

13:29:21 1 **THE TRIBUNAL RESUMED FOR CLOUGHAN MODULE AS FOLLOWS AT 2 PM:**

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3

MR. QUINN: Good afternoon sir, Mr. Butler please.

4

14:02:46 5 **JOHN BUTLER, PREVIOUSLY SWORN, CONTINUES TO BE QUESTIONED BY**

6

MR. QUINN AS FOLLOWS

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8

CHAIRMAN: Good afternoon, Mr. Butler.

9

A. Good afternoon.

14:02:57 10 Q. 1 MR. QUINN: Good afternoon, Mr. Butler. Mr. Butler, yesterday we were
11 dealing with your contacts with Mr. Dunlop.

12

A. Correct, yes.

13

Q. 2 And just to summarise your position, as I understand it, you met with Mr.

14

Dunlop in Ambrose Kelly's office having been introduced to him by

14:03:14 15 Mr. Collins as someone who could help with you your project and help you
16 to lobby councillors, isn't that correct?

17

A. That's correct.

18

Q. 3 You went back to your, the other partners, Mr. Williams and Mr. Kenny, and

19

you contacted Mr. Dunlop and you met with Mr. Dunlop in the Royal Dublin

14:03:29 20 Hotel.

21

A. Correct.

22

Q. 4 Mr. Dunlop provided with you a list of councillors to include their

23

photographs and their addresses etcetera.

24

A. Yes.

14:03:37 25 Q. 5 And agreed to facilitate introductions to the councillors for you.

26

A. Correct.

27

Q. 6 And you did not discuss with Mr. Dunlop payment at any stage and you were

28

aware at some stage from your colleagues that some arrangement had been

29

made with Mr. Dunlop but the actual details of the arrangement you were

14:03:55 30 never advised of and after you had been contacted by the Tribunal you

14:04:00 1 contacted your partners and you were advised that it was paid by Coopers &
2 Lybrand out of the sale of the property.

3 A. Yes.

4 Q. 7 That's your position.

14:04:09 5 A. That's my position.

6 Q. 8 You never had any contact with Mr. Dunlop in relation to payment, you
7 never received an invoice from him, you never delivered a cheque to him,
8 isn't that correct, that's your position?

9 A. That's correct, yes.

14:04:20 10 Q. 9 Throughout.

11 A. That's correct, yes.

12 Q. 10 Just in relation to that, if I could just have day 692 please, question
13 470, this is an extract, Mr. Butler, from the evidence of Mr. Williams,
14 your partner. He gave evidence on day 692, it will come up on the screen
14:04:43 15 in one moment now.

16 A. Sorry.

17 Q. 11 I am just taking it, Mr. Williams is giving his evidence, if you just see
18 on screen, question 470?

19 A. Yes.

14:04:52 20 Q. 12 Mr. Williams is being asked about that invoice which we dealt with
21 yesterday, that is to say the invoice of the 29th January 1993, in the sum
22 of 3,025 pounds and the question is "And according to Mr. Dunlop that sum
23 of 2,500 pounds at 820, is lodged to the account of Frank Dunlop &
24 Associates on the 29th January, being approximately the sixth lodgement
14:05:16 25 down, do you see that, 2,500 pounds?

26

27 Now if that is paid, at 149 please, if that sum is paid Mr. Williams it's
28 likely you would have signed the cheque, isn't that right?

29 Answer: It is.

14:05:27 30 Question: Okay, would you outline to the Tribunal the circumstances in

14:05:32 1 which you came to pay the sum of 2,500 pounds to Mr. Dunlop in January
2 1993?
3 Answer: Well, presumably Johnnie got the invoice and asked me to sign the
4 cheque".

14:05:41 5
6 Now, I think I can take, Mr. Butler, you are the "Johnnie" there referred
7 to
8 A. Yeah, that's what he is saying, yes.
9 Q. 13 But you dispute that?
14:05:49 10 A. I very much dispute that, yes, I would say the invoice went to The
11 Courtyard, I wouldn't have been in The Courtyard, and Tom Williams would
12 have got the invoice.
13 Q. 14 And just in relation to your contact with Mr. Dunlop, I should, for
14 completeness put to you what Mr. Dunlop has said, I am sure your solicitor
14:06:09 15 already advised you of what Mr. Dunlop alleged, but amongst the matters
16 Mr. Dunlop has given evidence about is, are the following, firstly he said
17 that when he met with yourself and Mr. Collins he told you about the
18 necessity for a motion and map and a necessity to lobby councillors?
19 A. For a?
14:06:27 20 Q. 15 A motion and a map to put the rezoning of the lands on the agenda for the
21 council.
22 A. I don't even know what that is, could you just --
23 Q. 16 Okay. You can take it, Mr. Butler, that when the councillors voted to
24 rezone property they usually did so on foot of a motion lodged by one of
14:06:49 25 their members.
26 A. Oh sorry, a motion -- a motion and a map I thought you said.
27 Q. 17 The motion is usually accompanied by a map?
28 A. Okay, but that would have been handled by the architect.
29 Q. 18 Okay. Well, now Mr. Dunlop has said that he told you of the necessity for
14:07:04 30 such a motion and such a map and the fact that it would require in

14:07:09 1 addition, the lobbying of councillors to support that motion?

2 A. He may have told my partners, but he didn't tell me. He just gave me the

3 photographs at that meeting, the first meeting.

4 Q. 19 Okay. He has already given evidence to the effect that when you spoke to

14:07:25 5 him you advised him that some councillors had already been contacted and

6 Mr. Collins said that there was wide spread support for the proposal.

7 A. Well certainly that did not happen at that initial meeting. It may have

8 happened at a subsequent meeting, but Mr. Collins was not there.

9 Q. 20 Okay. He says that you said that GV, that is GV Wright who is a

14:07:48 10 councillor, was fully on side.

11 A. When did I say that?

12 Q. 21 Well perhaps at that first meeting, certainly --

13 A. No, no.

14 Q. 22 -- very early --

14:07:58 15 A. That first meeting never referred to any individual councillors. At that

16 stage I had -- I got those lists and went back to my partners then.

17 Q. 23 Did you ever speak with Councillor GV Wright?

18 A. I don't believe so, I don't believe I spoke with him then. I knew him

19 beforehand.

14:08:22 20 Q. 24 Yes.

21 A. But I don't believe I spoke with him, Tim Collins may have.

22 Q. 25 Yes. On your, may have spoken to him on your behalf?

23 A. But he would have known me.

24 Q. 26 Yes.

14:08:32 25 A. He would have known who I was.

26 Q. 27 Did Mr. Collins lobby councillors on your behalf?

27 A. I can't say that but I would imagine he did.

28 Q. 28 Yes. And then he says that both yourself and Mr. Collins said that you

29 knew that some councillors would need to be paid for their support.

14:08:50 30 A. That's totally off the wall.

- 14:08:54 1 Q. 29 And he said, perhaps on a subsequent occasion, he had a conversation with
2 you about the necessity to pay councillors for their support?
- 3 A. That is not correct.
- 4 Q. 30 Yes. Now in relation to his own fees, he says that he asked you for a sum
14:09:09 5 of 20,000 pounds but agreed a figure of 10,000 pounds, leaving over the
6 issue of a success fee.
- 7 A. He may have done that with my partners, but I had nothing to do with
8 arranging his fees. Now, as I said he may have done it with my partners,
9 because I believe, and then it's only from what is told to me, that they
14:09:33 10 met Mr. Dunlop at his office.
- 11 Q. 31 And he says and has given evidence to the effect that he received 10,000
12 pounds shortly after his agreement in relation to fees agreed, very early
13 on, perhaps at the first meeting with you, which he dates to the 13th
14 January '93 and you saw his diary entry on the screen yesterday.
- 14:09:57 15 A. Yes, that's totally incorrect, he received no money from me.
- 16 Q. 32 Now, I think in -- you, in your statement advised the Tribunal that you
17 had very little contact with Mr. Dunlop, isn't that correct?
- 18 A. Yes, except all -- with the contact I had with Mr. Dunlop was a few
19 meetings down at that hotel and one meeting in the pub.
- 14:10:22 20 Q. 33 Yes. Well --
- 21 A. Actually it went from the hotel, around to the pub, he wanted -- I can't
22 remember who he was going to introduce us to, I believe Niall and Tom were
23 there at the same time.
- 24 Q. 34 Now, I am going to put just a number of dates to you, Mr. Butler, you can
14:10:40 25 take it that these dates are correct, the motion in relation to your lands
26 had to be signed and lodged by the 12th March 1993.
- 27 A. Yes.
- 28 Q. 35 And the vote in relation to that motion was held at a special meeting of
29 the council on the 1st April 1993.
- 14:11:00 30 A. I have to take your word for it, yes.

14:11:02 1 Q. 36 And the contacts, the first contact between yourself and Mr. Dunlop as
2 recorded in Mr. Dunlop's documentation appears to have been on the 15th,
3 sorry the 13th January 1993, now you don't accept that that meeting took
4 place?

14:11:19 5 A. Yes.

6 Q. 37 But would you agree with me that your introduction to Mr. Dunlop by
7 Mr. Collins took place in the early months of January 199 -- sorry early
8 months of 1993 and possibly January '93?

9 A. Yeah, it had to be.

14:11:32 10 Q. 38 It had to be, because the motion had to be in by the 12th March and the
11 vote was on the 1st April.

12 A. I believe so, again just common sense.

13 Q. 39 And Mr. Dunlop's records, in other words his telephone attendances and his
14 diary disclose the following contacts between yourself and himself. Now,
14:11:52 15 I am not saying that these are correct but I am going to put them on
16 screen fairly rapidly just so you have an opportunity to comment on them.

17 A. Yes.

18 Q. 40 I have dealt with Mr. Collins' call to Mr. Dunlop on the 11th January, I
19 have dealt with the diary entry showing a meeting between Mr. Collins and
14:12:09 20 yourself and Mr. Dunlop on the 13th January. I have put on screen the
21 telephone attendance on the 15th January which is at 801 which will now
22 come up on screen, I don't want to go back over that you dealt with that
23 yesterday.

24 A. Sorry you are talking about now -- it's just come up on screen, sorry I
14:12:27 25 thought --

26 Q. 41 These are just helpful I think just to put in context. Then we dealt with
27 the invoice on the 29th January, 1499 which show a payment, as I say, of
28 two and a half thousand plus VAT on that date and marked paid on that date
29 and you say you know nothing about that despite what Mr. Williams said in
14:12:44 30 relation to it. Then on the 10th February at 829 you are recorded as

- 14:12:48 1 having left a message for Mr. Dunlop. In fact you rang Mr. Dunlop twice
2 on that date, at 9:30 and then again at quarter to four?
- 3 A. That's correct I see that, yes.
- 4 Q. 42 On the 16th February at 831 you ring Mr. Dunlop at 11.50, on the 17th
14:13:04 5 February at 9.50 at 832.
- 6 A. Sorry could you just -- on what date again?
- 7 Q. 43 Sorry that's the 17th February, you see the second entry on Mr. Dunlop's
8 diary, Mr. Dunlop's attendances 9.50 telephone call, John Butler and
9 number given 6266601.
- 14:13:29 10 A. That's Scafform's office, yes.
- 11 Q. 44 And then on the 22nd February at 833, there is a 2 o'clock meeting for
12 John Butler/Scafform, do you see that?
- 13 A. Yes.
- 14 Q. 45 Monday 22nd. On the 1st March at 2.50, 839, there is a telephone
14:13:50 15 attendance that says "John Butler-back in the office at 3.45", do you see
16 that?
- 17 A. What does that mean? That he is saying he will be back in the office.
- 18 Q. 46 That I can't tell you, Mr. Butler, all I can say is that it's probable
19 that you rang Mr. Dunlop's office, Mr. Dunlop wasn't there, his secretary
14:14:12 20 took a note to say that you had rang and you had left a message that you
21 would be back in the office at 3.45. It could equally mean that she had
22 advised you that he, Mr. Dunlop would be back in the office, but either
23 way I don't think a lot turns on it other than I am suggesting to you as I
24 will in a moment, in relation to all of these entries, that it shows
14:14:29 25 contact between you and Mr. Dunlop contrary to what you have said by way
26 of just meeting him socially or casually?
- 27 A. No, no. What I am saying to you is that the first meeting I had was in
28 Ambrose's office, I then believe I rang him and we met down at the council
29 offices.
- 14:14:49 30 Q. 47 Yes, now these are further contacts between you and Mr. Dunlop throughout

14:14:54 1 this period, this crucial period leading up to March and April '93?

2 A. Okay.

3 Q. 48 The 4th March '93 at 843 at 10.45, there is a message that you rang. 848

4 on the 8th March '93 there is a 9.10 message "John Butler - 2.15 meeting

14:15:14 5 here tomorrow", that I suggest to you is a confirmation of a meeting in

6 Mr. Dunlop's office?

7 A. Sorry, could you highlight that one?

8 Q. 49 Yes, 848.

9 A. "Meeting here tomorrow", that would have been on --

14:15:30 10 Q. 50 That would have been Mr. Dunlop's office.

11 A. Well I believe --

12 Q. 51 Tomorrow would have been the 9th March, if we for example had 847, there

13 is an extract from Mr. Dunlop's diary, Mr. Butler?

14 A. Yes.

14:15:43 15 Q. 52 Do you see the first entry on Monday 8th March "ring John Butler", do you

16 see that?

17 A. Yes.

18 Q. 53 If we go across to the next day Tuesday 9th March it says "John Butler

19 today", do you see that with a question mark?

14:15:55 20 A. Yes.

21 Q. 54 If you go to 2.15 do you see "John Butler"?

22 A. Yes. Now, when he refers to John Butler is he referring to me or my

23 partners.

24 Q. 55 I suggest it's you, Mr. Butler, because if we go to 853, this is on the

14:16:13 25 10th March '93, you will see that he has an 11.45 attendance which says

26 "John Butler-zoning on planning is zoning E", do you see that?

27 A. Yes.

28 Q. 56 And when he is dealing with Mr. Kenny, your partner if you look at the

29 next entry, it says 11.50 "Niall Kenny-zoning is E". If you look at 9.15

14:16:38 30 that very morning you find Mr. Kenny has also been on to Mr. Dunlop?

14:16:43 1 A. Yes.

2 Q. 57 And indeed if we go to 854 at 3.25 on that same afternoon you find

3 Mr. Kenny is being noted as having been on?

4 A. Yes.

14:16:55 5 Q. 58 You agree with me there is no reason why Mr. Dunlop would note your name

6 for your partners names if --

7 A. No, yes, I agree with you.

8 Q. 59 Would you agree --

9 A. But they were phone calls.

14:17:08 10 Q. 60 Yes, phone calls, but I am suggesting to you it shows contact between you

11 and Mr. Dunlop to a very large extent.

12 A. Well I -- what my recollection of it is, quite simple, that the contact

13 may have been there, and as you can see from the phone calls Niall Kenny

14 takes over, when he had the contact about zoning E because I didn't know

14:17:34 15 what zoning E was, I am just assuming again, believe you me, like there

16 would have been phone contact, but I never went to his office.

17 Q. 61 Yes. If we talk about zoning E, if we look at 859, this is a copy of the

18 motion which I spoke about a moment ago, and that motion talks about the

19 map being signed and also refers to zoning E, namely to provide for

14:17:59 20 industrial and related uses, do you see that?

21 A. I do.

22 Q. 62 That's what was being sought, isn't that correct?

23 A. I believe so.

24 Q. 63 That's the motion which is lodged on the 12th March to having been signed

14:18:09 25 by those councillors.

26 A. Yes.

27 Q. 64 If your phone call and Mr. Kenny's phone call is being met on the 10th

28 March, would you agree with me that this is probable that it wasn't until

29 the 10th March or subsequently that that motion was typed up and

14:18:21 30 available?

14:18:24 1 A. I would believe so, yes, make sense, yeah.

2 Q. 65 Just looking at that motion and taking the names on the motion, Cyril

3 Gallagher who is now deceased, did you lobby Mr. Gallagher for his

4 support?

14:18:44 5 A. I don't believe so, now I may have been introduced to him but I don't

6 recollect talking to him at all.

7 Q. 66 What about councillor Anne Devitt?

8 A. Yes, definitely. I had a meeting with all the women, I mean there was

9 Anne Devitt, I think Nora Owen, and is there any other ladies name there?

14:19:05 10 Q. 67 Not signing the motion.

11 A. Yeah, well there were different party women, they kind of --

12 Q. 68 Did you meet them independently of each other, or was it a one to one

13 meeting?

14 A. No, I met a few of them together in the council office.

14:19:20 15 Q. 69 And was Mr. Dunlop present?

16 A. No.

17 Q. 70 Did Mr. Dunlop arrange the meeting?

18 A. I believe so.

19 Q. 71 Yes. Was about Mr. Michael Joseph Cosgrave?

14:19:28 20 A. I can't remember him.

21 Q. 72 Councillor Sean Gilbride?

22 A. I can't remember even -- who would he be, which party would he be?

23 Q. 73 He would have been Fianna Fail.

24 A. I never knew him.

14:19:46 25 Q. 74 What been Councillor Liam Creaven, or Councillor GV Wright, did you

26 approach them?

27 A. I didn't approach GV Wright but I have no surprise that GV Wright would

28 have been one of the nominees or --

29 Q. 75 Because, why do you say that?

14:20:04 30 A. Because I -- I'd known GV Wright before. Like I had met him at these

14:20:13 1 dinners as you mentioned before.

2 Q. 76 Yes.

3 A. And I knew him, I knew him before.

4 Q. 77 And isn't that all the more reason why he would be one of the people you

14:20:23 5 would have approached independently of Mr. Dunlop?

6 A. I don't believe I had to approach him because I would believe that Tim

7 Collins would have been talking to him.

8 Q. 78 Yes. Did Mr. Collins lead to you believe that he had spoken to GV Wright?

9 A. Mr. Collins, I can't remember exactly, but I believe that is the

14:20:47 10 situation.

11 Q. 79 Yes. And if Mr. Dunlop says that he was advised that Mr. GV Wright was

12 supportive, he very well be correct in that that's something that could

13 have been said to him by Mr. Collins?

14 A. That's true, that's true. I believe from what I read there, is that

14:21:06 15 Mr. Collins may have done quite a lot of work contacting some of the

16 Fianna Fail councillors and said look this is Johnnie as they referred to

17 me, Johnnie Butler is involved in this.

18 Q. 80 Mr. Dunlop, on day 686, said that he was advised or that you had indicated

19 and made a comment to the effect and he concluded that you had already

14:21:38 20 been in contact with councillors because you assured him that GV Wright

21 was completely on side, was fully on side or completely on side. And is

22 it your evidence that you perhaps believed that because Mr. Collins, on

23 your behalf or on behalf of the consortium had approached GV Wright and

24 had got that assurance and relayed it on to you and you in turn relayed it

14:22:02 25 on to Mr. Dunlop?

26 A. Well, if Mr. Dunlop, if I said that to Mr. Dunlop which I don't remember,

27 that I believe I would, that would have come from my contact with Tim

28 Collins.

29 Q. 81 Yes. So can the Tribunal take it that Mr. Collins had approached some

14:22:20 30 councillors for their support for this project?

14:22:22 1 A. I believe so.

2 Q. 82 Yes. Now, the motion as I say had to be lodged by the 12th March and then

3 there are further contact as follows leading up to the vote on the 1st

4 April. At 869 your colleague Mr, which is the 15th March your colleague

14:22:39 5 Mr. Kenny contacts Mr. Dunlop, and at 871, an extract from Mr. Dunlop's

6 diary on the Tuesday 16th March at 12 noon "Niall Kenny/J Butler", do you

7 see that?

8 A. Correct.

9 Q. 83 Was there a meeting between yourself and Mr. Kenny and Mr. Dunlop in Mr.

14:22:56 10 Dunlop's office on the 16th March?

11 A. No. I think Mr. Kenny will -- I don't know if Mr. Kenny will verify that,

12 because I spoke to Niall Kenny and his recollection is I was never with

13 him when they met.

14 Q. 84 There is a further entry in Mr. Dunlop's diary at 881 for Thursday 25th

14:23:16 15 March, an 8 am meeting "Niall Kenny/J Butler" do you see that, bottom left

16 hand corner?

17 A. No, that never happened. I was never there.

18 Q. 85 You were never there so you say?

19 A. Yes.

14:23:30 20 Q. 86 Were you at the meeting of the 1st April, the special meeting of the

21 council, did you attend that meeting?

22 A. The special meeting which is that now?

23 Q. 87 Which voted on the motion which we saw a moment ago?

24 A. Which voted on the motion, yes. I was there outside.

14:23:46 25 Q. 88 Was Mr. Kenny and Mr. Williams there?

26 A. I believe -- I believe they were, yes.

27 Q. 89 And Mr. Dunlop?

28 A. I'm not sure but --

29 Q. 90 Following on that meeting did you phone Mr. Dunlop on the 5th April, if we

14:24:04 30 could have page reference 901, this is an extract from Mr. Dunlop's diary

14:24:10 1 attendances, sorry diary -- telephone attendances for the Monday 5th,
2 which would have been the Monday after the vote. There is a 4.35 "John
3 Butler"?

4 A. Did I phone him?

14:24:25 5 Q. 91 Yes.

6 A. I may have, I can't remember, I may have phoned him, I may have phoned him
7 to thank him or --

8 Q. 92 Yes. And on that same date, that's the 5th of April 1993, if I could have
9 902, Mr. Dunlop issues another invoice, I can't say it's a second invoice,
10 but another invoice which is described as a pro forma invoice, number 044
11 to John Butler, Managing Director, Scafform Limited, do you see that, for
12 a sum of 12,100, did you receive that, Mr. Butler?

13 A. I don't recollect receiving that. It could have been received by my
14 office.

14:25:00 15 Q. 93 Yes.

16 A. And then it would have been sent on to The Courtyard.

17 Q. 94 Yes. The other invoice, the one in January '93 at 1489, is directed to
18 Mr. John Butler, c/o Blackfern Limited, Courtyard Restaurant?

19 A. That would have gone direct to Tom.

14:25:21 20 Q. 95 Yes.

21 A. There is a "paid" writing up on top of it, I don't know whose --

22 Q. 96 That's done within Mr. Dunlop's office, that's a copy?

23 A. Sorry I thought it was --

24 Q. 97 If we could revert to 902, that's an invoice which is dated 5th April '93,
14:25:40 25 and it's dated the same day that there is a telephone attendance within
26 Mr. Dunlop's office for, on a call from you at 4.35 on that afternoon. Is
27 it possible, Mr. Butler, that the vote having taken place on the 1st April
28 '93, that you would have rang Mr. Dunlop on Monday 5th April '93, and
29 asked him to send out an invoice for his work which would have been
14:26:03 30 prepared and sent out on the same date to you, c/o Scafform Limited?

- 14:26:08 1 A. No, I would imagine it would have been from Niall or Tom, mainly Tom I
2 think was the person who was dealing with the finances.
- 3 Q. 98 Yes.
- 4 A. Niall was dealing with -- but Tom was dealing with day to day money.
- 14:26:25 5 Q. 99 But if this invoice is directed to you, Mr. Butler, and directed to you
6 care of your company, Scafform Limited --
- 7 A. Yes.
- 8 Q. 100 -- would you agree that it's probable that it came to your attention or
9 somebody brought it to your attention and at a very minimum it is probable
14:26:42 10 that it was received within Scafform Limited?
- 11 A. It would have been received, probable that it was received within Scafform
12 Limited and Michael Cassidy, the then secretary in finance manager of the
13 company, would have sent it on to The Courtyard. I can't remember
14 actually seeing it, but if it was it would have been sent on to The
14:27:04 15 Courtyard.
- 16 Q. 101 On the 11th May '93 at 137, it would appear that a copy of that invoice
17 was faxed through to The Courtyard to Mr. Williams in The Courtyard by an
18 employee of Mr. Dunlop's, do you see that fax?
- 19 A. That kind of bears out my statement.
- 14:27:20 20 Q. 102 "Outstanding invoice attached as requested, I look forward to hearing from
21 you." And if you look at the invoice at 138, isn't it a copy of the
22 invoice we referred to a moment ago?
- 23 A. It's sent on Tom Williams.
- 24 Q. 103 Yes.
- 14:27:36 25 A. That bears out what I said then that is correct it would have been sent to
26 Tom Williams not Scafform because Scafform had nothing do with that.
- 27 Q. 104 But the first invoice would have been received within Scafform I suggest
28 to you?
- 29 A. Yes.
- 14:27:47 30 Q. 105 And if it were received with in Scafform and faxed through or sent forward

- 14:27:51 1 to Mr. Williams it wouldn't be necessary for Mr. Williams to ring Mr.
2 Dunlop's office in May seeking a copy of the invoice, isn't that right?
- 3 A. I don't know. I would definitely say that Scafform would have sent it on
4 because they had a very professional management and accountancy -- Michael
14:28:15 5 Cassidy would have been the man who sent it on.
- 6 Q. 106 If we look at 137, this is the enclosing the fax enclosing that invoice,
7 it says "outstanding invoice attached as requested", do you see that?
- 8 A. Yes.
- 9 Q. 107 It would appear at some stage prior to the 11th May '93, Mr. Williams had
14:28:39 10 requested a copy of the invoice from Mr. Dunlop's office?
- 11 A. It could have been -- my question is how did he know there was an
12 outstanding invoice or did Tom ring him to say would you send a copy of
13 that invoice. I don't know is the answer to that question.
- 14 Q. 108 Do you know why you were ringing Mr. Dunlop's office on the 5th April '93?
- 14:29:11 15 A. I don't, I imagine -- I have no recollection of the conversation, whatever
16 the conversation was.
- 17 Q. 109 But there is no doubt that if we look at the invoice, Mr. Dunlop was
18 anticipating that he would receive 10,000 pounds and VAT for his work,
19 isn't that right, at page 138 because that's what the invoice --
- 14:29:35 20 A. 137.
- 21 Q. 110 Sorry 138, yes, do you see the invoice?
- 22 A. Yes.
- 23 Q. 111 It's for 10,000 and VAT.
- 24 A. That's the copy of the invoice sent out yes, sorry.
- 14:29:47 25 Q. 112 So when Mr. Dunlop was speaking with you on the 5th April '93, he was of
26 the view that he was likely to receive payment of a sum of 10,000 and VAT?
- 27 A. Well, if he sent out, obviously, yes.
- 28 Q. 113 If you look at the wording it says "to agreed fees" do you see that?
- 29 A. Yes.
- 14:30:06 30 Q. 114 So he was obviously of the view that he was going to get 10,000 pounds and

- 14:30:10 1 VAT in respect of fees which he had agreed with somebody, isn't that
2 right?
- 3 A. Not with me.
- 4 Q. 115 Well, you will agree with me that it would appear from the invoice that he
14:30:17 5 had agreed those fees with someone?
- 6 A. But I have a conflict with that because what fees was he paid.
- 7 Q. 116 Well, that's the difficulty, Mr. Butler, but for a moment, right now just
8 looking at the invoice on screen, would you agree with me that Mr.
9 Dunlop's state of mind on the 5th April, when you were trying to make
14:30:36 10 contact with him was such that he felt he was entitled to agreed fees of
11 10,000 pounds plus VAT?
- 12 A. Well, reading that invoice I would deduct the same as yourself, yes.
- 13 Q. 117 And the invoice is directed to you, isn't that right?
- 14 A. The invoice was directed to me, yes.
- 14:30:54 15 Q. 118 So if he had agreed fees with anyone it surely would have been with the
16 person to whom he was directing his invoice, isn't that right?
- 17 A. No, I think when you speak to Niall Kenny you will know nothing would be
18 agreed by anybody until Niall Kenny had sanctioned it.
- 19 Q. 119 But perhaps yourself and Mr. Kenny and Mr. Williams had already agreed and
14:31:17 20 sanctioned a fee of 10,000 pounds plus VAT?
- 21 A. I didn't and I don't believe that's correct.
- 22 Q. 120 Can you give any explanation to the Tribunal why, as to why Mr. Dunlop
23 would direct an invoice to you on the 5th April, four days after the
24 successful vote, in respect of a sum of 10,000 pounds and VAT which he
14:31:37 25 describes as being in respect of agreed fees?
- 26 A. No, I can't, I can't give any explanation.
- 27 Q. 121 Now, do you accept at 2112, that Mr. Dunlop received a cheque for the sum
28 of 7,000 pounds on the 6th April '93.
- 29 A. From that, yes.
- 14:31:59 30 Q. 122 Do you --

14:32:04 1 A. Frank Dunlop and Tom Williams I think is the signature, is that right?

2 Q. 123 Yes. Tom Williams is the signature.

3 A. Yes.

4 Q. 124 If we could have 1949?

14:32:14 5 A. What date is that on, would that be --

6 Q. 125 It would appear to be dated perhaps 6th April '93, but it may have been

7 6th May, I don't know but --

8 A. And what was Frank Dunlop's invoice, what date was that?

9 Q. 126 Mr. Dunlop's invoice was the 5th April and a reminder for the invoice had

14:32:31 10 been sent on the 11th May and on screen now is a, an extract from an

11 account of Blackfern Limited trading as the Courtyard Restaurant account

12 number 03075-053 and you will see a debit on that account on 13th April

13 '93 of 7,000 pound?

14 A. I do. Yes.

14:32:59 15 Q. 127 And do you accept that that account was debited at that time for a sum of

16 7,000 pounds and that that debit is probably a debit in relation to -- of

17 the cheque at 2112, in the sum of 7,000 pounds made payable to Frank

18 Dunlop & Associates?

19 A. That looks like that, yes.

14:33:23 20 Q. 128 Did you contact Mr. Dunlop's office on the 23rd April '93, if we could

21 have 923 please? There is a 3.10 "John Butler Scafform" and a telephone

22 number given, did you --

23 A. I have no recollection of doing that.

24 Q. 129 What about the --

14:33:45 25 A. Would that have been me contacting him or --

26 Q. 130 Yes, it's a note of you trying -- now I have to say to you, Mr. Butler,

27 that these are only notes of failed attempts to make contact with Mr.

28 Dunlop, there may have been many other contacts with Mr. Dunlop, these are

29 instances where Mr. Dunlop has not been in the office or has not been able

14:34:03 30 to take the call and a message has been taken for him?

- 14:34:16 1 A. Okay. And later Tom Williams rings him.
- 2 Q. 131 Yes, there are a series of attempts by Mr. Williams and indeed on one of
- 3 those attempts, on the 18th May '93 at 948, Mr. Williams is, there is a 1
- 4 o'clock "Tom Williams-Scafform" and a telephone number given?
- 14:34:28 5 A. You see this is Tom Williams Scafform.
- 6 Q. 132 Yes.
- 7 A. Somebody is getting it wrong in his office.
- 8 Q. 133 Did Mr. Williams have any contact with or any involvement with Scafform?
- 9 A. Tom Williams had no involvement whatsoever with Scafform, never did have
- 14:34:43 10 any involvement.
- 11 Q. 134 I see. If we look at 969, Mr. Butler, this is a telephone message on the
- 12 17th June '93, do you see that, and it's at 10.55 it says "John Butler"
- 13 and a telephone number given, "hoping to call in around 11.30"?
- 14 A. Of June?
- 14:35:03 15 Q. 135 11.30 of June, sorry 17th June?
- 16 A. 17th June.
- 17 Q. 136 Did you call in, have reason to call to Mr. Dunlop's office on the 17th
- 18 June 1993?
- 19 A. I can't remember and I believe not.
- 14:35:14 20 Q. 137 Why do you think you might have called to Mr. Dunlop's office?
- 21 A. I can't remember why I would, why "hoping to call around".
- 22 Q. 138 Well if we look, would document 1887 be of assistance? This is one of two
- 23 invoices issued on the 28th June '93, Mr. Butler, again both issued to
- 24 John Butler Scafform, do you see that?
- 14:35:38 25 A. Yes.
- 26 Q. 139 And at 1888 there is an invoice, 28th June, first invoice is 864, this is
- 27 865, the first invoice is for a sum of 5,100 pounds which is in relation
- 28 to agreed fees, and the second invoice is in relation to a sum of 6,050
- 29 pounds, do you see that?
- 14:35:57 30 A. I see, have the second invoice up in front of me.

- 14:36:00 1 Q. 140 Can you assist the Tribunal in relation to either of those invoices, since
2 both of them are addressed to you care of Scafform?
3 A. Again it seems that Frank Dunlop was using my name for The Courtyard
4 business.
- 14:36:17 5 Q. 141 If we look at 2114 please, this is a cheque made payable to Mr. Dunlop by
6 The Courtyard Restaurant in the sum of 5,100 pounds, do you see that?
7 A. 5,100.
8 Q. 142 5,100.
9 A. Yes, I see it, yes.
- 14:36:36 10 Q. 143 And if we go to 1887, which is the first of the two invoices, invoice 864
11 in the sum of 5,100 pounds, do you see on the top right hand corner the
12 words "paid 17th June '93" written?
13 A. Yes.
14 Q. 144 Now, if we revert to 969 which is the telephone attendance for Mr. Dunlop
14:37:00 15 for the 17th, same day, 17th June '93 we see the message being left that
16 you "hope to call in around 11.30"?
17 A. Yes.
18 Q. 145 If I put to you the sequence of an invoice which bears a notation of
19 having been paid on that very same day, the 17th June '93, is there any
14:37:20 20 connection that payment, the invoice which is directed to you and the
21 cheque for 5,100 pounds which is at 2114 of the brief?
22 A. I have no recollection and I don't believe there is, I don't believe there
23 is any connection with it. Now, I also believe that in no way did I make
24 or even attempt to make the number of phone calls that are put down on
14:37:47 25 that list, I just don't accept that, because I wasn't in the country a lot
26 of the time.
27 Q. 146 Well, you don't have to be in the country to make the call, isn't that
28 right, Mr. Butler?
29 A. I know but sorry but if you noted it says Scafform Limited and the phone
14:38:01 30 number, you know, I just don't believe that that number of phone calls

14:38:08 1 were made by me at all.

2 Q. 147 Did you direct someone else to make the call on your behalf?

3 A. No.

4 Q. 148 Well, if we look at the message the 969 for the 17th June, you agree with

14:38:20 5 me that it clearly gives your name, the telephone number of your company,

6 Scafform, and it records a message that you were hoping to call in at

7 around 11.30?

8 A. Yes.

9 Q. 149 And if we look at 1887 and we look at that invoice, it's obvious from that

14:38:36 10 invoice and the note on it that the invoice was paid on the, that same

11 day, 17th June '93, top right hand corner, Mr. Butler?

12 A. And what's -- what date --

13 Q. 150 What I am suggesting --

14 A. What was the date of the cheque that that was paid?

14:38:56 15 Q. 151 If we look at 2114, it's dated either the 11th or 17th June 1993?

16 A. Either the 11th.

17 Q. 152 Yes, but either way it predates and is capable of being a cheque payable

18 on the 17th June '93, irrespective of whether it's the 11th or the 17th?

19 A. It pre dates?

14:39:27 20 Q. 153 The 17th, it's either written on the 17th or it's written on the 11th?

21 A. It looks like the 11th to me but --

22 Q. 154 But there is no difficulty with delivering a cheque dated the 11th June to

23 Mr. Dunlop on the 17th June and still a valid --

24 A. I can categorically say did I not deliver any cheque.

14:39:42 25

26 JUDGE FAHERTY: Mr. Quinn, I think in fairness Mr. Butler I think the

27 invoice is dated 28th June.

28 MR. QUINN: That's correct.

29

14:39:49 30 JUDGE FAHERTY: That should just be put on the record.

- 14:39:52 1 Q. 155 Both invoices I think are dated the 28th?
- 2 A. I can say that I -- I had no dealings with the money, and I think that
- 3 Niall and Tom will confirm that, that I had no dealings with these
- 4 payments.
- 14:40:09 5 Q. 156 And indeed Mr. Dunlop's records if we look at 973, shows the payment as a
- 6 Shefran -- sorry a Scafform payment for 5,100 pounds, do you see that?
- 7 A. Yes.
- 8 Q. 157 And would appear to have been entered up on the 28th June?
- 9 A. But have we established that it's a Courtyard payment.
- 14:40:34 10 Q. 158 Yes. Because if we go back to 2114 we see that the cheque was drawn on
- 11 The Courtyard account?
- 12 A. That's my point. Frank Dunlop was, whoever Frank Dunlop's office was
- 13 either writing the invoices or cheques or they didn't know whether they
- 14 were putting Scafform in for The Courtyard.
- 14:40:55 15 Q. 159 And indeed if we look at Mr. Dunlop's current account, at 974 we see a
- 16 lodgement on the 17th June '93 for 17,200 pounds, do you see the credit to
- 17 his account?
- 18 A. Sorry could you highlight that please?
- 19 Q. 160 Do you see 17,200 pounds being credited to Mr. Dunlop's account on 17th
- 14:41:20 20 June '93?
- 21 A. Yes, I do, yes.
- 22 Q. 161 Mr. Dunlop advised the Tribunal at 975 that included in that 17,200 pounds
- 23 was a John Butler, Courtyard, repairs 5,100, you see that?
- 24 A. Courtyard repairs?
- 14:41:48 25 Q. 162 I think you can take it that leaving out the word "repairs" that it refers
- 26 to the 5,100 pounds that was lodged or that was deemed as having been paid
- 27 per the invoice which I showed you a moment ago?
- 28 A. It's the same amount, but I can't -- I can't imagine what it has Courtyard
- 29 repairs down for.
- 14:42:09 30 Q. 163 Well were there other -- you had an interest in The Courtyard restaurant?

- 14:42:14 1 A. I was a third shareholder in The Courtyard.
- 2 Q. 164 Did you have any other reason to be paying money to Mr. Dunlop at this
- 3 time? Was he engaged in any other activity for yourself and your
- 4 partners?
- 14:42:27 5 A. No, not that I am aware of.
- 6 Q. 165 So there is no reason why Mr. Dunlop would be in receipt of another 5,100
- 7 pounds at this time?
- 8 A. Not that I know of, I don't know -- Courtyard repairs, what does that
- 9 mean?
- 14:42:42 10
- 11 JUDGE FAHERTY: Mr. Butler, I think this document that's on the screen now
- 12 Mr. Quinn will correct me if I am incorrect in this, but it's likely to
- 13 have been, it was compiled I think probably by Mr. Dunlop's auditors or
- 14 accountants of various monies his company received. So it may well be
- 14:43:01 15 that the word repairs may simply be an error on their part reading an
- 16 entry a primary book, I am only saying that -- but what Mr. Quinn is
- 17 putting to you is forget about the word repairs, that Mr. Dunlop has
- 18 advised the Tribunal that the composite lodgement that was made on the
- 19 date included, it seems to be a cheque drawn on the Courtyard Restaurant
- 14:43:26 20 account for 5,100.
- 21 A. Yes, well as I say Tom Williams was dealing with that and Niall Kenny, to
- 22 a lesser extent, and I can't enlighten you on that one at all.
- 23 Q. 166 MR. QUINN: And you would -- sorry, Mr. Butler, you would have had no
- 24 contact whatsoever you say with Mr. Dunlop in relation to either payments
- 14:43:50 25 or invoices?
- 26 A. Or settlement of the --
- 27 Q. 167 Or settlement of the account?
- 28 A. Any account or --
- 29 Q. 168 Or any payment or movement of any money to Mr. Dunlop or the receipt from
- 14:44:01 30 him of any invoices, is that correct?

14:44:02 1 A. Receipt of invoices, invoices obviously from what you put up on the screen
2 were sent in error to Scafform, and either forwarded on or Tom Williams
3 got on to him and said send the invoice out to him, I believe it's
4 somebody in his office that was oh Scafform, Scafform.

14:44:21 5 Q. 169 But you would have no reason to ring Mr. Dunlop in relation to invoices
6 you say, isn't that correct?
7 A. Correct, yeah.

8 Q. 170 And it's your evidence that you didn't ring him in relation to any
9 invoices and you say it's complete coincidence that Mr. Dunlop has an
14:44:34 10 attendance on a telephone attendance on 17th June as we see at 969, saying
11 that you hoped to call into his office at 11.30 that morning. That it's a
12 complete coincidence that he has that attendance on a day on which he has
13 also got a record of having received a payment from The Courtyard
14 Restaurant in respect of an activity that you were, he was involved in at
14:45:01 15 your request?
16 A. Yes, because I didn't call in, he doesn't say that I called in, I didn't
17 call in and I say it is a coincidence.

18 Q. 171 And --
19 A. Because I wouldn't even, I didn't even know that a cheque was written on
14:45:17 20 that date, at that time.
21 Q. 172 Nor do you say --
22 A. Or around that. I wouldn't have known any of that financial end of the
23 business.

24 Q. 173 Nor do you say that, were you aware of any agreement to pay fees to Mr.
14:45:29 25 Dunlop?
26 A. Agreement to pay fees.

27 Q. 174 Yes.
28 A. That I made any agreement.

29 Q. 175 Yes.
14:45:36 30 A. Definitely not.

14:45:37 1 Q. 176 Yes.

2 A. But there was an agreement, I was aware of an agreement.

3 Q. 177 You say it was a coincidence that Mr. Dunlop's invoices were directed to

4 you at Scafform, that is to say the invoice for 12,100 pounds on the 5th

14:45:52 5 April and these two invoices of the 28th June dated 28th June for 6,050

6 and 5,100 pounds respectively?

7 A. I would say for those, it was an error of his office.

8 Q. 178 Would you agree with me, Mr. Butler, that if that is a correct attendance

9 on a telephone call made by you or on your behalf to his office, that it

14:46:16 10 was something that related to a meeting which you had to have face-to-face

11 with Mr. Dunlop, it was obviously something you weren't able to tell him

12 over the phone?

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

14 Q. 179 But you were calling to his office?

14:46:29 15 A. I don't believe -- I don't remember that call but did I not call to his

16 office.

17 Q. 180 Would you agree with me that you were, the note seems to suggest that you

18 were calling at a particular time which would suggest that you wanted to

19 meet face-to-face with Mr. Dunlop, you were giving him a time when you

14:46:52 20 would be there, isn't that right?

21 A. I don't agree with you that that's even a correct -- that these telephone

22 messages are correct, because with the amount of them that are there I

23 just didn't ring Frank Dunlop that many times, so I would --

24 Q. 181 Do you think they are a fabrication, Mr. Butler?

14:47:19 25 A. I would take definite belief -- I would be very suspect of that list,

26 that's all I can say.

27 Q. 182 Yes. You would be very suspect of that list?

28 A. Of that list, maybe, unless -- I cannot remember and I have no

29 recollection of ringing him anything like the amount of times that are in

14:47:38 30 on that list.

- 14:47:39 1 Q. 183 That list is a list of names and messages that go from 9.20 that morning
2 until 2.45 in the afternoon?
3 A. Yes.
- 4 Q. 184 You are the second entry in the list?
14:47:49 5 A. Yes. I see it here, yes.
- 6 Q. 185 All right. What about the entry at 985, Mr. Butler, which is the 2nd July
7 1993, do you see the third entry, 3.50 "John Butler, received two
8 different invoices. Phillip looked after this", did you ring Mr. Dunlop's
9 office concerning the receipt of two different invoices?
14:48:18 10 A. No, I think this is, to be honest with you I think it's a fabrication.
- 11 Q. 186 You think that's a fabrication?
12 A. Yeah, and I think several of those notes "John Butler, John Butler, John
13 Butler".
- 14 Q. 187 Why would Mr. Dunlop supply the Tribunal with fabricated documentation,
14:48:41 15 Mr. Butler?
16 A. I don't know, I mean --
- 17 Q. 188 Did you ever have falling out with Mr. Dunlop?
18 A. No, no, no.
- 19 Q. 189 Are you aware of any reason why Mr. Dunlop would fabricate documentation
14:48:55 20 so as to embarrass you?
21 A. I am not aware of any.
- 22 Q. 190 Would you agree with me that taken at face value those documents and those
23 records which I have put on screen would suggest that you had, you
24 attended at Mr. Dunlop's office on it's 17th June or you certainly
14:49:15 25 intended to attend at his office on the 17th June, on the morning of the
26 17th June and that on the 2nd July you contacted his office in respect of
27 two different invoices which you had received?
28 A. I do not believe that.
- 29 Q. 191 Do you accept that that's what they suggest, that that's what the
14:49:34 30 documentation suggests, I know you are doubting the accuracy of the

14:49:38 1 document, but would you agree with me that that is a reasonable
2 interpretation from the documentation?
3 A. No I don't -- I'm doubting the accuracy of the document.
4 Q. 192 Yes. But leaving that aside, would you agree with me that what that
14:49:53 5 document suggests is that there was a phone call from a Mr. John Butler in
6 Mr. Dunlop's absence where Mr. Butler advised the caller that he had
7 received two different invoices?
8 A. Could you repeat that again?
9 Q. 193 Yes. Would you agree with me that the document suggests that Mr. Dunlop's
14:50:21 10 office received a call from a Mr. John Butler at 3.50 on the 2nd July '93
11 and that that John Butler was complaining about, or querying the receipt
12 by him of two different invoices?
13 A. That would -- that would look so, on that.
14 Q. 194 On the earlier documentation in relation to the 17th June, confirms that
14:50:43 15 the if we can have 969 please, confirms that a Mr. John Butler had phoned
16 Mr. Dunlop's office at 10.55 on the 17th June, had given his telephone
17 number and had advised the office that he was hoping to call in to the
18 office at around 11.30?
19 A. From that note, yes.
14:51:09 20
21 JUDGE FAHERTY: Mr. Butler, just on what Mr. Quinn is asking you, the later
22 call on the 2nd July.
23 A. Yes.
24
14:51:19 25 JUDGE FAHERTY: I know you take issue with it and you don't think you
26 called but we'll leave that for the moment, I hear what you are saying.
27 A. It's the quantity of calls that I am querying. I don't remember making
28 these calls but I definitely would feel that the quantity of calls noted
29 in these lists are, seem to be abnormal.
14:51:42 30

14:51:42 1 JUDGE FAHERTY: I see. But on the actual content of that message, I think
2 it's 985, the 2nd July, yes. What's recorded there is a Mr. Butler or
3 John Butler called, received two different invoices. Now, the 2nd July is
4 some four days or so after the 28th June, isn't that correct?

14:52:05 5 A. Yes.
6

7 JUDGE FAHERTY: Now, as I understand it and Mr. Quinn can correct me if I
8 am wrong, we have seen on screen two documents, two invoices, I think
9 issued to John Butler Scafform Limited, for two different amounts but both
10 dated the 28th June.

11 A. Yes.
12

13 JUDGE FAHERTY: Now, there is the handwritten note on one of them dated
14 17th June as I understand it.

14:52:31 15 A. Both, two invoices dated the same day.
16

17 JUDGE FAHERTY: Yes one for 6,050 and one for 5,100 and I think the printed
18 date on both invoices is the 28th June, do you follow me, Mr. Butler?

19 A. I do.

14:52:46 20

21 JUDGE FAHERTY: Whether you agree or not is another thing but if you follow
22 what I am saying?

23 A. I do, yes. The printed date on both of those was --
24

14:52:54 25 JUDGE FAHERTY: Yes. I will just put them up for you wait a minute and see
26 if we can find them. 1887 I think is one of them.
27

28 MR. QUINN: Yes. That's the one marked paid.
29

14:53:03 30 JUDGE FAHERTY: And the other one.

14:53:04 1 MR. QUINN: It's 1888.
2
3 JUDGE FAHERTY: If we can have them both on the screen? Yes, that's it.
4 A. The 5,100 paid, yeah.
14:53:23 5
6 JUDGE FAHERTY: And the only thing I am asking you, Mr. Butler, forget
7 about the manuscript for the moment, if you look at the two invoices.
8 A. Yes.
9
14:53:31 10 JUDGE FAHERTY: They are both to you, well written to yourself managing
11 director of Scafform, isn't that correct?
12 A. Yes.
13
14 JUDGE FAHERTY: And they are both dated the 28th June 1993?
14:53:42 15 A. Correct, yes, but my query there would be why would two invoices go out on
16 one day, just from observation?
17
18 JUDGE FAHERTY: You have anticipated my next question, Mr. Butler, because
19 if you go back to the telephone message on the 2nd July and you see what's
14:54:04 20 recorded.
21
22 MR. QUINN: 985
23
24 JUDGE FAHERTY: Yes thank you, Mr. Quinn. Received two different invoices,
14:54:17 25 do you see that?
26 A. Yes, yes.
27
28 JUDGE FAHERTY: So I am just, it's only suggesting that --
29 A. Okay --
14:54:26 30

14:54:26 1 JUDGE FAHERTY: Could it be referable to these documents, Mr. Butler?

2 A. It could have been but it may not have been by me, it could have been by

3 Michael Cassidy in my office.

4

14:54:36 5 JUDGE FAHERTY: I see.

6 A. It could have been from Tom Williams, I don't know.

7

8 JUDGE FAHERTY: I see.

9 A. But it does look funny to me that two invoices went out on the same day,

14:54:43 10 that's what I would deduct from that.

11

12 Q. 195 MR. QUINN: There were two invoices for two different amounts, isn't that

13 correct?

14 A. Yeah but they were for the same thing, weren't they?

14:54:51 15 Q. 196 They were both in relation to agreed fees.

16 A. Yeah.

17 Q. 197 With regard to public affairs programme, re industrial project at

18 Cloughran County Dublin, isn't that right?

19 A. Yeah, well it looks very funny to me that two invoices would go out on the

14:55:05 20 same day, that is why I don't know what they were, but that's my comment.

21 Q. 198 And two different invoice numbers, could that be the reason you were

22 ringing Mr. Dunlop on the 2nd July, Mr. Butler?

23 A. Now, I think you have to believe -- I don't remember ringing him and I

24 don't think I did ring him, but if somebody from my office rang him it

14:55:23 25 would have been to say these invoices are not for us they are for The

26 Courtyard.

27 Q. 199 I'm just dealing with contact, continuing contact, Mr. Butler, on the 20th

28 July at 989 at 11.35 a John Butler is phoning Mr. Dunlop's office and

29 leaving a message, will call tomorrow, do you see that, tomorrow morning?

14:55:48 30 A. Yes.

- 14:55:48 1 Q. 200 And if we go to the next morning the 21st July '93 at 990, 11.45 there is
2 a message "John Butler on his way"?
- 3 A. Yes.
- 4 Q. 201 Now, Mr. Dunlop would appear to have received the cheque, if we can have
14:56:15 5 2116 and again I apologise for the quality of cheque but it's either dated
6 the 20th, 21st or perhaps 23rd of July 1993 in the sum of 3,000 pounds and
7 there is a lodgement to -- sorry the cheque is debited on the Blackfern
8 Limited account if we can look at 1947? On the 28th July '93 you see a
9 debit of 3,000 pounds, if that can be turned around, please?
- 14:56:48 10 A. Yes, I do.
- 11 Q. 202 If we can have 995, this is an explanation by way of an analysis of
12 lodgements to Mr. Dunlop's accounts at AIB current account, number given,
13 and if you go about two thirds of the way down you see the "7/26/93" which
14 I suggest to you is the 26th July '93.
- 14:57:14 15 A. Sorry could you highlight this, this is Dunlop's account?
- 16 Q. 203 Yes and an explanation do you see "7/26/93" perhaps it could be
17 highlighted? There we go.
- 18 A. Yes, I have that.
- 19 Q. 204 You see that?
- 14:57:36 20 A. Yes.
- 21 Q. 205 If it could be highlighted across, please, it refers to an amount of 2,000
22 pounds and to the right of that it says "Blackfern Limited John Butler/Tom
23 Williams 3,000 pounds, less cash 1,000 pounds", do you see that?
- 24 A. What is that, what does that mean in his -- 3,000 pounds less cash one
14:58:08 25 thousand.
- 26 Q. 206 Yes. In other words, that he lodged two of that 3,000 pounds to his
27 account, as I understand it?
- 28 A. With a cheque from us?
- 29 Q. 207 Yes, I put the cheque on screen the cheque for 3,000, you will have seen
14:58:22 30 all these papers, Mr. Butler, because I am sure they have been brought to

- 14:58:25 1 your attention by your solicitor?
- 2 A. Well, they were sent to me in the US.
- 3 Q. 208 And you have discussed them with your solicitor I suspect you have
- 4 discussed them with Mr. Kenny and Mr. Williams?
- 14:58:34 5 A. Well, I haven't discussed it for one reason that I don't agree, my
- 6 recollection doesn't -- I discussed it briefly with Mr. Tom Williams and
- 7 Mr. Kenny, but I don't believe that it was the right thing to do to
- 8 discuss and make, you know a composite answer, I am just answering.
- 9 Q. 209 I am not suggesting --
- 14:58:57 10 A. Can I finish?
- 11 Q. 210 I am not suggesting that you developed a composite answer.
- 12
- 13 JUDGE FAHERTY: Mr. Butler wants to say something.
- 14 A. I thought it better to come along here and help you by telling what I
- 14:59:07 15 recollect. Because there is no use in me saying, you are examining me on
- 16 all these cheques which I really have no recollection of and Tom Williams
- 17 and Niall Kenny to a lesser extent will verify that.
- 18 Q. 211 MR. QUINN: I am not cross-examining you on the cheques alone, Mr. Butler.
- 19 I am cross-examining you on the documentation which has been received by
- 14:59:29 20 the Tribunal as a result of an exhaustive discovery process both from the
- 21 companies with which you are associated and Mr. Dunlop's companies, you
- 22 understand?
- 23 A. Yes.
- 24 Q. 212 You understand the approach of the Tribunal to these matters?
- 14:59:44 25 A. Yes but --
- 26 Q. 213 I am not suggesting that you would meet with your colleagues to concoct an
- 27 answer, but I am suggesting to you that you would be familiar with this
- 28 documentation, because it appears to suggest that --
- 29
- 14:59:58 30 MR DOHERTY: If I could just interrupt?

15:00:01 1 Q. 214 If I could just finish perhaps --

2

3 MR DOHERTY: On this point, and I want to raise an issue of correspondence
4 that I have had with the Tribunal before these hearings. Where the

15:00:06 5 Tribunal were specifically invited to direct us to any documentation that
6 they wanted to individual to specifically consider because of the way the
7 documentation is presented. I have made this point on a number of
8 occasions previously.

9

15:00:17 10 CHAIRMAN: All the documents --

11

12 MR DOHERTY: Specifically invited to be addressed to the documentation to
13 be put to the witness and we have had no response to that.

14

15:00:26 15 CHAIRMAN: Well the documentation I assume that you received on behalf of
16 Mr. Butler included all the documentation, including documentation which
17 he might be specifically asked.

18

19 MR DOHERTY: Indeed, we have received boxes of documentation, and it is in
15:00:44 20 the light of that where there is no indexation, we don't have the facility
21 that the Tribunal has, of search facilities, computer search facilities to
22 look for relevant documentation, we specifically, and it was for that
23 purpose that we invited the Tribunal to direct us to any relevant
24 documentation that they wished any witnesses to comment upon. I think
15:01:02 25 it's slightly unfair to be suggesting that somebody is familiar with two
26 and a half thousand pages of documentation.

27

28 MR. QUINN: I am not suggesting that he should be familiar with two and a
29 half thousand pages of documentation.

15:01:14 30

15:01:14 1 MR DOHERTY: Sorry that's exactly what's being suggested.
2
3 MR. QUINN: But the documentation on screen is documentation which has
4 come to the Tribunal, in fact it came to the Tribunal very late in the day
15:01:29 5 and it would suggest contrary to what the Tribunal was being advised by
6 Mr. Butler and his colleagues, would suggest that Mr. Dunlop was in fact
7 being paid prior to the sale of the lands in 1996.
8
9 CHAIRMAN: Well Mr. Butler's attention, or he is being asked about
15:01:42 10 matters which specifically have his name on them in relation to invoices
11 and so on, which would have been readily identifiable from the documents
12 that were received by you.
13
14 MR DOHERTY: Yes.
15:01:59 15 A. I mean I think Mr. Williams would be able to help you a lot more on that.
16 Q. 215 MR. QUINN: Mr. Williams has given evidence, Mr. Butler, and his evidence
17 initially was that Mr. Dunlop was paid from the sale of the, from the
18 proceeds of the sale of the land, do you understand?
19 A. Yes.
15:02:16 20 Q. 216 From Coopers & Lybrand, now that evidence has changed somewhat and
21 Mr. Williams will be coming back to address this issue.
22
23 MR DOHERTY: Sorry again that is unfair, Mr. Williams when he gave
24 evidence before was very clear that he was incorrect in that initial
15:02:31 25 assessment and was quite happy to accept that that wasn't the case in his
26 direct evidence to the Tribunal previously.
27
28 CHAIRMAN: What did he say?
29
15:02:39 30 MR DOHERTY: Mr. Williams accepted when it was put to him that he was

15:02:41 1 incorrect in suggesting that all of the money had been paid by Coopers &
2 Lybrand, that has already been fully accepted by Mr. Williams.

3
4 CHAIRMAN: No but the point Mr. Quinn is making is that we still haven't
15:02:52 5 heard Mr. Williams', if you like corrected version of his evidence.

6
7 MR. QUINN: Mr. Williams will be coming back in relation to some of this
8 documentation in fact in relation to documentation which shows that
9 payments were made during the period prior to, in the lead up to the vote,
15:03:11 10 the confirmation vote and the period prior to 1996 and we'll be coming
11 back to deal with further discovery received by the Tribunal since he last
12 gave evidence.

13
14 CHAIRMAN: There is no difficulty anyway in proceeding to question
15:03:22 15 Mr. Butler about whatever documentation deemed appropriate, ultimately
16 we'll have to consider Mr. Butler's evidence and Mr. -- we'll have both
17 your evidence and Mr. Williams' evidence and Mr. Kenny's evidence to
18 consider before we make any decision as to what we believe happened. So
19 we'll have the full picture, so just do the best you can to deal with the
15:03:53 20 questions that Mr. Quinn puts.

21
22 Q. 217 MR. QUINN: Mr. Butler, I am going to continue putting to you the
23 attendances, the telephone attendances of Mr. Dunlop?

24 A. Yes.

15:04:02 25 Q. 218 On the 18th August '93 at 1015, there is an 11.25 attendance from a John
26 Butler with a message "call him tomorrow", do you see that?

27 A. Yes.

28 Q. 219 If I go to the 14th September '93 at 1025, there is an 11.50 attendance on
29 Mr. John Butler and telephone number given, mobile number, do you see
15:04:26 30 that, just ahead of the p.m, do you see that?

- 15:04:32 1 A. A mobile number.
- 2 Q. 220 Yes, do you see 11.50, Mr. Butler?
- 3 A. I do, yes.
- 4 Q. 221 Do you see the name John Butler?
- 15:04:38 5 A. Yeah and I see a mobile number.
- 6 Q. 222 Does that mobile number assist you in identifying or clarifying whether or
- 7 not you are the John Butler there referred to?
- 8 A. I don't recollect the mobile number.
- 9 Q. 223 It's not a mobile number of any mobile phone that you had at that time?
- 15:04:57 10 A. Not that I am aware.
- 11 Q. 224 Okay. Well you would presumably?
- 12 A. I think I have always had the same mobile number.
- 13 Q. 225 There is --
- 14 A. An 086 number it was 088 --
- 15:05:13 15 Q. 226 Leaving aside the 086 or the 088, what about the second portion of the
- 16 number?
- 17 A. No, no.
- 18 Q. 227 What about 1024, a diary entry for the 14th September for a 4 pm "J
- 19 Butler/Tim Collins"?
- 15:05:29 20 A. On what date is that?
- 21 Q. 228 The 14th September?
- 22 A. Never met him with Tim Collins in his office, if he is saying that's in
- 23 his office.
- 24 Q. 229 You never met --
- 15:05:38 25 A. Tim Collins may have gone to him but I certainly didn't meet him in his
- 26 office.
- 27 Q. 230 That's 1993, that's the 14th September 1993. I should say to you that the
- 28 second confirmation meeting in relation to the lands comes before the
- 29 council on the 29th September '93?
- 15:06:01 30 A. Yes.

- 15:06:01 1 Q. 231 Do you understand?
- 2 A. Yes I understand, yes but I didn't meet him in his office at any time.
- 3
- 4 CHAIRMAN: I don't know if we know it's in his office.
- 15:06:10 5 Q. 232 MR. QUINN: No. I can't say that it's in his office?
- 6 A. Oh.
- 7 Q. 233 Was there a meeting at any location between yourself and Mr. Collins and
- 8 Mr. Dunlop?
- 9 A. I can't remember but I don't see why -- I don't ever -- I don't see why
- 15:06:23 10 Tim Collins would be involved. I don't think Tim Collins was with him, he
- 11 may have been with him once at the council meetings or -- I can't remember
- 12 but it wasn't Tim Collins/John Butler, definitely not.
- 13 Q. 234 Okay. On the 16th September '93, at 1027 there is an entry at 11.54 John
- 14 Butler and name given?
- 15:06:57 15 A. That's the same, it's the Scafform number, yeah.
- 16 Q. 235 Do you see a further entry at 12.14 pm John Butler?
- 17 A. Yes.
- 18 Q. 236 Were you contacting Mr. Dunlop on Thursday 16th September?
- 19 A. Yes, I see that.
- 15:07:05 20 Q. 237 What about the 21st September, Mr. Butler, at 1031 at 9.36, second entry?
- 21 A. Yes, I see that, yes.
- 22 Q. 238 1032 on the 22nd September, 9.45 "John Butler" and a number given, do you
- 23 see that?
- 24 A. Yes.
- 15:07:25 25 Q. 239 And 11.38 later, towards the bottom of the page, do you see "John Butler",
- 26 a number given, "please call him"?
- 27 A. Are you saying, you know it's the number that really is you know, I have
- 28 great difficulty with are these calls that went through or that I called
- 29 him?
- 15:07:43 30 Q. 240 Yes, the suggestion would be, Mr. Butler, that these are calls taken

15:07:47 1 within Mr. Dunlop's office and messages left?

2 A. Messages left.

3 Q. 241 Or the fact that you had rang?

4 A. Would it have been that I was trying to contact him maybe once out of all

15:08:00 5 those times.

6

7 CHAIRMAN: It could be, Mr. Butler, you it could be you simply responding

8 to a call to you to ring Mr. Dunlop

9 A. Right.

15:08:11 10

11 CHAIRMAN: It could be you making a number of attempts to contact him

12 arising from one request by him to call him, it doesn't necessarily mean

13 that you --

14 A. Contacted him.

15:08:25 15

16 CHAIRMAN: Well, that you wanted to talk to him or went out of your way

17 to talk to him. It could have been, it could be you simply responding to

18 a message to ring him and when these calls are recorded, as we understand

19 it, it's his secretary recording the fact that these people phoned at a

15:08:43 20 time when Mr. Dunlop wasn't available to speak to them, either he was out

21 or was busy

22 A. Yes.

23

24 CHAIRMAN: So we do have instances where individuals would have called on

15:08:57 25 a couple of occasions during a day, we don't know in each -- we don't know

26 in all cases where they were anxious to talk to Mr. Dunlop or whether they

27 were simply responding to a message they had received to ring Mr. Dunlop

28 A. Can I address this to you? Would this have been before, when you say

29 there was a re-vote?

15:09:20 30 Q. 242 22nd September '93?

- 15:09:23 1 A. Wasn't there an objection or re-vote or something.
- 2 Q. 243 Yes. That was on the 29th September and we are going to come to it, this
3 is the lead up to the meeting?
- 4 A. I may have rung him and --
- 15:09:32 5 Q. 244 I don't know, I am asking you the questions, Mr. Butler, all I have is the
6 documentation?
- 7 A. No, but what I am saying to you is that I don't remember ringing him but I
8 may have rung him, I may have -- with a view to meeting him on the date of
9 the appeal, is that what it was, appeal.
- 15:09:52 10 Q. 245 The special meeting I think of the council?
- 11 A. Special meeting. Yes.
- 12 Q. 246 If we just go forward perhaps and see if we can help. On the 23rd
13 September '93 at 1034, and if we look at 1035 at 406 "John Butler please
14 call him, number given".
- 15:10:08 15 A. That's my number again, Scafform's.
- 16 Q. 247 If we go to 1036 on 24th September '93, 10.40 "John Butler call him".
17 27th September '93 at 1037 at 9.20, "John Butler".
- 18 A. Yeah.
- 19 Q. 248 And if we go to the date of the first special meeting, the motion is not
15:10:31 20 heard on the first day, it goes in fact back ultimately to the 6th October
21 but it comes on the 29th October and if we look at 1039 at 11.58 "John
22 Butler" do you see that?
- 23 A. I do, yeah.
- 24 Q. 249 If we go to 1040, there is a message at 3.18 "John Butler-on today"?
- 15:10:58 25 A. "On today", what date is that?
- 26 Q. 250 29th September?
- 27 A. That's the date of the hearing.
- 28 Q. 251 That's the date of the hearing. Now, Mr. Butler, I have taken you through
29 the period from January to April, well the end of March beginning of April
15:11:26 30 and I have taken you through from the period April right through to the

15:11:30 1 end of September, 29th September. I have put to you a series of entries
2 from Mr. Dunlop's documentation?
3 A. Yes.
4 Q. 252 And I think you would agree with me that if they are correct they would
15:11:40 5 suggest that there was quite a deal of contact on the phone and possibly
6 even in person between you and Mr. Dunlop. Now, you I accept, you
7 challenge the accuracy of the documentation, but I think you have to agree
8 with me that it is quite an amount of contact?
9 A. Well I think from looking at them there now it doesn't say contact, on
15:12:06 10 several different occasions, if that is as I say correct, that if we
11 assume that, I was looking for him, but never -- not necessarily made
12 contact. I think it shows that on the -- on today, does that mean I was
13 ringing him to say that the council meeting was on today or voting or --
14
15:12:40 15 CHAIRMAN: It doesn't suggest in anyway what the purpose was.
16 A. Yes, on today.
17 Q. 253 MR. QUINN: No, but what I am suggesting to you, Mr. Butler, is that it
18 suggests an amount of contact between you and Mr. Dunlop and Mr. Dunlop's
19 office, if it's correct, would you accept that?
15:12:49 20 A. An amount of phone calls, yes.
21 Q. 254 Yes. Which is an amount of contact?
22 A. I haven't looked to see how many times looking at that contact that I
23 actually got through.
24 Q. 255 Yes but this is only a representative sample of a contact where you were
15:13:05 25 unable to make direct contact with Mr. Dunlop, isn't that right?
26 A. It looks as if I wasn't able to make contact.
27 Q. 256 That's a minimum, a minimum amount of contact with Mr. Dunlop's office,
28 because it has to be presumed that you got through on other occasions,
29 directly to Mr. Dunlop and there was no necessity for a telephone message
15:13:25 30 to have been taken?

15:13:27 1 A. Oh in other words, he hasn't logged any contact he did make with me.

2 Q. 257 Well exactly. Why would he?

3

4 CHAIRMAN: No these lists only deal with calls where you didn't succeed

15:13:40 5 in getting through.

6 A. Oh right.

7

8 CHAIRMAN: Mr. Quinn is suggesting to you that the probability is that

9 there were a number of other occasions when you did get through to him and

15:13:53 10 that those calls would not be logged on these lists.

11 A. Yes. I definitely would agree with him there.

12 Q. 258 MR. QUINN: And you agree with me I that I it shows a considerable amount

13 of contact?

14 A. Well I didn't have -- I mean what do you call a considerable amount of

15:14:10 15 contact? I mean over the period of how many months are you talking about?

16 Q. 259 We are talking about from January now to September?

17 A. Yes from January.

18 Q. 260 To September?

19 A. Right.

15:14:20 20 Q. 261 You see what I am really getting at, Mr. Butler, is that if we look at

21 your statement delivered to the Tribunal on the 14th February 2006 at page

22 22, when you are asked about your contact with Mr. Dunlop, you advised the

23 Tribunal in this revised statement of February 2006 on the second last

24 paragraph.

15:14:42 25

26 "I initially met Frank Dunlop with my partners and we appointed him to

27 handle the public relation work for project". Now, you have corrected

28 that and I think you have said that you initially met him by chance in

29 Mr. Ambrose Kelly's office having been introduced to him by Mr. Collins

15:14:55 30 but leaving that aside you go on to say:

- 15:14:58 1 "I had very little contact with him save when I met him casually" do you
2 see that?
- 3 A. Yes.
- 4 Q. 262 Now, that cannot be true if those telephone attendances and Mr. Dunlop's
15:15:07 5 diary entries are correct?
- 6 A. Well, I don't agree with you, I still had very little contact with him.
- 7 Q. 263 If those attendances are correct, Mr. Butler, it would appear that you had
8 maybe in excess of 40 instances of attempted contact with Mr. Dunlop in
9 the period January to September of 1993?
- 15:15:30 10 A. I certainly didn't have anything resembling that as regards phone calls
11 with him.
- 12 Q. 264 Now, if we just go forward then --
- 13 A. As far as phone calls I certainly had, my belief is I had less than five.
- 14 Q. 265 Five phone calls with Mr. Dunlop?
- 15:15:49 15 A. Yes and that would have been either Niall had said well ring him to see if
16 he'd meet us, where we had say the, we did a presentation or, you know for
17 the council, things like that, but very little contact with him.
- 18 Q. 266 The period 29th September to the 6th October is an important period
19 because the matter comes before the council for a confirmation of the
15:16:26 20 motion which had been successful on the 1st April and it's postponed I
21 think at the meeting on the 29th and eventually comes and is voted upon on
22 the 6th October?
- 23 A. Yes.
- 24 Q. 267 If we look at 1049 I think on the 30th September Mr. Dunlop's records
15:16:42 25 record three attempts at contact with John Butler at 9.45 am, 9.48 am and
26 11.55 am and again there is a mobile number given and you say you don't
27 recognise that mobile number 530832?
- 28 A. Sorry, where is the mobile number, no 088 I don't recollect a 088 number
29 or 530832 either.
- 15:17:18 30 Q. 268 It doesn't ring a bell with you?

- 15:17:21 1 A. No, it doesn't ring a bell.
- 2 Q. 269 To use the pun.
- 3 A. I don't -- my mobile number was 086 8321206, I don't remember when it was
- 4 anything else.
- 15:17:49 5 Q. 270 The mobile number given for the John Butler that I appears there on the
- 6 30th September '93, is the same mobile number that's given on the
- 7 telephone message left on the 14th September '93 at 1025 you see that, at
- 8 11.50?
- 9 A. I don't remember a mobile number of that that I had.
- 15:18:13 10 Q. 271 Leave aside the mobile number for a moment, Mr. Butler, on the 30th
- 11 September at 1049 would it be fair to say in the middle of the
- 12 consideration of the Cloughran lands that it wouldn't be unusual to find
- 13 you contacting Mr. Dunlop's office or indeed even meeting with Mr. Dunlop?
- 14 A. What would have happened I know I would have been in Ireland around the
- 15:18:36 15 time that the rezoning was coming up and that time I would have been here,
- 16 no doubt about that, because I remember being down in the offices.
- 17
- 18 Now, if it was me helping Niall and Tom as did I then when I came into the
- 19 country I helped them every way I could, now if it was me arranging to
- 15:19:00 20 meet or finding out if Frank Dunlop would be or arranging for him to be
- 21 down at the offices of, the council offices when something was happening
- 22 -- that's the only contact I had with Frank Dunlop.
- 23 Q. 272 If we go to 1055 this is an extract from Mr. Dunlop's diary, on the 4th
- 24 October he has an entry "ring Johnnie Butler", do you see that top left
- 15:19:29 25 hand corner?
- 26 A. Yes.
- 27 Q. 273 And he has a 6 o'clock Courtyard appointment, down at the very bottom,
- 28 again on the 4th?
- 29 A. Yes.
- 15:19:37 30 Q. 274 Then on the 5th he has a 9 o'clock entry, "Johnnie Butler". Do you see a

15:19:42 1 10 o'clock entry "Pat R/Re John Butler".

2 A. But that would suggest Pat Rabbitte.

3 Q. 275 Yes.

4 A. Arranging a meeting with Pat Rabbitte, what date is that?

15:19:55 5 Q. 276 That's the 5th October?

6 A. And what was the voting then.

7 Q. 277 The 6th the next day?

8 A. Well, then I know he did arrange, as I said before, a meeting with Pat

9 Rabbitte.

15:20:14 10 Q. 278 You recall meeting with Mr. Rabbitte?

11 A. I do, I met with him --

12 Q. 279 Would you have met with him on the 5th October?

13 A. I could have met him on the 5th October, yes, it was very close, I know it

14 was very close to the vote.

15:20:26 15 Q. 280 What about, are you saying you didn't know Councillor Gilbride, Mr.

16 Gilbride has given evidence to say that he was lobbied by Mr. Niall Kenny

17 and John Butler, could you have lobbied Councillor Gilbride?

18 A. I don't remember but Niall Kenny -- I think Niall Kenny will tell you that

19 was --

15:20:46 20 Q. 281 Mr. GV Wright has given evidence that you rang his office and sought a

21 meeting?

22 A. I don't remember that.

23 Q. 282 He said that he only got to know Mr. Collins recently?

24 A. Who got to know Mr. Collins?

15:21:00 25 Q. 283 Mr. Wright, your evidence is or your recollection is, differs from that,

26 isn't that right?

27 A. It does, yeah, because I can't -- why would he not know Mr. Collins?

28 That's my --

29 Q. 284 Now, I don't want to go forward listing all of the contacts, but would you

15:21:24 30 accept from me that and I can do it very briefly perhaps and then perhaps

15:21:29 1 I should, just so that we have it on the record and you have had an
2 opportunity of dealing with it, of contacts after the 6th October, your
3 motion, or the rezoning was confirmed on the 6th October, there was a lot
4 of opposition, isn't that right?

15:21:44 5 A. I believe so, yes.

6 Q. 285 And at 1080 on the 7th October there is a message at 10.10 "John Butler-on
7 mobile in office after 11.30 nothing important", do you see that, could
8 you have rang Mr. Dunlop on the day following the rezoning?

9 A. "On mobile, in office after 11.30 nothing important." Possibly.

15:22:14 10 Q. 286 On the 12th October at 1082 there is a 9:20 "John Butler in office around
11 10 o'clock", at 11.06 there is a message "Caroline-John Butler's office",
12 at 11.28 "John Butler-can FD make it 4 o'clock on Monday", do you see is
13 that? Were you -- or was there a Caroline in yours office trying to make
14 contact with Mr. Dunlop on the 12th October?

15:22:41 15 A. Caroline? I believe there was a Caroline in our office.

16 Q. 287 So Mr. Dunlop if he is fabricating these documents he obviously has
17 knowledge that there is a Caroline within John Butler's office, isn't that
18 right?

19 A. Yes.

15:23:06 20 Q. 288 If we go to 1087, to the Monday the 18th October there is a 5.30 "J
21 Butler/Plus perhaps rest, restaurant" do you see that entry?

22 A. I see "J Butler", yeah.

23 Q. 289 Did you meet Mr. Dunlop after the successful confirmation vote?

24 A. I can't remember meeting him. That's better.

15:23:32 25 Q. 290 And again on the --

26 A. What does after "J Butler" stroke.

27 Q. 291 Maybe "restaurant" or "rest" it could be partners?

28 A. No Kenny or Niall, Tom, no?

29 Q. 292 Can I move on to a different topic if may, Mr. Butler, if we can have 1133
15:23:54 30 there are two payments made to Saatchi & Saatchi Limited in the sum of

- 15:23:58 1 4,000 and 5,929 pounds made on the 23rd December and 30th December '93?
- 2 A. Yes.
- 3 Q. 293 One by Construct Sales Limited, a company with which you are associated
- 4 and the other Blackfern Limited a company associated with yourself
- 15:24:21 5 Mr. Butler and Mr. Williams?
- 6 A. That's correct, yeah.
- 7 Q. 294 Can you tell the Tribunal how those payments came to be made?
- 8 A. I believe we were asked by the fundraising committee of Fianna Fail,
- 9 somebody in there --
- 15:24:29 10 Q. 295 Who asked to you?
- 11 A. I don't recollect who did.
- 12 Q. 296 When you say we were asked?
- 13 A. Sorry not -- I was asked in this case, I was asked, yeah.
- 14 Q. 297 And you can't recall who asked you?
- 15:24:41 15 A. I can't recall who it was, but it was -- I don't know what was, that's the
- 16 answer to that.
- 17 Q. 298 Had you ever made such pick-me-up payments prior to this?
- 18 A. No, but I did -- the company, my father was in the habit at various
- 19 different times coming up to election he would give a donation to Fianna
- 15:25:14 20 Fail and I think a less donation to Fine Gael, but the man involved then
- 21 was a man called Joe Clarke and my father. Then after him there was
- 22 another guy called I think -- I think it's Kavanagh who was a fundraiser
- 23 for Fianna Fail and that is only my recollection.
- 24 Q. 299 Do you think it was Mr. Kavanagh who invited you to make --
- 15:25:46 25 A. I don't know, I don't know. I think that probably if he was around at the
- 26 time it was him or, but my father was dead at that time, so --
- 27 Q. 300 Mr. Richardson I think was very much involved in fundraising in Fianna
- 28 Fail at this stage could he have asked to you make the payment?
- 29 A. He could have, but I don't recollect him asking me.
- 15:26:07 30 Q. 301 In any event at 1137, there is a cheque I think signed by Mr. Williams on

- 15:26:11 1 Blackfern Limited trading as the Courtyard Restaurant dated 30th December
2 1993 to Saatchi & Saatchi Limited?
- 3 A. Yes.
- 4 Q. 302 I think it's been Mr. Williams evidence that you asked him to make that
15:26:22 5 payment?
- 6 A. I believe I was asked to pay an amount of money and would The Courtyard
7 split it with Construct Sales, which was a company which I was 50 per cent
8 shareholder in at the time, and I went to my partner then and said look
9 can you give this amount and Tom Williams can you give that amount.
- 15:26:48 10 Q. 303 Now, in relation to the property the subject of the consortium, I think
11 there was an attempt in 1994 to sell on that property, and at one stage I
12 think it was believed that a purchaser had been acquired, had been found
13 for the property, isn't that right?
- 14 A. That's '94.
- 15:27:06 15 Q. 304 Yes, if we have 1164 this is an extract from Mr. Kean's file, Mr. Kean the
16 solicitor for the consortium, you will see there that he is leaving a
17 message for his secretary on the 27th May '94. He said "I received a
18 telephone call from Niall" who is presumably Mr. Kenny "on the 26th May
19 '94 to know if I would act on behalf of the sale of lands at the airport.
15:27:31 20 It is believed that the property is going to be sold for 2.6 million."
21 Did you know anything about that, Mr. Butler?
- 22 A. I did, I recollect Niall Kenny ringing me in the States and asking me
23 would I sell the land. I was reluctant to tell the land and that came to
24 the argument eventually of us going our separate ways, but I was very
15:27:53 25 reluctant to sell the lands because I wanted to go forward with it. Niall
26 Kenny said he had a tax bill to pay and would we sell the lands, I think
27 he convinced Tom Williams to go his way and sell the lands and the pair of
28 them, I was then working -- I think it was later than that, it must have
29 been --
- 15:28:16 30 Q. 305 I am coming to the sale in 1996, I am just 1994 for the moment?

15:28:22 1 A. Yes.

2 Q. 306 Do you understand?

3 A. I understand, yes.

4 Q. 307 Was there a sale or a proposed sale in 1994 for the lands for 2.6 million?

15:28:32 5 A. I'm not aware there was a sale for 2.6 million.

6 Q. 308 Okay. At 1195 there is a partnership agreement dated 2nd December '94?

7 A. Yeah.

8 Q. 309 You recall entering into a formal partnership agreement in relation to the

9 lands with your partners in 1994?

15:28:54 10 A. I don't recall it but I think it would have been -- I would have

11 definitely wanted to enter into an agreement.

12 Q. 310 If we can have 1202, this is an extract from that partnership agreement

13 and it purports to contain the signature of a John Butler?

14 A. That's my signature, yes.

15:29:13 15 Q. 311 So we can take it can we that you did enter into such an agreement?

16 A. Yes, yes.

17 Q. 312 If we go to 1204, I think the partnership agreement in the second schedule

18 identifies the capital invested by the partners in the property, isn't

19 that right, the subject of the partnership?

15:29:30 20 A. Yes.

21 Q. 313 And I think that amounts to a sum of 38,160 pounds for each of the three

22 partners, is that right?

23 A. Correct.

24 Q. 314 Was that over and above monies contributed to the partnership from The

15:29:42 25 Courtyard Restaurant or it was it the entire monies?

26 A. That was the entire monies, to my belief.

27 Q. 315 I understood yesterday that the documentation disclosed and you agreed

28 that the Molloy lands cost 165,000 pounds and the Morgan lands cost 50,000

29 pounds?

15:30:00 30 A. Correct, yes.

- 15:30:01 1 Q. 316 That would be in excess of 200,000 pounds?
- 2 A. Yes.
- 3 Q. 317 And if we combine the three contributions here I think we get slightly in
- 4 excess of 100,000 pounds?
- 15:30:11 5 A. The rest of the money was borrowed, I believe, yes.
- 6 Q. 318 In any event I think Mr. Dillon and Hamilton Osborne were appointed joint
- 7 selling agents for the property and a purchaser was obtained, I think it
- 8 was eventually sold by tender and Aer Rianta were one of the people who
- 9 put in a tender for the purchase of the property but they were
- 15:30:35 10 unsuccessful, isn't that correct? I think if we look at 1256, we see a
- 11 contract with a closing date of 25th April '96 for the sale of the
- 12 property?
- 13 A. For 1.6.
- 14 Q. 319 1.6 million, is that it?
- 15:30:48 15 A. Yes.
- 16 Q. 320 And I think out of the proceeds of sale there were a series of payments to
- 17 parties who had assisted with the project, isn't that correct?
- 18 A. Yes that's the Coopers & Lybrand, isn't it?
- 19 Q. 321 Yes. Yes, your evidence I think initially or your, to the Tribunal was
- 15:31:08 20 that Mr. Dunlop was paid out of the proceeds of that sale?
- 21 A. Yes.
- 22 Q. 322 I see. And I think your evidence to the Tribunal was that Mr. Collins had
- 23 assisted through project architects and later through, sorry earlier
- 24 through Pilgrim in getting or providing planning advice in relation to the
- 15:31:32 25 site?
- 26 A. Sorry could you repeat that again?
- 27 Q. 323 Mr. Collins, Mr. Tim Collins, I think he was in a firm of architects
- 28 Pilgrim, isn't that right, and we saw their --
- 29 A. Yes, yes.
- 15:31:43 30 Q. 324 And at a later stage he was with Ambrose Kelly, isn't that right?

- 15:31:47 1 A. Yes.
- 2 Q. 325 And he was paid, both of those partnerships or business entities were paid
3 out of the proceeds of sale?
- 4 A. Yes.
- 15:31:57 5 Q. 326 That was your understanding of Mr. Collins' input into the site, isn't
6 that right?
- 7 A. Well you know from I believe he -- he was first of all he found the site.
- 8 Q. 327 But your evidence yesterday was that he wasn't getting any consideration
9 for finding the site?
- 15:32:16 10 A. I wasn't aware of him getting any consideration.
- 11 Q. 328 Yes. And you would have been aware of any such arrangement because after
12 all he was your friend and he brought to you see Mr. Molloy, isn't that
13 right, and any agreement in relation to that was something that would have
14 been agreed with you?
- 15:32:36 15 A. With Niall Kenny.
- 16 Q. 329 You say it was agreed Niall Kenny, but Niall Kenny wouldn't have agreed
17 something with Mr. Collins without reference to you I presume?
- 18 A. Without? He wouldn't have agreed what?
- 19 Q. 330 A payment to Mr. Collins?
- 15:33:00 20 A. I think he would have agreed a payment, I mean he would have -- he would
21 have said to me like we're paying him this or we're paying Pilgrim this or
22 whatever was in that account.
- 23 Q. 331 Well we'll look at the account at 1275 and I think we see the proceeds of
24 1.6 million.
- 15:33:18 25 A. Yes.
- 26 Q. 332 Isn't that right? You see the various people who were paid out of the
27 account, isn't that right, Hamilton Osborne, the auctioneers were paid
28 25,842 pounds, do you see that.
- 29 A. Yes.
- 15:33:32 30 Q. 333 After the stamp duty and then Dillon & Associates, the auctioneers both as

- 15:33:36 1 auctioneers and as consultants received 25,842 and 19,360, isn't that
2 right?
- 3 A. Yes.
- 4 Q. 334 Presumably there was an invoice submitted by Dillon & Associates and
15:33:52 5 Hamilton Osborne which was agreed between yourself and your partners and
6 passed on to Coopers & Lybrand?
- 7 A. Well Niall and Tom were handling Coopers & Lybrand because I never met
8 Coopers & Lybrand in that situation.
- 9 Q. 335 But as a partner with your colleagues presumably you would have to approve
15:34:11 10 of any disbursements out of this?
- 11 A. I am sure they said is that all right or whatever we are dealing with it.
- 12 Q. 336 At some stage? Sorry.
- 13 A. I didn't have anything to do with the workings of that, you know.
- 14 Q. 337 But leaving the workings aside, Mr. Butler, at some stage you have to
15:34:26 15 settle the account?
- 16 A. Yes.
- 17 Q. 338 And the disbursements out of the account?
- 18 A. Yes.
- 19 Q. 339 After all any, for every 90 pounds paid out 30 of it was yours?
- 15:34:37 20 A. Would have been mine, yes.
- 21 Q. 340 And presumably when you came to settle your account you sat down with your
22 partners and you went through the invoices which they received?
- 23 A. No, I was away at the time, and I know did I get phone calls, I can't
24 remember what was -- I got phone calls as to, you know, what would I agree
15:34:59 25 but I can't remember a sum, but I did agree with them, but I didn't see
26 any invoices, I was telephoned in America at the time.
- 27 Q. 341 Who would have seen the invoices?
- 28 A. Niall Kenny and Tom Williams. Niall Kenny -- Tom Williams first of all
29 and Niall Kenny definitely would have.
- 15:35:18 30 Q. 342 Where are the invoices?

- 15:35:19 1 A. I don't know.
- 2 Q. 343 Taking Pilgrim, you see Pilgrim, sorry before I go to Pilgrim, you see the
3 Dillon & Associates consultancy fee, what was that in connection with?
- 4 A. I don't know.
- 15:35:33 5 Q. 344 But you approved it?
- 6 A. No I -- I don't know what it's for to be honest with you.
- 7 Q. 345 But you hardly approved a payment without knowing what it was for?
- 8 A. But as I say I didn't go through this account, Coopers & Lybrand did the
9 bookkeeping on that.
- 15:35:50 10 Q. 346 Pilgrim --
- 11 A. I don't know what the consultancy was for to be honest with you.
- 12 Q. 347 The Pilgrim & Associates fees of 19,700, did you see an invoice for that?
- 13 A. I didn't see, as I say I didn't see any invoices.
- 14 Q. 348 You see the next one down Frank Dunlop public relations 23,025 pounds?
- 15:36:11 15 A. Yes.
- 16 Q. 349 Did you approve that?
- 17 A. As a sum I don't know, as I said I spoke to them about it and they asked
18 me about it.
- 19 Q. 350 What did they ask you?
- 15:36:20 20 A. I didn't see any of the invoices I was in the States, I got a telephone
21 call and said, you know.
- 22 Q. 351 What did they ask you about that?
- 23 A. I am only saying probably, was that reasonable, in other words would you
24 agree to this.
- 15:36:34 25 Q. 352 Yes. What did you say?
- 26 A. Yes, I would have said yes, obviously.
- 27 Q. 353 And how did you decide that 23,000 was a reasonable sum to pay Mr. Dunlop?
- 28 A. How did I decide? I didn't decide, we decided or they, you know my
29 partners thought it was all right and I agreed with them.
- 15:37:03 30 Q. 354 Yes, they asked you was it a reasonable sum and you said yes?

- 15:37:07 1 A. Yes.
- 2 Q. 355 What --
- 3 A. By the way I would have thought it would be very reasonable that if one
- 4 had got rezoning under such difficult circumstances with Aer Rianta.
- 15:37:21 5 Q. 356 Would you not have said is that the invoice or what's set out in the
- 6 invoice from Mr. Dunlop?
- 7 A. I can guarantee you Niall Kenny would have beaten him down to the lowest
- 8 price.
- 9 Q. 357 So we can take it that --
- 15:37:35 10 A. Niall Kenny, if there was any dealing done with any of the accounts, Niall
- 11 Kenny would have definitely, would have got the sum down to the lowest
- 12 possible and then said, do you agree with this.
- 13 Q. 358 Okay can we take it therefore, Mr. Butler, and Mr. Kenny will be giving
- 14 evidence tomorrow afternoon, that it's your evidence to the Tribunal that
- 15:37:58 15 Mr. Kenny would have negotiated the fee with Mr. Dunlop?
- 16 A. Would have -- I would have believed so, but -- and Mr. Williams, but see
- 17 Mr. Kenny would have been in contact with Mr. Williams on a day to day
- 18 basis if necessary. So he would have gone into The Courtyard, they would
- 19 have obviously talked about it, but it is my belief and it's just my
- 15:38:20 20 belief that Niall Kenny, if there was any negotiations would have said,
- 21 would have been the man that would --
- 22 Q. 359 Would have carried out those negotiations and what about the negotiations
- 23 with Mr. Collins, for the sum of 29,000 in relation to Collins Consulting
- 24 Services?
- 15:38:37 25 A. I am saying this on all these, you know with Mr. Collins with Mr. -- with
- 26 the Lawton and Associates, the engineers, with Frank Dunlop, with Pilgrim,
- 27 with Dillon and as I say the 1,455 I don't know what that was in
- 28 connection with at all.
- 29 Q. 360 So is it your evidence to the Tribunal, Mr. Butler, that you never agreed
- 15:39:04 30 a payment to Mr. Collins?

- 15:39:08 1 A. Yes.
- 2 Q. 361 You never agreed a finder's fee for Mr. Collins or with Mr. Collins?
- 3 A. No that was all Niall Kenny, when I say Niall Kenny and Tom Williams but
- 4 Niall has been the fore runner that, in my opinion --
- 15:39:22 5 Q. 362 Mr. Kenny is the person who would have negotiated the fees?
- 6 A. Mr. Kenny is the thing who have who would have knocked the fees down to
- 7 whatever.
- 8 Q. 363 When you spoke with Mr. Collins and when he introduced you to the site
- 9 originally, are you saying that you knew at that time that he was going to
- 15:39:38 10 be paid a finder's fee back in 1989?
- 11 A. I can't recollect that.
- 12 Q. 364 Are you saying that between --
- 13 A. That may have come into it when Niall Kenny was introduced to him and
- 14 actually Tom Williams at that stage was with Collins when the negotiations
- 15:40:00 15 were going on for the purchase of the site.
- 16 Q. 365 This was in 1989 or 1996 when it was being sold on?
- 17 A. Originally when they were -- I'm not aware of Collins having anything to
- 18 do with the selling on.
- 19 Q. 366 So any payment to Collins Consulting Services would have been a payment
- 15:40:24 20 which would have been outstanding since 1989?
- 21 A. I believe so, yeah. You'd have to ask Niall Kenny was there anything in
- 22 the -- of who purchased, of the man or company that purchased it.
- 23 Q. 367 Yes when he gave evidence, Mr. Williams on day 692, dealt with Mr. Collins
- 24 and the Collins fee, if I could have day 692 please, and question 369. I
- 15:40:59 25 will just put to you, Mr. Butler, what Mr. Williams your partner had to
- 26 say in relation to this?
- 27 A. Yes.
- 28 Q. 368 He said "What exactly was the nature of the consortium's relationship with
- 29 Mr. Collins?
- 15:41:22 30 Answer: We had used him to find land for us.

- 15:41:25 1 Question: All right, and who was the person who made the arrangement or
2 agreement with Mr. Collins in relation to any fees or whatever he might
3 get in connection the finding of the lands?
4 Answer: Johnnie."
- 15:41:36 5 A. He is referring to me and I disagree with him completely.
6 Q. 369 This is your partner, Mr. Butler?
7 A. Yes, I disagree with him completely.
8 Q. 370 How could your partner be so wrong about such a fundamental aspect of your
9 relationship with Mr. Collins?
- 15:41:52 10 A. Well, I think you'd have to ask him, there is no way I'd agree any fee
11 without consulting himself and Mr. Kenny.
12 Q. 371 And would you expect the same --
13 A. And I didn't agree any fee with him.
14 Q. 372 Would you expect the same to apply with them in relation to any fees they
15 would have negotiated with any of the professionals retained that namely
16 they would consult you about the fees?
17 A. At what period.
18 Q. 373 At any period?
19 A. I don't recollect them consulting me.
- 15:42:23 20 Q. 374 No, you say that there is no way you would have agreed a fee without
21 consulting them?
22 A. Yes.
23 Q. 375 Because they were your partners, isn't that right?
24 A. Yes.
- 15:42:31 25 Q. 376 What I am asking you is would you expect the same privilege from them that
26 they wouldn't agree a fee without consulting you?
27 A. I would have expected, but I don't believe it happened.
28 Q. 377 Would you agree with me that it would appear --
29 A. I do believe that -- now we are going, the period of time when I was in
15:42:49 30 the States that they rang me, they were settling up the accounts.

- 15:42:54 1 Q. 378 Leaving the accounts aside for a moment, Mr. Butler, leaving the accounts
2 aside for a moment there is no question of them paying Mr. Collins without
3 reference to you, isn't that right?
- 4 A. Yes.
- 15:43:05 5 Q. 379 But Mr. Williams has told the Tribunal, this is your partner, that the
6 person who made the arrangement or agreement with Mr. Collins in relation
7 to fees was you?
- 8 A. That is not correct.
- 9 Q. 380 And how can you assist the Tribunal as to how Mr. Williams could be so
10 mistaken in relation to such a fundamental issue?
- 11 A. Well, I would ask Mr. Williams if so when was the arrangement made with
12 Mr. Collins and if so what was it? You know from what I am looking at the
13 documents now that this, whatever Mr. Collins fees or arrangements they
14 were paid after the sale of the land. Now, if Mr. Williams said that I
15 made some arrangement, when was it three years before that.
- 16 Q. 381 1989?
- 17 A. 1989 sorry.
- 18 Q. 382 Purchased in 1989?
- 19 A. And they only agreed a fee in '96.
- 15:44:04 20 Q. 383 I don't know when the fee was agreed but we know that there was a payment
21 in 1996?
- 22 A. Yes.
- 23 Q. 384 Would you agree with me, Mr. Butler, that somebody had to have an
24 agreement with Mr. Collins dating from 1989, if he was getting a finder's
15:44:20 25 fee?
- 26 A. I don't believe there was an agreement with Mr. Collins, I said that to
27 you earlier, didn't I.
- 28 Q. 385 That was your evidence and I am going to come to it, but are you
29 suggesting therefore that there was never an agreement with Mr. Collins
15:44:34 30 that he would get a finder's fee yet there was an agreement by the three

15:44:38 1 of you, including you that he be paid 28 odd thousand pounds in 1996,
2 29,000 pounds?

3 A. What I said to you was I never made an agreement with him.

4 Q. 386 Why did you pay him in 1996, Mr. Butler?

15:44:52 5 A. Why did I pay him?

6 Q. 387 Why did you agree to him being paid?

7 A. You would have to ask Niall Kenny and Tom Williams.

8 Q. 388 I am asking you, Mr. Butler, you agreed to the payment of 29,613 pounds to
9 Collins Consultancy Services in 1996, why?

15:45:05 10 A. I think that Niall Kenny rang me and asked again asked me was that a fair
11 payment. I was in Atlanta at the time, I certainly remember '96/'95 I
12 wasn't in the country.

13 Q. 389 Why did you agree to the payment, Mr. Butler?

14 A. Because I would have thought it was fair.

15:45:25 15 Q. 390 But fair for what?

16 A. Fair for the work he did on the, on getting the land, the architects --
17 well his involvement in the architectural work.

18 Q. 391 That has been paid?

19 A. Or the work he did in introducing the councillors.

15:45:46 20 Q. 392 So can we take it that the payment of the 29,000 pounds to Collins
21 Consultancy Services is a payment in relation to introducing councillors
22 to the project?

23 A. I can't -- I mean I can't say for definite it's either introducing
24 councillors or getting the lands, when you say Tom says it was for getting
15:46:16 25 the land, I can't -- I'd have to leave that to Tom Williams and Niall
26 Kenny to answer you that question.

27 Q. 393 Well it's an unusual feature, Mr. Butler, but both Mr. Williams, Mr. Kenny
28 and yourself are all represented by the same solicitor and Mr. Williams'
29 evidence in relation to this wasn't challenged by his solicitor, so I have
15:46:33 30 to ask you the questions, Mr. Butler, and Mr. Williams' evidence as

- 15:46:37 1 appears there was to the effect that you were the person who had made the
2 arrangement or the agreement with Mr. Collins in relation to any fees?
- 3 A. I don't agree with him there.
- 4 Q. 394 In fact if we continue on the next question is at question 371 "Did you
15:46:53 5 yourself enter into any direct negotiations with Mr. Collins about how he
6 would be paid or when he would be paid?
7 Answer: No.
8 Question: Did you ever have any discussions with Mr. Collins about what
9 money he would be paid or when he would be paid?
15:47:05 10 Answer: No.
11 Question: Did you ever make any financial arrangement with Pilgrim in
12 connection with their fees or how they would be paid or when they would be
13 paid?
14 Answer. No".
15:47:24 15
16 When you received the phone call in America about these payments,
17 Mr. Butler?
18 A. Yes.
19 Q. 395 And when it was suggested to you that there would be a payment to Collins
15:47:32 20 Consulting Services, now leaving aside the amount of the payment, when it
21 was suggested that Collins Consulting Services would receive a payment,
22 did you query what that payment was in connection with?
23 A. I didn't, I didn't.
24 Q. 396 You knew I think that Pilgrim with which Mr. Collins was associated was
15:47:51 25 being paid architectural fees of 19,700 pounds?
26 A. Well, I knew because again the same question would have come up.
27 Q. 397 And you would have known that Project architects were being paid a sum of
28 33,880 pounds as appears from that document at 1275, because presumably?
29 A. That's Pilgrim again, yeah.
15:48:15 30 Q. 398 So from the point of view of architectural services there were payments

- 15:48:19 1 both to Pilgrim and to Project?
- 2 A. Yes.
- 3 Q. 399 Of nearly 50,000, in fact in excess of 50,000 pounds?
- 4 A. Yes.
- 15:48:26 5 Q. 400 So whatever Mr. Collins was being paid for he certainly wasn't being paid
- 6 for architectural services?
- 7 A. Correct.
- 8 Q. 401 So we'll exclude the architectural services.
- 9 A. Definitely.
- 15:48:39 10 Q. 402 As far as Mr. Williams your partner is concerned he was under the
- 11 impression that it was that you had agree the fees with Mr. Collins and
- 12 agreed that he would be paid fees, you dispute that?
- 13 A. I do.
- 14 Q. 403 So who would have agreed to the payment of any monies to Mr. Collins?
- 15:48:57 15 A. Tom and Niall and they would have again rung me in America and said, do
- 16 you think this is fair.
- 17 Q. 404 And apart from introducing you to, or councillors to the project what
- 18 other services could Mr. Collins have supplied to you?
- 19 A. Again the only one that I am aware of is getting the original piece of
- 15:49:16 20 land.
- 21 Q. 405 What councillors did he introduce to you, Mr. Butler?
- 22 A. I didn't say introduce me, I said canvassed for us.
- 23 Q. 406 What councillors --
- 24 A. I would imagine they were Fianna Fail councillors, not imagine, I know
- 15:49:30 25 they were Fianna Fail councillors.
- 26 Q. 407 Mr. Butler, sorry Mr. Murnaghan your solicitor gave evidence that he was
- 27 told that, when he was told of Mr. Dunlop's involvement that he advised
- 28 you against having Mr. Dunlop involved in the project?
- 29 A. Didn't advise me.
- 15:49:54 30 Q. 408 Not alone that, but when he said or when he gave those advices he was

15:49:58 1 advised that, a remark to the effect "Being in too deep" in other words
2 that you were in too deep when he gave that advice?
3 A. What, to who?
4 Q. 409 Well he says he was advised?
15:50:13 5 A. Who was advised?
6 Q. 410 Mr. Butler.
7 A. No.
8 Q. 411 Sorry Mr. Murnaghan I should say the solicitor?
9 A. Said Mr. Butler was advised.
15:50:21 10 Q. 412 Yes.
11 A. I was not.
12 Q. 413 He says he learned of Mr. Dunlop's involvement from Mr. Butler or
13 Mr. Kenny?
14 A. Or Mr. Kenny.
15:50:28 15 Q. 414 Yes.
16 A. Right.
17 Q. 415 Did you ever meet Mr. Murnaghan?
18 A. I did, I went into the office to sign some document.
19 Q. 416 Did you ever tell him that Mr. Dunlop was involved?
15:50:38 20 A. No, I went in to sign some documents, Niall and -- Niall Kenny and I'm not
21 sure whether, either Niall and/or Tom went in to him to -- there was a
22 document that I signed, can you refresh my memory on it?
23 Q. 417 Could it have been the contract in 1989 the Molloy contract, did you sign
24 that?
15:51:18 25 A. I'm not sure, but I went in to him to sign a document.
26 Q. 418 Was Mr. Collins paid for introducing to you Mr. Dunlop?
27 A. Not that I am aware of at all, I don't believe so, no I don't believe he
28 was.
29 Q. 419 Thank you very much, Mr. Butler.
15:51:55 30 CHAIRMAN: All right. Do you want to ask any questions?

15:51:58 1
2 MR DOHERTY: No that's fine
3
4 CHAIRMAN: You have no questions?
15:52:08 5
6 MR DOHERTY: No.
7
8 JUDGE FAHERTY: Just one query, Mr. Butler, we know now from certain
9 documentation that Mr. Dunlop was paid amounts by different companies in
10 1993.
11 A. Yes.
12
13 JUDGE FAHERTY: 93? Yes. We have seen them already, certainly two
14 payments he attributes to his work on the --
15:52:32 15 A. Yes, I saw that.
16
17 JUDGE FAHERTY: Yes 6,050 and 5,100 and perhaps another, we know there was
18 an earlier sum, we know there was another invoice for 10,200 or so and he
19 was paid a cheque for 7,000.
15:52:48 20 A. Yes, yes.
21
22 JUDGE FAHERTY: So there was different amounts in 1993.
23 A. Yes.
24
15:52:52 25 JUDGE FAHERTY: Do you recall being consulted about that, Mr. Butler?
26 A. I don't recall being consulted about that, those payments.
27
28 JUDGE FAHERTY: Somebody had to pay, there had to be -- you were involved
29 in a business with Mr. Williams and Mr. Kenny, isn't that correct?
15:53:09 30 A. Yes, yes. But contrary to what it looks, it seems to be John Butler all

15:53:14 1 the time, I was the one that would have been least involved.
2
3 JUDGE FAHERTY: Yes, forget about the contact in Mr. Dunlop's diary, I am
4 just talking about the fact that Mr. Dunlop was paid or certainly he
15:53:30 5 received, or it appears certainly he received various amounts in 1993.
6 A. Yes.
7
8 JUDGE FAHERTY: Presumably in your business with Mr. Kenny and Mr. Williams
9 creditors would have to be paid at various stages.
15:53:41 10 A. All the time, supplies yeah.
11
12 JUDGE FAHERTY: Who decides on that?
13 A. Tom Williams. Tom Williams, now that was the date today. When Niall
14 Kenny would have been very much involved when it came to what we are
15:53:57 15 talking about, this, but normally on the other part of the restaurant in
16 other words, the day to day paying suppliers and that Tom Williams would
17 have done that, I wouldn't have known anything about that. I wouldn't
18 have even seen any of the, you know, I wouldn't have seen any of the,
19 except the audited booked.
15:54:19 20
21 JUDGE FAHERTY: I see. And in relation to what Mr. Quinn was asking but
22 the various payment that is were made after the lands were sold in 1996,
23 we saw the list of various disbursements that were made.
24 A. Yeah.
15:54:33 25
26 JUDGE FAHERTY: To your knowledge, did you do you know whether invoices
27 were obtained for all of those disbursements?
28 A. I don't. I believe so but I don't. The auditors, Coopers & Lybrand would
29 have -- and I think Niall Kenny and Tom Williams would be able to answer
15:54:57 30 you that question.

15:54:58 1
2 JUDGE FAHERTY: I see. Very well.

3 A. I believe they were, but.

4
15:55:05 5 JUDGE FAHERTY: All right. Thank you.

6

7 **WITNESS WAS QUESTIONED BY MR. DOHERTY:**

8

9 Q. 420 On the basis of that there is one question to ask Mr. Butler on that might
10 be of assistance. Were you aware that when we were making inquiries on
11 behalf of the consortium in relation to that documentation that inquiries
12 were made of Coopers & Lybrand as to what documentation they held?

13 A. Sorry could you repeat that?

14 Q. 421 I don't think you were aware but were you made aware that inquiries were
15 made with Coopers & Lybrand in relation to documentation furnished to them
16 for the preparation of the schedule?

17 A. No, I had nothing do with that.

18 Q. 422 So you are unaware of the fact that Coopers & Lybrand indicated that they
19 have files any longer in accordance with their normal office housekeeping?

15:55:43 20 A. No, I wasn't even aware of that, no.

21 Q. 423 Thank you.

22
23 CHAIRMAN: Mr. Butler, could I just ask you this one thing, your evidence
24 is that you didn't agree a fee with Mr. Collins.

15:55:54 25 A. Yes.

26
27 CHAIRMAN: When you say that, do you mean to say that you didn't agree a
28 specific fee or a specific percentage but that you, or do you mean to say
29 that you never, ever discussed fees? Could it be for example that you
15:56:11 30 agreed pay him a fee or said he would be paid, without specifying the

- 15:56:16 1 amount or the percentage?
- 2 A. It's possible I said to him well you'll be paid for this or you'll be paid
- 3 a fee, and I'll deal with my partners.
- 4
- 15:56:26 5 CHAIRMAN: All right. So that it could be that insofar, it could that be
- 6 in that sense the agreement to pay the fee or a fee was an agreement made
- 7 between you and Mr. Collins, without specifying the fee?
- 8 A. Yes, yes that would be reasonable, yes.
- 9
- 15:56:42 10 CHAIRMAN: And that the actual fee was finalised at the end when Coopers
- 11 & Lybrand were making the payments?
- 12 A. That seems a very logical explanation of the facts.
- 13
- 14 **THE WITNESS WAS RE-EXAMINED BY MR. QUINN AS FOLLOWS:**
- 15:56:56 15
- 16 Q. 424 MR. QUINN: Sorry sir just arising out that have, I wonder if I could have
- 17 yesterday's evidence, if I could have question 196 please? If we just
- 18 take it at 195, this is your evidence yesterday.
- 19
- 15:57:42 20 Mr. Butler, I asked you at question 195 "Did you pay Mr. Collins in
- 21 relation to his involvement in introducing to you these land?
- 22 Answer: No I didn't pay him.
- 23 Question: What arrangement had you with Mr. Collins?
- 24 Answer: I'm not aware of the arrangement, I had no arrangement with
- 15:57:57 25 Mr. Collins, I'm not aware of what the arrangement was."
- 26 A. Yes.
- 27 Q. 425 Now, you seem to be telling the Tribunal that in fact you had an
- 28 arrangement with Mr. Collins, that is to say that you had advised him that
- 29 he would be, you would look after him.
- 15:58:14 30

15:58:14 1 CHAIRMAN: No he said he --

2 A. I think it's slightly different than that.

3

4 CHAIRMAN: He said I think, Mr. Butler said to me that he may have had an

15:58:21 5 arrangement, he may well have had an arrangement without a specific fee

6 being mentioned.

7 A. But not an arrangement as -- I may have said to him, you know, you'll be

8 paid, but the way you put it to me is a lot better, you know, that I may

9 have said to him, but I can't recollect it.

15:58:39 10 Q. 426 MR. QUINN: What you have told the Tribunal is, in answer to the Chairman

11 "It is possible I said to him well you'll be paid for this or you'll get a

12 fee and I'll deal with my partners".

13 A. But that's basically the same thing, yes.

14 Q. 427 So you had an arrangement that Mr. Collins would be looked after when you

15:58:58 15 spoke and cleared it with your partners?

16 A. I'm not -- like's I am not what you are referring to as an arrangement,

17 the word arrangement I don't I view as a different thing, it means I

18 specifically had some arrangement with him.

19 Q. 428 Did Mr. Collins --

15:59:17 20 A. To make a statement saying that you will be paid, deal with my partners is

21 a different thing altogether, by the way I don't remember this, I am only

22 saying it's possible.

23 Q. 429 Did Mr. Collins have an expectation of a fee from yourself and your

24 partners?

15:59:31 25 A. I don't know you'd have to ask Mr. Collins.

26

27 CHAIRMAN: All right.

28

29 JUDGE KEYS: Mr. Butler, could I just ask you one question, you are a

15:59:45 30 businessman of wide experience, as I understand the position, would that

15:59:51 1 be correct?

2 A. Yes.

3

4 JUDGE KEYS: And I take it over your period of time in business, you would

15:59:56 5 have dealt with land transactions would you?

6 A. No very little land transactions. It would have been buying the site for

7 Scafform, no land transactions as such.

8

9 JUDGE KEYS: Let's put it like this, were you ever involved in a

16:00:11 10 transaction where you might have to have somebody approaching you or

11 sending somebody out to try and search for a particular piece of land

12 maybe say, that you want to carry out some development on or that your

13 company was involved?

14 A. I did no development.

16:00:26 15

16 JUDGE KEYS: I am not saying development, but to search out a plot of land

17 let's say that would be suitable?

18 A. No. The land --

19

16:00:34 20 JUDGE KEYS: Did you ever have any dealings at all in any situation where

21 you had to pay the equivalent of a finder's fee to anybody else?

22 A. Except to an auctioneer.

23

24 JUDGE KEYS: Yes, so if an auctioneer, if you were to engage an auctioneer

16:00:46 25 to go and look for a piece of land, you'd have to pay him?

26 A. Yes. Yes they usually I --

27

28 JUDGE KEYS: And Mr. Collins in the circumstances he came to you, is that

29 right with this piece of land in mind and said -- or did you ask him?

16:01:04 30 A. I believe that knowing Mr. Collins was out from the north side, I'd say if

16:01:11 1 you find anything that would suit a Courtyard. I am not sure who came up
2 with the Glasnevin which was the first one, but I believe Mr. Collins came
3 to me first of all with the land and then Tom Williams took over.
4

16:01:30 5 JUDGE KEYS: I see and the only distinction between Mr. Collins and let's
6 say an auctioneer situation was that Mr. Collins wasn't a qualified
7 auctioneer.

8 A. Exactly.

16:01:38 10 JUDGE KEYS: But wouldn't the same arrangement arise that you'd feel
11 obliged that a fee would have to be paid to him?

12 A. Well I believe also --

16:01:50 15 JUDGE KEYS: In a business world, nobody is going to come with you that
16 something that's going to benefit you and not expect something in return
17 and vice versa, a businessman would expect, yes I think you do deserve
18 something.

19 A. And also there would be the fact that he was then project architects --
20 no, Pilgrim.

16:02:04 21 JUDGE KEYS: Pilgrim, yes but I think on the evidence his part the
22 architectural side of it would have been minimum and his participation
23 seems to be from what you say and correct me if I am wrong, is that he
24 seemed to locate the piece of land which you were interested in and also
16:02:18 25 that he helped in lobbying councillors whom you thought would probably be
26 Fianna Fail councillors as well.

27 A. Exactly, yes.

28

29 JUDGE KEYS: That's it in a nutshell. Thank you.

16:02:28 30 A. Yes.

16:02:29 1
2 MR DOHERTY: Sorry, Chairman, just one thing. Mr. Quinn made a comment in
3 relation to the three members of the consortium being represented by the
4 same firm of solicitors and seemed to draw some inference from the fact
16:02:40 5 that I hadn't cross examined Mr. Williams, the thing I would say in
6 relation to that is my understanding of this Tribunal is that people were
7 not required to cross examine witnesses and that is a publicly stated
8 position of the Tribunal. So I take umbrage to any suggestion of
9 impropriety or -- by Mr. Quinn in relation to that.

16:02:57 10
11 CHAIRMAN: Well, it's a matter for individual witnesses and their lawyers
12 but the normal practice would be if something is stated or picked up by a
13 solicitor or by a witness which is clearly incorrect, then it is
14 questioned or challenged to put -- but it doesn't, that necessity doesn't
16:03:21 15 apply in a Tribunal to the same extent that it does in court.

16
17 MR DOHERTY: Just given the comment was made I felt I should address it.

18
19 CHAIRMAN: All right. Thank you Mr. Butler for your attendance. All
16:03:32 20 right. Thank you.

21
22 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,**
23 **THURSDAY 25TH SEPTEMBER 2008 AT 10.30 AM.**

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