

13:28:13 1 **THE TRIBUNAL RESUMED AS FOLLOWS AT 2 PM:**

2
3 MS. DILLON: Good afternoon, Sir. Mr. Dunlop is already sworn and is to
4 be cross-examined by Mr. Montgomery on behalf of his clients in Cloughran.

14:06:25 5
6 CHAIRMAN: All right.

7
8 MS. DILLON: Mr. Dunlop.

14:06:30 10 **MR. FRANK DUNLOP RETURNS TO THE WITNESS BOX AND IS**
11 **QUESTIONED BY MR. MONTGOMERY AS FOLLOWS:**

12
13 CHAIRMAN: Welcome back, Mr. Dunlop.

14 A. Deja vu, Chairman.

14:06:42 15
16 CHAIRMAN: Now, Mr. Montgomery.

17 Q. 1 MR. MONTGOMERY: Good afternoon, Chairman. Mr. Dunlop it's some time
18 since we were last here, if I could maybe ask the Tribunal to put up page
19 798 of the brief. Mr. Dunlop I think this is an extract from your phone
14:07:01 20 messages, I think, in relation to what is suggested was the initial
21 meeting between you and Mr. John Butler, being your first contact with my
22 client in relation to the Cloughran lands.

23
24 Mr. John Butler -- it is suggested that you had a meeting with Mr. John
14:07:21 25 Butler and Mr. Tim Collins of Pilgrim Architects in Mr. Collins' offices
26 and I think it was suggested that that meeting was a prearranged meeting.
27 My client's position in relation to it and the evidence that he has given
28 is that insofar as he was concerned, he effectively bumped in to you, that
29 he was attending a meeting in Mr. Collins' offices and that you happened
14:07:45 30 to pass by the window of the meeting room and it was that point that

14:07:48 1 Mr. Collins introduced Mr. Butler to you.
2
3 Now, I think the version that Mr. Collins, in his statement to the
4 Tribunal doesn't really disagree with that, he just simply indicates that
14:08:00 5 he introduced Mr. Collins to you but doesn't go into more detail. In your
6 direct evidence you seem to suggest and the Tribunal put it to my client
7 that on the basis of the entry into your diary that this was a prearranged
8 meeting. Can you clarify did you, was there -- did you have any
9 understanding that a meeting had been prearranged by my client?
14:08:20 10 A. No, the meeting was prearranged by Mr. Collins.
11 Q. 2 To the extent that my client says that he was not aware of any intention
12 to meet you on that day, is it possible that Mr. Collins might have
13 arranged for you to attend at his office so that you might in effect bump
14 into Mr. Butler?
14:08:37 15 A. No.
16
17 CHAIRMAN: Sorry Mr. Montgomery, when you say your client?
18 Q. 3 I beg your pardon, Mr. John Butler.
19 A. Yes.
14:08:45 20 Q. 4 I think it's accepted, Chairman, that Mr. Butler was the one that had the
21 first meeting, it's not disputed there was a meeting or at least a contact
22 but it's just that whether it was a prearranged meeting which Mr. Butler
23 says it was clearly not, he was there solely and only to meet Mr. Collins
24 in the first instance and he was introduced to you?
14:09:03 25 A. Mr. Chairman, I don't mean to ask questions, Mr. Montgomery I am a little
26 confused, where is Mr. Collins' offices, where is Mr. Collins' office
27 alleged to have been, where is this alleged bumping into to have taken
28 place?
29 Q. 5 That I'm not entirely sure of.
14:09:25 30 A. The reason I ask that question, Mr. Chairman, is that my understand

14:09:29 1 something that Mr. Collins was a partner or an associate in a company
2 called Pilgrim Architects who used at one stage have offices in Stephen's
3 Green and subsequently either at the disbandment of Pilgrim Architects or
4 it's absorption by Ambrose Kelly Architects, Mr. Collins became some type
14:09:55 5 consultant to Ambrose Kelly's practice and Ambrose Kelly's practice, if I
6 recollect correctly, was in a place called Fleming's Court, which is off
7 Baggot Street, and the practice was in an up stairs section of that
8 building.
9

14:10:19 10 JUDGE FAHERTY: Mr. Dunlop, Mr. Butler's evidence on day 901 is that I
11 think he met you in Mr. Ambrose Kelly's office. That was the evidence
12 given by Mr. Butler, does that assist you, Mr. Montgomery?

13 Q. 6 MR. MONTGOMERY: Yes, I am just reading the relevant portion of the
14 transcript on that day, I don't think it clearly says it. I don't think
14:10:44 15 much turns on it, the central question is this, as I say Mr. Butler
16 indicates that as far as he was concerned that was a chance meeting, so
17 far as he was concerned. Now as to whether Mr. Collins arranged it that
18 way, we are not aware.

19 A. For ease of everybody's position, I should say to you, Mr. Montgomery, I
14:11:01 20 have no recollection whatsoever of ever meeting your client in
21 Mr. Collins' office or in Ambrose Kelly's office. The only time I met
22 Mr. Butler, the first time I met Mr. Butler was in my own office,
23 introduced by Mr. Collins.

24 Q. 7 Well, I have to put to you that that would be absolutely disputed and has
14:11:23 25 been disputed.

26 A. Mr. Collins brought Mr. Butler to me by arrangement.

27 Q. 8 If I can turn then from that, in terms of the content of that meeting, I
28 think in your direct evidence which changed during the course of your
29 evidence somewhat, it was suggested that in that meeting, in that initial
14:11:44 30 meeting you had seemed to indicate that both Mr. Butler and Mr. Collins

14:11:49 1 had made it clear to you that they were aware that councillors would have
2 to be paid?

3 A. Yes.

4 Q. 9 That has absolutely refuted, and if I can just draw you through the
14:12:00 5 transcript of your own evidence in relation to that, that is to say your
6 own evidence seemed to vary as the two days went on, in that while
7 initially you were suggesting that there was a clear discussion and clear
8 comment by Mr. Butler with whom I'm concerned, that he was aware. You
9 subsequently, if I could get page 64 of the transcript of day 686 at
10 question 23.

11
12 This was coming up to lunch time on that day after a lot of discussion
13 during the course of the morning where you had, during the course of the
14 day being saying Mr. Butler had specifically said to you in comment, in
14:12:57 15 specific comment, that when coming up to lunch you indicated "In those
16 terms in that language I cannot say he definitely used those words, we
17 were three grown-up men sitting around a table talking about development
18 land nor zoning purposes, we were not talking about bringing councillors
19 out to lunch". Over the page at question 15, sorry start at question 11:

14:13:21 20
21 "There were no specifics alluded to about payments to councillors, is that
22 right?

23 Answer: There were -- no, I think I have gone through this before on
24 another occasion I am saying the same thing now.

14:13:32 25 Question: Yes.

26 Answer: There is no specific illusion or references directly to
27 individuals by name or corporately as to their position as to councillors,
28 that they would be required cash or payment in kind in relation to their
29 support in those terms, no."

14:13:45 30

- 14:13:46 1 It seems somewhat contradictory, are you saying that there was specific --
- 2
- 3 MR. REDMOND: Mr. Chairman, I appreciate my friend has to choose a line in
- 4 relation to extracts from transcripts, I think it is inappropriate however
- 14:13:58 5 not to exclude the clarifying question which followed and the answer
- 6 thereto, if you refer to question 307 "But you are satisfied from what you
- 7 have just told the Tribunal that however it was expressed to you on this
- 8 occasion, both Mr. Collins and Mr. Butler were au fait with the system?
- 9 Answer: Yes."
- 14:14:23 10
- 11 When you include that it then make it is unfair as a premise for a
- 12 question to extract from a narrative flow and say that's a contradiction
- 13 with an earlier remark.
- 14 Q. 10 MR. MONTGOMERY: If I can just go over the page then to the question from
- 14:14:36 15 you Chairman, to Mr. Dunlop at that time "But you are saying he said
- 16 something like that?
- 17 Answer: He left me in no doubt that he was aware, from both his comments
- 18 and his demeanour". Now what comments?
- 19
- 14:14:53 20 On the previous two pages you indicated that there was no specific
- 21 comments and nothing specifically said. Now, if you are alleging there
- 22 was a comment, an actual comment what is it?
- 23 A. Yes. I know what's going on. Mr. Collins had said I know you have
- 24 certain things to do certain things with councillors. Mr. Butler acceded
- 14:15:13 25 to that comment by saying "I know what's going on".
- 26 Q. 11 Why is this the first time you have indicated that?
- 27 A. No, it's not the first time I indicated that, that's in my statement.
- 28 Q. 12 That "I know what's going on" that's absolutely denied, Mr. Butler has
- 29 given evidence that there is no question of that.
- 14:15:32 30

14:15:32 1 Mr. Butler has said, it is his position, that you were employed, you were
2 introduced as a PR consultant who could assist in the promotion of their
3 development and that that is the sole and only purposes for which you were
4 engaged and paid for.

14:15:50 5 A. I --

6 Q. 13 So far as my client is concerned?

7 A. Yeah, okay, fine. I understand the position your client is adopting and
8 that you are adopting on his behalf, but, Mr. Chairman, may I say I find
9 it a little bit difficult to accept that Mr. Butler was brought to me by
10 Mr. Collins, who had formed, if you will forgive that expression whom I
11 knew and who had been responsible for bringing other people to me
12 previously and I was paid something of the order ranging between,
13 depending on the calculation that you either accept your calculation, the
14 Tribunal's calculation or my calculation, and I notice for example, in
14:16:38 15 passing I should say I notice that you appear to have abandoned or your
16 client appears to have abandoned the allegation that I paid Saatchi &
17 Saatchi or that I had paid some 750 pounds to Fianna Fail on his behalf.
18 But I find it difficult to accept, and I'm not being disingenuous with us
19 in saying this, to accept that I was paid something in the order of 24,000
14:17:01 20 or if you take somebody else's calculation, 36,0000 to act as a PR agent
21 for a piece of land on which nothing stood and which your client bought
22 and sold at profit without ever building anything on it.

23 Q. 14 Well, first off, Mr. Dunlop, there are a couple of inconsistencies in
24 that, in that it's not the case that there was nothing stood on those
14:17:28 25 lands. There was extensive buildings.

26 A. Sheds.

27 Q. 15 Courtyards.

28 A. Yes.

29 Q. 16 You were aware that my client purchased this land with the original
14:17:36 30 intention of developing a Courtyard Restaurant on it?

- 14:17:41 1 A. Well, that again I find a little bit difficult to accept, Mr. Montgomery,
2 because at one point we were being told that your client was not a
3 developer, he is just somebody who bought land with an interest in adding
4 value to it and selling it on, which did he, he never built a thing on it,
14:17:59 5 I recollect vividly your client telling me it was his intention ultimately
6 to build a hotel on it.
- 7 Q. 17 Sorry, Mr. Dunlop, you are saying you now remember vividly that
8 conversation in relation to an hotel?
- 9 A. Yes Mr. Butler told me that he had an intention of building an hotel.
- 14:18:15 10 Q. 18 In your direct evidence you indicated that you had some recollection of
11 some discussion in relation to an hotel, that's somewhat different to
12 saying you have a vivid recollection now.
- 13 A. He never told me he was building a restaurant, he told me -- he struck me
14 forcibly as a man who had bought a piece of land wanted to add value and
14:18:31 15 sell it --
- 16 Q. 19 Why two years ago, Mr. Dunlop, did you say you had some recollection of
17 some comment in relation to an hotel, why has that changed to a quite
18 different position now?
- 19 A. I know, Mr. Montgomery, it's a difficult position that you find yourself
14:18:42 20 in and that you may well be clutching at the odd straw that blows in the
21 wind, but there was a discussion with your client and myself about what he
22 intended doing with the land and an hotel was mentioned, he did not --
- 23 Q. 20 You seem to be rehearsing the evidence as already given, so you will be
24 aware that evidence has been given that the position adopted in 1993 when
14:19:06 25 the review was going on, was some years after the original acquisition of
26 the land, after they had already received advice that they weren't going
27 to get planning for what they had originally been intending on it --
- 28 A. Yeah, they sold it in 1996.
- 29 Q. 21 -- so by the time they were coming to you the position had moved on from
14:19:19 30 their original acquisition.

- 14:19:20 1 A. Yes. They held the land, I don't know when they bought it but they held
2 it until 1996 when they sold it.
- 3 Q. 22 Yes. In relation to payments, I am not sure whether my letter to the
4 Tribunal of the 21st of March 2007 has been furnished to you or whether
14:19:38 5 you have had a chance to see it?
- 6 A. What date was that, Mr. Montgomery?
- 7 Q. 23 The 21st March 2007.
8
- 9 CHAIRMAN: Is there a page number?
- 14:19:48 10
- 11 MR. REDMOND: 2144 Chairman.
- 12 Q. 24 MR. MONTGOMERY: Thank you, Mr. Redmond. In the first instance, given
13 that you have already raised it as an issue -- it is correct, my clients
14 are quite happy to acknowledge that you had no hand, act or part in
14:20:03 15 relation to the Saatchi payment or the payment of 750 to Fianna Fail?
- 16 A. I appreciate that, because that was a matter that was of serious concern
17 to me.
- 18 Q. 25 And that evidence has been given by all of my clients to the Tribunal at
19 this stage. That they are happy to accept that.
- 14:20:17 20
- 21 In relation to the actual payments, a number of invoices and pro forma
22 invoices have been furnished, I can turn first to the pro forma invoice
23 044 which is page 136 of the brief, that there was some suggestion that
24 this was an invoice reflecting payment, and in the first instance would
14:20:56 25 you agree with me that at the bottom of that it indicates that this is not
26 a VAT invoice, a VAT invoice will be issued on receipt of payment?
- 27 A. Correct, it does say that.
- 28 Q. 26 And the pro forma invoice number at the top of it is 044?
- 29 A. Correct.
- 14:21:14 30 Q. 27 Now, my clients had previously paid a figure of 3,025 to you and an

- 14:21:19 1 invoice had been issued which I think was invoice number 768, reflecting
2 that, which is some time prior to this in January of 1993.
- 3 A. 29th January, yes.
- 4 Q. 28 And subsequent to this invoice, or this pro forma invoice, there was two
14:21:35 5 invoices raised in your office, one for 6,050 and one for 5,100 and those
6 invoices, sorry they were page 1918 and I'm not sure, the invoice for
7 6,050 I'm not sure what the number is?
- 8 A. 865.
- 9 Q. 29 The invoice number itself is 865 but it's in the brief, I'm not sure.
14:22:06 10 Neither of those invoices have that same narrative at the bottom of it,
11 i.e. that this is not a VAT invoice, a VAT invoice will be issued on
12 receipt of payment.
- 13 A. Mm-hmm.
- 14 Q. 30 Now, it would seem clear to me and perhaps you can confirm whether this is
14:22:21 15 the position or not, that the invoice or pro forma invoice number 044 is
16 nothing more than a fee note?
- 17 A. I don't think I can confirm -- I can confirm to you that it was an invoice
18 that was sent to Mr. Butler, obviously after discussion with Mr. Butler
19 and I'd just like to add, in case there is any confusion about this
14:22:49 20 matter, there was never any difficulty about payment from your client,
21 money never seemed to be a problem. I mean, if there was a fee note drawn
22 down or a discussion in relation to a fee note, the matter was paid in
23 whatever way, it was paid by your client.
- 24 Q. 31 In respect of invoices I have no difficult we that, but this is not an
14:23:09 25 invoice, this is a fee note?
- 26 A. Well however you describe it, it is a note -- it is an invoice note in my
27 office in relation to 10,000 plus VAT.
- 28 Q. 32 But it's not indicative of an actual payment?
- 29 A. It may well not be indicative of an actual payment, no.
- 14:23:28 30 Q. 33 In respect of that it's clear that it was not, because there was a

- 14:23:31 1 reminder sent by Mr. Connolly in your office on a date subsequent, isn't
2 that right?
- 3 A. About a month later, six months later, yes.
- 4 Q. 34 Would you not agree with me that that would be indicative of this being
14:23:42 5 raised as a fee note, a reminder being sent, the monies being paid and
6 invoices then being raised?
- 7 A. Yes, it is possible, yes that is possible.
- 8 Q. 35 You agree with me?
- 9 A. Oh, yes, that is possible.
- 14:23:56 10 Q. 36 My client's position is that as set out of the letter of the 21st March,
11 that the payments made to you were a figure of 3,025 in January 1993.
- 12 A. Agreed.
- 13 Q. 37 The payment of 5,100 which is, well we have a cheque for that at 1948 and
14 I think that there is no difficult in relation to that?
- 14:24:22 15 A. Agreed.
- 16 Q. 38 The figure of 6,050 which is acknowledged as received in your cash book?
- 17 A. Yes.
- 18 Q. 39 Unfortunately we haven't as yet been able to turn up the original cheque
19 in relation to that but we are still making inquiries in relation to that.
- 14:24:37 20 A. That is agreed.
- 21 Q. 40 There is a cheque for 7,000 produced and a cheque for 3,000 produced.
- 22 A. Agreed.
- 23 Q. 41 And those figures total of a figure of 24,175 pounds if my sums are
24 correct.
- 14:24:50 25 A. That is correct.
- 26 Q. 42 And it has always been my client's position that a figure of that or
27 thereabouts was the total fees paid to you as reflected in their own tax
28 return, or the figures prepared by Coopers & Lybrand for them for the
29 purpose of their tax return.
- 14:25:07 30 A. Yes.

- 14:25:09 1 Q. 43 Some slight discrepancy on Coopers & Lybrand, but there are a number of
2 errors on the Coopers & Lybrand --
- 3 A. Yes, I don't readily admit to this too often but I am certainly completely
4 and totally at a loss to know where Coopers & Lybrand enter into this
14:25:25 5 scenario I never received --
- 6 Q. 44 And again, just to be clear, that is also accepted, I think there was a
7 suggestion originally that you were paid directly by Coopers & Lybrand,
8 that equally is accepted as not being the case?
- 9 A. That was abandoned as well, yes, okay.
- 14:25:39 10 Q. 45 One other point I would make in relation to the cheques, Mr. Dunlop, I
11 think you have accepted and it has always been your position that whatever
12 fees or monies you received from my client were in the way of cheques?
- 13 A. Yes, I would say so, yes.
- 14 Q. 46 And in respect of the cheques that have been produced, one of them it's
14:25:58 15 unclear just because the copy is so bad but on the ones on which it is
16 clear, they are all marked "account payee only".
- 17 A. I agree -- well.
- 18 Q. 47 It's there to be seen.
- 19 A. Fine, I accept your word, yes, I accept your word.
- 14:26:14 20 Q. 48 Now, would you accept as a proposition that it would be unbelievable for
21 my client to be giving you money in the way of cheques marked "account
22 payee only" if they were of the belief that those monies were going to be
23 paid to somebody else in some way, some type of corrupt payment?
- 24 A. Nice move, Mr. Montgomery. No, I would not accept that proposition.
- 14:26:36 25 Q. 49 I have to put it to you that is the position, my clients at no time were
26 aware, or had any involvement or any knowledge of any corrupt payments
27 being made to anybody.
- 28 A. For your client's benefit and for your benefit and for the Chairman and
29 Tribunal's benefit, let me reiterate again, sorry for the tautology, let
14:26:59 30 me reiterate. I find it extraordinarily difficult to accept that I have

14:27:03 1 been paid what you now, and I, mutually are coming to an agreement was
2 paid to me, namely 24,175 pounds over a period of six months for what in
3 effect was giving a list of councillors and photographs to your clients
4 and doing absolutely nothing else. I cannot understand why your client
14:27:27 5 came to see me. I cannot understand why he was introduced to me, I cannot
6 understand why he saw the necessity for employing me, but he did, and did
7 he pay me and he did know.

8 Q. 50 Sorry, Mr. Dunlop, in your own evidence you will agree, you had agreed at
9 an earlier stage that this was somewhat difficult and that this land
14:27:48 10 involved the lobbying of the councillors regarding the false position
11 being put forward by Aer Rianta and at various presentations had to be put
12 together in the Royal Dublin for councillors with a view to convincing
13 them of the fallacy of the argument being advanced by Aer Rianta on safety
14 grounds?

14:28:08 15 A. Yes, well there aren't any formal presentations by your client or by me to
16 councillors in the Royal Dublin Hotel.

17 Q. 51 Sorry Mr. Dunlop --

18 A. Yes, there were --

19 Q. 52 I think just to correct you, the documents are there to show?

14:28:19 20 A. Yes there were meetings, there were meetings with councillors in relation
21 to what Aer Rianta was alleging. Aer Rianta was quoting -- I was going to
22 use the -- Aer Rianta was holding meetings of councillors and pointing out
23 to them the disadvantage, the dangers, the inappropriateness or the
24 unacceptability, whichever word you like to use, in relation to zoning
14:28:43 25 this land for E, zoning this land E for industrial purposes. And when
26 your client came to me with Mr. Collins, he informed me that a lot of work
27 had already been done, a lot of lobbying had already been done, when I
28 mentioned GV Wright's name your client said GV Wright is already on board,
29 which is not something that GV Wright said so me when I went to lobby him
14:29:07 30 and get him to sign the motion, but be that as it may, the fact of the

14:29:11 1 matter is that as I recollect matters and as I think is in evidence when
2 one reads one's way through all of the verbiage that your client and his
3 associates, Mr. Williams and Mr. Kenny, had on their own initiative, under
4 the instructions of Mr. Collins, initially conducted quite a significant
14:29:33 5 amount of lobbying themselves. And they came up against this brick wall,
6 which was Aer Rianta which was a State body, and which if everybody had
7 sat down and thought about it logically and clearly we would have done
8 absolutely nothing, because Aer Rianta made such a dog's dinner of what
9 they were doing that I'd say the vast majority of councillors voted for
14:29:55 10 your client on the basis of the approach made to them by Aer Rianta.

11 Q. 53 Mr. Dunlop, the fact of the matter is that considerable work was done in
12 relation to this with a view to convincing the councillors and
13 considerable expenditure made both to you and to other consultants that
14 were engaged with a view to showing the councillors that there was various
14:30:18 15 brochures, and other material prepared and presented to the councillors at
16 a formal presentation in the Royal Dublin. Is that somewhat different to
17 you saying a couple of minutes ago that you couldn't understand why you
18 were engaged for PR?

19 A. If all of this, as I prefaced my remarks by saying that your client and
14:30:38 20 his associates and together with Mr. Collins let me, made me aware and it
21 became evident, that in fact they, so why I was producing a list of
22 councillors and their photographs to them is beyond me, something I have
23 never done, certainly never produced photographs, I may well have given
24 lists of councillors to people from time to time, but if they had done all
14:31:01 25 this lobbying themselves I come back to the core question, why did they
26 consider it necessary to spend 25,000 pounds extra on my services if all
27 of that had been done by themselves?

28 Q. 54 It has been disputed in relation to that. The other factor I would say,
29 Mr. Dunlop, and put to you, obviously I have seen it in the transcript of
14:31:24 30 Mr. Kenny's evidence, that it was his position that another PR firm was

14:31:29 1 being considered and that their fees were roughly the same as your own or
2 their proposed fees were roughly the same as your own?

3 A. I saw that in Mr. Kenny's evidence, I had no knowledge of it until I saw
4 it in Mr. Kenny's evidence, that was never said to me, that it was in
14:31:46 5 anyway a competitive tender or that it was, that, in fairness to
6 Mr. Kenny, I don't think he would have necessarily found it necessary to
7 tell me anything, I only met Mr. Kenny at the most three times, if that.

8 Q. 55 Thank you Mr. Dunlop. No further questions.

9 A. Thank you, Mr. Montgomery.

14:32:07 10
11 CHAIRMAN: Do you want to ask any questions.

12
13 MR. REDMOND: Nothing arises from that, Chairman. Thank you.

14
14:32:14 15 CHAIRMAN: Thank you very much, Mr. Dunlop, and hopefully this will be
16 your last visit.

17 A. Nice to see you all looking so well.

18
19 CHAIRMAN: I understand Mr. Redmond has an important date on Friday so
14:32:28 20 the very best of luck in your career as senior counsel.

21
22 MR. REDMOND: Thank you.

23
24 CHAIRMAN: We are sitting tomorrow at half past ten.

14:32:38 25
26 MS. DILLON: Half past ten with Mr. O'Callaghan.

27
28 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**
29 **THURSDAY 9TH OCTOBER 2008 AT 10.30 AM.**

14:33:00 30