

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY,

29TH MAY 2007, AT 10.30 A.M:

10:07:30 1
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3
4 CHAIRMAN: Yesterday Mr. Maguire was afforded an opportunity to formally reply
10:40:00 5 to the supplemental opening statement by Des O'Neill, senior counsel. He used
6 the platform provided as an opportunity to launch a wide ranging and
7 unprecedented attack on the Tribunal and it is necessary that the Tribunal
8 respond in some detail.
9

10:40:17 10 The circulation of documentation relating to Mr. Ahern in April was in
11 accordance with the long established procedures of the Tribunal. The small
12 number of parties who properly and necessarily received this documentation
13 received it on the basis that it was confidential and for use only in the
14 course of the public hearings. To withhold the circulation would not have been
10:40:39 15 justified simply because of a risk of unauthorised disclosure.
16

17 In any decision it makes relating to circulation of documentation the Tribunal
18 must take account of the rights of those entitled to see the documentation
19 prior to the commencement of the Module to which it relates.

10:40:56 20
21 The circulation of documentation, including on occasion very sensitive
22 material, is an essential prerequisite to the commencement of a Module.
23

24 Circulation must occur in circumstances where those entitled to receive the
10:41:11 25 material have a reasonable opportunity to consider it and to discuss it with
26 their legal advisors if necessary.
27

28 The decision to circulate certain specific material in this instance properly
29 took account of the directions to the Tribunal in the judgements of the
10:41:27 30 superior courts in the first O'Callaghan judicial review.

10:41:30 1
2 To have recommended the module, sorry, to have recommenced the Module on the
3 30th of April 2007 in the absence of such circulation would have been wrong and
4 might well have resulted in other parties challenging the decision to
10:41:45 5 recommence the Module in those circumstances.

6
7 The inference that the Tribunal rushed to circulate documentation and to
8 proceed to public hearing other than for the purposes of fulfilling its
9 mandate, and in so doing undermined the democratic process, is a particularly
10:42:04 10 serious allegation to level against the Tribunal.

11
12 The Tribunal is an independent body established by the Oireachtas to conduct
13 its inquiries and thereafter report its findings to the Oireachtas and any such
14 inference is absolutely and categorically rejected.

10:42:20 15
16 It is a matter of grave concern to us to note that counsel for any party would
17 make a submission in terms which clearly impute bias, lack of impartiality and
18 improper motivation to us as Members of the Tribunal.

19
10:42:34 20 It is a necessary part of the function of the Tribunal to conduct its inquiries
21 of all witnesses irrespective of their status, wealth or political position.

22
23 In all its dealings with Mr. Ahern the Tribunal has always endeavoured to treat
24 Mr. Ahern, in his capacity as a witness, in exactly the same way as it would
10:42:54 25 treat any other witnesses.

26
27 The risk of unauthorised disclosure is always present although it has only
28 occurred in a small number of instances, having regard to the enormous amount
29 of documentation necessarily circulated by the Tribunal over the past number of
10:43:09 30 years.

10:43:10 1
2 In an effort to stem such unauthorised disclosure the Tribunal instituted
3 proceedings against the Sunday Business Post in 2005. The effect of the
4 majority decision of the Supreme Court in that case severely limits the right
10:43:23 5 of the Tribunal to seek injunctive relief against the media to prevent the
6 publication of leaked material but clearly leaves open the possibility of an
7 affected party doing so himself.

8
9 Mr. Ahern has not instituted any such proceedings.

10:43:39 10
11 It is entirely unreasonable and blatantly untrue to state that the Tribunal has
12 failed to take any steps to investigate leaked information. Mr. Maguire knows
13 perfectly well that the Tribunal last autumn and in the months that followed,
14 conducted its own internal investigation, sought information from those persons
10:43:59 15 who it assumed to have sight of the letter in question and proceeded against
16 the editor and a senior journalist in the Irish Times in an effort to identify
17 the source of the leaked letter.

18
19 These legal proceedings are now listed for hearing in the High Court in July.
10:44:14 20 What more can the Tribunal do?

21
22 The Tribunal is currently continuing its inquiries into the recent leaked
23 information. And witnesses who received the documentation in question will be
24 questioned on this issue when they come to give evidence in the course of this
10:44:30 25 Module.

26
27 Mr. Maguire's suggestion that the Tribunal has, and I quote "put enormous
28 effort into embarking on an entirely separate excursion well removed from the
29 central aspects of Quarryvale II, the sole purpose of this excursion would
10:44:46 30 appear to delve into the most minute details possible of Mr. Ahern's financial

10:44:50 1 affairs and to justify this on the basis of an allegation for which there is no
2 credible evidence".

3

4

This statement is simply erroneous.

10:45:00 5

6

What in effect are serious allegations by Mr. Gilmartin of substantial payments
7 to Mr. Ahern exist.

8

9

10:45:11 10 The Tribunal has, therefore, found it necessary to probe and to only probe
11 those significant lodgements that appear in Mr. Ahern's accounts and which are
12 not accounted for by his income. How can it possibly be suggested that the
13 Tribunal should or can do otherwise. The Tribunal is not engaged in a minute
14 trawl of Mr. Ahern's accounts or affairs.

10:45:29 15 Mr. Maguire asks and I quote "has any other witness been subjected to this type
16 of treatment by the Tribunal?".

17

18 We assume that the use of the term treatment is intended to refer to the
19 detailed inquiries being made of Mr. Ahern. If so, the answer is yes.

10:45:49 20

21 The accounts of many elected former councillors and current councillors, former
22 politicians, developers and others, have been equally subjected to similar
23 scrutiny.

24

10:46:00 25 It is one thing for Mr. Maguire to attack the evidential basis for putting
26 forward a hypothesis or possible interpretation based on information available
27 to the Tribunal. It is quite another to suggest, as we believe Mr. Maguire has
28 done, that the Tribunal is biased and has acted improperly in its approach to
29 the investigation of Mr. Ahern's finances or that it has acted to undermine the
10:46:27 30 democratic process.

10:46:27 1
2 An opening statement essentially has a dual purpose. It provides a broad
3 outline for the public and the press as to the issues which the Tribunal will
4 inquire into in a Module. Secondly, it very importantly informs a party, in
10:46:41 5 this instance Mr. Ahern, as to the extent of the information available to the
6 Tribunal which is accumulated in the course of its private inquiry. It is
7 quite clear in this particular instance that the information is extremely
8 complex and needed to be opened in detail.

10:46:57 10 Again, in this case the supplemental opening statement was necessary because of
11 the fact of the details outlined therein included information which was not
12 known to the Tribunal in November 2005, when the original and much longer
13 opening statement for the Module was made.

10:47:15 15 Finally, if Mr. Maguire believes that there is any substance in any of the
16 allegations against the Tribunal, and which have been made by him, he knows
17 that the appropriate venue to air such grievances is the courts.

18
19 All right?

10:47:31 20
21 MR. MAGUIRE: I would like to respond to that, Chairman, if I may.

22
23 CHAIRMAN: Well, I mean, if it's to make further allegations of improper
24 conduct on the part of the Tribunal, we're not going to listen to those.

10:47:47 25
26 If you want to clarify remarks that have been made, then we'll certainly allow
27 that to be done.

28
29 MR. MAGUIRE: I certainly do, Chairman.

10:47:56 30

10:47:56 1 The first, I think, and most important thing to say is the use of the words
2 "bias or improper conduct". They were not used by me. They were used by you.
3
4 I set out criticisms which I illustrated in my opening and gave the basis for
10:48:13 5 those criticisms. And I stand over those criticisms.
6
7 I don't accept that the criticism is any way -- the criticism you make is in
8 any way valid.
9
10:48:27 10 The Tribunal has invited all parties to respond to what is described as a
11 supplemental opening statement. And that opening statement, as we all know, is
12 confined solely to the issue of Mr. Ahern's financial affairs.
13
14 In making a response to the opening statement, my client is entitled to comment
10:48:50 15 on the context in which this element of the Tribunal's inquiries arise.
16
17 On behalf of my client, I was clearly entitled to refer to the fact that he
18 found it necessary to issue a public statement, for instance, which he did in
19 the course of the General Election regarding the leaks.
10:49:13 20
21 We have reservations about the problem of leaks. We have reservations we have
22 addressed very clearly in correspondence. And in our submission, those
23 reservations haven't been answered adequately by the Tribunal.
24
10:49:26 25 I can say, for instance, that one witness, whose name I won't give at the
26 moment, but one witness has contacted us, not about the content of the
27 documentation that was circulated to him but about the way in which the
28 documentation was circulated.
29
10:49:42 30 It was circulated in a resealable envelope which was not marked private or

10:49:49 1 confidential and which was delivered to his daughter in his absence. An 18
2 year old daughter.

3
4 Now, I don't want just to take one particular instance but what we're saying is
10:50:02 5 that the danger of circulation is something of which the Tribunal should have
6 been aware from its own knowledge of the leak and the leaks that were made at
7 various stages during the Tribunal's proceedings.

8
9 Those dangers were abundantly clear but lest they were in any way not aware of
10:50:23 10 it, we wrote to you. We wrote to the Tribunal. We wrote an eight page letter
11 indicating our concerns.

12
13 On the 16th of April, indicating very clearly the basis of those concerns and
14 setting out in detail why it was that we said that if you circulate these
10:50:41 15 documents those documents will end up with the media and you do so in the
16 knowledge that there is a forthcoming election. We wrote that on the 16th. It
17 was delivered to you at 6 p.m. on the 16th of April.

18
19 We got a telephone call the following morning saying that the Tribunal decided
10:51:02 20 that it was going to stand on its decision to circulate.

21
22 We got a letter on the 17th confirming that in one short paragraph. The issues
23 which were set out in that eight page letter were not addressed by the
24 Tribunal. So our criticism in relation to the circulation of documents stands
10:51:21 25 and remains to be the position.

26
27 In respect of the Tribunal's investigations into the leaks. They seem to have
28 yielded absolutely nothing.

29
10:51:32 30 It's obviously a matter of concern to you. It's a concern to us. It's

10:51:37 1 certainly a concern in the circumstances in which Mr. Ahern found himself at
2 the time we wrote that letter but unfortunately, all efforts that you
3 apparently have made have amounted to absolutely nothing. There has been no
4 result. So we stand on that criticism.

10:51:58 5
6 The point also, I think, is to be made that there were 33 people, were
7 circulated with this documentation. That's something that we became aware of
8 last Friday, after numerous requests.

10:52:21 10 The other point that I want to make is this. And it's a fundamental and it's a
11 clear one.

12
13 One is very, very slow, particularly in the position that I'm in, in
14 representing Mr. Ahern, who is the Taoiseach, to criticise the procedures of
10:52:36 15 the Tribunal because obviously that has a follow on in terms of what is
16 attached to that by the media but it is abundantly clear. One thing is
17 abundantly clear and it stands there stark for all to see. That as far as Mr.
18 Gilmartin is concerned, Mr. Gilmartin was produced as a witness, like any other
19 witness before this Tribunal, to be dealt with by examination and by
10:53:02 20 cross-examination.

21
22 Now, we make the point and we make it very clearly, that Mr. Gilmartin should
23 have been treated like all other witnesses. That as far as he is concerned,
24 when his evidence comes into controversy or if there is a doubt to be attached
10:53:19 25 to his evidence, then that that should be tested not just by the people who are
26 effected by it, but by the people who are here on behalf of the Tribunal and
27 who are conducting the examination. They should cross-examine him.

28
29 If ever it was clear, it's clear in respect of Mr. Gilmartin.

10:53:36 30

10:53:36 1 As I illustrated yesterday, and I'm not going to rehearse them again here now,
2 but as I illustrated yesterday, what Mr. Gilmartin has alleged to this Tribunal
3 boarders on fantasy. In fact, it's outright fantasy. And you say or Tribunal
4 counsel say that no decision has been made in relation to Mr. Gilmartin's
10:53:56 5 evidence. Well then why did you tell us that you would not investigate what
6 are clearly fanciful allegations by Mr. Gilmartin.

7
8 The 15 million bank account, the allegation of bank accounts in Leichtenstein,
9 Jersey, the Channel Islands and in England. Why do you tell us that that is
10:54:21 10 so. You tell us that is so because it is clearly unbelievable.

11
12 Now, if that is so in respect of Mr. Gilmartin, the position obviously is that
13 his evidence should be challenged. Not just by us but by the Tribunal.

14
10:54:30 15 There is another further matter. And I think I should say this. And I will
16 conclude with this.

17
18 That as far as the question of responding in detail to the opening that was
19 given by Mr. O'Neill yesterday. We requested a copy of that opening before it
10:54:58 20 was given, because it was obviously detailed. And if we were to respond to it
21 then we would have to have the detail to respond to.

22
23 That was refused to us for the Tribunal's own reasons.

24
10:55:10 25 The position, as far as we're concerned, is that we couldn't be expected, for
26 instance, to respond to the technical interpretation of the documents put
27 forward by Mr. O'Neill. We will in due course. Indeed, we have grave
28 reservations about some aspects of the assertions that were made.

29
10:55:27 30 But the position is that, as far as we are concerned, that the information

10:55:33 1 which is obviously highly detailed and was relied upon by Mr. O'Neill and
2 clearly must have been the subject matter of preliminary hearings, we don't
3 have, we have some transcripts of preliminary hearings. We do not have the
4 transcripts relating to the documents which were interpreted by Mr. O'Neill in
10:55:51 5 a particular way. And I am specifically reserving my right to supplement my
6 response to the opening once I've had the opportunity of considering the
7 additional material.

8

9 Thank you, Chairman.

10:56:01 10

11 CHAIRMAN: Well just briefly. Just briefly. In relation to some of those
12 points. Insofar as I can remember them. There is no result to the
13 investigation in relation to the leaks.

14

10:56:12 15 As I've explained, we've instituted proceedings in the High Court and the
16 Supreme Court.

17

18 There is very little, I mean, this constant suggestion that the Tribunal should
19 do more and can do more in relation to leaks is just not plausible. What more
10:56:34 20 can the Tribunal do? It can only go so far. We're not allowed to use physical
21 torture on witnesses to find out if in fact they did disclose material.

22

23 Secondly, it has never been the practice for the Tribunal to give in advance a
24 copy of the opening statement to any party and it was for this reason and
10:57:01 25 because parties hear it for the first time when it is given. You were afforded
26 the opportunity, as has happened in the past, to delay a reply until 10.30 this
27 morning. And that was to allow you read and deal with the issues that were
28 raised in the opening statement.

29

10:57:26 30 There are no decisions made in any form, as I'm aware, as to the credibility of

10:57:36 1 Mr. Gilmartin. There was referenced by you, I think, to a one minority
2 judgement in the Supreme Court but there is no decisions in the courts or here
3 as to the credibility of Mr. Gilmartin in relation to any issue. That remains
4 open. And it will. It is an issue that will have to be dealt with in due
10:57:52 5 course by the Tribunal.

6
7 MR. MAGUIRE: Can I say one thing in response to that, Chairman?

8
9 There is a decision in the O'Callaghan and Mahon case by Mr. Justice Hardiman
10 in relation to the questions that should apply in respect of proceeding from a
11 private hearing to a full public hearing.

12
13 And I am quoting from that, from the judgement. It's the first O'Callaghan
14 decision, if I might call it that but I'm quoting from that.

10:58:21 15
16 It says "that if the evidence on this Module were limited to that of the notice
17 party, which for all I know it may be, there would obviously be sufficient
18 evidence to warrant proceeding to a full public inquiry". It goes on to say
19 "unless the Tribunal had for some reason to decide that the whole of his
10:58:41 20 evidence was incapable of belief".

21
22 As I understand it, we have been informed that you decided not to go to public
23 hearing in respect of certain aspects of his evidence. It just seems to follow
24 that the reason for that is that you don't believe him. If you don't believe
10:59:00 25 him on that, then you shouldn't be relying on him for the rest of ...

26
27 JUDGE KEYS: Mr. Maguire, that's an assumption of yours. An entire assumption
28 on your part. And we shouldn't -- and that should not be stated in that
29 manner, in my view.

10:59:16 30

10:59:16 1 MR. MAGUIRE: Well if the Tribunal believes him, then why doesn't it go in to
2 public hearing in relation to those allegations?

3
4 CHAIRMAN: These are matters that the Tribunal decides in the course of its
10:59:26 5 private inquiry. We can't physically, none of us are young enough, to get
6 involved in the sort of investigation that would be necessary if every single
7 issue that came before the Tribunal to be considered in the course of its
8 private inquiry was to then be dealt with in public.

9
10:59:45 10 You will have, Mr. Maguire, a full and limitless opportunity to cross-examine
11 Mr. Gilmartin, both in relation to Quarryvale I and any new evidence that he
12 gives.

13
14 So any -- anything -- anything of a defective nature that may have occurred in
11:00:07 15 the past in that particular area can be more than adequately dealt with now.

16
17 So we're going to rise anyway for a few minutes and come back to you.

18
19 **Brief Adjournment**

11:13:04 20

21

22 MR. QUINN: Mr. Tom Gilmartin.

23

24 MR. RYAN: Before Mr. Gilmartin gives his evidence. Barrister on behalf of Tom
11:13:17 25 Gilmartin instructed by A&L Goodbody, led by Hugh O'Neill and Owen O'Donnell.

26

27 I would like to make a few remarks on Mr. Maguire's formal response yesterday,
28 if I could.

29

11:13:31 30 CHAIRMAN: Yeah, I think we've -- I mean, there was an opportunity yesterday

11:13:34 1 and I think you took it up to some extent. There is really no point in, there
2 will be plenty of scope over the next couple of weeks to deal with all of the
3 issues. And also there will be an opportunity to make submissions.
4

11:13:51 5 We take it, and we have taken it over the last day or two, that Mr. Gilmartin
6 and yourselves reject any of the comments made by Mr. Maguire as to his
7 credibility and so on. And we are proceeding on that basis.
8

9 MR. RYAN: In light of the latitude you granted Mr. Maguire to go beyond the
11:14:12 10 extent of a formal response. I think it would be appropriate for us to put on
11 record.
12

13 CHAIRMAN: Well I think it's preferable now that we start the evidence and we
14 can deal -- you will have an opportunity to make submissions in due course.
11:14:26 15 And you will have an opportunity to examine Mr. Gilmartin and any of these
16 issues can be raised in the course of that examination. That's issues relating
17 to his credibility.
18

19 MR. RYAN: All right.

11:14:39 20
21 CHAIRMAN: All right.
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11:14:41 1 **MR. GILMARTIN, HAVING BEEN SWORN, WAS QUESTIONED**

2 **BY MR. QUINN AS FOLLOWS:**

3

4

11:15:13 5 CHAIRMAN: Just before we begin Mr. Gilmartin.

6

7 Because it's five or ten past eleven, we don't propose breaking between now

8

until lunchtime unless you need a break.

9 A. I see, yeah.

11:15:27 10

11 CHAIRMAN: If you do, just indicate. There is no difficulty. And that

12 applies to other days that you will be giving evidence. If you need a break,

13 other than the breaks that we indicate ourselves, then just simply ask. All

14 right?

11:15:39 15 A. Okay. Thank you.

16

17 MR. QUINN: Good morning, Mr. Gilmartin.

18 A. Good morning.

19 Q. 1 Mr. Gilmartin, my name is Pat Quinn and I'm a Senior Counsel with the Tribunal.

11:15:49 20 And I propose to take you through your evidence in relation to this aspect of

21 the Quarryvale Module?

22 A. Yeah.

23 Q. 2 Mr. Gilmartin, you were last here giving evidence in the first part of this

24 Module in March and April 2004. And your evidence, I think, can be found on

11:16:07 25 days 455, which was the 3rd of March 2004. 456, the 4th of March. 457 the 5th

26 of March. 458 the 9th of March. 459 the 10th of March. 460 the 11th of

27 March. 461 the 12th of March. 462 the 16th of March. 463 the 19th of March.

28 464 the 23rd of March. 465 the 24th of March. 467 the 26th of March. 468 the

29 30th of March. 469 the 31st of March. 470 the 1st of April. 471 the 2nd of

11:16:45 30 April. 472 the 5th of April. 473 the 6th of April. 474 the 7th of April.

11:16:52 1 475 the 8th of April. And 476 the 27th of April 2004.
2
3 A. That's correct.
4 Q. 3 I deliberately read those out, Mr. Gilmartin, so that someone reviewing the
11:17:03 5 transcript of today's evidence will have an easy reference to your earlier
6 evidence.
7 A. Okay, fine.
8 Q. 4 Now, in that evidence, I think you told the Tribunal that you had been born in
9 Sligo and you had immigrated to the United Kingdom in 1957, isn't that correct?
11:17:23 10 A. That's correct.
11 Q. 5 And I think you had an engineering background and you worked in engineering
12 type activity within the United Kingdom?
13 A. Yeah, I worked in mechanical handling engineering.
14 Q. 6 I think and I'm merely summarising matters, I don't intend to go into any great
11:17:39 15 detail. Just to give a brief background or summary of the evidence that you
16 have already given. I think that you have told the Tribunal that having
17 emigrated to the United Kingdom at some stage you got involved in property
18 development?
19 A. That's right.
11:17:52 20 Q. 7 You weren't a builder but you did have an eye for property locations and
21 layouts, isn't that right?
22 A. That's correct.
23 Q. 8 And again, I should say --
24 A. Experience in structural engineering.
11:18:03 25 Q. 9 Yes?
26 A. And also on layouts of property development.
27 Q. 10 Now in, doing this summary Mr. Gilmartin, I just make two points if I may.
28 Firstly, what I'm trying to do is to give, by way of background, what you say.
29 I'm not necessarily saying what you say hasn't been contradicted by other
11:18:22 30 witnesses or indeed that the Tribunal has come to any conclusion on your

11:18:26 1 evidence. I am merely trying to summarise what you have previously told the
2 Tribunal?
3 A. Yeah, that's fine.
4 Q. 11 And the second point I wish to make is that in case I make any errors in what I
11:18:36 5 understood you to have said, I afford you an opportunity to correct me. And
6 please, correct me if I'm wrong in anything?
7 A. Yeah.
8 Q. 12 You were involved I think in developments in Luton and in Northampton, isn't
9 that right? And I think you got involved in a development in Northern Ireland
11:18:53 10 in Clandeboye?
11 A. That's correct.
12 Q. 13 And I think you had in mid 1980's an involvement in the construction of two
13 office blocks in Milton Keynes in England, isn't that right?
14 A. That's correct.
11:19:06 15 Q. 14 Now, I think you told the Tribunal that at some stage, in perhaps late 1986,
16 whilst on a visit to Dublin you saw the potential of the Bachelor's Walk area
17 as an area which might be developed for commercial purposes, is that correct?
18 A. That's correct.
19 Q. 15 And I think you went back to the United Kingdom with the intention that you
11:19:25 20 might involve some development company in reviving that area, is that correct?
21 A. Yes, that is correct. Well institutional.
22 Q. 16 Institutional?
23 A. Institutional investors to invest in Ireland.
24 Q. 17 Yes. And I think you went on to advise the Tribunal that in fact you did meet
11:19:44 25 up with and form some sort of an alliance with Arlington, a development
26 company?
27 A. Yeah, they were one of quite a few who were interested.
28 Q. 18 And I think you indicated to the Tribunal that Arlington's Chief Executives
29 included a Mr. Dudley, Mr. Mould and a Mr. Price, is that correct?
11:20:03 30 A. That's correct, they were the directors of Arlington.

- 11:20:07 1 Q. 19 I think Lord Keith might have been the president or the Chairman of the
2 company?
3 A. That's correct, yeah.
- 4 Q. 20 I think you on your return to Ireland began to acquire some of the properties
11:20:17 5 yourself initially, isn't that right?
6 A. That's correct.
- 7 Q. 21 And to exercise options over the properties. I think in that regard you used
8 the services of a Mr. Druker of Druker Fanning, is that correct?
9 A. That's correct, yes.
- 11:20:28 10 Q. 22 And I think you retained the services of Beauchamp Solicitors and in particular
11 Mr. Kirwin and Mr. Buckley, is that correct?
12 A. I think that was more Arlington.
- 13 Q. 23 Okay. I think earlier you had --
14 A. Appointed Hickey Beauchamp or Beauchamp solicitors, as they are now.
- 11:20:44 15 Q. 24 I think you had, as a friend, a Mr. Sheeran, who was the Manager of the Bank of
16 Ireland in Blanchardstown and he in turn introduced you to Mr. Seamus Maguire,
17 solicitor in Blanchardstown, is that correct?
18 A. That's correct.
- 19 Q. 25 I think in or around June 1987 you entered into an informal agreement at that
11:21:03 20 stage. It was subsequently converted into a proper written agreement with
21 Arlington whereby you were to get 20% of the gross profits of the development
22 costs. 100,000 pounds on signing the agreement and three 50,000 pounds on the
23 anniversaries of the signing?
24 A. Just a slight correction. The 100,000 pounds was my salary more or less.
- 11:21:25 25 Q. 26 Yes?
26 A. It wasn't an up front payment.
- 27 Q. 27 Yes.
28 A. And the 30% share of the profit.
- 29 Q. 28 I think you were to be paid out of --
11:21:37 30 A. The funds.

11:21:37 1 Q. 29 The out-of-pocket expenses?
2 A. All the other costs.
3 Q. 30 I think in relation to those negotiations. You were represented by Mr. Richard
4 Foreman of Connor Wilson?
11:21:48 5 A. That's correct.
6 Q. 31 I think a portion of the Bachelor's Walk site was in fact designated.
7 However, there was a portion of the site which wasn't designated?
8 A. There was the area along between Bachelor's Walk and the lots had been
9 designated.
11:22:03 10 Q. 32 And?
11 A. And we intended to acquire or should I say develop back to Middle Abbey Street.
12 Q. 33 Yes. So you would in fact ...
13 A. That portion of it was not designated at that time.
14 Q. 34 You would have effectively, had the designation of the site not altered you
11:22:23 15 would have developed a site, portion of which was designated and a portion of
16 which wasn't?
17 A. That's correct.
18 Q. 35 And I think that you became involved in the development and had meetings with
19 representatives of Dublin County Council, Dublin Corporation and you got to
11:22:40 20 know and became involved with Mr. Sean Haughey, Mr. Paddy Morrissey, Mr. Lacey
21 and in time Mr. McLoone, property officer with the County Council?
22 A. That's correct.
23 Q. 36 And I think one of the issues, other than the designation issue, one of the
24 issues that concerned Arlington was the issue of a compulsory purchase order
11:23:04 25 being made in relation to the property which would facilitate and assist the
26 acquisition of the lands --
27 A. That was only a last resort.
28 Q. 37 Yes?
29 A. In the event of one or two.
11:23:14 30 Q. 38 Yes?

- 11:23:15 1 A. Properties in the overall project. It wasn't -- it wasn't to apply compulsory
2 purchase to a large chunk of it or anything. It was only a last resort.
- 3 Q. 39 I see?
- 4 A. In any small pocket or area that we didn't.
- 11:23:39 5 Q. 40 Now, I think -- that?
- 6 A. That discussion took place.
- 7 Q. 41 Yes. With the corporation officials?
- 8 A. With Dublin Corporation.
- 9 Q. 42 And that was their position. In the first instance you would be required to
11:23:50 10 proceed and acquire the properties. If a difficulty arose at the very end and
11 as you say, one or two properties couldn't be bought in, the issue of the
12 possibility of compulsory purchase might arise?
- 13 A. Yeah.
- 14 Q. 43 I think in addition to meeting the representatives of the County Council and
11:24:05 15 corporation you also began to meet with a number of Government Ministers, isn't
16 that right?
- 17 A. That's correct.
- 18 Q. 44 And you gave evidence, I think, of meetings that you had, you say, in the
19 autumn of 1987 at his constituency with the then Minister for Finance,
11:24:20 20 Mr. McSharry, who was also from Sligo?
- 21 A. My first meeting with Mr. McSharry was in Sligo, that constituency office in
22 Sligo.
- 23 Q. 45 I think you also said that you had a meeting with the Minister for Labour, that
24 is Mr. Ahern. Now, that meeting was disputed. Your belief is that you met
11:24:37 25 with Mr. Ahern in the Department of Labour in Mespil Road?
- 26 A. Yes, in connection with Bachelor's Walk my first meeting with Mr. Ahern was in
27 the Department of Labour, I think it was in Mespil Road, near Mount Street.
- 28 Q. 46 I think you began to meet Mr. Flynn, who was the then Minister for the
29 Environment?
- 11:24:54 30 A. Yeah, that's correct.

11:24:54 1 Q. 47 And you contacted Mr. Flynn's private secretary, Mr. Rice and he invited you to
2 write in. You wrote in and the meeting was arranged around November 1987 I
3 think with Mr. Flynn?
4 A. That's correct.

11:25:05 5 Q. 48 And I think you met him with Mr. Forman?
6 A. It seems about right.
7 Q. 49 Yes. Now, I think that as a result of those meetings and conversations which
8 you had, you got to know senior members of Government at that time, isn't that
9 right?
11:25:24 10 A. Just one or two.
11 Q. 50 And in relation to the Arlington designation, I think, a decision was reached
12 at Government in December of 1987 to extend the designation to the entire of
13 the Arlington site, isn't that right?
14 A. That's correct.

11:25:41 15 Q. 51 Proposed site?
16 A. Yeah.
17 Q. 52 And you will recall. If I could have 52038. In Quarryvale I you were shown a
18 manuscript note of a meeting attended by you on the 4th of November 1987 with
19 Mr. Dadley, Mr. Price and Seamus Maguire Solicitors and your solicitors
11:26:06 20 Messrs. Kirwin where the issue of designation was considered. 20383, please.
21
22 And under the heading designation there we see designated areas. Boundaries
23 and the lots. Commercially impossible to have two different types of tax
24 designation for tenants, designated area has not been in because of the
11:26:37 25 development has been small. No big risk takers.
26
27 And then at 203 and 4 went on to say the Government will probably extend the
28 two year time limit. Flynn is keeping McSharry in the dark.
29
11:26:49 30 And you were asked about and I think you said that that didn't represent

11:26:52 1 anything that you said to that meeting

2 A. No, that's correct.

3 Q. 53 However, if we could have 20383, please.

4

11:26:59 5 On the 18th of November there is a further typed up memo of a meeting which

6 went on for one and a half hours.

7 A. Can you explain what those documents are.

8 Q. 54 20386, please.

9 A. They are not connected with my ...

11:27:19 10 Q. 55 Yes. They were?

11 A. They must be internal.

12 Q. 56 Discovered to the Tribunal by Beauchamp Solicitors?

13 A. Oh, I see.

14 Q. 57 And if we look at that document and if we look, for example, at the second last

11:27:34 15 paragraph. It begins by saying "Gilmartin has been carrying on all the behind

16 scenes and negotiations with the crucial people in Dublin Corporation, with

17 Ministers of State including Flynn and McSharry and also Charlie Haughey".

18

19 Now, I think your evidence was that you didn't come to meet Mr. Haughey until

11:27:54 20 February 1989

21 A. Once.

22 Q. 58 I'll come to that meeting in a moment. No doubt that what is recorded here is

23 that you were carrying on negotiations with both Ministers Flynn and McSharry

24 in relation to the designations, isn't that correct?

11:28:08 25

26 And if we go to the next page of the same memo of 20387. At the very bottom of

27 the page it says "the message from the entire is that Gilmartin has done all

28 of the homework behind the scenes and is continuing to do so and is to be

29 treated as the client every bit as much as Arlington." You were Arlington's

11:28:25 30 representative in Ireland, isn't that right?

- 11:28:27 1 A. That's correct, yes.
- 2 Q. 59 Now, I think if we could have 20366, please.
- 3
- 4 I think again there is a recording of a meeting with you on the 15th of
- 11:28:37 5 December 1987. And if I could refer to the just the second paragraph there it
- 6 says Tom told me that he had met McSharry last Thursday and there was further
- 7 meetings on Friday with representatives of the Department of Finance and the
- 8 Revenue Commissioners. The points of which a decision is required are
- 9
- 11:28:55 10 1. To extend the boundaries of the designated area.
- 11 2. To extend the time factor for same.
- 12 3. To give the area the same tax status as the Docks.
- 13 4. To do something about extending the multi fiber EEC quota for retail and
- 14 clothing firms.
- 11:29:09 15
- 16 And it just concludes by saying "according to Gilmartin a decision on the first
- 17 three has been made and the letter will be forthcoming shortly." In other
- 18 words, you were there advising solicitors to Arlington and to yourself that, as
- 19 a result of your conversations with Mr. McSharry, you were in a position to
- 11:29:27 20 know the outcome of the Government decision which effected the Arlington site,
- 21 isn't that right?
- 22 A. That's correct, well it is what I was told.
- 23 Q. 60 What you were told?
- 24 A. The -- with regard to the multi-fiber agreement.
- 11:29:41 25 Q. 61 Yes?
- 26 A. It was an impediment to investment into Ireland at the time. And I raised that
- 27 issue with both Mr. McSharry and Mr. Flynn.
- 28 Q. 62 That impediment had nothing to do with the designation of the Arlington site or
- 29 the Bachelor's Walk site?
- 11:29:55 30 A. No, no, no, it was just a general. It was an impediment generally to

11:30:00 1 investment.

2 Q. 63 Now, I think at --

3 A. People like Marks & Spencers and ...

4 Q. 64 I understand. And of course Marks & Spencers would ultimately become tenants

11:30:09 5 or owners of some of the developments and particularly --

6 A. That was the hope value at that time.

7 Q. 65 Yes. And if we look at 20346.

8

9 On the 6th of January 1988 the solicitor records that he phoned you and that he

11:30:26 10 had asked you had you got the letter from the Minister. You told him that the

11 assurance he needed. He said "Flynn, the Minister for the Environment phoned

12 him before Christmas to say that approval had been given by the Government for

13 the extension of the Customs House Docks scheme both as to time and to area.

14 The Minister had told him that he could not put this in writing until after a

11:30:44 15 formal announcement had been made and it was proposed to make a formal

16 announcement on the 18th of January."

17

18 And further on that document. He says "he states that the Minister had given

19 him an assurance that the announcement will not refer to the Arlington scheme."

11:30:58 20

21 I think that you had a concern at that time that were it announced that

22 Arlington -- that the Bachelor's Walk Arlington project had the benefit of the

23 extension of designation, that it might be more expensive from Arlington's

24 point of view to acquire the sites, isn't that right?

11:31:12 25 A. Not entirely. Because half of Bachelor's Walk --

26 Q. 66 I accept that --

27 A. And the only parts of Bachelor's Walk that we -- at the time we had acquired

28 were that that were designated. One of the problems, as I seen it, was that

29 too much publicity -- to avoid too much publicity in connection with this big

11:31:41 30 investment in that area, which would cause problems for us in being held to

11:31:46 1 ransom, quite frankly. That was my concern.

2 Q. 67 Yes. If we could have 20347 please.

3

4 On the 13th January 1988 there is a further record of a meeting with you,

11:31:59 5 Mr. Druker, and others. And it says "the Arlington position apparently is that

6 until they get the announcement from the Minister extending the tax incentives

7 to the entire of the area concerned and a letter confirming that Arlington are

8 not prepared to purchase any further properties. Gilmartin phoned Gerry Rice

9 of the Department of the Environment during the meeting and Rice confirmed

11:32:19 10 that the original suggestion that the Minister would make an announcement on

11 the 18th of January on the occasion of the signing of the Customs House

12 Contract would not now apply for the reason that there were problems in

13 relation to the signing of the Customs House contract and the Minister would

14 have to make the announcement on another occasion."

11:32:33 15

16 Mr. Gilmartin arranged to go to see the Minister on the 21st January.

17

18 So your relationship, if I could call it that, with the Minister for the

19 Environment, at this stage, was such that he would ring you before Christmas

11:32:47 20 and at a meeting after Christmas when the designation wasn't being announced

21 you were able to pick up the phone and speak to his secretary and get

22 information concerning a Government decision which had been made at the end of

23 December '88, isn't that right?

24 A. Yes, well Arlington was reluctant to go ahead until that issue was sorted out.

11:33:03 25 Q. 68 And in time, I think we've dealt with this in Quarryvale I. A letter did

26 issue. And eventually a statutory instrument was signed extending the

27 designation to the site?

28 A. That's correct.

29 Q. 69 I'm more concerned at this stage just to get an indication of your contact, so

11:33:19 30 to speak, with the Government and with the Government Ministers at this stage.

11:33:23 1 It was such that you could pick up the phone and speak with the Minister and
2 learn of a Government decision which hadn't yet been announced and wasn't being
3 announced, isn't that right?
4 A. That's correct. And that was offered to us quite frankly.

11:33:36 5 Q. 70 Yes?
6 A. Because they wanted to encourage this investment into Ireland.
7 Q. 71 Just to contrast?
8 A. At that time.
9 Q. 72 Just to contrast for a moment. Your position in January '88 with that, for
11:33:47 10 example, the owner of one of the lots close to the Bachelor's Walk site which
11 hadn't yet been designated. You would have known that the site had been
12 designated. The owner of that land wouldn't necessarily have known, isn't that
13 right?
14 A. Um, can you repeat that question?

11:34:10 15 Q. 73 Yes. If we take your position, in the absence of the publication of the
16 Government decision or the announcement of the Government decision in late '87
17 and early '88 you would have known that a site that you intended to acquire was
18 going to be the subject of a designation order, isn't that right?
19 A. That's correct, yeah.

11:34:27 20 Q. 74 The owner of that site wouldn't necessarily have that same information, isn't
21 that correct?
22 A. Of course they would. When the announcement was made.
23 Q. 75 You knew before the announcement was made?
24 A. Yeah, but we didn't acquire anything in that area, as the records will show.

11:34:42 25 Q. 76 That's because Arlington weren't prepared to acquire anything until the
26 announcement was made, isn't that correct?
27 A. That's correct.
28 Q. 77 But had they been prepared you would have -- you, in negotiating the
29 acquisition of one of those pieces of properties, you would have been in a
11:35:01 30 position to know something that the owner of the property did not know.

- 11:35:04 1 Namely, that it had received a designation status?
- 2 A. Yeah, we had applied for it. So we -- we knew that we had applied. And asked
- 3 for the extension of the designation. Actually, my request was to either
- 4 remove it altogether or grant it over the whole site.
- 11:35:23 5 Q. 78 Now --
- 6 A. So, of course, we would have known that we were applying but the announcement
- 7 had to be made publicly.
- 8 Q. 79 Yes. For the public and perhaps the owners of the site to know that the site
- 9 was being designated, isn't that it?
- 11:35:36 10 A. Obviously the owners would know. It was announced publicly that the thing was
- 11 expanded. The owners knew.
- 12 Q. 80 Now, I think that, as I've indicated there, there was a difficulty in Arlington
- 13 proceeding until the site was -- announcement was made?
- 14 A. Well Arlington was reluctant to proceed.
- 11:35:55 15 Q. 81 Yes?
- 16 A. On anything until the whole site was designated.
- 17 Q. 82 And they were reluctant to proceed until they saw a letter from the Minister or
- 18 some indication from the Government other than what you were able to tell them
- 19 that the site had been designated, isn't that right?
- 11:36:09 20 A. Oh, yes. They wanted the commitment from the Government for it to be extended
- 21 and publicly announced.
- 22 Q. 83 And I think that a letter did issue ultimately and a meeting took place between
- 23 Lord Keith and others of Arlington and the Minister for the Environment. I
- 24 think that would have been in '88?
- 11:36:34 25 A. I was not party to that particular meeting.
- 26 Q. 84 You weren't at that meeting?
- 27 A. No, no.
- 28 Q. 85 That was your evidence. Now, if I could then just leave the Arlington
- 29 Bachelor's Walk situation for a moment.
- 11:36:43 30

11:36:43 1 I think sometime in '87 or 1988 you became aware that the Corporation or the
2 Council had lands available for satellite towns and there were three areas I
3 think at that time designated, ear marked for a satellite town around Dublin.
4 One in Tallaght, one in Neilstown, Balgaddy and one in Blanchardstown

11:37:04 5 A. Yes, at a meeting of Dublin Corporation, which we were involved in with a
6 number of personnel from Dublin Corporation.

7 Q. 86 Yes?

8 A. They told us about the three Western towns.

9 Q. 87 And I think they tried to interest you in some of those and Tallaght and your
11:37:20 10 evidence was, I think, that Mr. Monahan was involved in Tallaght and you
11 weren't prepared to interfere with his plans for Tallaght, isn't that right?

12 A. They talked about Tallaght and they actually showed me Neilstown.

13 Q. 88 I'll come to Neilstown in a moment?

14 A. Sorry.

11:37:37 15 Q. 89 Just to get rid of Tallaght and Blanchardstown?

16 A. Yeah, well I discovered that Mr Monaghan from Monarch Properties had some
17 involvement in Tallaght. So I said I wouldn't interfere with anybody else's
18 business.

19 Q. 90 So you ruled that one out?

11:37:50 20 A. So I ruled it out.

21 Q. 91 And then I think Blanchardstown was earmarked for Green Properties. They owned
22 the site there, isn't that correct?

23 A. That's correct, yeah.

24 Q. 92 And I think Mr. John Corcoran who gave evidence was the Chief Executive or the
11:38:00 25 Chairman of Green Properties at that time?

26 A. Yes, I was aware that Green Property had a site in Blanchardstown.

27 Q. 93 And then that left the third site, which was the Neilstown Balgaddy site?

28 A. That's correct.

29 Q. 94 And I think you viewed that site, perhaps at the invitation of Mr. McLoone and
11:38:17 30 you discounted that site?

11:38:18 1 A. Well Dublin Corporation invited me to go and look at it.

2 Q. 95 I see.

3 A. And Mr. McLoone took us out and showed us.

4 Q. 96 I think Mr. Forman visited the site with you?

11:38:29 5 A. He was with me, yes.

6 Q. 97 And I think you were dissatisfied with the infrastructure to the site,
7 particularly Fonthill Road and other services?

8 A. The position of the site was such that as far as I was concerned nobody would
9 develop on it.

11:38:45 10 Q. 98 Yes?

11 A. It was wrong. At that particular time, without massive investment in
12 infrastructure.

13 Q. 99 Yes. And I think in or around that time then you did identify a site, what we
14 will refer to as the Quarryvale Site or the Westpark Site as it was being
11:39:04 15 called at that stage. A site close to the M50 where it intersected with the
16 Lucan bypass?

17 A. That's correct.

18 Q. 100 Forthcoming Lucan bypass?

19 A. That's correct.

11:39:14 20 Q. 101 And I think having identified that site it seems to be the one thing that
21 everyone is agreed on in this Module. That was the premier site. And
22 certainly was a much superior site to the Neilstown Balgaddy site?

23 A. Yeah well in terms of -- the main thing in any site is to encourage investors
24 and tenants, you know, and retailers.

11:39:37 25 Q. 102 Yes?

26 A. To be interested.

27 Q. 103 Now --

28 A. And none of those -- without those there's no deal.

29 Q. 104 Okay?

11:39:44 30 A. So nobody that we talked about Neilstown with was remotely interested in

- 11:39:55 1 getting involved in Neilstown. So I identified the Quarryvale site as being
2 probably one of the best sites in the Dublin area for development.
- 3 Q. 105 And it would appear that having identified the site you resolved that you would
4 commence acquiring the lands which made up the site, which were the ownership
11:40:18 5 of a number of different landholders including both the corporation and the
6 Council, isn't that correct?
- 7 A. That's correct, yes.
- 8 Q. 106 And I think that it was in that context, while speaking to your friend in the
9 Bank of Ireland in Blanchardstown, Mr. Sheeran, that you asked if he knew
11:40:32 10 anyone who would be able to identify the ownership of the lands in Quarryvale?
- 11 A. Yes, I didn't know anybody in that area at all. So I looked at the site. I
12 didn't know who owned what. So I asked Mr. Sheeran if he knew who owned. So
13 he didn't either.
- 14 Q. 107 Yes. And I think Mr. Sheeran introduced you to Mr. Fassnidge and in time?
- 11:40:55 15 A. There happened to be a gentleman in the bank at the time and he said there's a
16 gentleman at the -- in the bank who happens to be from Palmerstown and he says
17 he'll probably know.
- 18 Q. 108 And I think Mr. Fassnidge in time introduced you then at the Deadman's Inn to
19 Mr. Lawlor?
- 11:41:11 20 A. That's correct.
- 21 Q. 109 That was your first introduction to Mr. Lawlor. And in time I think Mr. Lawlor
22 attended at a meeting of Arlington in London within days or weeks of that first
23 meeting attended by you, where Mr. Lawlor, you say, said he was representing
24 the Government and sought a portion of your interest in the Arlington project,
11:41:32 25 isn't that right?
- 26 A. Yes, at the meeting in the Deadman's Inn when I was introduced to Mr. Lawlor.
27 He seemed to be more interested in what I was doing on Bachelor's Walk than my
28 request for to find out who owned land.
- 29 Q. 110 And I think in time then --
- 11:41:48 30 A. He --

- 11:41:49 1 Q. 111 An agreement was reached between Arlington and Mr. Lawlor which involved you
2 whereby Mr. Lawlor was paid a sum of 3,500 pounds approximately per month
3 starting sometime in May or June 1988 and ending sometime around January or
4 February 1989?
- 11:42:04 5 A. Yeah, well he came in and he made demands on Arlington etc. and he eventually
6 persuaded them that he had to be taken on as a consultant.
- 7 Q. 112 Yes?
- 8 A. And they agreed to pay.
- 9 Q. 113 Yes?
- 11:42:15 10 A. To take him on and pay him.
- 11 Q. 114 Yes. I think you agreed to make the payments and we've dealt with these in
12 Quarryvale I. And I think the relation -- the arrangements, so to speak, ended
13 when Mr. Lawlor attended at Mr. Sheeran and sought I think a sum of 10,000
14 pounds. And Mr. Sheeran contacted you and you terminated the arrangement at
11:42:36 15 that stage. That would have been about January/February 1989, isn't that
16 right?
- 17 A. That's correct. It was after about eight or nine payments, ten payments I
18 think.
- 19 Q. 115 Yes?
- 11:42:46 20 A. That I made to Mr. Lawlor.
- 21 Q. 116 Yes. I think in time in fact we saw in Quarryvale I that I think it was the
22 19th of April 1989 Mr. Lawlor got, through his company, economic reports, had
23 got a further payment of 33,000 pounds Sterling from Arlington?
- 24 A. I wasn't aware of that.
- 11:43:04 25 Q. 117 When did you become aware of that, Mr. Gilmartin?
- 26 A. At the Tribunal here.
- 27 Q. 118 At the Tribunal. Now, the payments I think -- some of the payments were made
28 by you at London airport on Mr. Lawlor's trips to Baghdad in the company of
29 others, isn't that right? You gave evidence of that here in Quarryvale I?
- 11:43:25 30 A. Yes, one of the payments. He was on his way to Baghdad and he rung me up and

11:43:31 1 he asked -- he needed some money.

2 Q. 119 Yes and I think --

3 A. He asked me to meet him at Heathrow airport. So I met him.

4 Q. 120 Yes. And we had that in evidence Quarryvale I?

11:43:40 5 A. You had. And there was another gentleman happened to be present, which had

6 nothing to do with.

7 Q. 121 Yes?

8 A. A Mr. O'Keeffe.

9 Q. 122 Yes. Now, I think --

11:43:51 10 A. Happened to be in with Mr. Lawlor on the way to Baghdad.

11 Q. 123 When you met them?

12 A. But he had nothing whatsoever to do with.

13 Q. 124 With Mr. Lawlor?

14 A. Looking for money.

11:44:01 15 Q. 125 I think Mr. Gilmartin, that you gave evidence that at some stage Mr. Lawlor

16 rang you in London and asked you when you would next be in Ireland. When you

17 told him he collected you from Dublin Airport on a particular occasion and he

18 took you to the Council offices on O'Connell Street and he brought you to see

19 Mr. George Redmond, isn't that right?

11:44:22 20 A. That was in May 1988, roughly. Not long after my first meeting with

21 Mr. Lawlor.

22 Q. 126 Yes. And you have given evidence in Quarryvale I of a map being given to you

23 at that meeting by Mr. Redmond and you allege that at that time that Mr. Lawlor

24 sought from you 100,000 pounds?

11:44:41 25 A. That's correct.

26 Q. 127 And you gave that evidence. And needless -- I don't intend to go into it other

27 than you've given that evidence?

28 A. Yeah.

29 Q. 128 I think you went ahead with the assembly of the Quarryvale site. And I think

11:44:58 30 that a proportion of the site began to deal with the acquisition of lands in or

11:45:04 1 about August 1988, isn't that right?

2 A. That's correct.

3 Q. 129 If we could have 20295.

4

11:45:09 5 We see a letter from your solicitors, Mr Maguire to William Fry Solicitors

6 forwarding monies or refundable deposit of 25,000 pounds in relation to Grove

7 Developments Limited, isn't that right? Were they Mr. Sharp's lands

8 A. Grove Developments had a 28 acre site on the Galway Road. They were -- they

9 had some problem with, they were going to build houses on. They had -- it was

11:45:42 10 zoned industrial and they had it changed to build houses but they had some

11 problem with access.

12 Q. 130 Access on to the --

13 A. And they decided that they would pull out of it. And they offered it for sale.

14 Q. 131 If we go to 20296, for example. We see the contract entered into between you

11:46:08 15 and Mr. Bruton on the 20th of September 1988?

16 A. Yes, that was the 33 acre corner site.

17 Q. 132 Yes?

18 A. Known as ...

19 Q. 133 For 1.5?

11:46:11 20 A. Known as Dale View.

21 Q. 134 Yes. And I think in fact if we look at 20291. On the 24th of October 1988

22 Arlington wrote to you advising you that they had no objection whatsoever to

23 your proposed involvement with another development in the west side of Dublin,

24 isn't that right?

11:46:28 25 A. Well I checked with Arlington if they had any problem since they were proposing

26 to invest in Bachelor's Walk. And obviously, I thought I should let them know.

27 And they had no problem with that at all.

28 Q. 135 And I think you again told us in Quarryvale I that you began to assemble a team

29 of experts, including Lichfield, Mr. O'Malley, Ove Arup and a firm of

11:46:59 30 architects McCammons from Northern Ireland, is that correct?

11:47:02 1 A. That's correct.

2 Q. 136 And again, all of this, as I say, was in Quarryvale I?

3 A. We also had a funding financial team in England.

4 Q. 137 Yes. Now, I think you discovered from the map given to you by Mr. Redmond

11:47:17 5 that, or otherwise, that the corporation and the Council also owned lands which

6 would be necessary for your site in Quarryvale, isn't that right?

7 A. Yes, it was -- it was colour coded. Each ownership was colour coded on the map

8 and it showed each ownership.

9 Q. 138 Yes. And I think you wrote to Mr. Redmond seeking to open negotiations in

11:47:40 10 relation to the acquisition of those lands.

11

12 If we could have 20301, please.

13 A. I think that.

14 Q. 139 In November 1988, is that correct?

11:47:49 15 A. I think that's connected with 12 acres of Council, the County Council owned

16 along the -- at that time the proposed new -- the Western Parkway.

17 Q. 140 I think the Corporation lands were approximately 68 acres?

18 A. 68 point some acres And there was 12 acres of Council land.

19 Q. 141 I think negotiations proceeded between yourself and Mr. McLoone in relation to

11:48:14 20 both lands. And you agreed to acquire both lands at an agreed purchase price?

21 A. That's correct.

22 Q. 142 And that would have been in or about December 1988 or very early in 1989,

23 January '89?

24 A. That's correct. It was in line with what I had paid and had been negotiated

11:48:29 25 with Mr. Bruton.

26 Q. 143 Yes. And independently of all of this, I think, at the same time you were

27 advised by Mr. Lawlor that Mr. O'Callaghan had become involved in the Neilstown

28 lands which had been acquired from the corporation by Mr. Gubay through a

29 company, either Montrose Holding or Merrygrove Limited, isn't that right?

11:48:54 30 A. Yes.

11:48:54 1 Q. 144 He advised you at a meeting that you should make contact with Mr. O'Callaghan
2 because Mr. O'Callaghan's site had the zoning for the town centre and yours
3 didn't?

4 A. That was sometime later. We were at -- I had a meeting, I met the architects
11:49:12 5 at the hotel in Dublin, at Dublin Airport.

6 Q. 145 And if we were to look at?

7 A. And Mr. Lawlor came in and he announced that I would have to deal with Mr.
8 O'Callaghan.

9 Q. 146 And if we look at 20299.

11:49:27 10

11 We see a memorandum prepared by Mr. O'Callaghan on the 4th of November. Where
12 he is referring to a meeting with Mr. Lawlor on the 2nd of November where
13 Mr. Lawlor had told him that he was to look after you and that he had been told
14 to look after you by Mr. Flynn and Mr. McSharry, isn't that right? You recall
11:49:46 15 this being dealt with in Quarryvale I. This is now Mr. O'Callaghan's
16 recollection or a note of a meeting which he may have had with Mr. Lawlor

17 A. Well I'm not aware of ...

18 Q. 147 In any event, Mr. Lawlor is telling you that you should contact Mr.
19 O'Callaghan. And he appears to be here telling Mr. O'Callaghan that he should
11:50:04 20 contact you. Either way, I think a meeting did take place between yourself and
21 Mr. O'Callaghan. And that meeting appears to have be taken place on the 7th of
22 December 1988. If we could have 20302.

23

24 And again, all of this evidence has been given, Mr. Gilmartin, I'm only just
11:50:20 25 reviewing it

26 A. Yes, yes, that meeting took place on the 7th of December. I think it's in the
27 Royal Dublin. The one beside the County Council.

28 Q. 148 I think yourself and Mr. O'Callaghan differ on not just where the meeting took
29 place but what transpired at the meeting?

11:50:35 30 A. Yeah.

- 11:50:35 1 Q. 149 You say that the meeting took place, I think, in the Royal Dublin?
2 A. He says it was at the airport.
3 Q. 150 You felt at that meeting --
4 A. No, the Royal Dublin Hotel. He had a room there. I met him in a room.
- 11:50:54 5 Q. 151 And you felt you had left that meeting having reached agreement with Mr.
6 O'Callaghan whereby you would acquire his option, sorry, you would require an
7 option on his contract which he had acquired from Mr. Gubay in relation to the
8 Neilstown sites?
9 A. That's correct, yeah.
- 11:51:03 10 Q. 152 And obviously that would have assisted you in that it gave you control over the
11 site which had been designated for shopping centre development?
12 A. Yeah, well I had realised it for once what Mr. Lawlor had said was correct.
13 That this site, the other side was zoned as town centre site.
- 14 Q. 153 Can I ask you, Mr. Gilmartin. Was that the first time that you realised that
11:51:29 15 the other site had been zoned for town centre development?
16 A. Well I probably was a bit naive insofar as I came to the conclusion that nobody
17 would build on Neilstown site.
- 18 Q. 154 Yes.
19 A. And I dismissed it on that basis. And I did not consider the consequences of
11:51:51 20 someone else acquiring or acquiring an option on it or the ransom value of it.
- 21 Q. 155 Well Mr. Gubay had acquired it in the first instance. Sorry. Mr. Gubay had
22 acquired that site?
23 A. He had but I was aware -- actually, Mr. Gubay had acquired the site before
24 Mr. McLoone or had the option before Mr. McLoone showed it to me. I discovered
11:52:20 25 afterwards. And I asked Mr. McLoone why he was showing me a site that he
26 already had done a deal with someone else. And he said well Mr. Gubay has
27 decided not to go ahead with it.
- 28 Q. 156 Yes. Just in relation to that. Mr. Gilmartin, you give the impression in your
29 evidence, as I understand it, that the only value of the Neilstown site was a
11:52:47 30 ransom value from the point of view of the development of the Quarryvale site?

11:52:51 1 A. As I seen it, yes.

2 Q. 157 As you saw it. But it's fair to say that Mr. Gubay never approached you

3 seeking monies from you?

4 A. Oh, no.

11:53:03 5 Q. 158 To prevent him from developing the site?

6 A. I never met Mr. Gubay or spoke to him at any time.

7 Q. 159 So any ransom value that you put on the site, you can't attribute any of that

8 to Mr. Gubay who it would appear had bought the site, isn't that right?

9 A. Well, you see, I hadn't thought of it in that way at that time. I dismissed

11:53:23 10 the site as being.

11 Q. 160 I accept that you dismissed the site?

12 A. Naively.

13 Q. 161 Yeah. Just dealing with Mr. Gubay's interest in the site. He actually had

14 seen the seen the site and had bought the site.

11:53:35 15 A. Yeah.

16 Q. 162 Admittedly he sold the site and made, I think, a profit on the site, isn't that

17 right?

18 A. Well according to the contract which Mr. O'Callaghan passed on to me at that

19 time he had made half a million.

11:53:51 20 Q. 163 Yes. But you say that you were shown the site at some stage after Mr. Gubay

21 had agreed to buy it on the basis that you were advised by the Council

22 representative, Mr. McLoone, that Mr. Gubay wasn't going to develop the site?

23 A. At the time I was shown the site I was not told of Gubay's interest in it.

24 Q. 164 Yes.

11:54:17 25 A. I was just told that the site was there and they were trying to get the three

26 Western towns. This was number one priority, to get those off the ground. And

27 at the -- on the day that I looked at that site I was not told that anybody

28 else had an interest. Otherwise I probably wouldn't have dismissed it anyway.

29 But it was later I found -- found out that the corporation had actually some

11:54:48 30 form of agreement with Dublin Corporation. So I asked Mr. McLoone about this.

11:54:57 1 And I asked Dublin Corporation as to why they offered me the site. And they
2 told me that Mr. Gubay was not going ahead with it and that he has decided that
3 it was not developable

4 Q. 165 When do you think you were shown the site, Mr. Gilmartin?

11:55:18 5 A. You'll have to give me a minute on that one.

6 Q. 166 Yes.

7 A. Because it was back in -- it would be early '88. From recollection, I think it
8 would have been sometime in the spring of 1988.

9 Q. 167 Now, I had been dealing with your meeting with Mr. O'Callaghan on the 8th of
11:55:49 10 December 1988. Sorry. On the 7th of December 1988.

11
12 And I have on screen the letter that Mr. O'Callaghan wrote to you arising out
13 of that meeting. You responded to that letter. Christmas intervened. And I
14 think in 1989, on the 31st of January 1989, an agreement was reached between
11:56:07 15 yourself and Mr. O'Callaghan, a more formal?

16 A. Yeah.

17 Q. 168 You say the agreement was reached at the meeting on the 7th of December. A
18 signed agreement was entered into on the 31st of January 1989, isn't that
19 right?

11:56:20 20 A. That's correct.

21 Q. 169 Now, I'm not going to go in to, at this stage, Mr. Gilmartin, to the issue
22 which arose in Quarryvale I in relation to that signed agreement, other than to
23 say that it's agreed by yourself and Mr. O'Callaghan, I think, that there was
24 3.5 million pounds to be paid for the Neilstown contract. And that it was to
11:56:39 25 be paid in three stages. An up front payment of approximately 800,000 pounds
26 which was to take care of the 300,000 pounds deposit to Dublin Corporation plus
27 the profit to Mr. Gubay. And then there were two further payments, I think, of
28 1.35 million pounds payable?

29 A. That's correct.

11:56:59 30 Q. 170 And then the issue between you seems to be in relation to the dates of the

- 11:57:06 1 subsequent two payments, isn't that right?
- 2 A. That's correct.
- 3 Q. 171 The first payment was to be paid and when the second payment was to be paid?
- 4 A. That's correct.
- 11:57:14 5 Q. 172 Now, you also I think had, you felt, acquired the corporation and the County
6 Council lands as a result of your discussions with Mr. McLoone in December '88
7 and in January '89, isn't that right?
- 8 A. That's correct.
- 9 Q. 173 Now, I think in February 1989 then a whole series of issues arose, isn't that
11:57:33 10 right? And they appear to include the following. Firstly, I think you say you
11 attended a meeting attended by the Taoiseach, Mr. Haughey, where you met a
12 number of Government Ministers. A meeting organised for you by Mr. Lawlor
13 where Mr. Lawlor advised you that the Taoiseach wished to meet you. And
14 evidence has been given in relation to that. Again, I don't propose at this
11:57:56 15 stage to deal with that. Other than to say that it was your evidence, I think,
16 in Quarryvale I that immediately following that meeting you were approached by
17 someone whom you weren't able to identify. And you were asked to contribute
18 500 -- sorry. 5 million pounds and you were given a bank account of an Isle of
19 Man bank, isn't that right?
- 11:58:16 20 A. That's correct.
- 21 Q. 174 Secondly, I think you have given evidence that your 3,500 pounds payments to
22 Mr. Lawlor were stopped by you when he attended Mr. Sheeran -- had sought
23 10,000 pounds payment from your account, isn't that right?
- 24 A. Yeah, he attempted to withdraw 10,000 pounds from my account. He went into the
11:58:39 25 Bank of Ireland.
- 26 Q. 175 Yes?
- 27 A. And he attempted to withdraw 10,000 pounds. So I immediately stopped any
28 dealings with Mr. Lawlor.
- 29 Q. 176 I think in late '88 or early '89 you say that Mr. Hanrahan, Councillor, who was
11:58:54 30 introduced to you, demanded 100,000 pounds from you, isn't that right, for his

11:58:59 1 support for your Quarryvale project?

2 A. That was December '88.

3 Q. 177 December '88?

4 A. It was Christmas week actually.

11:59:05 5 Q. 178 Yes. And I think again in early '89 I think you discovered, January/February

6 '89, that the lands which you thought that you had bought were no longer

7 available to you because Mr. Corcoran of Green Properties had suddenly

8 expressed an interest in acquiring those lands and you felt that Mr. Redmond

9 had interfered with your acquisition of the lands by contacting Mr. Corcoran

11:59:28 10 and getting him to express an interest in them, isn't that right?

11 A. I was told Mr. Redmond and Mr. Lawlor went to Green Property and also into the

12 corporation and kicked up a fuss.

13 Q. 179 And I think, Mr. Gilmartin, it was known that you had acquired and that you

14 were acquiring lands in this area?

11:59:51 15 A. That's correct.

16 Q. 180 And that you had acquired the corporation County Council lands, isn't that

17 correct?

18 A. That's correct.

19 Q. 181 That was known, I think, from early December '88, isn't that correct?

11:59:58 20 A. That's correct.

21 Q. 182 And if we could have 19955, please.

22

23 This is a document discovered to the Tribunal from Green Properties discovery.

24 Sorry. 19955.

12:00:17 25

26 And it would appear from this document. It deals with the local authority

27 sales to you. You will see there that it records that on December 9th 1988

28 Gilmartin issued a press statement to the Irish Independent which stated inter

29 alia that he had bought 100 acres from the corporation. He had bought 30 acres

12:00:40 30 from Sharp Builders. He had bought 28 acres from Dale View builders and his

12:00:45 1 scheme would incorporate -- sorry, his scheme is for the following. 1.5
2 million pound square foot of shopping space, 500,000 square foot of retail
3 warehousing and 750,000 square foot of offices. That development included
4 leisure elements containing a bowling alley, multiplex cinema, skating rink and
12:01:05 5 swimming pool. And that you were now saying that you would be making a
6 planning application in April '89 and identified your surveyor at that time as
7 Mr. Harrington of Gunne auctioneers.
8
9 I think that would be consistent with what was happening at that time, Mr.
12:01:22 10 Gilmartin?
11 A. Yes. This document that you were referring to here. Is it a Green document?
12 Q. 183 Yes, it is a Green Property document. I'm really only referring to it as
13 evidence of something that was going on at that time. I mean, if you disagree
14 with what's contained in the document. In other words, if you wish to tell the
12:01:39 15 Tribunal if it is the case that you did not issue a press release in early
16 December 1988 saying those things. So be it. But from your evidence and from
17 what you're saying. I take it you're not contesting any of that?
18 A. No. No. But I'm just -- it's the first time I've seen this document.
19 Q. 184 Just?
12:02:04 20 A. And I'm not a hundred percent sure what it's about.
21 Q. 185 Yes?
22 A. Was it Green's -- was it a note on Green's files? Was it a letter that they
23 sent to the corporation?
24 Q. 186 No. If we look at 19954, Mr. Gilmartin. It would appear to be a document
12:02:22 25 faxed to John Corcoran from Brendan Halligan of consultants in public affairs
26 CPA, I think, on the 3rd of April 1989.
27
28 So it would seem to be a document prepared for Green setting out your position
29 in 1989?
12:02:40 30 A. Yeah. I understand. It's generally in line with what the proposal was at the

12:02:47 1 time. And as I understand it, Mr. Halligan had some form of PR role with Green
2 but I didn't know the man. Incidentally, he wrote me a letter Mr. Halligan,
3 offering me his services.

4 Q. 187 Yes?

12:03:04 5 A. Back in around that time.

6 Q. 188 Yes?

7 A. But other than that, I didn't know the man. I never met.

8 Q. 189 I'm merely putting up the document to give an example of what was happening at
9 the time. If you disagree with anything that's on it, so be it. It would
10 appear from the document that it was well known in early December 1988, as a
11 result of your own publicity, that you were acquiring the corporation and
12 Council lands?

13 A. That's correct.

14 Q. 190 And that you intended to build a 1.5 million square foot shopping centre?

12:03:33 15 A. No, I didn't intend to build a 1.5 million. That's a misconception. We done a
16 brochure and we included the number of people who had put their names down as
17 being interested. Just for arguments sake, one of those was John Lewis
18 Associates who normally built a shopping centre within a shopping centre and we
19 included those in the brochure but we never intended to apply for 1.5 million
12:04:08 20 square feet. As a matter of fact we done a feasibility study which was a gross
21 area of 700,000 square feet which I think that feasibility should be with the
22 Tribunal.

23 Q. 191 Yes?

24 A. At the time. And the actual net shopping area on that was somewhere under
12:04:25 25 400,000 feet, but the brochure was used on 1.5 million, that I was going to
26 destroy the world and Dublin and Ireland with this massive thing. But the
27 actual -- the actual feasibility study and advice from Nathaniel Lichfield, all
28 of that showed we were going to -- we were not going to build 1.5 million
29 square feet. And anyway, it was a matter for the planners.

12:05:01 30 Q. 192 Just one point Mr. Gilmartin that I should address at this stage. You have

12:05:05 1 received the documentation which makes up this brief. You have received it
2 from the Tribunal, isn't that correct?

3 A. That's correct.

4 Q. 193 And just as we go forward. I will refer to documents but just so that there
12:05:17 5 isn't any misunderstanding between us. You are not saying you didn't receive
6 the documentation. You're saying that you haven't read it, isn't that right?

7 A. That's correct.

8 Q. 194 Just on that point. I should have asked you at the outset Mr. Gilmartin. As
9 it is the intention of the Tribunal to ask every witness. Did you disclose any
12:05:32 10 portion of either this brief or any recent documentation that you received from
11 the Tribunal to any third parties?

12 A. No.

13 Q. 195 That is third parties other than your solicitors?

14 A. No, I did not. As matter of fact, I had journalists ringing me up about
12:05:55 15 certain elements of it which I knew nothing about, before I got those recent
16 documents.

17 Q. 196 How soon before?

18 A. Days before, weeks before -- not weeks. Days.

19 Q. 197 The documents I think would have come from the Tribunal to your solicitors A&L
12:06:14 20 Goodbody's?

21 A. That's correct.

22 Q. 198 And they would have come from A&L Goodbodys to you, is that right?

23 A. That's correct.

24 Q. 199 And did you authorise your solicitors to disclose any documents to any third
12:06:25 25 parties other than counsel?

26 A. No, I did not.

27 Q. 200 Now, I was dealing with matters which occurred in 1989 and in January/February
28 1989. Just to complete the picture, so to speak of where we are in 1989.
29

12:06:42 30 I think you have told the Tribunal that Mr. Lawlor demanded money from you,

- 12:06:46 1 demanded an interest, first of all, in the Arlington site. Subsequently, at
2 some stage demanded an interest in the Quarryvale site. You say that
3 Mr. Hanrahan sought money from when you met with him. You say that Mr. Lawlor
4 sought money for himself and Mr. Redmond and at some stage told you that you
12:07:06 5 would have got your site from the corporation cheaper had you paid Mr. Redmond
6 and/or himself, isn't that right?
- 7 A. That's correct.
- 8 Q. 201 And I think you -- we dealt with -- you stopped the payments on behalf of
9 Arlington you say to Mr. Lawlor in early 1989. You had the meeting with the
12:07:21 10 Government, you say that you were asked for money after that meeting. You
11 dismissed that approach at that time. And then you discovered that the site --
12 the lands the Corporation Council lands which you thought you had acquired were
13 not yours and eventually they were sold by tender, isn't that right?
- 14 A. Yeah. You gave a number of things there.
- 12:07:48 15 Q. 202 I'm just trying to bring it all into a situation where -- I don't want to go
16 into detail unless you want me to?
- 17 A. No, no, no, that's fine.
- 18 Q. 203 And I think at some time in February 1989 you gave evidence in Quarryvale I
19 that a meeting which you had arranged with the corporation or Council engineers
12:08:05 20 in relation to Quarryvale was cancelled without notice. And you challenged
21 Mr. Redmond in relation to this. And you made a complaint to Mr. Haughey,
22 Mr. Sean Haughey, his colleague, as a result of which Mr. Haughey brought you
23 to meet Mr. Feeley where you made a more detailed complaint in relation to what
24 was going on, isn't that right?
- 12:08:23 25 A. That's correct.
- 26 Q. 204 I think in February 1989, from early February 1989, there was already a Garda
27 inquiry in being and in time your formal complaints to Mr. Feeley and
28 Mr. Haughey became the subject of that inquiry, isn't that right?
- 29 A. That's correct.
- 12:08:38 30 Q. 205 And I think that you were contacted by the Guards who were conducting that

12:08:44 1 inquiry. And you were asked to assist and help with that inquiry, isn't that
2 right?

3 A. That's correct. And Mr. Shreenan.

4 Q. 206 Mr. Shreenan. And I think you gave evidence in Quarryvale I that you had
12:08:55 5 been -- that you had received the phone call from somebody who purported to be
6 close to that inquiry warning you not to get involved in it or to assist in it,
7 isn't that right?

8 A. Yes, I had a phone call after I spoke to Mr. Shreenan a day or so after. From
9 a gentleman who claimed he was a Mr. Byrnes.

12:09:14 10 Q. 207 Yes?

11 A. And who didn't seem too happy with the complaint that had been lodged and more
12 or less told me to get back to England.

13 Q. 208 And I think --

14 A. And not be making stupid allegations and false allegations about decent people.

12:09:31 15 Q. 209 Yes. And I think that the contact, the first contact from Mr. Shreenan was at
16 the beginning of March '89. I think the 4th of March, a Saturday the 4th of
17 March '89?

18 A. Roughly.

19 Q. 210 And I think the last contact was towards the end of March, maybe the 20th of
12:09:48 20 March' 89?

21 A. It was in the spring of '89.

22 Q. 211 Yes. So this was the situation that you found yourself in in early March '89?

23 A. That's correct.

24 Q. 212 You were now in a situation where you had been dealing on behalf of Arlington.
12:10:03 25 You had been acquiring your own site. And you had run into these difficulties
26 and you had made this complaint, isn't that right?

27 A. Yeah, well the proposition would require -- it wasn't my own site as such. The
28 proposition was acquiring the site was that I was invited by investors to put
29 that site together. And if there was no planning problems they would fund it.

12:10:29 30 Q. 213 Now, I'm going to call up on screen, Mr. Gilmartin, a document which is a Bank

12:10:34 1 of Ireland document this time.
2
3 And it's a document that's created when you apply for facilities to pay the
4 800,000 pounds to Mr. O'Callaghan. You recall that you had this agreement with
12:10:47 5 them in January 1989 and then it became necessary to fund
6 A. I didn't need to get a facility that time from the bank. I had deposits of a
7 few million IBI. The request to the bank was that I went across to the bank on
8 the day of signing the agreement to draw on that but it wasn't possible for me
9 to draw on the IBI account so the bank arranged.

12:11:15 10 Q. 214 A bridging loan?
11 A. Yeah, they would transfer the money from IBI to Bank of Ireland and they would
12 issue the bankers draft on that day. It wasn't actually an application for a
13 loan as such.
14 Q. 215 Okay. Well if I could have 3917.

12:11:35 15
16 This is a document, Mr. Gilmartin. It's dated the 3rd of March 1989. It would
17 appear to relate to the Blanchardstown branch of the Bank of Ireland. It's
18 headed Credit Application. It's in respect of a Mr. Thomas P Gilmartin, 22
19 White Hill Avenue, Luton, Bedfordshire in England. And it refers to a present
12:11:59 20 position which refers to an overdraft facility of 25,000 pounds and a bridging
21 term loan of 470,000 pounds. And it looks under heading facilities proposed.
22 A further bridging/term loan for a sum of 800,000 pounds. And if the document
23 is on screen, Mr. Gilmartin.
24 A. Yes, yes, that's correct.

12:12:20 25 Q. 216 If you would prefer, I can give you a hard copy of any documents.
26 A. No, no, that's fine. I recognise that document.
27 Q. 217 And we see there the purpose under the heading 'purpose' for the facility
28 proposal. It says "continuation of existing overdraft granted re personal
29 purposes continuation re purchase of Connachty Stud as per application on the
12:12:40 30 4th of August '88 for 470,000 pounds and it says to take over contract of

- 12:12:46 1 Council designated shopping centre adjacent to Neilstown, Clondalkin and that's
2 beside the reference to the 800,000 pounds bridging loan?
- 3 A. Yeah, that's correct.
- 4 Q. 218 Now, what I really want to bring your attention to, Mr. Gilmartin, is what's
12:13:03 5 contained in this document. In other words, what is contained within documents
6 prepared by the bank concerning you at this time?
- 7 A. Yeah.
- 8 Q. 219 Now, if we go to 3918. Which is the very next page on this document.
9
- 12:13:14 10 And it says and I don't propose to go through all of the document, Mr.
11 Gilmartin.
12
- 13 At paragraph 14 it says, it talks about intangible benefits. It says customer
14 has substantial deposits in group. And through proposed development could be
12:13:36 15 an excellent contact. And I think you agree with that. You said you had
16 substantial deposits at that time
- 17 A. Yes.
- 18 Q. 220 And it goes on to say borrowers financial programme and projections. Applicant
19 has had no substantial dealings through the branch other than overdraft
12:13:52 20 facilities. Is a property developer. Had substantial deals for IBI Belfast in
21 the name of Lindor Investments Limited where a company had facilities of 3/3.5
22 million now discharged. Group credit control should have substantial file both
23 on Gilmartin and the company above.
24
- 12:14:06 25 And that's consistent with what you're telling me, that you had substantial
26 funds at this stage, isn't that right?
- 27 A. Yes, Lindor was the company that took over Clondeboye Shopping Centre and we
28 had a facility of three and a half million with IBI Belfast. That was
29 discharged and I had deposits in Dublin of ...
- 12:14:35 30 Q. 221 Now, it says then under the Manager's comment and recommendations. I refer to

12:14:39 1 my initial application of 4th August 1988 re the above which sketches in a
2 reasonable amount in the background. I also understand that group credit
3 control would have a file Landor Investments now closed and which would also
4 give additional information to Mr. Gilmartin's business dealings. Proposition.
12:14:54 5 The complete development is partially described in my application of the 4th of
6 August. It is also described in the attached costings per Irish Times dated
7 the 15th of December 1988. Gilmartin is assembling a site at Palmerstown
8 adjoining the new Dublin Motorway Ring Road. This entire site will comprise
9 approximately an area of 200 acres.
12:15:17 10
11 And then it says one Bruton 32 acre, deposit 142K paid, option to buy 40K per
12 acre, subject to planning permission.
13
14 That, you would agree with that, that's correct, isn't it?
12:15:30 15 A. Yeah.
16 Q. 222 And that's constant with your evidence. It says Sharp 28.6 acres. Deposit
17 114K. Option to buy at 40K per acre, again that's correct, isn't that right?
18 A. That's correct, yeah.
19 Q. 223 Then at paragraph three. It says Dublin County Council and Corporation 86.6
12:15:45 20 acres, price to be agreed per acre. Was that correct at that time?
21 A. That is ...
22 Q. 224 Dublin County Council and Corporation lands. I think you thought you had
23 agreed a price?
24 A. Yeah, roughly 82 acres, yes, that's correct.
12:16:04 25 Q. 225 And then it says miscellaneous lots to include Vanhoole Site, all in various
26 stages of negotiation. Deposit paid in respect of one and two returnable. As
27 soon as Gilmartin has the sites effectively tide up an application for outline
28 planning permission will be submitted. Was that correct?
29 A. That's correct. That was the intention.
12:16:21 30 Q. 226 And?

12:16:22 1 A. I assume this is an internal memo of the bank.

2 Q. 227 That's correct. In case there is any doubt about this, Mr. Gilmartin?

3 A. Based on what I had told them.

4 Q. 228 Yes, that's exactly the point I'm coming to?

12:16:33 5 A. That's correct.

6 Q. 229 Information that the bank would have acquired from their meetings with you,
7 possibly Mr. Sheeran your friend, isn't that right?

8 A. That's correct, yeah.

9 Q. 230 I'm really putting it out at this stage, at this portion of it, Mr. Gilmartin.
12:16:45 10 Just to show what your situation was in early March 1989?

11 A. That's correct.

12 Q. 231 Now, if we go to 3919.
13
14 There is an area blacked out in the original and I can get up the original and
12:17:00 15 show it to your solicitors if necessary.
16
17 The area blacked out on the top says the purpose of this application is to
18 refund Gilmartin a sum of 800,000 pounds spent from his own resources to buy
19 out the interests of O'Callaghan in respect of Council designated shopping
12:17:16 20 centre adjacent to Neilstown Clondalkin.

21 A. Yeah I assume that that is in line with the application I made to the bank.

22 Q. 232 Yes, yes. Now, the document goes on to say the total cost price is three
23 million subject to planning permission. Application for which is formality.
24 Comprises 30 acres and will not now be progressed but it is necessary to
12:17:38 25 purchase the interest as a submission for planning for this site would have had
26 an adverse effect on the new proposed development. It is intended to let this
27 contract with the corporation lapse if Gilmartin gets planning permission on
28 his proposed development and there will be a payment of further monies to
29 O'Callaghan. If he is unsuccessful in his planning application O'Callaghan has
12:17:56 30 an independent option to repurchase the Neilstown/Clondalkin site for 800,000

12:18:02 1 and a reactive that that particular development.

2

3

Sorry. And re-activate that particular development.

4

12:18:09 5 You will therefore observe that most of the monies expended by Mr. Gilmartin to

6

date by way of deposits are refundable and his only real cost is the interest

7

charge. This is adequately covered by his interest income in his Sterling

8

deposits in IBI. And then it deals with the security and exchange control

9

regulations.

12:18:28 10

11 Now, it's the remainder of this document I wish to put to you, Mr. Gilmartin

12 and ask you some questions about

13 A. Yeah.

14 Q. 233 Because as you have indicated, this is information that you would have provided

12:18:39 15 to the bank, isn't that right? And it goes on to say under the heading

16 'progress of development to date'.

17

18 Initially Gilmartin met tremendous opposition from the planners and the

19 corporation officials to his proposals, is that correct, Mr. Gilmartin? Did

12:18:53 20 you meet tremendous opposition to your proposals and from the planners and the

21 corporation officials?

22 A. For Quarryvale?

23 Q. 234 Yes.

24 A. I'm trying to reflect on that particular thing. I met fierce opposition from

12:19:27 25 people who, as I seen it, had -- were -- had ulterior motives for kicking up a

26 fuss, such as Redmond, Lawlor, and people like that.

27

28 Dublin Corporation pointed out that the Neilstown site was zoned as the town

29 centre. And until that had been altered by the councillors or they had voted

12:19:57 30 on it, that they could not support the Quarryvale site.

- 12:20:04 1 Q. 235 In other words, the officials --
- 2 A. They had no power.
- 3 Q. 236 Against the councillors --
- 4 A. The Neilstown site had been part of the original Dublin plan. And until that
- 12:20:16 5 failed or should I say the Council decided to do otherwise, they could not
- 6 support the Quarryvale site.
- 7 Q. 237 Now --
- 8 A. And the planners was of the same view, the same view. There was nothing
- 9 that -- it was pointless in me talking to planners or anybody else until
- 12:20:41 10 Quarryvale was zoned for town centre development.
- 11 Q. 238 Yes. It goes on to say that you had a variety of meetings with all of the
- 12 relevant Council corporation and planning officials and it was now making
- 13 considerable progress. It goes on to say he had met McSharry while he was
- 14 Minister for Finance and P Flynn, current Minister for the Environment and also
- 12:21:00 15 B Ahern, Minister for Labour. Was that information you had conveyed?
- 16 A. That would be information I had conveyed to the bank, yes.
- 17 Q. 239 It is my understanding he has their complete support and they have intervened
- 18 on several occasions to clear obstacles for him. He has apparently the current
- 19 Government's political support at the highest level?
- 12:21:20 20 A. That's correct.
- 21 Q. 240 Is that something you would have said at that time?
- 22 A. That was the impression given to me by various Ministers and others that they
- 23 all came to the conclusion that Quarryvale was the only site.
- 24 Q. 241 You identify three Ministers there?
- 12:21:35 25 A. For that area.
- 26 Q. 242 Now, you say there that you had their complete support and that they had
- 27 intervened on several occasions to clear obstacles for you. Can I ask you, Mr.
- 28 Gilmartin, as of March 1989 what obstacles had you come across and what
- 29 intervention are they referring to?
- 12:21:53 30 A. Well it's not intervention that I asked for. I was told that Mr. Haughey and

12:22:01 1 others called a meeting with Dublin planners or Dublin County Council to make
2 sure that this investment was brought in and that all roadblocks would be
3 removed.

4 Q. 243 Yes. We know from Quarryvale I that there were two meetings between the
12:22:18 5 Council and -- between the Taoiseach and the managers, one in September 1988
6 and one in early 1989?

7 A. Yes, I was -- that was a reaction to what I was told about those meetings.

8 Q. 244 Yes. And what -- what obstacles had you come upon at that stage?

9 A. Well, the obstacles that started, started with the land purchase being
12:22:48 10 interfered with by George Redmond and as I understood it, Mr. Lawlor.

11 Q. 245 And what in -- who -- what intervention had any Government Minister made in
12 relation to that obstacle at that stage, Mr. Gilmartin?

13 A. Well just from the Sean Haughey report. Because I called Sean Haughey when
14 Redmond started messing up meetings I had arranged and bringing people over
12:23:12 15 from England and Belfast and elsewhere. And when we'd arrive for the meeting.
16 One particular meeting, Redmond told us there was no meeting. Despite the fact
17 that the roads engineers and that had been waiting in the board room for us.

18 Q. 246 Yes but -- if that's an obstacle --

19 A. These were the kind of games that was going on.

12:23:33 20 Q. 247 What had the Ministers done, for example, in relation to that Redmond meeting
21 that was cancelled?

22 A. Well, it -- Mr. Haughey thought something should be done about this.

23 Q. 248 Mr. Sean Haughey wasn't a politician. What it says here Mr. Gilmartin is that
24 the politicians had interfered -- intervened on several occasions to clear
12:23:57 25 obstacles for you.

26 A. Yeah, Mr. Sean Haughey was Counsel official. He was the brother of the then
27 Taoiseach, Mr. Charles Haughey. And he took my, the complaints about Redmond
28 and Lawlor and the carry on that was going on to Mr. Flynn, as I understand it.
29 Well Mr. Feeley first who was the then city Manager. And in turn they took it
12:24:24 30 to Mr. Flynn and others.

- 12:24:28 1 Q. 249 So you believed --
- 2 A. And I did complain to Mr. Ahern, Mr. Flynn and others about some of the dirty
3 tricks that was going on.
- 4 Q. 250 But I didn't understand you to have complained by the 3rd of March 1989, Mr.
12:24:42 5 Gilmartin. This is very close to what had been going on?
- 6 A. Yeah.
- 7 Q. 251 You hadn't yet been contacted by the police, isn't that right? Your first
8 contact was on the Saturday 4th of March when you returned to Luton, isn't that
9 right?
- 12:24:53 10 A. It was, I think, connected with the Fraud Squad, but that was on foot of
11 Mr. Haughey and.
- 12 Q. 252 Mr. Sean Haughey, Council officials ...
- 13 A. Yeah, he had taken some action to curb what was going know on.
- 14 Q. 253 But what political intervention had gone on in relation to any of that, Mr.
12:25:16 15 Gilmartin, as of March, early March 1989?
- 16 A. Well I had complained to Mr. Flynn and others about some of the -- Lawlor's
17 activities, for instance. And other tricks that was being played.
- 18 Q. 254 And was it your belief on the 3rd of March 1989 that Mr. Flynn had intervened
19 in what you would describe as Mr. Lawlor's tricks at that stage on your behalf?
- 12:25:53 20 A. I had told him about it. I'm not quite sure what action Mr. Flynn, other than
21 what he told me. That they were doing something about it.
- 22 Q. 255 Now, the issue of designation arises again at this time now not in relation to
23 Arlington but in relation to the Quarryvale site, isn't that right?
- 24 A. Yeah.
- 12:26:08 25 Q. 256 And the document goes on to record the following. To counter act any
26 opposition from Green Properties company and its proposed Blanchardstown town
27 centre, I understand, that a meeting has been arranged via representative IBI
28 to meet a representative of Standard Life who holds a significant stake in that
29 public limited company. These are very preliminary discussions with some form
12:26:35 30 of reverse take over or merger might be on the cards. He was advised, that's

12:26:40 1 you were advised, that a direction, sorry, he was advised in that direction by
2 the politicians and led to believe that if a suitable arrangement could be
3 agreed, then the Palmerstown site would be declared designated area rather than
4 Blanchardstown which is in the offing. It would make this site very valuable
12:27:00 5 and do away with any doubts re planning whatsoever.
6
7 Now, that's what's recorded there, presumably, on information supplied by you.
8 A. Well I would have been passing on whatever information I -- - this is a bank
9 document.
12:27:16 10 Q. 257 Yes?
11 A. Yeah.
12 Q. 258 Well it contains information which I think you've agreed with me would have
13 been supplied by you?
14 A. This would have been information that I gave the bank, yes.
12:27:24 15 Q. 259 Now, a whole series of information to be found in that paragraph. Firstly,
16 that the designation of Blanchardstown was in the offing, isn't that right?
17 A. That's correct.
18 Q. 260 Secondly, that were you to involve yourself in some sort of merger or reverse
19 takeover of Green Properties then your site would be designated?
12:27:47 20 A. Yeah, well I don't know if I gave that evidence to the Tribunal previously. I
21 wasn't aware but I was approached by shareholders and connected with Green
22 Property to take over Green Property.
23 Q. 261 Well?
24 A. At the time. But there's another story behind that. But at that time. I
12:28:12 25 don't think that I have told that one to the Tribunal previously.
26 Q. 262 What's suggested here in this document, Mr. Gilmartin, is that you were advised
27 by the politicians. In fact what it says is that he was advised in that
28 direction by the politicians and led to believe, presumably by the politicians,
29 that if a suitable arrangement could be agreed then the Palmerstown site would
12:28:33 30 be declared a designated area rather than Blanchardstown. What politicians?

12:28:40 1 A. I think there's a misunderstanding there. Because at no time did any
2 politician say that Quarryvale would be designated in place of Blanchardstown.
3 The only thing I had been told prior to that was that all three towns would get
4 designation.

12:29:05 5 Q. 263 Who were you told that to?
6 A. Mr. Lenihan, Mr. Flynn and others.
7 Q. 264 Other senior politicians?
8 A. That's correct.
9 Q. 265 And when were you told that?
12:29:13 10 A. To get them off the ground they were No. 1 priority. Now, there's some
11 misunderstanding, might be the way I said the thing or something but there's
12 some misunderstanding in that here.
13 Q. 266 So you're saying that you were never told that you should involve yourself in
14 some sort of a reverse take over with Green Property?
12:29:40 15 A. Not by any politician. I was approached by people connected with James Capel.
16 Q. 267 Yes, this is at a later stage in relation to Green, is that right?
17 A. That's correct, yeah.
18 Q. 268 But we're now back in February -- sorry March 1989. And it is here recorded
19 that the -- it was in the offing that Blanchardstown would be designated but
12:30:05 20 that if you were to involve yourself in Green Properties that you might in fact
21 be able to get the designation transferred to your site in Quarryvale, isn't
22 that right?
23 A. No, I think there's a misunderstanding there. That was -- as I remember it,
24 there's some misunderstanding on that document because that was never on the
12:30:31 25 cards at any time or off it.
26 Q. 269 What wasn't on the cards, sorry?
27 A. That the designation from Blanchardstown would be transferred to my site. I
28 don't remember at any time that. I'm just being quite -- I'm relying on my
29 memory from twenty years ago. But I do believe that there's a misunderstanding
12:31:00 30 in that document.

12:31:02 1 Q. 270 Ms. Dillon asked me to clarify this. And I should clarify with you. When I'm
2 referring to designation, Mr. Gilmartin. I'm referring to tax designation as
3 opposed to having the site designated?
4 A. Yeah, I understood that.

12:31:15 5 Q. 271 Town centre, which would be a zoning designation?
6 A. No, no, no, Blanchardstown was already zoned.
7 Q. 272 That's correct?
8 A. And it was zoned for the purpose.
9 Q. 273 That's correct?
12:31:23 10 A. And so was Neilstown, as was Tallaght.
11 Q. 274 Yes?
12 A. Were already the three proposed Western towns. So I do understand the
13 difference between the zoning.
14 Q. 275 Yes?
12:31:35 15 A. And the tax designation.
16 Q. 276 I think on the last occasion you accepted and we all got confused and the
17 phrases might be interchangeable that when we're talking about zoning we may be
18 talking about designation and when we are talking about designation we may be
19 talking about urban renewal?
12:31:58 20 A. Well I've a bad habit of probably saying the wrong
21 Q. 277 I'm not criticising?
22 A. Occasionally the wrong title should I say.
23 Q. 278 I'm only trying to clarify the situation Mr. Gilmartin. That's all. I'm not
24 trying to confuse you. I'm not criticising you. I'm just trying to clarify
12:32:07 25 the issue?
26 A. Yeah.
27 Q. 279 Here we're talking about tax designation not zoning?
28 A. I was told that all three towns would get tax designation to get them off the
29 ground. At that time they were desperate to get something going in the three
12:32:20 30 Western towns.

- 12:32:21 1 Q. 280 But there is no doubt, Mr. Gilmartin, but you were talking about designation
2 with senior Government Ministers and had been talking about designation in
3 respect, initially, in the Arlington site and now in relation to the Quarryvale
4 site, isn't that right?
- 12:32:36 5 A. It was a generalised -- it was more in general because I would not be talking
6 about designation. There was no chance of any designation as I was told by
7 Mr. Flynn, number one until he seen bricks going on the ground. I brought up
8 the question of tax designation but I also made it clear that if it needed it,
9 it wasn't worth building on.
- 12:33:06 10 Q. 281 Now, the document goes on to say that he regrets this application. It is full
11 of many imponderables, the kernel of the proposal is very safe from the bank's
12 point of view in that this additional exposure is being secured on a
13 back-to-back basis from a tax point of view it is important point that his
14 funds are kept clear of this development and he is having tax advice from Pat
12:33:28 15 Gleeson IBI, their recommended expert. The future of this site, this entire
16 development should be crystallised within six months. All going well Gilmartin
17 stands to loose only the carrying cost of the funds borrowed and expenses in
18 preparing his plans.
19
- 12:33:44 20 Now, can I just deal first of all with the suggestion there that the entire
21 development would be crystallised within six months.
22
- 23 Did you believe in March 1989 that your assembly of the site would be
24 crystallised within six months?
- 12:34:00 25 A. I did, yes.
- 26 Q. 282 Now, the site did not have any tax designation, isn't that right?
- 27 A. That's correct.
- 28 Q. 283 You hadn't fully completed the assembly of the site?
- 29 A. Well mostly, yes.
- 12:34:11 30 Q. 284 And it had no zoning?

- 12:34:14 1 A. No, it had no zoning.
- 2 Q. 285 And no prospect of a medium zoning?
- 3 A. No, the only thing was I was assured by Ministers and that, that under the
- 4 review of the Dublin plan, which was taking place in 1988, that this site would
- 12:34:31 5 be adopted.
- 6 Q. 286 Yes. The Ministers were giving you that assurance but the plan was being
- 7 reviewed by the councillors, isn't that right?
- 8 A. The councillors, yes.
- 9 Q. 287 And that, in time you weren't to know this in March '89. But in fact that plan
- 12:34:45 10 wasn't ultimately confirmed until the 10th of December 1993, four years later,
- 11 over four years later?
- 12 A. Yes, I -- as I understood what was going on, which I think is in some later
- 13 evidence, there was a deliberate stalling of the review of the Dublin plan
- 14 deliberately.
- 12:35:08 15 Q. 288 And you think the Dublin plan was deliberately stalled in relation -- so that
- 16 you would loose out in relation to this site?
- 17 A. That's correct. As I understand it and as was actually rammed down me throat
- 18 on a few times. There was councillors being paid to make certain it didn't
- 19 happen.
- 12:35:33 20 Q. 289 Well if we just take the situation Mr. Gilmartin, in March 1989.
- 21
- 22 Irrespective of what stage the plan was at, at that stage. And looking at the
- 23 six month time frame that's here referred to and which you felt was sufficient
- 24 for you to crystallise your site.
- 12:35:52 25
- 26 The plan, a Draft Plan would have to be published. Representations would have
- 27 to be received in relation to the published plan. They would have to be
- 28 considered. A revised plan would have to be published
- 29 A. Yes, I understood all of that
- 12:36:08 30 Q. 290 All of that would have to be considered and then a plan confirmed?

- 12:36:11 1 A. Yes.
- 2 Q. 291 Even taking the time limits involved, never mind the 28 maps and the entire
3 county which was involved. It would be impossible irrespective on any view of
4 the matter. It would be impossible for that to have been completed within six
12:36:27 5 months of March 1989?
- 6 A. No, the only thing necessary to attract investment of funds was to have it
7 zoned.
- 8 Q. 292 But the zoning, Mr. Gilmartin, can only take place when the entire plan was
9 reviewed, isn't that right?
- 12:36:43 10 A. With the review of the plan.
- 11 Q. 293 Yes. And that was going to take time . In fact, as it transpired it went on
12 from 1987 to December 1993. Now, admittedly, that was a long time. But you
13 were expecting in March 1989 that it would all be completed within six months,
14 isn't that right?
- 12:37:00 15 A. That was the indication given to me by the Ministers because it was number one
16 priority to, the three Western towns was number one priority and they were
17 number one on the agenda but they weren't. They were changed. Because they
18 reviewed the north side. They reviewed the south side. They reviewed various
19 other sites but they did never review the west side.
- 12:37:23 20 Q. 294 Well, just in --
- 21 A. In my -- in my involvement.
- 22 Q. 295 Yes. Just in relation to that, Mr. Gilmartin. There were 28 maps for the
23 entire county, which were the subject of review?
- 24 A. Yeah.
- 12:37:35 25 Q. 296 Isn't that right? And the 28 revised maps went on display at one time and
26 representations were received between September '91 and December '91 in
27 relation to those 28 maps, including map 16 which was the Quarryvale site?
- 28 A. I admit that I'm totally ignorant of what the procedure was other than what I
29 was told.
- 12:37:57 30 Q. 297 Yes. Could it be, Mr. Gilmartin, that you over relied on what you were being

12:38:01 1 told by, you say the senior Ministers?

2 A. As I said earlier, I seemed to be a little bit naive dealing in this

3 environment.

4 Q. 298 Well, just to push that a little bit Mr. Gilmartin. You were advised by

12:38:17 5 planners and by experts, isn't that right?

6 A. No, sorry. I was not advised by planners.

7 Q. 299 Well --

8 A. The only advice --

9 Q. 300 You had available to you --

12:38:26 10 A. The only advice planners gave to me was until Quarryvale was rezoned they

11 couldn't, it was pointless in me talking to them.

12 Q. 301 Okay.

13 A. The planners had nothing whatsoever to do with this. I was told by

14 politicians.

12:38:43 15 Q. 302 Okay?

16 A. And various councillors that the review of the Dublin plan, the Western towns

17 was number one in priority at that time. And since mostly for 15 years before

18 that it had been a failure that the review of the Dublin plan, the general

19 review was taking place in 1988.

12:39:10 20 Q. 303 Yes?

21 A. Now, I was told that this would be done within six months.

22 Q. 304 But Mr. Gilmartin, just looking at that. You had access to the planners. And

23 when I say planners. The planners within the corporation or the Council, isn't

24 that right?

12:39:25 25 A. Well the corporation people and certain councillors but not very --

26 Q. 305 You had been involved in other developments?

27 A. Yeah.

28 Q. 306 You had available to you, as was your right, independent professional advisors,

29 isn't that right?

12:39:41 30 A. That's correct.

12:39:42 1 Q. 307 And you had money?
2 A. Ciaran O'Malley, planning consultant.
3 Q. 308 Yes. But how can you say that you were naive or ignorant of the -- of what was
4 required when you had all of that independent information available to you and
12:39:56 5 you knew that you required a review of the plan to take place and you knew and
6 could have known what was involved, Mr. Gilmartin?
7 A. I was thinking of what the procedures were here. I had no, no real knowledge
8 of what the procedures, other than what I was told. Now, the point I'm making
9 is that I went or relied on what I was told; that the review of the Dublin plan
12:40:25 10 for the Western town, particularly Clondalkin, would be done within a six-month
11 period. Now, that was political talk.
12 Q. 309 But that was talk at a time when you could have had and probably did have an
13 independent planner advising you, isn't that right?
14 A. That's correct.
12:40:46 15 Q. 310 Now, and of course you had Mr. Lawlor, who had considerable knowledge?
16 A. Well Mr. O'Malley. Sorry, let me come back to the independent. Kieran
17 O'Malley was my advisor.
18 Q. 311 Yes?
19 A. And he was always very conservative in his response to any query I had.
12:41:08 20 Probably I would have to say probably more realistic than my expectations were.
21 Q. 312 Well would it be fair to put it this I would, Mr. Gilmartin, that Mr. O'Malley
22 understood and knew what was technically involved in order to achieve a
23 rezoning?
24 A. Oh, I've no doubt he did.
12:41:26 25 Q. 313 Whereas you believed that because of perhaps your political contacts from what
26 was being told to you at senior Government level, that you would get some sort
27 of a fast track zoning?
28 A. Well putting it through my eyes at that time was I couldn't see why not.
29 Q. 314 Yes?
12:41:42 30 A. Why it shouldn't be done.

- 12:41:45 1 Q. 315 Now, I think you went on to have then meetings in April 1989 with Mr. Flynn,
2 evidence has been given in relation to those. One of those meetings I think
3 related to a meeting with Mr. Flynn attended by Mr. Dadley, isn't that right?
4 I think it might have been?
- 12:42:06 5 A. That's right. That was in connection with Bachelor's Walk.
- 6 Q. 316 Bachelor's Walk?
- 7 A. Yeah.
- 8 Q. 317 And I think you had a meeting with Mr. Flynn on the 10th of May 1989. At
9 15264, please.
- 12:42:18 10
11 With Merrill Lynch, isn't that right? Leinster House. And again, we see that
12 meeting at seven o'clock meeting entered in Mr. Flynn's diary, isn't that
13 right? Do you see bottom right hand corner?
- 14 A. Yes, I had a meeting arranged with Mr. Flynn for the 10th of May. I don't
15 remember having a meeting where Merrill Lynch was involved.
- 12:42:41 16 Q. 318 All right.
- 17 A. I think that that's probably a meeting Mr. Flynn had with someone else.
- 18 Q. 319 Okay. And I think that you had an entry in a diary and not necessarily for the
19 date recorded in the diary. If we could have 14806.
- 12:43:02 20
21 It's an entry on the diary for the 16th of May 1989. And you've given evidence
22 on this. I don't propose to go into it in detail at this stage Mr. Gilmartin,
23 where you have an entry, ring Mr. Flynn 4:15 p.m. degree of support possible
24 method of applying for planning and time I think the possibility of designating
12:43:24 25 the site tax incentives.
- 26
27 That's in your handwriting, isn't that right?
- 28 A. That's correct, yes. That followed a phone call I think I had from a Mr. Gerry
29 Rice to ring Mr. Flynn.
- 12:43:38 30 Q. 320 And I think you did ultimately come to meet with Mr. Flynn in 1989. You say in

12:43:44 1 the customs house. And at that meeting I think you have given evidence that
2 you handed over to Mr. Flynn a cheque made payable, sorry, with payee left
3 blank in the sum of 50,000 pounds?
4 A. I'm not quite sure of the dates there because I thought the payment of the
12:44:04 5 cheque was 1990. But I'm not sure.
6 Q. 321 No, it's 1989.
7
8 Could I have 9037, please.
9 A. The date would be on the cheque anyway.
12:44:14 10 Q. 322 The cheque appears to have been negotiated in June 1989.
11 A. That's correct.
12 Q. 323 Now, I think you will see that that cheque appears to be a cheque made payable
13 to cash, isn't that right?
14 A. I didn't make it payable to cash. That's not my writing.
12:44:45 15 Q. 324 I see.
16 A. I was being -- there was certain monies being demanded of me by various people
17 etc. So I was told I'd have to give the party a donation. So I gave the party
18 a donation.
19 Q. 325 This cheque --
12:45:09 20 A. And I asked whom -- I heard of a company called Taca or some other company that
21 Fianna Fail used to raise money. So I asked Mr. Flynn to whom do I make it
22 payable and he said leave it. So I wrote the cheque out for 50,000, signed it
23 and dated it and that was it.
24 Q. 326 Now, Mr. Gilmartin. The cheque on the face of it appears not to have been a
12:45:35 25 standard cheque on your account, isn't that right?
26 A. That's correct.
27 Q. 327 Would you tell the Tribunal how that came about?
28 A. By explanation of that. I was in the corporation offices. I had a meeting
29 with Mr. McLoone, there was interference in some of the, by Lawlor, Redmond and
12:45:56 30 various other people in what I was trying to achieve. And I discussed with

12:46:04 1 Mr. McLoone that money was being demanded of me. And I said that the only
2 thing I would do was to give the party a donation. Legal, but I would not pay
3 any corrupt payments. McLoone's response to me at that time was I'd give the
4 so and so's nothing if I were you. So I said well I have to do something about
12:46:25 5 it. And I had it arranged, a meeting with Mr. Flynn, who was treasurer, I
6 believe, or joint treasurer of Fianna Fail at the time, that evening. I left
7 Mr. McLoone's office late. I didn't have time to go to Blanchardstown, I
8 didn't have a cheque book with me. So I rung Paul Sheeran in Blanchardstown
9 and he arranged for me to pick up a cheque in College Green on my way. He rang
12:46:57 10 College Green. So that cheque was arranged by Paul Sheeran from college green
11 for me to pick that cheque up. So that's why it's different from my actual
12 account.

13 Q. 328 Now, this is a cheque Mr. Gilmartin, handed over by you at a time when you were
14 advising the bank that you had political support at the highest level from the
12:47:24 15 current Government, isn't that right?

16 A. That's correct. As I understood it, the Government were all for this
17 investment.

18 Q. 329 And at a time when the issue of designation on your site was being considered,
19 isn't that right?

12:47:42 20 A. That was one of the possibilities, yes.

21 Q. 330 And the Tribunal asked you, Mr. Gilmartin, in relation to that issue of
22 designation. And I think if we could have a look at 4,000, please.

23
24 In September of that year I think you were seeking to raise monies with Irish
12:47:59 25 Intercontinental Bank, isn't that right?

26 A. That's correct.

27 Q. 331 And we just see what is recorded in the bank record at this time, Mr.
28 Gilmartin. Again, I presume it's information given by you to the bank. It
29 says "following from earlier contact I spoke with Tom Gilmartin of the above
12:48:15 30 for an update. Tom is in the process of acquiring a 178 acre site at the

12:48:20 1 junction of the new Western Parkway and Galway Road, Palmerstown area of
2 Dublin. The site is currently zoned commercial/industrial and inter alia he
3 plans a major shopping centre. However, critical to Tom's plan is obtaining
4 designated status for the site. And in this regard, Tom advised that he was
12:48:38 5 meeting with the Government Minister responsible today to further his claim.
6 He is absolutely confident that designation will be forthcoming given the
7 prominence of this site and its location, assurances already received. The
8 entire block of land has been valued by Gunnes at 17 million. As I understand
9 it Tom requires no more than five million borrowings on the transaction.
12:49:01 10 Actual costs will total some 12 million Irish pounds. Tom advised that in line
11 with my suggestions, he was in the process of preparing a formal submission to
12 us using his accountants Touche Roche & Co. London. On receipt of this
13 information which he expects to have within a matter of days he will revert to
14 me in a follow-up to his proposal. Tom's local advisors include Noel Corcoran,
12:49:23 15 tax consultant and Pat Harrington of PV Gunne."
16
17 So, Mr. Gilmartin, you were meeting the Minister responsible for tax
18 designation to further your claim in September 1989, isn't that right?
19 A. I was meeting the Ministers for the Environment, I don't know who is
12:49:41 20 responsible for tax designation, whether it's the Minister for finance or -- I
21 was meeting the Minister for the Environment at the time.
22 Q. 332 And this document appears to suggest that you were meeting him to further your
23 claim for designation, which the document records --
24 A. To discuss it yes --
12:49:58 25 Q. 333 You were saying was vital to your site?
26 A. Is the date on that --
27 Q. 334 Is the 28th of September 1989.
28 A. 28th of September 1989.
29 Q. 335 And in fact, I think on that very date?
12:50:11 30 A. Yeah.

- 12:50:11 1 Q. 336 You did have a meeting with a number of Government Ministers, isn't that right?
- 2 A. That's correct.
- 3 Q. 337 Including a meeting, it should be said, held in the company of Mr.--
- 4 representatives of Arlington, isn't that right?
- 12:50:28 5 A. Yes, we had a meeting in the -- across the road from the Dail, in ... is it the
- 6 industrial and commerce building? I'm not quite sure. It's the other side of
- 7 Kildare Street as far as I know, we had a meeting. That meeting was arranged
- 8 with Mr. Brennan, Mr. Flynn, and Mr. Ahern.
- 9 Q. 338 And evidence has been given in relation to that meeting, isn't that right?
- 12:50:57 10 A. That's correct.
- 11 Q. 339 And I think --
- 12 A. Now, Mr. Ahern couldn't make that meeting.
- 13 Q. 340 That's correct?
- 14 A. But it was rearranged for three o'clock that afternoon.
- 12:51:04 15 Q. 341 And you met Mr. Ahern I think in Fagan's?
- 16 A. Yeah.
- 17 Q. 342 At three o'clock that afternoon?
- 18 A. That afternoon with Mr. ...
- 19 Q. 343 I think initially you thought that you hadn't met him on the 28th of September.
- 12:51:15 20 I think you wrote to the Tribunal and your recollection now is that you did
- 21 meet him on the 28th of September, isn't that right?
- 22 A. That's right. He was to meet us with Mr. Flynn and Mr. Brennan in the morning
- 23 at ten o'clock and Arlington, Mr. Mould, Mr. Price and Mr. Dudley flew over for
- 24 that meeting but Mr. Ahern wasn't present. So he apologised and rearranged the
- 12:51:42 25 meeting for three that afternoon.
- 26 Q. 344 If I could have 14290.
- 27
- 28 Originally advised 21st of September 1989. Isn't that right?
- 29 A. Yes.
- 12:52:00 30 Q. 345 I think that you subsequently revised that and admitted that the meeting was to

- 12:52:03 1 take place on the 28th of September 1989, isn't that right?
- 2 A. That's correct -- the meeting was actually on the 28th.
- 3 Q. 346 Now, taking those Ministers and that meeting, Mr. Gilmartin, and taking it back
- 4 to that memorandum of Irish intercontinental Bank which I have on screen at
- 12:52:25 5 4000.
- 6
- 7 Which of those Government Ministers were you meeting to further your claim for
- 8 tax designation which you felt was crucial to your plans at that time?
- 9 A. I didn't say it was crucial to my plans. I never said --
- 12:52:35 10 Q. 347 Critical to Tom's plan is obtaining --
- 11 A. That's their words not mine.
- 12 Q. 348 So you dispute that you would have told them that designation was critical?
- 13 A. At no time did I consider designation critical to Quarryvale site. It was one
- 14 of the best sites in Ireland. It did not need designation.
- 12:52:53 15 Q. 349 Yes why --
- 16 A. It would have been a huge bonus. It would have been a huge bonus if it was
- 17 granted for incoming occupiers.
- 18 Q. 350 It would have double the value of the site, isn't that right?
- 19 A. No it would not. It was more of benefit to the occupiers than it was to the
- 12:53:11 20 developer I would say.
- 21 Q. 351 Well a site that's more attractive to occupiers is obviously of more value to
- 22 the developer surely?
- 23 A. Designation doesn't make a site, make the site actual -- actually, it's the
- 24 quality of the tenants who wants to go in on that site.
- 12:53:35 25 Q. 352 So you say that you did not tell --
- 26 A. Designation is a bonus but it does not -- is like Neilstown. You could give it
- 27 designation but it still wouldn't attract the right quality of tenants.
- 28 Q. 353 Just getting back to the memorandum, Mr. Gilmartin?
- 29 A. It's the quality of tenants. The covenants that makes the value of the site.
- 12:53:56 30 Q. 354 If I go back to the memorandum then. You take issue with the phrase however

12:54:00 1 'critical to Tom's plan is obtaining designated status'?

2 A. That's his not mine.

3 Q. 355 You say that's his interpretation of matters, not yours?

4 A. Yeah.

12:54:10 5 Q. 356 That designation was never critical?

6 A. I said openly in public. And I'm sure if they are still alive or around. Even

7 at our launch, or presentation in the Berkley Court --

8 Q. 357 That was in July 1990 I think?

9 A. I always felt if designation was necessary the site wasn't worth building on.

12:54:30 10 Q. 358 I suggest to you Mr. Gilmartin, that the documents will show that you were

11 anxious to get designation on the site at this time and that in fact at one

12 stage you were considering getting Customs House Docks enterprise status on the

13 site.

14 A. There was several options mentioned to me as the possibility of getting these

12:54:52 15 off the ground. They were discussed. One of them was enterprise zoned status.

16 One of them was designation status. One of them was Section 4, I think it was.

17 There was -- these were listed out to me. They were discussed and I did

18 discuss it. I think, I'm not quite sure 100 percent, but with Mr. Flynn and I

19 am certain in a meeting -- it wasn't a prearranged meeting but a meeting with

12:55:25 20 Mr. Lenihan in the Shelbourne Hotel. And that the various options open to

21 bring this investment in at the time, to bring this investment in, these were

22 for the items that was listed to me. Now, I asked Mr. Ciaran O'Malley about

23 what these were all about. So he wrote out a document or listing what they

24 were with an explanation of what they were, what enterprise zoned status meant.

12:56:07 25 What designation meant etc. And I think you have that document.

26 Q. 359 Yes and I'm going to come to it?

27 A. But it was not of any great request on my behalf.

28 Q. 360 So you take issue with the reference there to the fact that designation was

29 crucial to your plans?

12:56:28 30 A. No.

- 12:56:28 1 Q. 361 Do you --
- 2 A. Designation was never crucial.
- 3 Q. 362 Sorry?
- 4 A. To Quarryvale site.
- 12:56:33 5 Q. 363 Critical is the word that's used?
- 6 A. That's their words not mine.
- 7 Q. 364 Again, you take issue with that that you never told Irish intercontinental bank
- 8 that designation was critical to your plans?
- 9 A. It was unlikely that I would go into a bank to encourage them to lend me money
- 12:56:50 10 saying that, you know, it had to have designation to be any good. The site was
- 11 perfect.
- 12 Q. 365 Do you take issue with the reference to the fact that you were meeting the
- 13 Government Minister responsible on that very day to further your claim in that
- 14 regard?
- 12:57:04 15 A. That's his words.
- 16 Q. 366 Again, did you tell him that?
- 17 A. To discuss it. And I think there was a note there that these were bandied
- 18 around to me that they were on, in the offing so ...
- 19 Q. 367 Did you discuss designation with a Government Minister on the 28th of September
- 12:57:22 20 1989 in relation to the Quarryvale site?
- 21 A. I'm quite sure I possibly did, yes.
- 22 Q. 368 And you met three Ministers on that date, that's Mr. Flynn, Mr. Brennan and
- 23 Mr. Ahern?
- 24 A. Mr. Ahern.
- 12:57:36 25 Q. 369 Which of the three did you discuss it with or did you discuss it with all
- 26 three?
- 27 A. If I remember correctly, it would have been Mr. Flynn. He was the Minister who
- 28 was ...
- 29 Q. 370 For the environment?
- 12:57:48 30 A. For the environment, yes.

12:57:51 1 Q. 371 I should say, at 14242.

2

3 In relation to Mr. Ahern he says "in regard to the meeting on the 28th of

4 September 1989 I made the point and my remarks to the Dail in January 1989 and

12:58:05 5 my meeting with Mr. Gilmartin took place on the same date as a separate meeting

6 between Mr. Flynn, the then Minister for the Environment, Seamus Brennan and

7 the then Minister for Tourism and Transport and a delegation from Arlington

8 including Mr. Gilmartin. This meeting took place in the conference room in

9 Leinster House and was also attended by Jimmy Farrelly, who was then a senior

12:58:22 10 civil servant in the Department of the Environment. I expect Mr Farrelly's

11 minute of this meeting has been forwarded to the Tribunal. I thus assume that

12 my meeting with Mr. Gilmartin occurred in connection with this meeting and to

13 enable him to brief me on the developments.

14

12:58:37 15 And I think your evidence now is that you didn't discuss designation of this

16 site with either Mr. Brennan or Mr. Ahern --

17 A. It was more to do with Arlington.

18 Q. 372 More to do with Arlington. But you did you say discuss it with Mr. Flynn on

19 this occasion?

12:58:50 20 A. Yeah. I would have brought up Quarryvale but the actual meeting, because

21 Mr. Dadley was with me, on that day with Mr. Ahern was connected with

22 Bachelor's Walk.

23 Q. 373 Yes.

24

12:59:02 25 CHAIRMAN: All right. Mr. Quinn, it's nearly one o'clock. So we'll adjourn

26 until two o'clock.

27

28 MR. QUINN: Yes.

29

12:59:09 30

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THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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

13:00:39 1
2
3
4
14:11:58 5 CHAIRMAN: Just before we begin.
6
7 I should have said this morning. I meant to say that the Tribunal will not be
8 sitting on Tuesday next. So it will be sitting next week on Wednesday,
9 Thursday and Friday.
14:12:18 10
11 MR. QUINN: Thank you, Mr. Gilmartin.
12
13 Q. 374 Mr. Gilmartin, before lunch we were dealing with your meetings with Mr. Flynn.
14 And I was dealing with the concept and going on to deal with the concept of
14:12:37 15 Customs House Docks types designation for your site.
16
17 And if I could have 4010.
18
19 On the 7th of December 1989 Mr. Ciaran O'Malley, who was your planner. And we
14:12:49 20 referred to him earlier, wrote to you enclosing a copy of the Urban Renewal Act
21 which regulated the Customs House Docks Development Authority.
22
23 And you will see there that he was advising you that no planning application
24 was required in relation to that site. And he raises the issue of could the
14:13:06 25 Minister set up another authority for your area to do more or less what the
26 CHDDA did in the Docks or what. If not, planning still be required.
27
28 And I think you have advised the Tribunal that, I think, it was in May 1988 a
29 decision had been made too that you wouldn't go a material contravention route
14:13:27 30 and that only left over the concept of either a rezoning which was unlikely to

14:13:32 1 take place in short-term or a planning application which might result in an
2 appeal to An Bord Pleanala where permission might be granted. They were the
3 options that had been discussed at that stage
4 A. That's correct, yes.

14:13:44 5 Q. 375 But now we're in November 1989. And I think there is a further option namely
6 that the Government might designate the site in the way it had designated the
7 Customs House Docks and that would have obviated the necessity for a planning
8 application?
9 A. Yes I understood that, it was enterprise zoning.

14:14:02 10 Q. 376 Enterprise zoning?
11 A. Yeah.
12 Q. 377 And Mr. O'Malley wrote to you on the 7th of November bringing that to your
13 attention.
14

14:14:09 15 And if we look at 14169. On the very next day I think you had a meeting or may
16 have had a meeting with Minister Flynn, isn't that right?
17 A. That's correct.

18 Q. 378 Can I ask you, Mr. Gilmartin. Did you discuss with the Minister the prospect
19 of having this site designated an enterprise area or an enterprise zone at that
20 meeting?
21 A. I assume I did.
22 Q. 379 Yes.
23 A. But I'll point out that it was ruled out almost.
24 Q. 380 Yes?
25 A. As an option.

14:14:38 26 Q. 381 Yes. And I think at 4013. On the 16th of November Mr. O'Malley forwarded to
27 you an extract from a publication which at 4014 dealt with the advantages of
28 the enterprise zoning, isn't that right?
29 A. That's correct.

14:15:09 30 Q. 382 And again, I think on the 21st of November 1989. If I could have 14171. You

- 14:15:09 1 had a further meeting with Mr. Flynn on Minister Flynn?
- 2 A. Yes.
- 3 Q. 383 And again, can I ask you, was the issue of enter price zoning raised with
- 4 Minister Flynn at that meeting?
- 14:15:24 5 A. I'm not too sure. I know at one of the meetings following my receipt of the
- 6 letter from Mr. O'Malley.
- 7 Q. 384 Yes. On the 7th?
- 8 A. Yeah.
- 9 Q. 385 Might have been raised at the meeting on the 8th?
- 14:15:37 10 A. But it was never an option as far as the Government were concerned.
- 11 Q. 386 Well, now --
- 12 A. It was more or less ruled out.
- 13 Q. 387 Did Minister Flynn go to the Government to see if he could get permission from
- 14 the Government to give that designation to the site?
- 14:15:55 15 A. I didn't pursue it very vigorously because it was one of the -- because of the
- 16 state of the country at the time.
- 17 Q. 388 Yes?
- 18 A. In the mid '80s.
- 19 Q. 389 Can I ask you --
- 14:16:07 20 A. It was one of the options that was suggested but it was more or less ruled out
- 21 by the Government. In number one, it would be very contentious.
- 22 Q. 390 Yes?
- 23 A. And no. 2, it would be preferential treatment to one developer over another.
- 24 And on that grounds they --
- 14:16:33 25 Q. 391 Well is it fair to say, Mr. Gilmartin, that having received the letter from
- 26 Mr. Flynn -- Mr. O'Malley, on the 7th of November, you raised it with the
- 27 Minister and at some subsequent date the Minister advised you that the
- 28 Government would not give you that status for your site.
- 29 A. That's correct.
- 14:16:52 30 Q. 392 And can I ask you --

14:16:55 1 A. It was one of the.

2 Q. 393 How soon --

3 A. It was one of the options that was presented to me.

4 Q. 394 Yes?

14:17:00 5 A. So I -- I discussed all options at the time because it was a massive scheme.

6 Q. 395 Yes. How long after you first mentioned the option to the Minister did he tell

7 you that the Government weren't prepared to give that designation to the site?

8 A. It was frowned on almost immediately.

9 Q. 396 Yes. Now, could you be mistaken in your recollection Mr. Gilmartin, in

14:17:24 10 relation to that? In other words, could you have been led to believe at some

11 stage that you would in fact get that type of designation on the site?

12 A. It was mentioned to me by -- at the moment I'm not quite sure.

13 Q. 397 Yes. Because --

14 A. In some Government circle anyway that the enterprise zoned status that was

14:17:45 15 afforded to the Docks development could be an option employed here because of

16 the extent of the scheme I was proposing.

17 Q. 398 Yes. Because if we look at 4017. This again is a document given to the

18 Tribunal from the Bank of Ireland. It appears to be a memo from a Mr. Burke to

19 a Mr. Mahony dated 30th of November 1989. It relates to the refinancing of

14:18:09 20 your retail development site in Palmerstown. And if you look to the very

21 bottom of that document, Mr. Gilmartin. It says just the last sentence "on the

22 issue of planning he states that he has assurances from within the Government

23 (Taoiseach) that the site will be granted enterprise status by early spring

24 which will obviate the need to go through the regular planning process. He has

14:18:34 25 however nothing in writing to this effect".

26

27 Now, that's -- on the 30th of November 1989 you had raised the issue with

28 Minister Flynn on the 7th of November 1989. Would you agree with me, that that

29 seems to suggest that by the 30th of November somebody had given you an

14:18:53 30 assurance that there was the prospect that this site would be given enterprise

14:18:56 1 status.

2 A. Yeah, it was one of the prospects that was stated to me. I think Mr. Lenihan

3 had stated that to get these investments that they would consider that.

4 Q. 399 And in fact, if we go forward. If we look at 4023.

14:19:11 5

6 This is a document dated the 13th of December 1989.

7

8 It's an IIB document. It relates to a credit application on behalf of

9 Barkhill. And if we just see there on the third paragraph, midway down.

14:19:27 10 "Gilmartin is confident at having the site designated as an incentive area

11 under the terms of the Urban Renewal Act 1986. We regard this as a prime real

12 estate with undoubted potential even without designation. A landbank has been

13 valued on our behalf by Lisney & Sons in the range of 12 to 16 million.

14

14:19:48 15 That records the fact that you were expecting designation on the site, isn't

16 that right?

17 A. Yeah, I had been told that the three towns, all three towns would get

18 designation.

19 Q. 400 And if we go --

14:20:03 20 A. Let me sort of correct, not correct but elaborate on that. The three towns at

21 the time were Neilstown, Tallaght, and Blanchardstown were the actual zoned

22 sites at the town -- at the time and I was not a hundred percent sure

23 whether -- the assurances given to me meant my development or Neilstown.

24 Q. 401 Yes?

14:20:29 25 A. The only positive zoning at the time was on Neilstown.

26 Q. 402 Now, in fact if we go forward a little bit to a memo created by Mr. Kaye.

27 Mr. Kaye was with Allied Irish Banks and you were also seeking facilities from

28 them at this time in relation to the site.

29

14:20:47 30 If I could have 4044.

14:20:49 1
2 This is a memo, although not dated, refers to a conversation with you in early
3 December 1989
4 A. Yeah.
14:20:56 5 Q. 403 And midway through the second paragraph. The memo records the following:
6
7 "He requires a short-term facility of six million to get the project to the
8 planning stage. He has a number of funds interested in coming in with him but
9 he wishes to wait for the site to obtain designated status before entering
10 into detailed negotiations with the funds. He also has held detailed
11 discussions with the Government and expects to be able to short circuit the
12 planning process by getting a similar planning status to the Customs House
13 Docks i.e. once the design of a project is accepted by the Government there
14 would be no planning objections entertained.
14:21:15 15
16 Were you seeking funds on the basis, Mr. Gilmartin, that you had been led to
17 believe by the Government and Minister with whom you had been speaking at this
18 stage that this site would get an enterprise status and thereby obviate the
19 necessity for either zoning or planning?
14:21:49 20 A. At the time it was being discussed the possibility of it being granted
21 enterprise zoned status.
22 Q. 404 Yes?
23 A. And so I would have passed that onto the bank. But I was not using that as a
24 lever to get money.
14:22:04 25 Q. 405 And that was your belief from November 1989 when you spoke with Minister Flynn.
26 And I suggest to you that it was also your belief into early 1990.
27
28 If we could have 4052, please.
29
14:22:17 30 There is a memo in the files of De Loitte & Touche dated the 15th of January

14:22:22 1 1990 but which refers to a meeting you had with Mr. Pittock on the 12th of
2 January 1990.

3 A. Yeah.

4 Q. 406 If you look at the document on screen. If you look at the third last
14:22:31 5 paragraph.

6

7 It records: "That because of the complexity involved in getting the
8 appropriate planning permission it is possible that special legislation will be
9 introduced to short circuit this. Also it may well be that the site would be
14:22:43 10 zoned for urban renewal relief".

11

12 Do you see that?

13 A. Yeah.

14 Q. 407 So is it fair --

14:22:51 15 A. That was based on assurances that I had from various.

16 Q. 408 Yes. But assurances that you had lobbied for this, isn't that right?

17 A. I had asked the questions, yes. There were, these options were presented to
18 me.

19 Q. 409 And among the people you lobbied was Mr. Flynn, isn't that right?

14:23:08 20 A. Mr. Flynn, that's correct.

21 Q. 410 And Mr. Flynn was the person with whom you had left the cheque for 50,000
22 pounds in June 1989, isn't that right?

23 A. That's correct.

24 Q. 411 And if we look at 3576. A statement of Mr. Sheeran?

14:23:21 25 A. Just one correction there.

26 Q. 412 Yes?

27 A. I didn't give Mr. Flynn any money whatsoever. I gave the party a donation.

28 Q. 413 Yes. I left my question neutral. I said you had left the cheque with him?

29 A. Yeah.

14:23:33 30 Q. 414 But Mr. Sheeran told the Tribunal, as you will see there, in February 2004 "in

14:23:40 1 regard to the payment of 50,000 to Pdraig Flynn I was made aware of the
2 payment to Fianna Fail. It was made known to me almost immediately the cheque
3 was issued. In whatever way it had been made clear to Mr. Gilmartin that a
4 donation to Fianna Fail party funds could possibly cause or smooth his path re
14:23:56 5 tax incentive/zoning etc."

6
7 Did you leave that cheque with Mr. Flynn in the belief that by making that
8 payment your path for zoning or tax incentives for this site would be smoothed
9 or relieved in some way, Mr. Gilmartin?

14:24:15 10 A. No, I didn't believe that at all. What I wanted smoothed was the interference
11 from certain elements that was demanding money of me and who I would not pay.

12 Q. 415 And I think also --

13 A. And it was any question of smoothing the path was to give me a level playing
14 field.

14:24:39 15 Q. 416 Yes. And also you will correct, I presume, Mr. Sheeran's statement there that
16 when he says it was made known to me almost immediately the cheque was issued.
17 Because I think your evidence this morning to the Tribunal was that it was
18 Mr. Sheeran who organised for that cheque to be issued to you?

19 A. That's correct, because I didn't have me cheque book with me on the day.

14:24:59 20 Q. 417 Yes?

21 A. And I was in the corporation offices on the Quays and I didn't have time to go
22 to Blanchardstown. So I decided to give Fianna Fail a donation.

23 Q. 418 Now, you have provided a additional statements which are contained in the brief
24 in relation to this matter.

14:25:21 25
26 And if I just take the statement which is at 14641 of the brief dated 28th of
27 October 2005.

28

29 And it relates to these lands.

14:25:31 30

14:25:31 1 You say that "I was advised by my planning consultant Kieran O'Malley that the
2 following methods would be used to bring about the rezoning.

3
4 1. The land would be designated enterprise zone similar to the Customs House
14:25:42 5 Docks area. While this would have proved extremely useful to the project, it
6 became clear at an early stage that this redesignation was unlikely to happen
7 as there would be too much controversy associated with such a status being
8 given to lands which were to be developed by a private developer. It such
9 status was granted to lands owned by a private developer it was thought that
10 there would be a flood of similar requests from other private developers.

11
12 But at one stage you felt or you were in a position to advise one of the banks
13 that in fact your site was going to get that status, isn't that right?

14 A. Yes, well a number of politicians was gung ho about getting this development in
14:26:19 15 at the time. We were talking about the mid '80s. 1987, '88. And at that time
16 Ireland was economically in a pretty desperate state. And they wanted those
17 developments to get off the ground. And that was one of the suggestions made
18 to me, that this was a possibility. But it was ruled out on the grounds that
19 it would be preferential treatment because there was other developers and would
14:26:56 20 probably be very controversial.

21 Q. 419 Had this designated status been given to your site, Mr. Gilmartin, in late '89
22 early 1990, the agreement that you had with Mr. O'Callaghan would have lapsed,
23 it wouldn't have been necessary for you to pay the balance of the monies due on
24 foot of that agreement. I'm not saying you wouldn't have done it but it
14:27:18 25 wouldn't have been necessary for you to do so because it would no longer have
26 been necessary for you to keep the designation?

27 A. I would have honoured whatever agreement with Mr. O'Callaghan if I had been
28 allowed to.

29 Q. 420 Did Mr. O'Callaghan know that you were seeking this type of designation for
14:27:35 30 your site?

14:27:35 1 A. Yes, I was very open with Mr. O'Callaghan at the time.

2 Q. 421 And I think we'll come in March 1990 when Mr. O'Malley advises Mr. O'Callaghan

3 of his undertaking to you to canvass for this type of or to lobby with the

4 Ministers for this type of designation on your lands, isn't that right?

14:27:56 5 A. I discovered he was doing the reverse.

6 Q. 422 Yes. Now, you go on in that, at that document to say -- I'll deal with the,

7 with that in March when I come to it in sequence, if that's okay?

8 A. Fine.

9 Q. 423 The second option was to bring a motion for material contravention of the

14:28:12 10 Dublin Development Plan and the third option was to await the review of the

11 Dublin Development Plan which I was told result in rezoning of the lands. The

12 third option was recommended as a preferred option by a number of people

13 including Bertie Ahern, Pdraig Flynn, Brian Lenihan and my planning

14 consultant. I was also told by Mr. Ahern, Mr. Flynn and Mr. Lenihan that all

14:28:31 15 three towns Tallaght, Blanchardstown would be designated for tax purposes.

16 While I was not looking for this tax status for Westpark it would have been a

17 bonus.

18

19 When do you say that Mr. Ahern and Mr. Flynn advised you that all three towns

14:28:45 20 would get designation?

21 A. That's correct.

22 Q. 424 No, but when did they tell you that all three towns would be designated?

23 A. This was early on. It must have been 1988, 1990'ish.

24 Q. 425 Yes. But you are saying there that Tallaght and Blanchardstown would be

14:29:05 25 designated but that also Westpark as opposed to Neilstown Balgaddy would be

26 designated?

27 A. Well whichever got off the ground.

28 Q. 426 Well you don't make that distinction in your statement, Mr. Gilmartin?

29 A. Yeah well there is a distinction unfortunately here. The only town zoning at

14:29:23 30 the time was Neilstown.

14:29:24 1 Q. 427 Yes?

2 A. With the zoning. The zoning of Quarryvale had to go through the process

3 before.

4 Q. 428 Yes?

14:29:33 5 A. The Government or anybody else could consider any designation for Quarryvale.

6 Q. 429 But you were advising people as early as 1989 that your site was going to get

7 designation, isn't that right? That you had an expectation?

8 A. That's correct. If I got that development off the ground. They were gung ho.

9 They wanted that development and investment into Ireland.

14:29:56 10 Q. 430 But I understand what you are now saying that the assurances that you got in

11 relation to designation were such that the designation would only come through

12 when the site got the adequate zoning and possibly planning?

13 A. Yeah, that was just, you know, being practical.

14 Q. 431 Yes?

14:30:12 15 A. It had to have zoning before it could proceed.

16 Q. 432 Yes. But you weren't telling that to your bankers at this stage. You were

17 saying that your expectation was that it would in fact be designated indeed at

18 one stage --

19 A. That was as I understood it. They were going to remove all roadblocks to make

14:30:29 20 sure that this investment was brought in.

21 Q. 433 Yes. Now, you say that while I was not looking for this tax status for

22 Westpark it would have been a bonus?

23 A. It would have been a bonus, yes.

24 Q. 434 I was continually told by Mr. Flynn, Mr. Lenihan and Mr. Ahern and various

14:30:45 25 Dublin County Councillors that a review of the Development Plan in Westpark was

26 imminent throughout 1988 and '89 while the Dublin Development Plan was reviewed

27 in respect of other areas in Dublin including Tallaght and north Dublin, the

28 rezoning of the lands in respect of west Dublin was not forthcoming.

29

14:31:01 30 Would you agree with me, Mr. Gilmartin, that in hindsight there was no rezoning

14:31:06 1 forthcoming at this stage whilst there was a review ongoing and there were
2 recommendations and motions as to what might be contained in the draft 1991
3 plan as it became, that there were no other lands being rezoned ahead of
4 Quarryvale, they were all rezoned together?

14:31:22 5 A. Yes.

6 Q. 435 Yes. And you said I had four meetings with Bertie Ahern. Two in the
7 Department of Labour in the autumn 1987 and late 1988 and two in Fagan's public
8 house on the 10th October 1988 and 28th of September 1989. The rezoning of the
9 Westpark lands was not discussed at the first meeting. To the best of my
10 recollection, it was discussed at all of the other meetings.

11
12 That includes the meeting on the 28th of September 1989. I understood you this
13 morning to say that you did not discuss the rezoning of your lands in
14 Quarryvale at that meeting, that meeting in September 1989 which you had in
15 Fagan's related to Bachelor's Walk.

14:32:02 16 A. Bachelor's Walk, yes.

17 Q. 436 So do you wish to correct that statement to that extent?

18 A. Yeah.

19 Q. 437 I also --

14:32:13 20 A. With Mr. Ahern, Mr. Brennan.

21 Q. 438 Yes?

22 A. Mr. Farrelly present.

23 Q. 439 Yes. Well Mr. Ahern wasn't present at that meeting?

24 A. He wasn't present at the meeting but later on.

14:32:22 25 Q. 440 You met Mr. Ahern but you did not discuss --

26 A. Three o'clock in the afternoon at Fagan's.

27 Q. 441 But here?

28 A. And that was all to do with Bachelor's Walk.

29 Q. 442 Yes?

14:32:31 30 A. Nothing to do with Westpark.

14:32:33 1 Q. 443 But your statement here suggests that you discussed Quarryvale with Mr. Ahern
2 at that meeting on the 28th of September. You say that that's not correct?
3 A. No, that's not correct because Mr. Dadley was with me.

4 Q. 444 Yes. You say that I also discussed this with Padraig Flynn on numerous
14:32:55 5 occasions when I met with him at his offices in Customs House and Leinster
6 House and with Ray McSharry, when I met him in December 1987 at his offices in
7 the Department of Finance and when I met him at his clinic in Sligo?
8 A. That's correct.

9 Q. 445 Those meetings in 1987 -- I didn't understand you to be dealing with Quarryvale
14:33:13 10 at those meetings in '87. I thought you were dealing with Bachelor's Walk?
11 A. Oh, yes I had three different brochures that I had done.

12 Q. 446 Yes?
13 A. And one of the brochures I had done originally was a small brochure on
14 Quarryvale. Now, I had been shown that area by Mr. Sean Davin, way back in
14:33:32 15 1981. He showed me a site there and at that time when I looked into -- I seen
16 it as a prime site at the time. But when I looked into it there was some CPO
17 on the land that he was showing me, a CPO. Now, I understand since then and I
18 think Mr. Redmond has confirmed that here, that there was a CPO to do with the
19 development of the Galway Road, N4, at the Galway Road. So at that time I
14:34:06 20 didn't pursue it but I came back to it in 1987 after Mr. McLoone -- '87 '88,
21 when Mr. McLoone showed me the Neilstown site.

22 Q. 447 If we could have 16142, please.
23
24 This is a letter from your solicitors of the 5th of March 2004.

14:34:28 25
26 And it's in response to queries raised. "I stated in my later in the 20th of
27 February 2004 our client assured that if he was able to secure investment for
28 the Bachelor's Walk area that all roadblocks would be removed. We are
29 instructed by our client that he was given these assurances by Bertie Ahern
14:34:46 30 when he met him at the Department of Labour in the autumn of 1987, by Padraig

14:34:49 1 Flynn on numerous occasions when he met with him at his offices in the Customs
2 House and at Leinster House by Ray McSharry when he met him in December 1987 at
3 his offices in the Department of Finance. And by Mr. Lenihan on several
4 occasions. We are instructed our client that while he did not have any formal
14:35:05 5 meetings with Mr. Lenihan, he did have one chance meeting with him on several
6 occasions usually in the Shelbourne and these assurances were given by Mr
7 Lenihan during those informal meetings

8 A. That's correct.

9 Q. 448 In relation to the rezoning of the Quarryvale Lands we were instructed by our
14:35:17 10 client that he was given the hope/expectation regarding the planning status of
11 the Quarryvale lands during the various meetings that he had with Mr. Flynn,
12 Mr. Lenihan, Mr. Ahern as mentioned as two above.

13 A. That's correct.

14 Q. 449 Now, I am just going to move on to another topic, Mr. Gilmartin. And I am
14:35:44 15 going to introduce, because you have given evidence in relation to it in
16 Quarryvale I. And it's the assistance provided to you by Mr. Ahern and
17 Mr. Burke, you say, in relation to the tendering process for the Council lands
18 or the corporation lands?

19 A. Yeah.

14:36:00 20 Q. 450 And I think that you have already advised the Tribunal that you contacted the
21 Minister for Labour who was Mr. Ahern in 1989 and you advised him of the
22 difficulties which you've said you were experiencing, is that correct?

23 A. That's correct, yes.

24 Q. 451 You had telephoned him having spoken with Mr. McLoone, isn't that right, that
14:36:24 25 was your evidence?

26 A. That's right, yes.

27 Q. 452 Now if we look at 20112.
28
29 We see a letter to the Assistant City Manager 19th of May 1989 enclosing a bank
14:36:35 30 draft for 255,000 pounds on your behalf by way of a tender in relation to the

14:36:40 1 Irishtown lands

2 A. That's correct.

3 Q. 453 And I think that these were the lands that you thought you had a deal concluded

4 on in the previous December?

14:36:49 5 A. That's correct.

6 Q. 454 And then it seems to have unraveled, you say because of Mr. Lawlor and

7 Mr. Redmond's interference through Mr. Corcoran. The lands were advertised and

8 Green and yourself became the two interested parties in a tendering process, is

9 that correct?

14:37:05 10 A. That's correct, yes.

11 Q. 455 And you are putting forward your tender here through your solicitor

12 Mr. Maguire, isn't that correct?

13 A. That's correct.

14 Q. 456 And if we look at 20113.

14:37:14 15

16 We see the tender or offer of 5.1 million pounds for the lands

17 A. Yes.

18 Q. 457 And I think that was --

19 A. The final tender.

14:37:23 20 Q. 458 Yes?

21 A. After there was a lot of interruption and ...

22 Q. 459 Yes. And this tender document is dated the 19th of May 1989. And it's a

23 document recording you offering to acquire the lands for 5.1 million pounds in

24 accordance with the advertisement, isn't that correct?

14:37:48 25 A. That's correct.

26 Q. 460 As part of that process you were required to put up 5% of the sale price

27 offered which was 255,000, isn't that correct?

28 A. That's correct.

29 Q. 461 And if we look at 20114. It's a letter of the 22nd of May 1989. To the deputy

14:38:03 30 city Manager from Mr. McLoone referring to the tenders received and advising

- 14:38:09 1 that he was of the opinion that the corporation should accept the highest
2 tender in the sum of 5.1 million pounds submitted by Mr. Gilmartin?
- 3 A. Yeah, that's correct.
- 4 Q. 462 You knew Mr. McLoone quite well at this stage. And presumably, you would have
14:38:21 5 known that he was recommending the acceptance of your tender?
- 6 A. That's correct, yes, I had several meetings with Mr. McLoone. Mr. Morrissey as
7 well. Mr. Sean Haughey.
- 8 Q. 463 He advises --
- 9 A. I mean John Haughey, the brother of the Taoiseach.
- 14:38:38 10 Q. 464 And he advises, Mr. McLoone does, that the offer is considerably in excess of
11 the second and only other tender submitted by Windar Limited and Windar Limited
12 we know is a subsidiary of the Green Group, Green Properties, isn't that
13 correct?
- 14 A. Yeah.
- 14:38:52 15 Q. 465 And accordingly I recommend it for acceptance. Some tenders, it is in my
16 opinion, representative of the open market value of the property. The letter
17 accompanying the tender of Windar Limited is outside the scope of the tender
18 brief and the propositions therein, in my opinion, are unrealistic.
19
- 14:39:16 20 And then based on that recommendation from the chief valuer, if we look at
21 20115. The principal officer makes an order on the 24th of May '89 that the
22 acceptance of the tender in the sum of 5.1 million at Irishtown shown on the
23 index map is approved and recommended by the principal officer and is submitted
24 in accordance with the section 83 of the Local Government Act 1946 as amended
14:39:36 25 by section 88 of the Housing Act 1968 for acceptance. Isn't that right?
26
- 27 And that came before a committee or a subcommittee of the City Council I think
28 in -- on the 29th May 1989.
29
- 14:39:55 30 If we could have 20118, please.

14:39:57 1
2 And if you just go to the very bottom of that document. You will see the
3 attendance of the members of that committee which included Councillor Joseph
4 Burke, isn't that right?

14:40:11 5 A. That's correct.

6 Q. 466 And if we go to the next page, at 20119. We say that with reference to the
7 proposed disposal of the fee simple interest in lands at Irishtown Clondalkin,
8 County Dublin to Mr. Thomas P Gilmartin, Maguire and Company solicitors
9 Blanchardstown, the order is approved. Recommend to Council, isn't that
10 correct?

11 A. That's correct, yes.

12 Q. 467 And that was dated the 31st of May 1989.
13
14 It appears to have been done at a meeting on the 26th of May 1989

14:40:38 15 A. Correct.

16 Q. 468 So as of the 26th of May 1989, you know that the development committee of the
17 City Council are recommending to the Council itself that your tender be
18 accepted?

19 A. Correct.

14:40:54 20 Q. 469 The -- Mr. McLoone in turn having agreed that it be accepted. And if we go to
21 the next document. 20120.
22
23 This is a report to the city Council then -- to the City Council dated the 31st
24 of May 1989. And it effectively sets out the background. In April the
14:41:15 25 corporation advertised the lands for sale by public tender. The lands
26 comprised 18.24 acres of development residential lands and was zoned
27 residential in the action plan. The closing date for receipt of the tender was
28 the 19th May '89. The chief valuer recommended acceptance of the highest
29 tender, that of Mr. Gilmartin. It was proposed in accordance with the
14:41:34 30 provisions of the various Acts to dispose of the fee simple interest in the

14:41:37 1 lands to Mr. Gilmartin for 5.1 million pounds. The lands were to be disposed
2 of was acquired by the Council from the persons there named. The disposal
3 should be subject to such conditions as to titles will be furnished by the law
4 agent. And no agreement enforceable in law was created or intended to be
14:41:55 5 created until exchange of the contracts had taken place and the disposal was
6 approved by the Isteacha Pleanala agus Forbatha at a special meeting on the
7 26th of May '89 which we just saw, isn't that right?

8 A. Yeah.

9 Q. 470 And all of that I think went out to the members of the Council.

14:42:12 10
11 If we could have 20121, please.

12
13 Now, this is advising the Principal Officer Development Department of an
14 outcome of a meeting held on the 12th of June 1989.

14:42:31 15
16 And it provides that I wish to inform you that copies of the report with
17 reference to the disposal of fee simple interest in lands at Clondalkin to
18 Mr. Thomas P Gilmartin Solicitors were posted to the members of Dublin city
19 Council on the 1st June '89. In accordance with section 83 of the Local
14:42:48 20 Government Act 1946. The Council at a monthly meeting held on 12th of June '89
21 having considered the report adopted the following resolution. That the Dublin
22 City Council assents to the proposals outlined in the report 186/89.

23
24 Just for completeness. On the 19th of June 1989.

14:43:07 25
26 At 20122.

27
28 The law agent of the Council wrote to you saying that he had been instructed to
29 inform you that the corporation had accepted your tender dated 19th of May last
14:43:19 30 and enclose a copy of the formal tender and conditions of sale accepted and

14:43:24 1 seen by the corporation. Please let me have a bank draft in favour of the
2 corporation for 255,000 in accordance with the conditions of sale and oblige.
3 Isn't that right?

4 A. That's correct.

14:43:34 5 Q. 471 And I think you'll -- I just put that on record, Mr. Gilmartin, just to put a
6 background to what I'm now going to deal with it.

7
8 It's fair to say that when you provided the Tribunal with a statement of your
9 evidence in 2001. If we could have 2181, please.

14:44:12 10
11 You dealt with these sequence of events as follows.

12
13 I was subsequently informed by Mr. McLoone in a telephone conversation in June
14 1985. Presumably that's June 1989. That Mr. Redmond was responsible for what
14:44:16 15 had happened, that is that the lands had been put out to tender. That there
16 was a game going on and that I was being shafted. It was suggested that if I
17 knew someone in Government I could trust I should contact them. I subsequently
18 decided to contact Bertie Ahern TD, then Minister in the Government and as I
19 had previously spoken with him on a number of occasions and found him
14:44:36 20 approachable and very supportive of the development plans for Bachelor's Walk.

21 I had met Mr. Ahern on two prior occasions. To the best of my recollection the
22 first meeting took place in 1987 in Mr. Ahern's office in the Department of
23 Labour buildings in Mespil Road. At this meeting we discussed plans for the
24 Bachelor's Walk development. Mr Ahern was affable and approachable and he was
14:44:54 25 very supportive of my plans. The next meeting I had with Mr. Ahern was in
26 October 1988. To the best of my recollection that meeting took place on the
27 10th of October 1988 in Mr. Ahern's constituency office located above Fagan's
28 public house in Drumcondra. I do not recall anything of significance from that
29 meeting other than the fact that I had informed Mr. Ahern of the plans for
14:45:13 30 Quarryvale as well as updating him on the progress of the Bachelor's Walk

14:45:16 1 development.

2

3 Mr. Ahern was again supportive about both of these developments. Following my

4 conversation with Mr. McLoone I telephoned Mr. Ahern and informed him about the

14:45:25 5 difficulties which I was experiencing in relation to the purchase of the

6 Irishtown and Woodfarm lands. He told me that he would see what he could do.

7 I was contacted a few days later by Mr. Joe Burke who arranged to meet in my

8 offices on the 25th -- at 25 St. Stephen's Green in the middle of June 1989.

9 He told me that he had been instructed by Mr. Ahern to look into my complaints

14:45:45 10 and I told him about the problems that I was encountering. A few days later

11 the final approval was given for the sale of the Irishtown lands.

12

13 Mr. Burke informed me of this news in a subsequent telephone conversation and

14 also told me that I would have no further problems. Mr. Burke met me in my

14:46:01 15 offices -- and suggested that I should meet with Mr. Ahern later that evening.

16

17 However, Mr. Burke was unsuccessful in locating Mr. Ahern. On the 20th of June

18 I telephoned Mr Ahern to thank him for his intervention. During the course of

19 that conversation he asked me whether I had given a donation to the Fianna Fail

14:46:18 20 party. I informed him that I had given 50,000 pounds to Mr. Flynn and

21 Mr. Ahern made no further reference to the matter.

22

23 Now, that was the statement that you had made to the Tribunal at that stage,

24 isn't that right?

14:46:29 25 A. Yeah.

26 Q. 472 And that was the evidence that you gave?

27 A. Yeah but there is a slight inaccuracy in that.

28 Q. 473 Yes?

29 A. The meeting with Mr. Burke. There was four meetings with Mr. Burke.

14:46:40 30 Q. 474 You said that there were four meetings?

14:46:42 1 A. There was, I think, it was four. There was one which I forgot completely. I
2 think I did inform the Tribunal.

3 Q. 475 Yes?

4 A. Where Mr. Sheeran was in my office with Mr. Burke --

14:46:52 5 Q. 476 Yes. Can I take it in stages with you, Mr. Gilmartin, if I may. Because you
6 say there were -- in this you say that there were only, is it two meetings with
7 Mr. Burke? The meeting when he came first to meet with you and then the
8 subsequent meeting where he told you what he had done or that the thing had
9 gone through, isn't that right?

14:47:16 10 A. Yeah.

11 Q. 477 In fact, you say there were more meetings?

12 A. There was one in which Mr. Sheeran was present.

13 Q. 478 Yes?

14 A. He came into my office. And Mr. Sheeran had, I introduced him to Mr. Sheeran.
14:47:30 15 That was one of the meetings that I had forgotten about.

16 Q. 479 Okay?

17 A. And the final meeting was later than that. It was towards the end of the year.

18 Q. 480 Towards the end of 199 -- 1989?

19 A. Yeah. When he invited me to meet with Mr. Ahern.

14:47:46 20 Q. 481 Okay?

21 A. Was the later meeting.

22 Q. 482 Okay. So there are four meetings. A meeting where he comes to you initially.
23 There is a meeting where he comes to you after the event?

24 A. That's correct.

14:47:55 25 Q. 483 There is a subsequent meeting which is attended by Mr. Sheeran?

26 A. They weren't arranged meetings. He dropped in to my office.

27 Q. 484 Yes. But there is a third meeting where he met Mr. Sheeran in your office?

28 A. That's correct, yes.

29 Q. 485 And then there is a fourth meeting which you say is towards the end of 1989?

14:48:13 30 A. Yes, it was in the evening. I was going back to Luton.

14:48:28 1 Q. 486 Now, I'm now going to put to you and put on screen, Mr. Gilmartin, a statement
2 given to the Tribunal during the course of your evidence in March 2004. And
3 I'm just going to read that statement first of all and then I'm going to ask
4 you questions arising out of it, if I may?

14:48:35 5 A. Okay.

6 Q. 487 If I could have 16144, please.

7
8 Now, this is a letter dated the 10th of March 2004. And it's as follows:

9
14:48:56 10 "I remember that Joe Burke came it to meet me at my Arlington office located at
11 St. Stephen's Green sometime in September 1990. I recall that Mr. Burke
12 admired a model of the Quarryvale development which was on display in my
13 office. At that time Arlington had all but decided to withdraw from any
14 involvement in the Quarryvale project --

14:49:17 15 A. Sorry, not Quarryvale, Bachelor's Walk.

16 Q. 488 Yeah. You corrected that in a subsequent statement?

17 A. Yeah.

18 Q. 489 To read Arlington project.

19
14:49:27 20 On that account -- sorry. On that account I wanted to remove the model from
21 the office in Dublin and bring it back to England with me. During the course
22 of some chitchat with Mr. Burke he mentioned half a million pounds. Before I
23 could respond to him my telephone rang. It was Barry Boland, Arlington's
24 representative in Dublin who was telephoning to ask me to turn off the lights
14:49:48 25 in the office when I left.

26
27 Picking up again on my conversation with Mr. Burke, I said to him that I was
28 not concerned about receiving the half a million pounds which was approximately
29 the amount which I had submitted with my tender for Dublin Corporation lands.
14:50:02 30 I had thought that Mr. Burke was referring to that transaction when he had made

14:50:07 1 a reference to a half a million pounds earlier. I told him that even if my
2 tender was refused, I was confident that I would recover that half a million.
3
4 I remember that Mr. Burke followed up by saying he was not talking about the
14:50:21 5 Dublin Corporation transaction but asked me would I not be prepared to pay half
6 a million pounds because I knew Bertie Ahern was looking after me.
7
8 Naturally, I was taken aback by that statement. And I thought that if the
9 demand was being made on behalf of Bertie Ahern I should hear it from him first
14:50:39 10 hand. I told Mr. Burke that I would consider the request. Mr. Burke then
11 asked me whether or not I could meet with Bertie Ahern. I said that I could
12 not on this occasion because I had to go back to England and that evening and
13 in fact I was about to leave for the airport. Mr. Burke offered to take me to
14 the airport and on the way he said he would take me to meet Mr. Ahern.
14:50:59 15
16 We then made arrangements to leave the office and Mr. Burke gave me assistance
17 to take from the office the model of the Quarryvale Development which I was
18 bringing back to England. Mr. Burke then drove to the Deadman's Inn public
19 house and he went inside. I was concerned that I would miss my plane back to
14:51:20 20 Luton. I recall that Mr. Burke was in the pub for about twenty minutes. When
21 he came out he told me that Mr. Ahern was not inside but he thought he might be
22 in another pub. I recall Mr. Burke then driving me to another pub located in
23 the vicinity of Beaumont Hospital. Again, I remember Mr. Burke going inside
24 and being in the pub for about ten minutes while I waited outside in the car.
14:51:42 25
26 When Mr. Burke came out he told me that Mr. Ahern would be there shortly.
27 However, I was very anxious at that stage that I would miss my flight back to
28 Luton. I told Mr. Burke that I had a commitment to attend a meeting the
29 following morning which I could not miss and that I had to insist that he drive
14:51:59 30 me immediately to the airport. Mr Burke tried to persuade me to wait for

- 14:52:03 1 Mr. Ahern's arrival but when I refused to do so Mr Burke got very upset.
2 During the drive to the airport I recall Mr. Burke not saying very much and
3 that a sort of unhappy silence was maintained. Before I left his car I said to
4 Mr. Burke in rather bitter terms that this is a great little country isn't it?"
- 14:52:20 5 And that's a statement dated the 10th of March 2004, isn't that right?
- 6 A. It's correct with one exception. The Deadman's Inn was Fagan's pub. That has
7 been corrected.
- 8 Q. 490 Yes?
- 9 A. This was typed up by A&L Goodbody's and there was some mistake made in the pub
14:52:44 10 mentioned.
- 11 Q. 491 If I could have 202042.
12
13 This is a letter, Mr. Gilmartin, of the 26th of May. A further evidence of Mr.
14 Gilmartin dated the 26th of May 2004. And I just deal with the corrections
14:53:04 15 that you are referring to.
16
17 I think you say this statement is made supplemental to and for the purpose of
18 clarification of certain matters addressed in my statement to the Tribunal
19 dated 10th of March 2004. At the time that I made that statement to the
14:53:11 20 Tribunal I was in the middle of cross-examination, having reflected on that
21 statement I see that there are a number of inaccuracies which I now wish to
22 correct as follows. The reference to Quarryvale in line four, paragraph one
23 should read Bachelor's Walk. You made that correction a moment ago
- 24 A. Yeah, yeah.
- 14:53:25 25 Q. 492 In paragraph six it is stated that I was bringing the model of the Quarryvale
26 development back to England. In fact the model was brought to a storage unit
27 in Arlington's office, located in St. Stephen's Green?
- 28 A. That's correct. He helped me to carry it downstairs to a storage unit.
- 29 Q. 493 You see the reference to the Deadman's Inn public house in the first line of
14:53:43 30 paragraph seven should read Fagan's public house. And D, in paragraph 8 and 9

14:53:47 1 I referred to Mr. Burke's car. However, I recall that Mr. Burke was driving a
2 a pickup truck at the time?

3 A. That's correct.

4 Q. 494 Now, other than those amendments to the statement, Mr. Gilmartin, are there any
14:53:59 5 other amendments to that statement that you wish to make?

6 A. No.

7 Q. 495 It's true in every other respect?

8 A. Yeah.

9 Q. 496 Now, I understand that statement, Mr. Gilmartin, to mean that Mr. Joe Burke,
14:54:10 10 either on his own behalf or on behalf of the then Minister for Labour, made a
11 demand of you of 500,000 pounds?

12 A. That's correct.

13 Q. 497 There's no --

14 A. He talked around it in circles rather than getting to the point. But it meant
14:54:26 15 the same thing.

16 Q. 498 Okay. You say in your statement that he asked you for half a million pounds.
17 I interpret that, Mr. Gilmartin, to be a request made of you for half a million
18 pounds?

19 A. Yeah.

14:54:37 20 Q. 499 I don't want to put words in your mouth.
21
22 16144, please.

23 A. That's correct.

24 Q. 500 Yeah. If we look at the fourth paragraph. I remember that Mr. Burke followed
14:54:50 25 up by saying that he was not talking about Dublin Corporation transaction but
26 asked me would I not be prepared to pay half a million pounds because I knew
27 that Bertie Ahern was looking after me.

28 A. That's correct.

29 Q. 501 Can I take it, Mr. Gilmartin, that it is your sworn testimony now to this
14:55:06 30 Tribunal that you were here alleging that you were asked by Mr. Burke for a

- 14:55:13 1 half a million pounds?
- 2 A. For half a million pounds, yes.
- 3 Q. 502 And that you had understood it was for Mr. Ahern. But it wasn't said that it
- 4 was for Mr. Ahern other than you knew that Mr. Ahern was looking after you?
- 14:55:24 5 A. Correct. But at the particular time I wanted to find out whether it was
- 6 actually Mr. Ahern or whether it was Mr. Burke.
- 7 Q. 503 Yes. But there is no doubt that what we are talking about is a demand of a
- 8 half a million pounds from you?
- 9 A. Yeah.
- 14:55:40 10 Q. 504 And this demand is being made sometime after Mr. Burke has been of assistance
- 11 to you?
- 12 A. Yes, it was in the autumn of.
- 13 Q. 505 Yes?
- 14 A. Of '89 I believe.
- 14:55:58 15 Q. 506 Yes. This claim that you were asked for half a million pounds by Mr. Burke was
- 16 not contained in your statement to the Tribunal which I read a moment ago and
- 17 which was made in 2001, isn't that right?
- 18 A. When was that statement made?
- 19 Q. 507 It was made on the 25th of May 2001.
- 14:56:30 20
- 21 If I could have 2202, please.
- 22 A. Well it's possible because the story is so long convoluted that there was
- 23 omissions in it.
- 24 Q. 508 Yes. This is no ordinary omission now in fairness, Mr. Gilmartin. This is a
- 14:56:48 25 fairly substantial allegation, isn't that right?
- 26 A. That's correct.
- 27 Q. 509 I mean, there was hardly a property in Dublin, a house in Dublin that couldn't
- 28 have been bought for half a million pounds in 1989 or 1990, isn't that right?
- 29 A. Yeah.
- 14:57:01 30 Q. 510 And that claim or that demand was made of you at that time by Mr. Burke, isn't

- 14:57:06 1 that right? That's what you're alleging?
- 2 A. That's right, yeah.
- 3 Q. 511 He asked you for that money?
- 4 A. That's correct.
- 14:57:10 5 Q. 512 The only thing that wasn't readily apparent was whether he was asking it for
6 himself or for Mr. Ahern or asking it with Mr. Ahern's authority, isn't that
7 right?
- 8 A. Yeah, that's correct.
- 9 Q. 513 And the first time you made that or brought that to the attention of the
10 Tribunal was during the course of your evidence in March 2004, isn't that
11 right?
- 12 A. Obviously, that's correct, yes.
- 13 Q. 514 Now, the Tribunal I think, Mr. Gilmartin, had met with you and your then
14 solicitors in September -- sorry in, July 1999. If I could have 16096, please.
- 14:58:10 15
16 On the 8th of July 1999 there was a meeting with your then solicitors, isn't
17 that right?
- 18 A. Yes.
- 19 Q. 515 And arising out of that meeting a document was prepared by Counsel for the
14:58:14 20 Tribunal who attended that meeting.
21
22 And if I could go to page 16103, please.
23
24 This is what that document records you as having said at that meeting
- 14:58:27 25 A. Yeah.
- 26 Q. 516 We then turn to discuss the date of Mr. Gilmartin's meeting with Mr. Joe Burke.
27 Mr. Gilmartin says that he had previously overlooked the fact that he had had a
28 third meeting with Mr. Burke. There were three meetings in total. You now say
29 there were four. The first meeting came about --
- 14:58:46 30 A. There was one, if I can recollect, there was the first one when he called to

14:58:54 1 see me prior to the land --

2 Q. 517 Supposing we fix a number of dates, Mr. Gilmartin?

3 A. Yeah.

4 Q. 518 As key dates and that might assist.

14:59:03 5

6 We know, for example, that the tender was submitted on your behalf on the 19th

7 of May 1989

8 A. Yeah, well after I made the phone call to Mr. ...

9 Q. 519 You would have made the phone call to Mr. Ahern. Was that before or after you

14:59:18 10 submitted the tender?

11 A. Yeah, that was after I submitted the tender.

12 Q. 520 Okay. So you contacted Mr. Ahern sometime after the 19th of May?

13 A. Yes, I was informed that Redmond and other people were interfering with the ...

14 with the sale of the lands.

14:59:37 15 Q. 521 But you had known that the sale of the land was in doubt from the previous

16 February, isn't that right?

17 A. Yes, it had been already withdrawn despite the fact that I had an agreed deal

18 with the corporation.

19 Q. 522 Yes. I'm really just trying to tie down dates at the moment, Mr. Gilmartin.

14:59:53 20 And I am trying to be of assistance to you. Just to assist you in that.

21

22 We know that you instructed Mr. Maguire and you would have put him in funds to

23 lodge that tender on the 19th of May 1989

24 A. That's correct.

15:00:09 25 Q. 523 Now, your meeting with Mr. Burke must have post dated your conversation with

26 Mr. Ahern, isn't that right. It came after you spoke with Mr. Ahern?

27 A. Afterwards, yes.

28 Q. 524 So really what we need to do now is try and determine --

29 A. After the tender had been submitted.

15:00:27 30 Q. 525 Okay so we know for certain then that you had not met Mr. Burke prior to the

15:00:32 1 19th of May 1989?

2 A. No.

3 Q. 526 Now, we know that the tender went through at the subcommittee meeting on the

4 29th of May 1989. That's the first meeting?

15:00:43 5 A. Yeah, that's correct.

6 Q. 527 And that recommended to the Council, the City Council, that the tender be

7 accepted and that second meeting occurred on the 12th June 1989?

8 A. Week prior to that.

9 Q. 528 So do you think --

15:00:56 10 A. Week prior to that.

11 Q. 529 Well is it the week prior to the 26th of May or the week prior to the 12th of

12 June?

13 A. The first -- when I spoke to Mr. Ahern was the week prior to the tender being

14 accepted. There was a meeting of the planning authority of which the tender

15:01:17 15 was accepted.

16 Q. 530 Yes?

17 A. Or it was recommended that it would go.

18 Q. 531 Recommended, yes. That was the 26th --

19 A. It was in the preceding days.

15:01:25 20 Q. 532 Okay. So that date is the 26th of May '89?

21 A. Roughly, yes.

22 Q. 533 Okay. So somewhere between the 19th of May and the 26th of May you have had

23 your first meeting with Mr. Burke?

24 A. Correct.

15:01:37 25 Q. 534 Is that fair? Are we agreed on that?

26 A. Yeah.

27 Q. 535 Then we know that it was finally cleared by the Council on the 12th of June?

28 A. Yeah, well the following day then Mr. Burke called in to the office. There

29 wasn't a meeting as such.

15:01:55 30 Q. 536 So possibly the 13th of June, which would have been the day following the 12th

- 15:01:59 1 of June?
- 2 A. Yeah, that was the second meeting.
- 3 Q. 537 Would have been the second meeting?
- 4 A. Yeah.
- 15:02:03 5 Q. 538 Yes?
- 6 A. The third meeting was the one I forgot where he dropped in and Mr. Sheeran was
- 7 present.
- 8 Q. 539 Yes. And Mr. Sheeran will give evidence, I understand, that such a meeting did
- 9 take place?
- 15:02:14 10 A. Yeah.
- 11 Q. 540 And then you say that there was a fourth meeting then?
- 12 A. Fourth meeting was in the autumn around September.
- 13 Q. 541 Of 1989?
- 14 A. Yeah.
- 15:02:23 15 Q. 542 Now, the demand made of you, Mr. Gilmartin, that was made, you say, not at the
- 16 first meeting. Not at the second meeting. Not at the meeting attended by
- 17 Mr. Sheeran but on the fourth meeting which was in September 1989?
- 18 A. That's correct.
- 19 Q. 543 Now, I am just reverting, if I may, to what you told -- what counsel understood
- 15:03:03 20 you to have told him at that meeting with your solicitors in 1999.
- 21
- 22 And it's on screen. And it says when we then turn to discuss the date of Mr.
- 23 Gilmartin's meeting with Mr. Joe Burke. Mr Gilmartin said he had previously
- 24 overlooked the fact that he had a third meeting with Mr. Burke. There were
- 15:03:12 25 three meetings in total. You now wish to change that, I take it, that there
- 26 were four meetings
- 27 A. There was. I had forgotten about the Mr. Sheeran.
- 28 Q. 544 Okay?
- 29 A. When he dropped. It wasn't a meeting, he just dropped into the office.
- 15:03:25 30 Q. 545 But the meeting you had forgotten here, was a meeting with Mr. Sheeran, isn't

- 15:03:29 1 that right?
- 2 A. That's right.
- 3 Q. 546 Not a meeting at which you had this demand for money had been made of you?
- 4 A. No, no, no.
- 15:03:34 5 Q. 547 You had always remembered that meeting?
- 6 A. I had forgotten about the meeting when he dropped into my office when
- 7 Mr. Sheeran was present.
- 8 Q. 548 Okay. The first meeting came after -- came about after Mr. Gilmartin had been
- 9 told by Paddy Morrissey and Martin McLoone that George Redmond and Liam Lawlor
- 15:03:51 10 were doing everything in their power to block his purchase. Mr. Gilmartin
- 11 already knew that George Redmond had tipped off Green Properties and that it
- 12 was as a result of this that the matter was put out to tender?
- 13 A. That's correct.
- 14 Q. 549 Martin McLoone asked Mr. Gilmartin did he know anybody and strongly suggested
- 15:04:09 15 that if he did, he'd better do something or his tender might be defeated. Tom
- 16 Gilmartin said that Paddy Morrissey was sick and tired of Lawlor and Redmond
- 17 antics. Did you say that at that meeting?
- 18 A. I did, yes.
- 19 Q. 550 Now, you there say that Mr. Gilmartin already knew that George Redmond had
- 15:04:30 20 tipped off Green Properties?
- 21 A. That's correct.
- 22 Q. 551 When you say tipped off Green Properties, was that tipped off Green Properties
- 23 that you had purchased these lands?
- 24 A. Yes, that I had had bought the corporation lands and Quarryvale.
- 15:04:42 25 Q. 552 Yes. And that, you say, was a tip off from Mr. Redmond and it was seen by you
- 26 as something as parts of a dirty tricks campaign if I can put it like that?
- 27 A. Yes.
- 28 Q. 553 Against you, isn't that right?
- 29 A. Yes, correct.
- 15:04:58 30 Q. 554 This morning Mr. Gilmartin, you will recall that I asked you if you had issued

15:05:02 1 a press release in December 1988 which would have been in or around the time
2 you had commenced your negotiations for the acquisition of these lands. And I
3 think you agreed that you had.
4

15:05:14 5 If I could have 19955, please.
6

7 This document says that on the 9th of December 1988 Gilmartin issued press
8 statement to the Irish Independent which stated inter alia he had bought 100
9 acres from Dublin Corporation and bought 30 acres from Sharp Builders.

15:05:37 10
11 Do you see that?

12 A. Yes.

13 Q. 555 And we saw in that bank document, Mr. Gilmartin, on the 3rd of March 1989 that
14 there was publicity surrounding your acquisition of the corporation lands, do
15 you remember that?

16 A. Correct, yes.

17 Q. 556 So would be it be fair so say, Mr. Gilmartin, that Mr. Corcoran, if he were
18 reading the papers would have known from December 1988 onwards that you were in
19 fact acquiring the corporation lands in Quarryvale?

15:06:11 20 A. Well.

21 Q. 557 Including other lands?

22 A. That's possible.

23 Q. 558 Yes?

24 A. But I do know George Redmond went to Green Properties because I was told it.

15:06:20 25 Q. 559 Now, if I go back to 16103.
26

27 Mr. Gilmartin pointed out that the corporation had previously agreed 30,000 per
28 acre but it had put it up to 40,000 per acre when they heard that he,
29 Gilmartin, had paid 40,000 per acre. Mr. Gilmartin says that they nearly
15:06:35 30 snapped his hand off.

15:06:36 1
2 Mr. Gilmartin believes that it was probably between the Planning Department
3 committee meeting on the 26th of May, which decided to recommend his tender and
4 the Council meeting of the 12th of June at which the tender was agreed that
15:06:46 5 Redmond and Lawlor attempted to interfere. When Mr. Gilmartin was tipped off
6 by McLoone and Morrissey he telephoned Bertie Ahern who said that he would send
7 somebody down to see him. He sent down Joe Burke. This was Mr. Gilmartin's
8 first meeting with Joe Burke. The second meeting with Joe Burke was the
9 occasion when Mr. Burke drove Mr. Gilmartin to the airport in a pickup truck
15:07:09 10 stopping at two public houses on the way looking for Bertie Ahern. This was
11 after the Gilmartin tender had been approved on the 12th of June '89. The
12 third meeting which Mr. Burke was also attended by Paul Sheeran and occurred
13 later in June 1989.
14
15:07:27 15 Mr. Gilmartin said that all three meetings with Mr. Burke occurred within the
16 space of one month.
17
18 Is that a correct record of what you would have said?
19 A. I might have, yeah. Because I'm no good on dates. I have always said I'm
15:07:50 20 terrible on dates.
21 Q. 560 First of all, would you agree with me that you appear to be there suggesting
22 that the first meeting was between the 26th of May and the 12th of June rather
23 than prior to the 26th of May?
24 A. The first meeting was prior to the ...
15:08:10 25 Q. 561 Subcommittee meeting as opposed to the final meeting?
26 A. The first meeting with Joe Burke was prior to the date of the contract in that
27 week prior to the date of the contract being accepted. The tender being
28 accepted. Whatever date that is.
29 Q. 562 Okay. I'm going to give you two dates, Mr. Gilmartin. And just for reference.
15:08:37 30

15:08:37 1 The tender was approved or accepted by the Council at their meeting on the 12th
2 of June.
3
4 The tender was recommended for acceptance by a subcommittee of the Council on
15:08:49 5 the 26th of May
6 A. Correct. It was prior.
7 Q. 563 And the tender was submitted by Mr. Maguire on the 19th of May?
8 A. Correct.
9 Q. 564 Now so we've the 19th of May?
15:09:00 10 A. It was in between the 19th of May and the 26th of May.
11 Q. 565 The first meeting took place?
12 A. Correct.
13 Q. 566 However, you are recorded by Mr.-- by Counsel for the Tribunal as having said
14 in 1999, July 1999, at 16103. That the first meeting took place between the
15:09:25 15 date the tender was recommended and the date it was approved.
16 A. Well I -- I think that I meant there that the date the tender was submitted.
17 Q. 567 Okay.
18 A. The date the tender was submitted and the date was approved. It was probably
19 bad phraseology.
15:09:50 20 Q. 568 Okay. The second meeting took place after the tender was approved?
21 A. Correct.
22 Q. 569 And you referred to a third meeting and you correct the record by saying that
23 in fact there was a third meeting. And that third meeting you say occurred in
24 later in June of 1989. Later in the same month?
15:10:13 25 A. Yeah.
26 Q. 570 And you say that all three meetings occurred within the space of one month?
27 A. Yeah. Yes. Well I had forgotten one of the meetings. But a meeting to the
28 airport was around the autumn. September'ish.
29 Q. 571 Of '89?
15:10:30 30 A. Of '89.

- 15:10:34 1 Q. 572 Now, at 16093.
2
3 In a telephone conversation with counsel to the Tribunal on the 26th of June
4 1989 you advised the Tribunal that Mr. Sheeran had recently reminded you of a
15:10:49 5 meeting which occurred at which you and Joe Burke were present. You had
6 forgotten about this meeting. It was a third meeting which Mr. Gilmartin had
7 with Mr. Burke. It took place in St Stephen's Green in June 1989. Sometime in
8 July Paul Sheeran wrote to a letter to Mr. Burke saying he was pleased to meet
9 him and they were both from Donegal and Paul Sheeran is to let you have a copy
15:11:10 10 of the letter and you will send it onto the Tribunal, isn't that right?
11 A. Yeah.
12 Q. 573 Now, we never got that letter. Did you ever receive that letter?
13 A. I'm not quite sure. I'm not quite sure. I do know Mr. Sheeran wrote out of
14 courtesy to Mr. Burke.
15:11:30 15 Q. 574 Now, you agree, first of all, whatever about when the first or second or third
16 or fourth meeting took place. There is absolutely no mention in that memo of
17 that meeting with counsel of monies being demanded of you by Mr. Burke?
18 A. Well that's possible, yes.
19 Q. 575 Can you give any explanation to the Tribunal as to why you would omit to tell
15:11:54 20 counsel to the Tribunal in July 1999 that Mr. Burke had demanded a half a
21 million pounds from you in June 1989 or September 1989?
22 A. Well I can -- most of the evidence I was giving was off the top of my head. I
23 had no records, nothing to show the various things that took place at the time.
24 Q. 576 This is a most startling piece of evidence, I suggest to you, Mr. Gilmartin.
15:12:25 25 It's a most startling allegation. And a most startling event. Something you
26 would not forget, I suggest. Namely, the demand of a half a million pounds
27 from you by someone?
28 A. I'm not quite sure was it making reference to the June meetings, the May and
29 June meetings.
15:12:43 30 Q. 577 You had recollected, I think, the demand of 100,000 pounds by Mr. Hanrahan,

- 15:12:48 1 isn't that correct?
- 2 A. That's correct.
- 3 Q. 578 You had recollected the demand of 100,000 pounds by Mr. Lawlor?
- 4 A. That's correct.
- 15:12:52 5 Q. 579 You had referred to the five million pound demand after the Government meeting
- 6 in February '89, isn't that right?
- 7 A. That's correct.
- 8 Q. 580 But are you saying that you had completely forgotten about this demand for half
- 9 a million pounds by Mr. Burke?
- 15:13:16 10 A. Well I'm not quite sure what the circumstances but it happened. And that was
- 11 September.
- 12 Q. 581 Surely, the demand of a half a million pounds from you by Mr. Burke is a more
- 13 significant event than, for example, his meetings with you, whether they be
- 14 two, three or four meetings.
- 15:13:37 15 A. Well I'm reasonably certain it was four meetings.
- 16 Q. 582 No but the point I'm making to you, Mr. Gilmartin, is that it is far more
- 17 significant, I suggest to you, or it is a far more significant outcome to those
- 18 various meetings that Mr. Burke would have demanded a half a million pounds
- 19 from you than he would have shepherded your tender through the Council?
- 15:14:02 20 A. Well I don't know the circumstances of why I omitted it. But I believe that I
- 21 had mentioned it previously.
- 22 Q. 583 Yes. It certainly wasn't in your statement supplied to the Tribunal in 2001,
- 23 isn't that right?
- 24 A. Yeah.
- 15:14:17 25 Q. 584 Yet, you did mention the involvement of Mr. Ahern and Mr. Burke in your
- 26 tendering process?
- 27 A. That's correct.
- 28 Q. 585 But you had not made any reference whatsoever to this demand at that time,
- 29 isn't that right?
- 15:14:30 30 A. Well, obviously, from the recommendation that would seem to be the case, yes.

15:14:35 1 Q. 586 Do you recall, Mr. Gilmartin, an occasion when you met with Mr. Noel Smyth
2 solicitor after you had been contacted by the Tribunal and you had instructed
3 him to assist you in your preparations for the Tribunal?
4 A. Correct, yes.

15:15:01 5 Q. 587 Mr. Smith had been your solicitor in 1996 when you finally severed your
6 relationship with AIB and Mr. O'Callaghan and Barkhill?
7 A. That's right.

8 Q. 588 And he had negotiated your exit contract at that stage?
9 A. That's correct.

15:15:16 10 Q. 589 And when the Tribunal contacted you, you went back to Mr. Smith for assistance,
11 isn't that right?
12 A. That's correct.

13 Q. 590 And I think the -- there was an occasion when you spoke with Mr. Smith and he
14 recorded your conversation and that was subsequently transcribed and forwarded
15 to the Tribunal, isn't that right?
16 A. Yes. It was an informal -- that wasn't intended to be a statement. It was
17 never ...

18 Q. 591 Yes?
19 A. It was never proofread.

15:15:42 20 Q. 592 Yes.
21 A. And I didn't see it. It was a chitchat more or less, a conversation. He had a
22 tape on the table in London.

23 Q. 593 Yes?
24 A. I met him in London.

15:15:54 25 Q. 594 Yes?
26 A. But -- and I.

27 Q. 595 I accept that it --
28 A. And it was an off the top of me head conversation.

29 Q. 596 Yes. Certainly in relation to dates and figures and that, I could understand
15:16:06 30 that you hadn't access to any documentation at that stage. But you were

15:16:09 1 telling him and you were relaying to him, more or less, the complaints that you
2 have given here to the Tribunal in relation to what you saw as the conduct of
3 Mr. Lawlor?
4 A. Yeah.

15:16:17 5 Q. 597 And Mr. Redmond, isn't that right?
6 A. That's correct.
7 Q. 598 And if we look at 15637.
8
9 There are in fact in the brief, Mr. Gilmartin, and you may or may not know
15:16:27 10 this, three copies of that transcript of that tape. The first was one done by
11 Mr. Smith's office. The second was done by the Tribunal. And the third was
12 done on behalf of the Tribunal by independent stenographers.
13 A. Yeah.
14 Q. 599 There are variations. Really it's a question of trying to decipher what's on
15:16:48 15 the tape. I don't think anything turns on that. And I can produce all three
16 versions of what I'm now going to deal with just in case any ...?
17 A. Yeah well I assume whatever it is, it's accurate.
18 Q. 600 Yeah?
19 A. What the discussions I had off the top of me head at that time.

15:17:06 20 Q. 601 Okay. Unless otherwise directed or requested, I'm going to proceed with the
21 third and independent typed version of that?
22 A. I was just going to say. The transcripts of that. Yes. I noticed there was
23 quite a number of inaccuracies insofar as the names that was taken off the tape
24 like Raymond Mould was mentioned as Moran.

15:17:29 25 Q. 602 And Murray?
26 A. And certain things like that.
27 Q. 603 Now, I'm going to ...?
28 A. Which was not of my doing but ...
29 Q. 604 Yes. And what I'm doing now, Mr. Gilmartin, is I'm reading to you what you
15:17:44 30 would have told your solicitor in London in 1998 or 1999 what you were -- about

15:17:55 1 events which might be of interest to the Tribunal. And I'm dealing with the
2 incident or the event whereby Mr. Ahern had Mr. Burke intervene on your behalf?

3 A. Yeah.

4 Q. 605 And I'm just going to read to you what it says here and then I'll revert to ask
15:18:12 5 you one or two questions.
6
7 What I'm looking -- what I'm dealing with now, Mr. Gilmartin, is what you have
8 told me is the demand of you -- from you of half a million pounds by Mr. Burke
9 in either June or September 1989.

15:18:32 10
11 And if I take it up at 15637.
12
13 15636 just for completeness.
14

15:18:43 15 And it begins as follows:
16
17 "The only favour I had done, Bertie Ahern done it for me. And that was when
18 George Redmond and Lawlor & Co. had tried to block me completing the land. I
19 had paid the deposit. My tender had been accepted and the contract was going
15:18:58 20 through in the meeting to ratify the deal took place.
21
22 Lawlor and others, I think Dunne was involved I think Ray Burke was even
23 involved, done everything in their power to block me getting the land from the
24 corporation.

15:19:10 25
26 So in the first meeting they started accusing Paddy Morrissey of doing cozy
27 deals despite the fact this was a tender, an open tender. So they had
28 adjourned a meeting because Paddy Morrissey & Co. didn't know whether he could
29 go through legally and complete the deals despite the fact that they had
15:19:25 30 accepted the deposit. Somebody, again I was told that I wasn't going to get

15:19:29 1 the 70 acres despite the fact that I had the highest tender etc. etc. and that
2 there was somebody blocking it or stirring it up shit. I rang up McLoone and I
3 asked McLoone what the hell was going on. He didn't know. He said that
4 Redmond and Lawlor & Co. were at it, stirring up shit. As far as he was
15:19:47 5 concerned the deal was done. I had tendered. I had won the tender. I had
6 paid my deposit, the deposit was accepted and they had no option but to
7 complete it. But that there was certain accusations being made etc. etc. and
8 they were holding it up, holding up on it.
9

15:20:04 10 And he said to me who do you know, what politician do you know that you can
11 trust and I said well there's nobody really. I know nobody. He said well is
12 there anyone left he says. I said well Bertie Ahern. I met Bertie Ahern on
13 two occasions but he's the only one. He was the Minister for Labour. So I
14 rang and told him what was going on because I had discussed the whole deal with
15:20:25 15 him prior to that. And he was in favour of the deal because of the amount of
16 employment that was between that and Arlington. He wanted these deals to go
17 down according to him anyway. So he was all in favour. He thought it was the
18 best thing ever to happen to Dublin, that it was a unique proposal. And on
19 his -- as far as he was concerned that something like this would be like the
15:20:47 20 rising ship, and it would bring everything up with it you know. Anyway, he
21 sent in a guy called Joe Burke who was a Dublin City Councillor and Dublin
22 Corporation when the next meeting came up the following week, to monitor what
23 was going on and whatever was said or what, the deal went through.

24 Q: so -- this is Mr. Smith asking a question of you.

15:21:08 25 Q: So what you are saying is, that I mean, as a result of the direct
26 intervention of Bertie Ahern or his representatives?

27 A: yeah, the deal went through.

28 Q. 606 -- and then I think they changed tapes and he starts of a new tape as follows.
29

15:21:22 30 This is a continuation of the tape we have just finished, where we were talking

15:21:26 1 about the position whereby Bertie Ahern had sent Joe Burke in to observe the
2 council meeting and as a result of which the transaction, the acquisition of
3 the 70 acres of land from Dublin Corporation went through. In the meantime,
4 Thomas confirmed that Bertie Ahern had taken over as Minister for Finance. Go
15:21:40 5 ahead Tom.

6 Q Had you confirmed that at that time?

7 A. Pardon?

8 Q. 607 Had you confirmed to Mr. Smith that Mr. Ahern had taken over as Minister for
9 Finance, as is suggested there?

15:21:56 10 A. I don't know at that time if he was Minister of finance.

11 Q. 608 He became Minister for Finance as I understand on the 14th of November 1991.

12 A. 1991?

13 Q. 609 Yes.

14 A. And what date is this? Well what date are we referring to here.

15:22:11 15 Q. 610 Well if you're talking about the tender process, you're talking about 1989?

16 A. '89?

17 Q. 611 June '89.

18 A. Oh, yeah well he wouldn't have been Minister of Finance at that time.

19 Q. 612 Anyway, I'll continue --

15:22:25 20 A. I knew there was some change in the Government.

21 Q. 613 Now, you continue with your answer as follows:

22
23 A: Well after that Joe Burke came to see me in my office because I was in No.
24 20, where Arlington office, I think it was 25, next door to Lisney's in
15:22:40 25 Stephen's Green.

26 Q: Right?

27 A: 25 St. Stephen's Green. So Burke came in to see me. And he had no real
28 appointment or that he came and he stayed and he was talking. And he was
29 talking around in reels and he was giving me the impression that a favour was
15:22:55 30 due etc. but he had no real purpose in the meeting. Now, I deliberately didn't

15:23:10 1 bite because I was prompted on many occasions to ask well what's it going to
2 cost me. What's this going to cost me. But I didn't. I decided not to. So
3 consequently I believe he came to let me know that there was a cost attached to
4 it. But I didn't give him the opportunity." We'll just stop there for a
15:23:18 5 second
6 A. Yes, as I said earlier, he talked around in circles.
7 Q. 614 Circles?
8 A. Around about the half a million. No mention of it.
9 Q. 615 There is no mention of a half a million pounds here, isn't that right?
15:23:32 10 A. There should be.
11 Q. 616 Yes. You didn't --
12 A. Because I thought that he was referring to the half a million. The deposit I
13 had paid on the land.
14 Q. 617 In fact, you had paid I think with your tender only a quarter of a million?
15:23:47 15 A. No, the --
16 Q. 618 You had paid the balance subsequently, is that correct?
17 A. The signing of the contract. The tender was half a million.
18 Q. 619 Yes?
19 A. 50.
15:23:58 20 Q. 620 5.1 million was the contract price?
21 A. Yes.
22 Q. 621 But your tender document had only included 5%. You had to come up with the
23 other 5% when you signed the contract?
24 A. I think it was 510,000. 510,000 was the deposit. With the submittal of the
15:24:17 25 tender was a quarter of a million.
26 Q. 622 Yes. Now, I'm going to continue, Mr. Gilmartin, with what you're telling Mr.
27 Smith in London. Okay?
28 A. Yeah.
29 Q. 623 And I'm at 15639.
15:24:30 30

15:24:30 1 And you say "so consequently I believe he came to let me know that there was
2 costs attached to it but I didn't give him the opportunity. Mr. Smith asks you
3 the question. You were never specifically asked. And your answer is. He
4 never specifically asked a for anything, neither did I take the bait. Now, in
15:24:47 5 the meantime Bertie Ahern I think had become the Minister for Finance and there
6 was a guaranteed zoning of Tallaght, Clondalkin. Not necessarily outside but
7 Clondalkin."

8
9 Now, if I could stop there, Mr. Gilmartin. You were asked the question by your
15:25:03 10 solicitor at the time, Mr. Smith, whether or not you had been specifically
11 asked by Mr. Burke for money. And your response was he never specifically
12 asked for anything, neither did I take the bait.

13
14 A. Yes, I deliberately -- because in the -- there was an interruption with a phone
15:25:25 15 call from, I think it was Barry Boland, who was working for Arlington at the
16 time. And he came back to it. And he mentioned the fact that the half a
17 million again. And I said to him about the -- there was no problem with the
18 half a million because I thought he was referring to the ... he was referring
19 to the deposit I had paid on the land.

15:25:51 20 Q. 624 When you were discussing this incident in London with your solicitor. And you
21 were telling him about Mr. Burke talking around in reels I think. Talking
22 around in reels?

23 A. Yeah.

24 Q. 625 In relation to cost. Your solicitor was moved to ask you were you ever
15:26:11 25 specifically asked for anything. And your response was he never specifically
26 asked for anything. And neither did I take the bait.

27
28 Yet you tell the Tribunal on the 10th of March 2004 that he did specifically
29 ask for something, namely --

15:26:28 30 A. Yeah.

15:26:29 1 Q. 626 500,000 pounds?
2 A. The reference was 500,000 pounds. Because my response at the end before I left
3 the office was I'd pay 500,000 to get, if I got my money back to get out of
4 here.

15:26:43 5 Q. 627 Can you tell the Tribunal, Mr. Gilmartin, why when asked by your solicitor in
6 1998, why you had not -- why you had not been asked for anything. That you now
7 say you were asked?
8 A. He never actually said give me 500,000 at any time, to give me 500,000. He
9 talked around it.

15:27:05 10 Q. 628 Well to use your own words, Mr. Gilmartin?
11 A. Around and around in circles talking about ...

12 Q. 629 Well is that strictly correct, Mr. Gilmartin. If we go back to 16144.
13
14 What you have told the Tribunal on the 10th of March 2004. If we look at the
15:27:20 15 fourth paragraph of that statement of evidence.
16
17 Was that he asked me would I not be prepared to pay half a million pounds
18 because I knew that Bertie Ahern was looking after me.
19

15:27:31 20 And I asked you and I deliberately asked you at the outset, Mr. Gilmartin,
21 whether or not that was a demand for half a million pounds and you understood
22 that to be a demand for half a million pounds. I understood you to tell me
23 that you understood it to be a demand
24 A. The only figure mentioned was this half a million which I understood that --
15:27:58 25 the first I thought he was talking about the deposit.

26 Q. 630 Now, would you agree with me, Mr. Gilmartin. First of all, if we look at that
27 document of the 10th of March 2004. That that meeting you now say occurred in
28 September 1989. Not September 1990.
29

15:28:10 30 If we could have the full document on screen, please.

15:28:14 1
2 In this statement of evidence you say that this meeting occurred in September
3 1990. Do you see that
4 A. Yeah.
15:28:26 5 Q. 631 Are you now telling the Tribunal that it occurred in September 1989?
6 A. September '89, yes.
7 Q. 632 Yes. You never corrected that date up to now, have you Mr. Gilmartin? You've
8 corrected other inaccuracies in this document but you've never corrected the
9 date until now?
15:28:47 10 A. No. Well I still amn't a hundred percent sure because I'm useless on dates.
11 I've always said I was.
12 Q. 633 Well can we put it this way Mr. Gilmartin. If Mr. Burke's intervention on your
13 behalf occurred sometime in late May, early June 1989. That the demand, the
14 meeting at which the demand, you say was made, occurred the following September
15:29:13 15 rather than the following September 12 months?
16 A. The following September, yes.
17 Q. 634 The following. It was definitely the following September?
18 A. That's what I believe, yes.
19 Q. 635 Yes. So that would have been about three months later or four months later?
15:29:30 20 A. Correct.
21 Q. 636 So we can now take it that it is your evidence to the Tribunal that the demand,
22 you say, which was made of you occurred in September 1989?
23 A. September '89. It was in that year.
24 Q. 637 Yes. And we know that you met Mr. Ahern on the 28th of September 1989. We saw
15:29:51 25 that earlier over Fagan's, isn't that right? You thought it was 21st. In fact
26 it was the 28th of September 1989?
27 A. 28th of September.
28 Q. 638 Had the demand been made before that meeting with Mr. Ahern on the 28th of
29 September 1989?
15:30:06 30 A. I don't remember.

- 15:30:07 1 Q. 639 Had the demand been made, Mr. Gilmartin, isn't it almost certain that you would
2 have raised the issue with Mr. Ahern at that meeting?
3 A. No, it is after that meeting.
- 4 Q. 640 Well, you had a meeting with Mr. Ahern in September 1989, the 28th of September
15:30:27 5 1989. And you say that the demand was made sometime after the 28th of
6 September or before the 1st of October.
7 A. It was sometime in the autumn, yes.
- 8 Q. 641 Yes. Well that would --
9 A. Late September.
- 15:30:39 10 Q. 642 Yes. Well the 28th of September is fairly late in September.
11 A. Yeah.
12 Q. 643 Yeah?
13 A. Well I'm a bit confused now as to the ... I'm confused as to the dates.
14 Q. 644 Yes. I don't know how to help your confusion, Mr. Gilmartin, in fairness.
- 15:31:09 15 A. I'm trying to recollect because when ... I'm trying to recollect exactly which
16 year it was. But I'm not sure.
17 Q. 645 Yeah?
18 A. I believe the meetings with Mr. Burke all took place in the one year. I
19 believe it was all in the one year.
- 15:31:33 20 Q. 646 In fact, there was a time, Mr. Gilmartin, when you thought they all took place
21 in the one month.
22 A. Yeah, I believe it was in the one year. So the meeting. The final meeting
23 with Mr. Burke was sometime in the autumn.
24 Q. 647 Sometime after the 28th of September?
- 15:31:50 25 A. It was definitely after the 28th of September. The 28th of September meeting
26 with Mr. Ahern was with Arlington, Mr. Dadley was with me.
27 Q. 648 Yes. And no demand had been made by Mr. Burke of you by the date of that
28 meeting?
29 A. No, no. They hadn't been made at that meeting, before that meeting.
- 15:32:13 30 Q. 649 So you --

- 15:32:14 1 A. So it must have been after it.
- 2 Q. 650 You seem to tie in the demand being made of you to Mr. Burke's assistance to
- 3 you at the behest or request of Mr. Ahern, isn't that right?
- 4 A. That's correct.
- 15:32:25 5 Q. 651 But if that were the case, Mr. Gilmartin, would you -- wouldn't you agree that
- 6 the demand would have been made before the assistance was provided. In other
- 7 words, before he went to the Council to assist you?
- 8 A. No, no. No, no. It was sometime long after.
- 9 Q. 652 Yes?
- 15:32:41 10 A. When I say long after. It was months after.
- 11 Q. 653 Isn't that a curious situation, Mr. Gilmartin, in fairness?
- 12 A. Well that's what happened.
- 13 Q. 654 If a demand was being made for something, the demand would normally be made
- 14 before the thing occurred whilst he was in a position to assist you?
- 15:33:01 15 A. No demand whatsoever before.
- 16 Q. 655 Are you saying, Mr. Gilmartin, that this demand by Mr. Burke of you for this
- 17 money was made on behalf of Mr. Ahern and with Mr. Ahern's knowledge?
- 18 A. No, I didn't say that at all.
- 19 Q. 656 I'm not saying you didn't say it. I'm saying are you saying it?
- 15:33:25 20 A. I was curious.
- 21 Q. 657 But are you now saying it?
- 22 A. No, I'm not saying it now.
- 23 Q. 658 Yes.
- 24 A. I'm not saying that now. Because at the time I didn't know. It was one of the
- 15:33:28 25 reasons that I stated in the thing that I had to hear it from Mr. Ahern and not
- 26 from Mr. Burke.
- 27 Q. 659 Well did you say to Mr. Burke, look, if you are looking for 500,000 pounds I
- 28 want to hear it from Mr. Ahern?
- 29 A. I must have said words to that effect because --
- 15:33:50 30 Q. 660 Was that the reason why Mr. Burke drove around the city to try and find

15:33:53 1 Mr. Ahern?

2 A. That's correct.

3 Q. 661 So that you could hear it from Mr. Ahern?

4 A. That's correct. He insisted on giving me a lift. And he called at Fagan's

15:34:01 5 pub.

6 Q. 662 But he must have been confident, therefore, if what you say is correct, that

7 Mr. Ahern would repeat the demand of you for half a million pounds?

8 A. I don't know what was in his mind at the time.

9 Q. 663 Yes?

15:34:12 10 A. But that was my understanding that he was taking me around to confirm whatever

11 it was he wanted me to consider.

12 Q. 664 Yes. When you met, if you had met Mr. Ahern that evening you were going to

13 confront him and say look, are you looking for half a million pounds? Did you

14 send Mr. Burke to me looking for half a million pounds?

15:34:32 15 A. Yes, I waited to see what it was all about.

16 Q. 665 Yes. And Mr. Burke was anxious that you would meet Mr. Ahern, isn't that

17 right?

18 A. He was very anxious.

19 Q. 666 And in fact, he kept you waiting for 20 minutes whilst he went into the pub?

15:34:47 20 A. Outside Fagan's pub, yes.

21 Q. 667 Just taking that time lag, Mr. Gilmartin. You are sitting in his pickup truck

22 outside Fagan's?

23 A. That's correct.

24 Q. 668 He has gone in to see if the Minister for Labour is in the pub, isn't that

15:35:01 25 right?

26 A. That's correct.

27 Q. 669 And he stays in there for 20 minutes?

28 A. He's in about 20 minutes -- or that's what it seemed to me.

29 Q. 670 Yes. Well even ten, fifteen minutes. That's a considerable amount of time to

15:35:13 30 leave a man outside in a pickup truck, isn't that right?

15:35:16 1 A. Yeah.

2 Q. 671 And he certainly would have known within minutes of going into the pub whether

3 Mr. Ahern was there or not?

4 A. Well I don't know.

15:35:28 5 Q. 672 Did you believe Mr. Ahern was in the pub?

6 A. No, I didn't -- I didn't know what to believe.

7 Q. 673 You are sitting in the pickup truck --

8 A. He told me that he wasn't there. He was waiting for him. That he was waiting

9 for him and then he said he wasn't there but he thought he'd know where he

15:35:45 10 would be.

11 Q. 674 Yes?

12 A. And he took me to another pub.

13 Q. 675 But there was no question of him taking you into the pub and both of you

14 waiting in Fagan's for ten or twenty minutes?

15:35:53 15 A. I didn't think so. I didn't normally go into pubs.

16 Q. 676 But you could have a cup of tea or a coffee or mineral or something?

17 A. Well he didn't invite me so he went in.

18 Q. 677 So he left you in a pickup truck for twenty minutes whilst he went to find

19 Mr. Ahern?

15:36:08 20 A. That's correct.

21 Q. 678 So that you could ask Mr. Ahern was he demanding 500,000 pounds of you?

22 A. Yes, I waited and waited outside.

23 Q. 679 And then I think you went to another pub and you waited a further ten minutes

24 at that pub?

15:36:21 25 A. Yes, we went across the Belfast Road, down -- what seemed to me towards down

26 towards the Beaumont Hospital area and towards somewhere down towards Griffith

27 Avenue.

28 Q. 680 Yes?

29 A. And he pulled up at a pub which I don't know the name of the pub but he pulled

15:36:43 30 up at another pub and he thought that Mr. Ahern would be there. So I waited

15:36:49 1 outside again and I was getting pretty anxious because time was running short
2 on the flight. So when he came out he said he wasn't there yet was what he
3 said to me. And would I hang on and I says no I couldn't. I had to be back
4 because I had to get back to England that night.

15:37:12 5 Q. 681 And you appear to have forgotten about the incident then, Mr. Gilmartin, isn't
6 that right? You remembered Mr. Burke's intervention but you have -- you forgot
7 up until March 2004 that the demand had been made of you.

8 A. Possibly I omitted it but I hadn't forgotten it. I wouldn't say I had
9 forgotten it. But in the convoluted -- should I say story of my involvement in
15:37:54 10 Dublin, it's possible that there's things omitted that I -- at various -- at
11 odd points.

12 Q. 682 But as things go, Mr. Gilmartin, this was one of the most serious ones, isn't
13 that right?

14 A. Yes.

15:38:14 15 Q. 683 It was one of the most serious demands of you for money?

16 A. Yeah.

17 Q. 684 It ranked in amount --

18 A. It wasn't a demand. It was talking about 500,000 pounds. Whether I would pay
19 it. It wasn't a demand. It wasn't a question, like being Lawlor hand me, you
15:38:27 20 know, 100,000 pounds. This wasn't a demand like that. It was what I call a
21 typical Donegal fashion, talking in circles. Talking around and around a half
22 a million.

23 Q. 685 You say --

24 A. I understood it to mean just that.

15:38:51 25 Q. 686 He asked me would I be prepared to pay half a million pounds because I knew
26 that Bertie Ahern was looking after him?

27 A. That was after I made the reference 'I'd pay an f***ing half a million pounds
28 to get out of here, if I got my money back'

29 Q. 687 There's no --

15:39:04 30 A. And he said would you.

15:39:05 1 Q. 688 There's no ambiguity about that statement, Mr. Gilmartin, is there, in
2 fairness. It says he asked me would I not be prepared to pay half a million
3 pounds because I knew that Bertie Ahern was looking after me?
4 A. Yeah.

15:39:17 5 Q. 689 There's no ambiguity about that.
6 A. That's the only figure that was mentioned, half a million pounds.
7 Q. 690 Yes.
8 A. But it was talked around in circles for the best part of ten fifteen minutes.
9 Q. 691 Yes. And then the phone rang and Mr. ?

15:39:33 10 A. To start with and then I began to realise he was looking for money.
11 Q. 692 Yes?
12 A. And the only figure mentioned was the half a million pounds.
13 Q. 693 The conversation, Mr. Gilmartin, as you describe it appears to have fallen into
14 two. There was a conversation chitchat as you described it about half a
15 million pounds. The phone rings. You answer the phone, you have your
16 conversation with Mr. Boland. And then the conversation resumes. And it's in
17 the resumed conversation, if I understand you correctly, that Mr. Burke said to
18 you would you not be prepared to pay half a million pounds because you knew
19 that Bertie Ahern was looking after you?

15:40:08 20 A. It was after I made the statement I'd pay half a million pounds to get out of
21 here if I got my money back.
22 Q. 694 Yes. Who were you to give the half a million pounds to, Mr. Gilmartin?
23 A. I don't know.
24 Q. 695 Was there any discussion --

15:40:27 25 A. I assumed that since he brought me to meet Mr. Ahern and went from -- on a ride
26 in the pick up to two different pubs to meet Mr. Ahern. At the end of the day,
27 I thought it was Mr. Ahern who he was asking on behalf of.
28 Q. 696 Yes. Well he had already said that. He said would I not be prepared to pay
29 half a million pounds because I knew that Bertie Ahern was looking after me?
15:40:55 30 A. Yeah.

- 15:40:55 1 Q. 697 And you went along with this --
- 2 A. It was after I made the statement.
- 3 Q. 698 Yes?
- 4 A. That I'd pay half a million pounds if I got me money back to get out of here.
- 15:41:08 5 Q. 699 What did you think you were going to get for your half a million pounds
- 6 Mr. Gilmartin?
- 7 A. Pardon?
- 8 Q. 700 What did you believe you were going to receive --
- 9 A. Didn't think anything. It was an off-the-cuff remark. If I could get me money
- 15:41:21 10 back at that time I would be happy to take a plane back to England and ... for
- 11 ...
- 12 Q. 701 What did you think Mr. Burke could deliver or indeed Mr. Ahern could deliver
- 13 for half a million pounds?
- 14 A. I don't know. I was looking for nothing. I categorically refused to pay any
- 15:41:38 15 corrupt payments to anybody. At all times I have. I refused Lawlor. I
- 16 refused Redmond. I refused Hanrahan. I would not be involved in any
- 17 corruption or buying a favour from anybody.
- 18 Q. 702 And did you understand that --
- 19 A. Even it cost me. And it did cost me.
- 15:41:58 20 Q. 703 And did you understand, Mr. Gilmartin, that Mr. Burke was making a corrupt
- 21 demand of you for money at this time?
- 22 A. My thing was that Dublin was totally corrupt. Absolutely totally corrupt.
- 23 Q. 704 In 1989. In September --
- 24 A. Now, that's unfair to decent people, I know, that comment, because I know
- 15:42:22 25 there's an awful lot of decent people. And I know that it's totally unfair to
- 26 make it. But at that time my thing is this place is totally corrupt.
- 27 Q. 705 And did that view of yours, Mr. Gilmartin, at that time colour any conversation
- 28 you had with anyone or any interaction you had with other politicians at that
- 29 time?
- 15:42:53 30 A. I became suspicion. In the end I trusted nobody.

15:42:56 1 Q. 706 Yes. Can I ask you, Mr. Gilmartin, when that demand was made of you. You went
2 back to Luton. But you were back in Ireland thereafter, isn't that right?
3 A. I was, yes.
4 Q. 707 Did you ever contact Mr. Ahern to follow-up on what you intended to do on the
15:43:14 5 evening in question in relation to this demand?
6 A. No.
7 Q. 708 Did you ever challenge him?
8 A. I don't think so, no, I didn't.
9 Q. 709 Did you ever again challenge Mr. Burke on the issue?
15:43:24 10 A. No.
11 Q. 710 No?
12 A. As far as I know, I never met Mr. Burke again.
13 Q. 711 But you were meeting Mr. Flynn. And we saw this morning where you met
14 Mr. Flynn in November 1989?
15:43:37 15 A. Yes.
16 Q. 712 Did you ever tell Mr. Flynn?
17 A. I did tell Flynn that what was going on. What ...
18 Q. 713 Did you tell --
19 A. Don't forget that from the previous year they had the ... Mr. Haughey, Mr.
15:43:54 20 Feeley had taken my complaints to Mr. Flynn.
21 Q. 714 Yes. And Mr. Flynn it appears, had brought the complaints to the Gardai or the
22 Gardai had heard of your complaints and they had been contacting you in March
23 in relation to those complaints, isn't that right?
24 A. Yeah.
15:44:10 25 Q. 715 And you had told Mr. Ahern that you had made those complaints, isn't that
26 right?
27 A. That's correct.
28 Q. 716 Back in June?
29 A. That's correct.
15:44:18 30 Q. 717 And are you saying that Mr. Burke didn't know --

15:44:21 1 A. And don't forget that I already had told Mr. Ahern about the.

2 Q. 718 Yes?

3 A. About what was going on.

4 Q. 719 And that was the whole?

15:44:29 5 A. Lawlor and various other people.

6 Q. 720 And that was, you say, the reason why Mr. Ahern and Mr. Burke get involved for

7 you, is that correct?

8 A. That's correct.

9 Q. 721 And when Mr. Burke came to you did you tell him about Mr. Lawlor and what was

15:44:40 10 happening to you?

11 A. He was aware of what my complaints were to Mr. Ahern.

12 Q. 722 Yes. And was he aware that you had -- that your complaints were the subject of

13 a Garda inquiry?

14 A. He obviously would have been, yes.

15:44:53 15 Q. 723 And yet, you say that in September of the very same year he was to find himself

16 in a situation where he was making a demand for 500,000 pounds from a man who

17 had made a complaint which was now the subject of a Garda inquiry?

18 A. Yes, well it was obvious that I was seen as an easy target some way or other.

19 Q. 724 But wasn't that a bit high risk from Mr. Burke's point of view having only ever

15:45:19 20 met you on three previous occasions?

21 A. It's possible.

22 Q. 725 That he demand 500,000 pounds from you --

23 A. I don't know what his logic is.

24 Q. 726 But in March the Guards were speaking with you isn't that right --

15:45:30 25 A. The guards told me to F-off back to England.

26 Q. 727 Well that was a conversation you had with somebody who purported to be a guard,

27 isn't that right?

28 A. Mr. Burns, yeah.

29 Q. 728 You had no similar conversation with Mr. Shreenan and you had discussed the

15:45:43 30 your difficulties --

15:45:44 1 A. Conversation prior to Mr. Burns.

2 Q. 729 Yes. But you knew that the Guards were investigating your complaints?

3 A. I don't think they investigated my complaints.

4 Q. 730 You certainly --

15:45:54 5 A. I am absolutely certain they didn't investigate my complaint. I was told to
6 piss off. Pardon my language. I do apologise for that.

7 Q. 731 But you refused to co-operate with the inquiry and give a statement to the
8 Guards, isn't that right?

9 A. One telephone, long telephone conversation. The Garda made no effort to meet
10 me or anything like that. They made a telephone conversation. I had a lengthy
11 telephone conversation in Luton and Mr. Shreenan.

12 Q. 732 Yes. Did you ever tell anyone about the demand, this demand of you by
13 Mr. Burke?

14 A. I'm quite sure I did.

15:46:15 15 Q. 733 Other than Mr. Flynn --

16 A. I'm not sure.

17 Q. 734 Did you tell Mr. Flynn?

18 A. I'm not sure. The last time I met Mr. Flynn I think was in London.

19 Q. 735 And was that November 1980 --

15:46:48 20 A. He stone-walled me that time. They were on a fundraising do in London.

21 Q. 736 Yes. That was Mr. Ahern in October --

22 A. I'm not sure.

23 Q. 737 Was that October 1989?

24 A. Yeah.

15:47:00 25 Q. 738 And that -- had the demand been made of you prior to that date?

26 A. It was around that time, yes.

27 Q. 739 Well had it been made before the meeting in London or after the meeting in
28 London?

29 A. Oh, I can't remember that exactly. The meeting with Mr. Flynn was very cool if
15:47:21 30 I may use the Irish term of "cool". The demand that I come down there. There

15:47:29 1 was some in the Reform Club or something. A fundraising, Mr. Ahern and
2 Mr. Flynn. It was in some pub or other in London.

3 Q. 740 But had the demand been made at that stage of you, Mr.--

4 A. I don't know. I can't remember that, whether it was before or after that.

15:47:50 5 Q. 741 And do you recall telling Mr. Flynn about this demand?

6 A. I don't recall telling him about that demand.

7 Q. 742 Do you recall telling anyone about the demand?

8 A. I can't remember exactly who I told.

9 Q. 743 You have told the Tribunal I think on a previous occasion that the demand of
15:48:08 10 100,000, for example, made of you by Mr. Lawlor on his own behalf and on behalf
11 of Mr. Redmond was something that you told Mr. Maguire about, your solicitor.

12 A. Yeah.

13 Q. 744 Did you tell Mr. Maguire about this demand?

14 A. I'm sure I did.

15:48:22 15 Q. 745 What about Mr.--

16 A. I would have done or I'd have definitely told Mr. Sheeran.

17 Q. 746 I was going to ask you.

18 A. He was the only person I'd confide in.

19 Q. 747 Do you think you told Mr. Sheeran about this demand?

15:48:34 20 A. I'm sure I did, yes.

21 Q. 748 You didn't tell Mr. Smith your solicitor about it in 1999, sure you didn't.

22 A. Yeah well Mr. Smith, Mr. Smith put a tape-recording on -- I met him in London
23 somewhere off Park Lane or off there. It was a kind of a brief meeting. He
24 put a tape-recorder on the table and then he asked me to recall events that
15:48:59 25 happened over a five ten -- ten years previously over a period of years.

26 Q. 749 And you --

27 A. So that was just a sort of a rambling conversation. It was never meant to be a
28 statement to the Tribunal. I had no intention of that being a statement to the
29 Tribunal. Because I had never proofread it. I -- it was never sent back to me
15:49:25 30 until after the Tribunal. After it had been sent to the Tribunal.

- 15:49:32 1 Q. 750 When you did come to provide a statement to the Tribunal initially in 2001?
- 2 A. Yeah.
- 3 Q. 751 You didn't include that incident, isn't that right?
- 4 A. That's correct.
- 15:49:39 5 Q. 752 And both in relation to your statement to Mr. Smith and your statement to the
6 Tribunal, you did come to mention Mr. Burke's intervention on your behalf at
7 the behest of Mr. Ahern, isn't that right?
- 8 A. That's correct, yes.
- 9 Q. 753 But you did not, on either occasion, bring it to the attention of the Tribunal
10 at that time that this demand had been made of you?
- 11 A. Yeah, well that's obviously correct.
- 12 Q. 754 And in fact, I think I swore an affidavit in October 1988.
13
14 At 10636.
- 15:50:11 15
16 Where you -- this was an affidavit that you swore in London. And again, you
17 referred to that meeting. You said "I had a number of meetings with Bertie
18 Ahern and complained to him about the way I was being obstructed. Later
19 Councillor Joe Burke told me that he had been asked by Bertie Ahern to speak to
15:50:29 20 George Redmond and attend a corporation meeting where the sale of land to me
21 was being considered. Later Pdraig Flynn and others asked me for a donation
22 to the Fianna Fail party and said that this would help to resolve the problems
23 I was having. Sometime before the election of 1989, probably in late spring of
24 that year. The impression I got was that if I paid a donation some of these
15:50:48 25 games would stop."
26
27 You referred to the payment of Mr. Flynn. You referred to the intervention of
28 Mr. Burke. You don't make any reference to the demand of a half a million
29 pounds, isn't that right?
- 15:50:59 30 A. That's correct. Obviously, it's there so it's correct.

15:51:15 1 Q. 755 Now, in your statement to the Tribunal at 2182. At paragraph 33. You say the
2 following.

3
4 You say that "I entered into discussions with Allied Irish banks for funding
15:51:28 5 for the Quarryvale development. AIB agreed to lend me 8 million pounds
6 repayable over six months. A loan agreement was finalised on the 19th of
7 February 1990. I had required a three year loan period but this was not
8 acceptable to AIB. I dealt primarily with AIB Corporate Finance Manager and
9 his assistant Jim Donagh. I am producing to the Tribunal a copy of the loan
15:51:50 10 agreement of the 19th of February 1990. The purpose of the loan agreement was
11 to part finance the purchase of certain lands including approximately 70 acres
12 from Dublin Corporation. The total monies drawn down under the loan agreement
13 were 7,949,000 pounds. The loan agreement provided for repayment in full by
14 31st of August 1990 or such later dates as might be agreed between my
15 development company and Barkhill Limited and AIB.

16
17 And at 2183.

18
19 Later I became suspicious that there was some collusion between Mr. O'Callaghan
15:52:22 20 and AIB. The option agreement dated 31st January 1989 which I had entered into
21 with Mr O'Callaghan's company was referred to in the recitals to the loan
22 agreement. I do not know why that was so. I was also surprised to see Mr.
23 O'Callaghan in the offices of AIB solicitors when I attended there to finalise
24 the term of the loan agreement and to execute the agreement.

15:52:44 25
26 This was only one of a number of occasions in which I came across Mr.
27 O'Callaghan or his solicitors or both in AIB premises when I called there for
28 various meetings with AIB representatives."
29

15:52:55 30 Now, we saw earlier in the afternoon, Mr. Gilmartin, you had sought money from

15:53:17 1 Irish Intercontinental Bank, isn't that correct?

2 A. That's correct, yeah.

3 Q. 756 And we saw where you had sought money from Bank of Ireland. And you had

4 substantial -- at one stage you had substantial monies, isn't that right, on

15:53:18 5 deposit.

6

7 If we look at 3897, please.

8

9 This is a statement on your account, account number 695745. And it shows that

15:53:30 10 on the 1st of December 1988 you had 2.12 million approximately to your credit,

11 isn't that right?

12 A. Correct, yeah.

13 Q. 757 And then if we look at the 11th of (inaudible) 1989. You transferred to the

14 investment department a sum of 41,425 pounds. And again, on the 31st of

15:53:55 15 January 1989 you transferred a sum of 652,000, isn't that right?

16 A. Correct.

17 Q. 758 Your account, I think, was credited on the 21st of March 1989 with 662,000

18 pounds but you debited the account on the 31st of March with the sum of 10,000

19 pounds, isn't that right?

15:54:18 20 A. Correct.

21 Q. 759 Do you recall what you may have spent that 10,000 pounds on in March 1989, 31st

22 of March 1989, can you recall?

23 A. Oh, I ... I'm not quite sure. I gave 10,000 pounds as a donation towards a

24 hospice in Sligo. I don't know whether that is the one.

15:54:36 25 Q. 760 Yes. And you gave evidence of that in relation to that in Quarryvale I?

26 A. Yes.

27 Q. 761 Again on 5th of April 89 you transferred to the investment department a sum of

28 100,000 pounds and again on the 11th of April a further sum of 200,000 pounds.

29 And then I think on May 1989 you debited your account with a sum of 354,055

15:54:54 30 pounds, do you recall what that was in relation to?

15:55:01 1 A. It must have been in relation to land purchase.

2 Q. 762 Similarly on the 26th of May 89 a sum of 90,000. On the 2nd of June 120,000.

3

4 Now --

15:55:14 5 A. There was 120,000 figure that was paid in connection with land I bought from

6 the Deadman's Inn. I can't remember the name of the people. There was four

7 acres.

8 Q. 763 Yes?

9 A. Was bought around that time. So there was 120,000 that was paid on that. I

15:55:41 10 but I wound up having to pay nearly 300,000 for that land.

11 Q. 764 Yes.

12 A. But I had paid 120,000.

13 Q. 765 Yes. And I had put to you earlier, Mr. Gilmartin, that the documentation from

14 IIB where you had sought and had been approved, I think, for a six million

15:56:06 15 pounds facility, isn't that right?

16

17 If we could have 4034, please.

18 A. Correct.

19 Q. 766 You see there that the facility letter of even date to Barclay Limited

15:56:24 20 providing for a six million pounds equivalent term loan facility and in

21 particular to clause nine thereof. Looking at that document again, Mr.

22 Gilmartin and you signed -- sorry, that document of offer. It says this is to

23 confirm the fees required to be paid following the acceptance of the

24 facilities, 40,000 pounds payable on acceptance. And 60,000 pounds payable

15:56:46 25 when the property referred to in clause three of the facility letter is

26 designated under the terms of the Urban Renewal Act 1986. This fee will be

27 payable within 90 days of the granting of such designation.

28

29 So what I'm suggesting to you is that designation of the site was a factor in

15:57:04 30 the facility being offered to you by IIB.

15:57:08 1 A. IIB, yes.
2 Q. 767 Yes. Because at that time I was told that the site would get?
3 A. Tax designation status. All three towns I was assured was getting it.
4 Q. 768 Yes. And again --

15:57:21 5 A. Could you excuse me a minute, I need to.

6 Q. 769 Yes. Actually, it's almost four o'clock.
7

8 CHAIRMAN: It's five to four so we'll sit tomorrow at half past ten.

9 A. Sorry?

15:57:32 10

11 CHAIRMAN: We'll sit tomorrow at half past ten.

12 A. Half past ten.
13

14 CHAIRMAN: All right?

15:57:37 15 A. Yeah. Okay. Thank you.
16

17 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**

18 **WEDNESDAY, 30TH MAY 2007 At 10.30 A.M.**
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