5 A. Okay.

6 Q. 694 I think your only connection would be that one?

7 A. Okay that's fine.

8 Q. 695 Do you think that you were aware of that date and its significance in 1993?

9 A. No, I mean, I'm definitely, I definitely was not aware of that date or its
16:00:41 10 significance.

11 Q. 696 Do you have any particular recollection as to why it was that you did in fact
12 contact him on that day?

13 A. No, I can't. Obviously I have seen all of the references and calls that we
14 have had throughout the process. If I go back up a fraction just to talk a
16:00:59 15 little bit about the payment itself for the moment. Again, my recollection,
16 vague and all as it probably is, that Frank came to me with a view to the fact
17 that he had been doing a lot of additional work for City West. Albeit that I
18 note that he says that he stopped working for us in 1991. That's not true.
19 And he had been doing a substantial amount of work for us. Again, if we place
16:01:25 20 this in the order of events that was taking place, this was the period of the
21 Development Plan. And a very, very important time for us in City West. Again,
22 you know, we've invested 10 million plus in the project. And again, if you
23 look at his diary closely you will see a very, very ordered and his diary seems
24 to be very disordered, may I say. But you will see Davy's Draft Development
16:01:53 25 Plan, Davy's draft development plan. You'll see a whole series of meetings and
26 they would have been meetings where we would have discussed issues where we
27 had -- some of those Brendan mentioned this morning. He came to me in the
28 context that he felt that he'd had no money since 1991, doing a lot of work.
29 We were in a fairly difficult financial position, not only with City West but
16:02:20 30 also with Berland. We'd had a rights issue. The banks had, I don't know what

16:02:25 1 part of '93, whenever. The banks were giving us some difficulties. And in
2 relation to the City West project, we got our monies out of ICC but they were
3 very, very specific in the way that we could draw cheques. We actually had to
4 produce invoices. They had to be for infrastructural payment or something to
16:02:50 5 do with the betterment of the land. So I knew that there was no way that we
6 could give Frank any money. I paid him after, out of my own account. I didn't
7 try to hide it. After tax income. I didn't seek an invoice. I did what I did
8 on the basis that Frank had done the work. And it was very important at that
9 time that Frank would not loose focus on City West. There was an awful lot
16:03:16 10 happening. And as you can see through the Draft Development Plan and what
11 Brendan says, it was essential to us that Frank did not loose his focus. And
12 as I can see from all of the records on the Baldoyle project. He was really
13 working on the Baldoyle project an awful lot. So it was.

14 Q. 697 Yes?

16:03:32 15 A. We had no money invested in the Baldoyle project. We weren't involved in the
16 Baldoyle project. But we were involved in City West. We'd lots of money
17 involved in City West and we'd a lot of issues that needed to be addressed.
18 Hence we are where we are.

19
16:03:47 20 CHAIRMAN: I think we're running out of steam now. So perhaps we might
21 adjourn to Tuesday?

22
23 MR. O'NEILL: Tuesday morning. I think, Mr. Hickey, we'll deal with
24 Mr. Hickey ahead of you. That will only be five or ten minutes

16:04:00 25 A. As you wish. Can I just ask. I have a lot of board meetings. Chairman, how
26 much longer do you think you'll need me on Tuesday?

27
28 MR. O'NEILL: I think you should have completed your evidence by lunchtime

29 A. That would suit me ideally. Thank you very much.

16:04:15 30

16:04:15 1 CHAIRMAN: Okay. Thank you.

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THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,

16:05:22 5 **TUESDAY, 12TH DECEMBER, 2006, AT 10.30 A.M.**

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