

09:51:39 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY**

2 **15TH OCTOBER 2008 AT 10.30 AM:**

3  
4 MS. DILLON: Good morning, Sir. Mr. O'Callaghan please.

10:35:44 5  
6 **MR. OWEN O'CALLAGHAN CONTINUES TO BE QUESTIONED BY**

7 **MS. DILLON AS FOLLOWS:**

8  
9 CHAIRMAN: Morning, Mr. O'Callaghan. Now, Ms. Dillon.

10:36:04 10 Q. 1 MS. DILLON: Good morning, Mr. O'Callaghan. I think that yesterday the  
11 day's business had concluded with a discussion of a document of the 16th  
12 August 1995, which you had indicated to the Tribunal that in your view,  
13 represented evidence of the fabrication by Mr. Gilmartin of certain  
14 events, some of which you were involved in at that time, isn't that right?

10:36:27 15 A. Yes.

16 Q. 2 Right. I think, at 11917, I had put to you that it was clear from this  
17 phone call that Mr. Gilmartin was discussing you in the context of both  
18 the planning process and the surveillance allegations, isn't that right?

19 A. Yes.

10:36:46 20 Q. 3 And I had wanted to go on then to put to you that it must have followed  
21 from that, that what Mr. Gilmartin was talking about to the bank were the  
22 planning allegations, either those made by Mr. Alan Dukes or the Donnelly  
23 Neary Donnelly matter, is that right fair?

24 A. Yes.

10:37:02 25 Q. 4 That would have put the bank on alert of a complaint or a discussion by  
26 Mr. Gilmartin of a concern about your possible involvement, isn't that  
27 right, in those matters?

28 A. Yes.

29 Q. 5 Right. And if we turn then to the 23rd August at 11922, which records a  
10:37:19 30 telephone conversation between, I think, Mr. O'Farrell of Allied Irish

10:37:22 1 Bank and yourself, running to two pages, isn't that right? And I want to  
2 draw to your attention a number of matters on the first page, if we look  
3 at the fourth last paragraph? This records Allied Irish Bank being  
4 informed that Grosvenor Estate which is owned by the Duke of Westminster  
10:37:44 5 had expressed an interest on a joint development basis. Apparently the  
6 Duke of Westminster has given approval for investments in Ireland and  
7 would you agree with me that, that is the first recorded reference within  
8 the documentation to the bank being informed of an interest by Grosvenor  
9 Estates?

10:38:00 10 A. Yes.

11 Q. 6 Right. Immediately above that there is a reference to Connell Wilson who  
12 are acting for Barkhill in relation to land securities and Charles Lee who  
13 is acting in discussion with GUS & Prudential, isn't that right?

14 A. Yes.

10:38:15 15 Q. 7 Now, I think that Mr. Lee ultimately became involved in the Grosvenor  
16 deal, isn't that right?

17 A. Yes.

18 Q. 8 In fact was paid in effect a substantial finder's fee in relation to that  
19 deal, is that correct?

10:38:26 20 A. Yes.

21 Q. 9 Right. On the following page at 11923, looking at the last three  
22 paragraphs of that page commencing "We discussed the recent publicity  
23 attaching to Owen himself. He is extremely aggrieved at the suggestion  
24 that he was involved with surveillance on the minister. He indicated that  
10:38:46 25 this is categorically not the case. He indicated that he was confident he  
26 will be vindicated over the come week in this regard."  
27 Do you agree that a conversation in relation to Horgan's Quay controversy?

28 A. Yes.

29 Q. 10 And beneath that: "As regards the Cork site purchase from CIE, he  
10:39:02 30 indicated that this land is worth between 60,000 and 70,000 per acre. His

10:39:07 1 agreement of purchase is based on 200,000 pounds per acre. He indicated  
2 that this is reported on today's Cork Examiner and that as far as he is  
3 concerned the Examiner has the correct story". Did you inform the bank of  
4 that?

10:39:19 5 A. Yes.

6 Q. 11 And beneath that: "I raised the issue of the planning controversy  
7 vis-a-vis the Newry solicitors etcetera. He indicated this is absolutely  
8 nothing got to do with him or Quarryvale."

9 A. Yes.

10:39:29 10 Q. 12 Did you give that indication to the bank when they raised the issue of  
11 Donnelly Neary Donnelly with you?

12 A. Yes.

13 Q. 13 Would you agree with me then that even if you weren't aware from your own  
14 consideration of the newspapers in August 1995 about the Donnelly Neary  
15 Donnelly matter, by the time you came to discuss this matter with Mr.

10:39:41 16 O'Farrell on the 23rd August 1995, you were aware of the Donnelly Neary  
17 Donnelly reward offer relating to planning corruption, isn't that right?

18 A. Yes, I heard about the Newry solicitors, yes.

19 Q. 14 So you knew of planning controversies and allegations in relation to the  
20 planning process in August of 1995, isn't that right?

21 A. '95, yes.

22 Q. 15 Now, you had previously been involved, albeit at an earlier point in time,  
23 with a garda inquiry into planning corruption, Mr. O'Callaghan, isn't that  
24 right?

10:40:16 25 A. Yes.

26 Q. 16 On foot of the allegations made by Mr. Gilmartin, isn't that right?

27 A. Yes, this was much earlier on I think, wasn't it, yes.

28 Q. 17 Mr. Gilmartin at that time had made allegations of which you were aware of  
29 councillors requiring to be paid in connection with planning corruption,  
10:40:32 30 isn't that right?

10:40:33 1 A. Yes.

2 Q. 18 Right. So this wouldn't have been a new matter that was coming to your  
3 attention for the first time, is that fair?

4 A. This Newry solicitors thing.

10:40:41 5 Q. 19 Yes.

6 A. Yes.

7 Q. 20 Right. So if we looked for example at your own statement at 3177, which  
8 is a matter that was I think canvassed in Quarryvale I but also in the  
9 Quarryvale II brief and this statement is a statement provided by you,  
10 Mr. O'Callaghan, in relation to a conversation with Mr. Sean Haughey,  
11 isn't that right?

12 A. Yes.

13 Q. 21 And in that you record as follows:  
14

10:41:07 15 "Mr. Haughey told me that Thomas Gilmartin had made comments to him as  
16 follows:  
17 1. That he, Mr. Gilmartin was having difficulties involving George  
18 Redmond and Liam Lawlor amongst others concerning his attempts to  
19 development lands at Irishtown, Quarryvale.

10:41:21 20  
21 2. That Dublin was awash with corruption and that one cannot do anything  
22 in Dublin without spending money, i.e. if one wanted anything done the  
23 councillors were the people with the power and will to be paid." Isn't  
24 that right?

10:41:32 25 A. Yes, that's correct.

26 Q. 22 Now, what you are recording there in your statement is what Mr. Haughey  
27 told you Mr. Gilmartin had said, isn't that right?

28 A. That's correct.

29 Q. 23 And if we move on to what you say Mr. Gilmartin had told you, you record  
10:41:44 30 in your statement as follows:

10:41:46 1 "I indicated to Mr. Haughey that Mr. Gilmartin had made comments to me  
2 similar to those outlined by Mr. Haughey as having been made by  
3 Mr. Gilmartin to Mr. Haughey at 2 above." Isn't that right?  
4 A. Yes.

10:41:58 5 Q. 24 So what you are confirming there is that what Mr. Haughey had told you had  
6 been said to him by Mr. Gilmartin, had also been said by Mr. Gilmartin to  
7 you, isn't that right?  
8 A. Yes.

10:42:11 9 Q. 25 What you are confirming in that statement, Mr. O'Callaghan, is not that  
10 Mr. Gilmartin's allegations were confined to allegations about George  
11 Redmond and Liam Lawlor, you are confirming the separate allegation which  
12 was Mr. Gilmartin's contention according to your statement that Dublin was  
13 awash with corruption and that the councillors were the people with the  
14 power and had to be paid, isn't that right?

10:42:29 15 A. Yes.

16 Q. 26 Right. So is it fair to say then that Mr. Gilmartin's continuing  
17 allegations were not confined to allegations involving interference with  
18 the purchase or acquisition of the council lands and Mr. Redmond and  
19 Mr. Lawlor, but they extended to include allegations that Dublin was awash  
10:42:45 20 with corruption and that councillors had to be paid if you wanted to get  
21 anything done?  
22 A. No, it's not fair to say that actually.

23 Q. 27 All right.

24 A. Sorry, it is not, no.

10:42:54 25 Q. 28 Right. Do you accept that if your statement to the Tribunal is correct,  
26 that in 1989 Mr. Gilmartin was making two substantial allegations as  
27 recorded by you, one of which related to Mr. Redmond and Mr. Lawlor and  
28 the council lands, and the second of which related to an allegation that  
29 Dublin was awash with corruption and councillors were the people would  
10:43:16 30 power who had to be paid?

- 10:43:17 1 A. That's what was said, yes.
- 2 Q. 29 Right. Now, you had been aware, I think, and we have looked at the  
3 earlier, the planning inquiry in 1993 I think at -- 1993 that was  
4 initiated by the minister at the time, and which was dealt with by Mr. Pat  
10:43:34 5 Rabbitte who was Chairman of the council when he asked all the councillors  
6 to cooperate with that planning inquiry, isn't that right?
- 7 A. Yes.
- 8 Q. 30 That's a matter I think you agreed would have been drawn to your attention  
9 or of which you would have been aware at some stage, isn't that right?
- 10:43:49 10 A. Yes.
- 11 Q. 31 In 1995, there is now further stories in the newspapers, one involving  
12 Mr. Alan Dukes and planning, an allegation of planning corruption and the  
13 second of which involves Donnelly Neary Donnelly and an offer of reward  
14 for information leading to conviction in connection with planning  
10:44:04 15 corruption, isn't that right?
- 16 A. Yes.
- 17 Q. 32 In addition to that you yourself would have known, although did you not  
18 necessarily believe it if your evidence is correct, that Mr. Gilmartin had  
19 made allegations in 1989 of his understanding that councillors had to be  
10:44:18 20 paid and that Dublin was awash with corruption, isn't that right?
- 21 A. Yes.
- 22 Q. 33 When you were having your conversation with Mr. O'Farrell on the 23rd  
23 August 1995 at 11923, was the subject discussed between yourself and  
24 Mr. O'Farrell about the controversy in connection with planning matters?
- 10:44:43 25 A. Can I just see this paragraph?
- 26 Q. 34 If the last paragraph could be increased please?
- 27 A. In fact as I recollect the only matter mentioned in that particular  
28 occasion was the Newry solicitors.
- 29 Q. 35 Yes. For example you knew, Mr. O'Callaghan, if Mr. Farrell didn't know  
10:45:02 30 it, that Mr. Gilmartin, who was your partner in Quarryvale and Allied

10:45:05 1 Irish Banks' partner in Quarryvale, had made allegations of corruption  
2 involving Dublin County Councillors as far back as 1989, isn't that right?

3 A. Yes.

4 Q. 36 He had also made allegations as you outlined in your statement in relation  
10:45:18 5 to Mr. Lawlor and Mr. Redmond, isn't that right?

6 A. Yes.

7 Q. 37 Was that not a matter you felt should have been drawn to Mr. O'Farrell's  
8 attention at this meeting when the subject of the planning controversy was  
9 raised with you?

10:45:30 10 A. No, no. I never related any of these things to Quarryvale, as I said a  
11 few days ago when I discussed this, as far as I was concerned most of  
12 these allegations were attributable to residential developments in  
13 different parts of Dublin, mainly North County Dublin, as I recall at the  
14 time. I never related any of this to Quarryvale.

10:45:50 15 Q. 38 I didn't ask you that, Mr. O'Callaghan. In the broader sense, that the  
16 person who was your partner in Quarryvale, namely Mr. Gilmartin, was a  
17 person who had made specific allegations of corruption against Dublin  
18 County Councillors of which you were aware, in 1989, isn't that right?

19 A. Yes.

10:46:08 20 Q. 39 He was also your partner in Quarryvale, isn't that right?

21 A. Yes.

22 Q. 40 Did you not consider it appropriate to appraise your other partner  
23 Quarryvale namely the bank that Mr. Gilmartin had made these allegations  
24 as far back as 1989?

10:46:23 25 A. Yes, I didn't take any notice half Mr. Gilmartin was saying I'm afraid, I  
26 didn't take it to be correct and accurate. So, no, I didn't discuss it  
27 with the bank.

28 Q. 41 Right, but it was the case that in, at that time in August of 1995, those  
29 matters were all happening at the same time, including the controversy in  
10:46:41 30 relation to Horgan's Quay and the sale of the Horgan's Quay land to you,

10:46:45 1 isn't that right?

2 A. Horgan's Quay was a totally separate issue but as far as I was concerned

3 any of these allegations had nothing to do with Quarryvale. As I said, if

4 I did take any notice of them or when I did pick them up or hear about

10:46:59 5 them and I didn't take a lot of notice of them I must admit. I would have

6 assumed it was strictly residential developments.

7 Q. 42 You understood that the allegations were strictly residential

8 developments?

9 A. I assumed they were residential allegations, about residential

10:47:13 10 development.

11 Q. 43 And in newspaper articles that were entitled "money changing hands to

12 ensure rezoning", newspaper articles such as 19981 which has as the

13 headline "Dukes calls for planning safeguards eliminate bribery". Now,

14 was that an article that would have suggested to you that the matter was

10:47:45 15 confined only to residential developments or residential rezonings?

16 A. Well, the journalist who wrote most of these articles I believe at the

17 time was Frank McDonald and his main complaint was about ribbon

18 development and developments stretching out all over County Dublin. And

19 that he blamed the councillors for rezoning these lands, and it was

10:48:06 20 basically the whole conversation was hinged -- the whole topic was hinged

21 around residential development.

22 Q. 44 It was your understanding, it was confined to residential development?

23 A. Yes.

24 Q. 45 Was it your belief then that councillors would only take money for

10:48:23 25 residential development, Mr. O'Callaghan?

26 A. I didn't, because you see you can't say that because I wasn't involved in

27 this, I didn't know anything really about this and the topic never arose,

28 but from what I was reading in the newspapers it was residential

29 developments were being talked about, that is what the allegations were

10:48:39 30 applied to.



10:48:41 1 Q. 46 You knew for example when you were speaking to Mr. O'Farrell on the 23rd  
2 August 1995, that you had paid money to Mr. Lawlor and you had paid money  
3 to Mr. McGrath which were ultimately written up to the Barkhill loan,  
4 isn't that right?

10:48:56 5 A. Yes.

6 Q. 47 And indeed written up to Mr. Gilmartin within the Barkhill loan although  
7 you say that was wrong?

8 A. That was an error.

9 Q. 48 Yes. That was a mistake, leaving aside the question of going to  
10:49:06 10 Mr. Gilmartin's loan, it was being written up to Barkhill in any event,  
11 isn't that right?

12 A. Yes.

13 Q. 49 And therefore you knew that you had made payments to councillors of which  
14 Mr. Gilmartin was unaware, isn't that right?

10:49:17 15 A. Yes.

16 Q. 50 You knew in 1989 that Mr. Gilmartin was complaining of the fact that  
17 councillors had to be paid in order to have lands rezoned, isn't that  
18 right?

19 A. I wasn't sure of this. I can't say that for definite, I wasn't sure, I  
10:49:31 20 didn't know that.

21 Q. 51 Well, in your statement at 3177, what you told the Tribunal in paragraph 2  
22 that Mr. Gilmartin had told Mr. Haughey, "Mr. Haughey told you  
23 Mr. Gilmartin made comments that Dublin was awash with corruption and one  
24 cannot do anything in Dublin without spending money, i.e. if one wanted  
10:49:54 25 anything done the councillors were it's people with the power and had to  
26 be paid".

27  
28 You then went on to confirm that while you couldn't prove it, you could  
29 confirm that Mr. Gilmartin had made similar comments to that to you, isn't  
10:50:05 30 that right?

- 10:50:06 1 A. Oh, yes, confirming what Tom Gilmartin said, yes.
- 2 Q. 52 And therefore it is your position, and your evidence, that Mr. Gilmartin
- 3 told you of his belief that councillors, in order to achieve anything in
- 4 Dublin, councillor had to be paid, isn't that right?
- 10:50:22 5 A. Yes, except for, just to clarify that again, the mainly what Tom Gilmartin
- 6 was on about when he was on about that subject were the two people I
- 7 mentioned, George Redmond and Liam Lawlor. That was the main two people
- 8 he had his mind on.
- 9 Q. 53 Yes. Well, he couldn't have been making those comments with respect to
- 10:50:37 10 you, Mr. O'Callaghan, about Mr. Redmond because Mr. Redmond was never a
- 11 councillor, isn't that right?
- 12 A. Yes.
- 13 Q. 54 Right. So that insofar as the differentiation is contained between
- 14 paragraph one and paragraph two, the point that is made by Mr. Gilmartin
- 10:50:50 15 with which you recollect him telling you, is that councillors had to be
- 16 paid if you wanted anything done in Dublin, isn't that right?
- 17 A. Yes.
- 18 Q. 55 Now, you go on in your statement to say that you indicated to Mr. Haughey
- 19 that you were not in a position to confirm or contradict the nature of the
- 10:51:07 20 comments made by Mr. Gilmartin to both Mr. Haughey and yourself as
- 21 outlined at number 2 above, isn't that right?
- 22 A. Yes.
- 23 Q. 56 Because you said you had no familiarity whatsoever with how such matters
- 24 operated in Dublin?
- 10:51:19 25 A. That's right.
- 26 Q. 57 Isn't that your position?
- 27 A. Yes.
- 28 Q. 58 But leaving aside the fact that you had no familiarity yourself with how
- 29 things operated in Dublin, there is nothing in what you have recorded in
- 10:51:28 30 your statement to the Tribunal as indicating that there was any limitation

10:51:32 1 put by Mr. Gilmartin on his allegation that the corruption was confined to  
2 residential development, isn't that right?

3 A. You can read it that way, yes.

4 Q. 59 Because what Mr. Gilmartin said to you and as you have recorded in your  
10:51:45 5 statement was that Dublin was awash with corruption and one cannot do  
6 anything in Dublin without spending money, isn't that right?

7 A. That's what he told me, yes.

8 Q. 60 Right. Would it follow from that then, that allegation when it was made  
9 was a generalised allegation by Mr. Gilmartin?

10:51:59 10 A. Very generalised, yes.

11 Q. 61 Right. It wasn't confined to any particular councillor and it wasn't  
12 confined to any particular type of development?

13 A. That's true, yes.

14 Q. 62 Right. When you came then to have your meeting with Mr. O'Farrell at  
10:52:12 15 11922, when he raised the issue of the planning on the following page  
16 please, when he raised the issue of the planning controversy with you,  
17 would you not have considered it prudent to have informed him that while  
18 you yourself had no personal knowledge or information in relation to  
19 planning corruption, your partner in Quarryvale and in Barkhill,  
10:52:37 20 Mr. Gilmartin, did?

21 A. Never crossed my mind to even discuss it actually.

22 Q. 63 That was notwithstanding the allegations that Mr. Gilmartin had made in  
23 May and his outburst at the meeting about blackmail and political  
24 manoeuverings, isn't that right?

10:52:52 25 A. That sums it all up. An outburst about what, ranting about these various  
26 things, nobody took any notice of him.

27 Q. 64 Yes. And is it the position, notwithstanding what Mr. Gilmartin had said  
28 at the meetings in May and June to the bank, when Mr. O'Farrell raises  
29 this one to one with you, you do not inform him of the fact that long  
10:53:10 30 before the bank became involved with Mr. Gilmartin, Mr. Gilmartin was

10:53:15 1 complaining of the fact that to get anything done in Dublin councillors  
2 had to be paid?  
3 A. Yes.  
4 Q. 65 Right. Does it follow from that, Mr. O'Callaghan, that in 1989, when  
10:53:27 5 Mr. Gilmartin made the allegations to you and at a time when you expected  
6 your deal with Mr. Gilmartin to be concluded to the benefit of 3.5  
7 million, you did not believe what Mr. Gilmartin was telling you?  
8 A. No.  
9 Q. 66 That doesn't follow or it does follow?  
10:53:44 10 A. No I didn't -- I didn't, no did I not believe what Mr. Gilmartin said to  
11 me.  
12 Q. 67 But you were nonetheless happy to make a deal with Mr. Gilmartin, a  
13 commercial deal with Mr. Gilmartin, notwithstanding that, isn't that  
14 right?  
10:53:55 15 A. Yes. Foolishly, I believed him that that would actually happen but it did  
16 not I'm afraid.  
17 Q. 68 Now, in late August of 1995 at 11925, there is an entry in Mr. Dunlop's  
18 diary for the 1st September 1995 which has been redacted, and beneath  
19 that, at page 25648 you will see that Mr. Dunlop had written "OOC to  
10:54:33 20 deliver"?.  
21 A. Yes.  
22 Q. 69 And if we go back then to 11925 you will see that that has been heavily  
23 over written by Mr. Dunlop, isn't that right?  
24 A. Yes.  
10:54:42 25 Q. 70 And clearly Mr. Dunlop was anxious that that matter not be seen, isn't  
26 that right?  
27 A. Yes, yes.  
28 Q. 71 Right. Now, assuming for the moment that the original entry was properly  
29 made by Mr. Dunlop and a genuine entry, what was it, Mr. O'Callaghan, that  
10:54:59 30 you were to deliver to Mr. Dunlop on the 1st September '95?

- 10:55:03 1 A. I don't know of anything I was supposed to deliver to him on the 1st  
2 September '95, absolutely nothing. I can guess again which I know is very  
3 dangerous, but he must have been, his success fee he was on about.
- 4 Q. 72 Yes. Mr. Dunlop can't assist either, Mr. O'Callaghan, as to what it was  
10:55:22 5 you were to deliver, had you made any arrangement by this stage which is  
6 the 1st September with Mr. Dunlop about payment in connection with Mr.  
7 Dunlop looking after your interests in relation to Horgan's Quay?
- 8 A. Not at that stage, no.
- 9 Q. 73 When was your arrangement made with Mr. Dunlop?
- 10:55:38 10 A. Not until it was completed in 1997 would have been Horgan's Quay.
- 11 Q. 74 So that any entries redacted in Mr. Dunlop's diary in 1995 and 1996 that  
12 relate to financial matters do not relate to the payment for Horgan's  
13 Quay?
- 14 A. No, if I can, I am trying to assist. It can only be a success fee because  
10:55:57 15 the success fees probably, in fact I have tried to think about this  
16 because it's come up quite a few times as to why Frank Dunlop made these  
17 notes. I just don't know really, but it must have something to do with a  
18 success fee and why he is rubbed them out, I just don't know. But the  
19 success fee was agreed that he would get a success fee of course, that was  
10:56:18 20 agreed in '93, but the amount of it was never agreed, never established,  
21 and that could not have been established until the cap was lifted. So  
22 this took some time and dragged on and on, even to this very day the cap  
23 has not been lifted successfully, this still applies to this very day.  
24 So, the success fee dragged on until that was completed and eventually it  
10:56:41 25 was, it was paid to him in 1998, so maybe that's why he is putting it in  
26 his diary every second month.
- 27 Q. 75 Well, can I suggest to you, Mr. O'Callaghan, that if it is a true and  
28 accurate record that was originally written there before Mr. Dunlop  
29 redacted it, the explanation for it has to be a belief in Mr. Dunlop's  
10:57:00 30 mind that you were going to deliver something to him on the 1st September

10:57:04 1 '95, do you agree with that?

2 A. Yes.

3 Q. 76 Right. If that is the case it follows from that, Mr. O'Callaghan, that

4 you should know what it was you had agreed with Mr. Dunlop was to be

10:57:14 5 delivered to him in September 1995, isn't that right?

6 A. That's what I am trying to think, it can only be that success fee.

7 Q. 77 Had you agreed -- sorry if I understand your evidence correctly you hadn't

8 agreed to pay him?

9 A. No we hadn't, that's the thing, yes. Sorry we hadn't agreed an amount, we

10:57:31 10 hadn't agreed to pay him because the cap had not been lifted.

11 Q. 78 In fact that didn't come before the council until 1997, isn't that right?

12 A. That's right.

13 Q. 79 You yourself dealt I think with Mr. Kavanagh I think was then the manager?

14 A. I did yes.

10:57:45 15 Q. 80 You met with Mr. Tom --

16 A. Doherty.

17 Q. 81 -- Doherty in relation to it also, isn't that right?

18 A. I did yes.

19 Q. 82 There was very little inter-reaction with the councillors and what there

10:57:53 20 was I think was done by yourself, isn't that right?

21 A. That's right, there was more or less automatic by the council, yes.

22 Q. 83 So leaving that aside for the moment, if you agree with me,

23 Mr. O'callaghan, that when Mr. Dunlop made the entry he had an expectation

24 of receiving something from you?

10:58:08 25 A. Yes he had, yes.

26 Q. 84 It would follow from that that you must have a recollection of what it was

27 that you agreed with Mr. Dunlop and what he was to deliver, isn't that

28 right?

29 A. That's what I can't I can't remember. I don't remember anything, it must

10:58:19 30 have something to do with this success fee.

10:58:22 1 Q. 85 Also in September 1995, at 11949, there is an obliterated entry at the  
2 bottom of Mr. Dunlop's diary which commenced on the 15th September 1995  
3 "spoke by phone to OOC" and then there is an obliteration, isn't that  
4 right?

10:58:43 5 A. Yes.

6 Q. 86 Beneath the obliteration, if you look at 25650 while it's hard to read, I  
7 understand it reads and Mr. Dunlop has now agreed that it reads "spoke by  
8 phone to OOC. He reiterated his commitments to fulfilling his obligations  
9 absolutely"?

10:59:07 10 A. Yes.

11 Q. 87 Do you agree that that's what seems to have been recorded?

12 A. Yes that's right, well, yes.

13 Q. 88 That seems to record an understanding on the part of Mr. Dunlop on the  
14 15th September 1995, that he had some completed agreement with you, isn't  
10:59:22 15 that right?

16 A. Yes.

17 Q. 89 And that he had an expectation that you would deliver to him on foot of  
18 that agreement, isn't that right?

19 A. Yes.

10:59:29 20 Q. 90 Right. You however say that there was no such agreement made?

21 A. Except the success fee was made, of course, yes.

22 Q. 91 But not to any detail of that, isn't that right?

23 A. That's it.

24 Q. 92 That entry does not relate then to Horgan's Quay or any payment to Mr.  
10:59:43 25 Dunlop in relation to Horgan's Quay?

26 A. Oh, no. No.

27 Q. 93 Now, I think just on the issue of the accuracy of Mr. Dunlop's original  
28 entries in his diary, can I show you 11986 and this again relates to  
29 Horgan's Quay, if you look at the very last entry on the 12th October 1995  
11:00:06 30 you will see an entry by Mr. Dunlop "10 o'clock/10.10 rang J Gahan", you

11:00:13 1 see that is correct it's at the very bottom of the 12th October?

2 A. Yes, yes.

3 Q. 94 Then if you go to an entry that was at the back of Mr. Dunlop's diary at

4 23286 and he has a note that's entitled "note recall to J Gahan, Thursday

11:00:31 5 12th October '95 at approximately 10 pm, 10.10 pm"?

6 A. Yes.

7 Q. 95 Do you agree that Mr. Gahan was the person within CIE who was involved in,

8 partially or in the Horgan's Quay matter?

9 A. Mr. Gahan.

11:00:47 10 Q. 96 Mr. Gahan.

11 A. Yes.

12 Q. 97 Do you agree with me that Mr. Dunlop's record appears to be an accurate

13 record in relation to the time and person whom he contacted, isn't that

14 right?

11:00:56 15 A. Yes.

16 Q. 98 He appears to be making a note for himself within the substance of his

17 diary at 11986, that he had made that call, isn't that right?

18 A. Yes.

19 Q. 99 And again that would seem to be a matter that Mr. Dunlop has put into his

11:01:12 20 diary for the purpose of being an aide memoir to himself, isn't that

21 right?

22 A. Yes.

23 Q. 100 And it also relates to a matter if Mr. Dunlop's note of the telephone call

24 is correct actually happened, isn't that right?

11:01:23 25 A. Yes.

26 Q. 101 So it would follow from that that Mr. Dunlop wasn't in the habit of

27 putting in fictitious matters into his diary?

28 A. Well --

29 Q. 102 Isn't that right?

11:01:35 30 A. I don't agree with that.



- 11:01:36 1 Q. 103 You don't agree with that?
- 2 A. No, no, no.
- 3 Q. 104 Do you say the entry that is relate to his financial matters with you, Mr.
- 4 O'Callaghan, Are fictitious?
- 11:01:43 5 A. I couldn't say that, all I am saying is he is inclined to make notes in
- 6 his diary about things that never happened.
- 7 Q. 105 Yes, right. Now, I think that in January of 1997 at 12764, Mr. Dunlop
- 8 furnished an invoice to you, isn't that right, through Riga Limited?
- 9 A. Yes.
- 11:02:07 10 Q. 106 And that is recorded as having been paid, it's stamped "marked paid",
- 11 signed off by Mr. Lucey, isn't that right?
- 12 A. Yes.
- 13 Q. 107 And I think that it is debited or paid by Riga at 12766, I'll find the
- 14 entries, on foot of a cheque at 12765, it is the fourth entry up from the
- 11:02:41 15 bottom?
- 16 A. Yes.
- 17 Q. 108 Now, was that the Horgan's Quay payment to Mr. Dunlop?
- 18 A. No, I think that's the -- it's either the Horgan's Quay payment or the
- 19 retainer balancing payment.
- 11:03:07 20 Q. 109 12764 please, in fairness yourself, Mr. O'Callaghan, you have told the
- 21 Tribunal that the payment in relation to the balancing of the retainer
- 22 payment was a payment that was made in June?
- 23 A. Okay.
- 24 Q. 110 Of 1998?
- 11:03:20 25 A. '98, that's the Horgan's Quay payment.
- 26 Q. 111 The retainer balancing payment?
- 27 A. Was '98.
- 28 Q. 112 Is what you have he have told the Tribunal?
- 29 A. Yes that's correct, so this is the Horgan's Quay payment, the same amount.
- 11:03:35 30 Q. 113 I think that payment was made on the 23rd January of 1997, this payment of

- 11:03:40 1 100,000 pounds?
- 2 A. Yes, this is Horgan's Quay.
- 3 Q. 114 Now, the Horgan's Quay controversy I think became current in August of
- 4 1995.
- 11:03:52 5 A. Yeah, early '95, yeah.
- 6 Q. 115 Did you retain Mr. Dunlop to represent you in relation to public relations
- 7 affairs or matters in connection with that matter?
- 8 A. Yes, I did, when it got into trouble, yes.
- 9 Q. 116 And did Mr. Dunlop represent your interests with the various organs of the
- 11:04:10 10 media arising from that matter?
- 11 A. Yes, he did.
- 12 Q. 117 And can you tell the Tribunal when you made the agreement with Mr. Dunlop
- 13 in respect of this payment?
- 14 A. Not until it was all over actually, which is '97.
- 11:04:24 15 Q. 118 Was this following the resignation of Mr. Lowry?
- 16 A. Yes.
- 17 Q. 119 Right. And I think that was late 1996, I can be corrected if I'm wrong,
- 18 either '95 or late '96?
- 19 A. I'm not sure.
- 11:04:36 20 Q. 120 Was it following the resignation of Mr. Lowry that this payment, you
- 21 agreed this payment with Mr. Dunlop?
- 22 A. Well it was the completion of the Horgan's Quay transaction as far as I
- 23 was concerned. When we had given the site back to CIE. So I'm not sure
- 24 about when Michael Lowry resigned.
- 11:04:56 25 Q. 121 Right. But in any event when you considered the matter to be at an end,
- 26 isn't that right?
- 27 A. Yes.
- 28 Q. 122 You, at that stage, you agreed your fee with Mr. Dunlop or had you agreed
- 29 it during the currency of the crisis?
- 11:05:06 30 A. When it was at an end.

- 11:05:07 1 Q. 123 When it was at an end?  
2 A. Yes.  
3 Q. 124 Was it, did Mr. Dunlop nominate a fee?  
4 A. Oh, yes.
- 11:05:12 5 Q. 125 Did you agree to pay it?  
6 A. I did, yes.  
7 Q. 126 Was that the amount of the fee nominated by Mr. Dunlop?  
8 A. Yes, it was for a total of three years almost.  
9 Q. 127 Yes, I think that if your evidence is correct, the matter became current  
11:05:25 10 while Mr. Dunlop was on his holidays in August of 1995?  
11 A. That is right.  
12 Q. 128 And I think 18 months later the payment is made in January 1997.  
13 A. Yes.  
14 Q. 129 Isn't that right?  
11:05:36 15 A. Yes, that's right Horgan's Quay would have started before that but when  
16 Frank Dunlop got involved in mid 95, yeah, that's right.  
17 Q. 130 I think he was telephoned while he was on his holidays and asked to come  
18 back to deal with the matter, isn't that the position?  
19 A. Yes.
- 11:05:50 20 Q. 131 But is it, was there any negotiation between yourself and Mr. Dunlop in  
21 relation to the amount of this fee?  
22 A. No.  
23 Q. 132 And that was a sum I think that was dealt within the books of Riga under  
24 the heading, I think of "advertising", isn't that right? It was never a  
11:06:05 25 matter that, 12774, you see an amount of 100,000 pounds attributable to  
26 "advertising" under the nominal account to Mr. Dunlop?  
27 A. Yes, I have it, yes.  
28 Q. 133 Yes. That would be without the VAT element, isn't that right?  
29 A. Yes.
- 11:06:31 30 Q. 134 So there was no question insofar as that transaction was concerned of any

- 11:06:36 1 payments to Shefran or any payments being made by way of round figure  
2 sums, isn't that right?
- 3 A. Absolutely.
- 4 Q. 135 And the invoice from Mr. Dunlop, at 12764 included a VAT element and a VAT  
11:06:50 5 number, isn't that right?
- 6 A. Yes, that's right.
- 7 Q. 136 So there was no question of providing an all in fee to Mr. Dunlop insofar  
8 as his endeavours for you were concerned in connection with Horgan's Quay,  
9 isn't that right?
- 11:07:01 10 A. Yes.
- 11 Q. 137 And just on that point, Mr. O'Callaghan, this was not a payment that was  
12 ever going to be sent to Barkhill or claimed as part of a Barkhill  
13 expense, isn't that right?
- 14 A. Nothing to do with Barkhill.
- 11:07:14 15 Q. 138 Because it was to do entirely with Horgan's Quay, isn't that right?
- 16 A. A separate issue.
- 17 Q. 139 A separate issue altogether. Is there any documentation surrounding your  
18 retention of Mr. Dunlop in connection with Horgan's Quay?
- 19 A. No. Strictly verbal.
- 11:07:31 20 Q. 140 Would that identify or characterise your relationship with Mr. Dunlop that  
21 all arrangements between yourself and Mr. Dunlop were verbal?
- 22 A. Yes.
- 23 Q. 141 Now, in July of 1995, Mr. O'Callaghan, and in August of 1995 you made  
24 certain payments to Mr. Ambrose Kelly, isn't that right, I think on the  
11:07:51 25 7th July?
- 26 A. Can I see them please?
- 27 Q. 142 At 11849, approximately halfway down this page there is a sum of 2,000  
28 pounds payable to Owen O'Callaghan, isn't that right?
- 29 A. Payable to?
- 11:08:07 30 Q. 143 Owen O'Callaghan, this is the cheque payments book of Riga?

11:08:11 1 A. Yes, okay, sorry.

2 Q. 144 If you go across the line you will see it's analysed under Quarryvale,  
3 isn't that right, "expenses" and 5098?

4 A. Yes.

11:08:21 5 Q. 145 If you look at 11851, three from the bottom of this document?

6 A. Yes.

7 Q. 146 You will see that that is recorded by you as being a payment to  
8 Mr. Ambrose Kelly, isn't that right?

9 A. Yes.

11:08:34 10 Q. 147 Right. And at 11853 under the analysis of "sundries", being the fourth  
11 entry down beneath Fianna Fail 4 and 1,000 and Owen O'Callaghan certain  
12 items including a sum of 2,000 pounds expenses Quarryvale?

13 A. Yes.

14 Q. 148 Is it the position, Mr. O'Callaghan, that that was a payment you made to  
11:08:59 15 Ambrose Kelly?

16 A. Yes, it seems to be.

17 Q. 149 Now, Mr. Kelly has no recollection of receiving 2,000 pounds from you in  
18 or around that time, that matter was put to him?

19 A. Well, I have no recollection of giving it I'm afraid.

11:09:12 20 Q. 150 Do you accept that the documentation appears to show, if one takes your  
21 records and those of Riga, that this was an expenses payment that was  
22 attributed to Quarryvale as a Barkhill expense and was paid to Mr. Ambrose  
23 Kelly?

24 A. Yes.

11:09:26 25 Q. 151 All right. Do you, can you think of anything that you were involved in at  
26 that time, Mr. O'Callaghan, that would require you to make a payment to  
27 Mr. Ambrose Kelly?

28 A. I can't remember, I have been looking, checking this out, I can't  
29 remember, I have been trying to recollect this, I don't know what that was  
11:09:42 30 for.

11:09:42 1 Q. 152 All right. Was Mr. Kelly similarly involved in the Horgan's Quay  
2 controversy?  
3 A. Some of his plan, yes he was involved, yes.  
4 Q. 153 Now, on the 11th July 1995, at 11861, there is a cheque, two from the end,  
11:10:01 5 of the document to Mr. Ambrose Kelly in the sum of 10,000 pounds, isn't  
6 that correct?  
7 A. Sorry what date is that please?  
8 Q. 154 This is the 11th July 1995.  
9 A. Yes.  
11:10:13 10 Q. 155 And if you go across the line to "sundries", under the analysis of  
11 sundries, you see that that's analysed to Quarryvale, isn't that right?  
12 A. Yes.  
13 Q. 156 Right. And at 11864 it's analysed by the auditor in the first entry on  
14 this page as being a "Quarryvale expense", isn't that right?  
11:10:40 15 A. Yes.  
16 Q. 157 And it's written up at 11865 to the Barkhill loan attributable to  
17 Mr. Ambrose Kelly approximately halfway down the entry, you will see an  
18 entry, isn't that right?  
19 A. Yes.  
11:10:55 20 Q. 158 Now, what was that payment in connection with?  
21 A. That was '95, was it a planning contribution.  
22 Q. 159 Mr. Kelly suggested when he was asked about this, that it was a planning  
23 contribution and he was asked to cheque with his accountants in relation  
24 to it and told the Tribunal when he came back that he wasn't able to make  
11:11:15 25 contact with his accountant in any meaningful way because his accountant  
26 was unwell but he suggested it was probably a planning fee?  
27 A. It wasn't a planning contribution, a planning fee I would think.  
28 Q. 160 That cheque at the 11th July 95, Mr. O'Callaghan, at 11862 is debited to  
29 the account of Riga on the 11th July 1995, isn't that right? It's the  
11:11:43 30 entry for 10,000 pounds that's debited under cheque number 033003, isn't

11:11:48 1 that right?

2 A. Yes, yes.

3 Q. 161 And the planning fee that is forwarded to Dublin Corporation at 11912 on

4 the 11th August 1995 is a planning fee of 10,000 pounds, isn't that right?

11:12:07 5 A. Yes, yes.

6 Q. 162 And that planning fee that is sent by the Ambrose Kelly group is at 11901.

7 A. Yes.

8 Q. 163 And that appears to be a cheque dated the 4th August 1995, isn't that

9 right?

11:12:21 10 A. Yes.

11 Q. 164 And I would suggest to you that that cheque of the 4th August 1995, which

12 is a planning fee payable to Dublin County Council cannot account for the

13 debit of 10,000 pounds on the 11th July 1995, isn't that right?

14 A. Yes.

11:12:37 15 Q. 165 Right. Isn't that the position?

16 A. Yes.

17 Q. 166 So if the cheque that's presently on screen at 11901 is the planning fee

18 that you thought had been paid to Mr. Kelly?

19 A. Yes.

11:12:47 20 Q. 167 Then clearly the 10,000 pounds paid to Mr. Kelly on the 11th July 1995 is

21 something else?

22 A. Yes.

23 Q. 168 Isn't that right?

24 A. Yes.

11:12:56 25 Q. 169 Does that assist you with my original question, Mr. O'Callaghan, which was

26 what was the purpose of the payment to Mr. Ambrose Kelly of 10,000 pounds

27 on the 11th July '95?

28 A. Well, it doesn't actually. I assumed it was a planning contribution or a

29 planning fee actually. All I can say to you is that I will have to check

11:13:14 30 it as well.

- 11:13:15 1 Q. 170 If you can revert in relation to it, this I think had been put to  
2 Mr. Ambrose Kelly. In the letter at 11912, in the second paragraph you  
3 note that Mr. Kelly's company is enclosing the planning fee?  
4 A. Yes.
- 11:13:31 5 Q. 171 For 10,000 pounds, isn't that right?  
6 A. Yes.  
7 Q. 172 And there doesn't appear to be any other planning fee of 10,000 pounds,  
8 subject to correction on that, paid around this time?  
9 A. Mm-hmm.
- 11:13:43 10 Q. 173 It would also seem to be the position that what you did with the planning  
11 fee that was due in August, at 11901, is that Riga made the cheque out to  
12 South Dublin County Council, isn't that right?  
13 A. Yes.  
14 Q. 174 And I would suggest to you that's likely to be the normal way you would  
11:14:01 15 have dealt with the planning fee, isn't that right?  
16 A. Yes.  
17 Q. 175 And therefore it would follow from that that the payment to Mr. Ambrose  
18 Kelly on the 11th July 1995 is probably not a planning fee, would you  
19 agree with that?  
11:14:13 20 A. Looks like that, yes.  
21 Q. 176 Right. And perhaps could you revert tomorrow --  
22 A. If you don't mind, we'll see if we can check that.  
23 Q. 177 To have that checked, Mr. Kelly was asked when he was here, but his best  
24 endeavours were that he thought it was probably a planning fee?  
11:14:27 25 A. Okay.  
26 Q. 178 Now, I think on the 12th July 1995, simply for completeness, at 11871  
27 there was an invoice to Riga from Ambrose Kelly in the sum of 11,112.64  
28 including VAT which was paid by Riga and debited to the Riga account at  
29 11873 and lodged to Mr. Kelly's account at 11874, being the first  
11:15:10 30 lodgement?



- 11:15:10 1 A. Yes.
- 2 Q. 179 Right. And that is recorded in under the analysis of Clondalkin at 11875
- 3 by Riga being the sixth matter down?
- 4 A. Yes.
- 11:15:26 5 Q. 180 Right. Which records there the expenses attributable to the Clondalkin
- 6 attributable to Mr. Kelly, isn't that right?
- 7 A. Yes.
- 8 Q. 181 There is no invoice for the 10,000 pounds payment that was made to
- 9 Mr. Kelly by Riga on the 11th July, 1995 that has been furnished?
- 11:15:45 10 A. Yes.
- 11 Q. 182 So what I'm suggesting to you, Mr. O'Callaghan, is that if one takes into
- 12 account that an invoice dated the 12th July 1995 was presented from
- 13 Ambrose Kelly and in addition to that, in August of 1995 there was a
- 14 separate 10,000 pounds paid to Dublin County Council in respect of a
- 11:16:05 15 planning fee, it is unlikely that the payment of 10,000 pounds on the 11th
- 16 July, either had an invoice attached to it or was a planning fee?
- 17 A. Mm-hmm. Yes.
- 18 Q. 183 Bearing that in mind, if you could check it out for tomorrow?
- 19 A. If possible, yes.
- 11:16:19 20 Q. 184 If it's possible to do so. Can I ask you is it possible that the payment
- 21 of 10,000 pounds to Mr. Kelly and the payment of 2,000 pounds if it was to
- 22 Mr. Kelly might have had something to do with the Horgan's Quay
- 23 controversy?
- 24 A. I doubt it very much.
- 11:16:37 25 Q. 185 Now, I think that insofar as Mr. Dunlop was concerned, between November
- 26 '95 and April '96 the amount of Mr. Dunlop's invoices were 2,000 pounds
- 27 plus VAT, isn't that right?
- 28 A. Sorry can you just repeat that between when?
- 29 Q. 186 Between November 1995 and April 1996, the amount of Mr. Dunlop's invoices
- 11:16:59 30 were a sum of 2,000 pounds plus VAT, isn't that right?

- 11:17:02 1 A. Yes.
- 2 Q. 187 Right.
- 3 A. Okay.
- 4 Q. 188 If one was to look for example at 11997 which is the November retainer?
- 11:17:15 5 A. Yes.
- 6 Q. 189 11998 December, 11999 January, 12000 February, 12001, 12002 which brings
- 7 one up as far as April of 1995. The total amount of those invoices are
- 8 14,520 and they are paid in a separate single payment at 12003 by Riga,
- 9 isn't that right, it's halfway down that page, it's a sum of 14,520, isn't
- 11:17:58 10 that right?
- 11 A. Yes.
- 12 Q. 190 And that represent the payments to Mr. Dunlop from Riga in connection with
- 13 Barkhill from November '95 to April '96, isn't that right?
- 14 A. His retainer, yes.
- 11:18:10 15 Q. 191 His retainer, as recorded by Mr. Dunlop, isn't that right?
- 16 A. Yes.
- 17 Q. 192 Right. Now at the time, Mr. O'Callaghan, that you were making those
- 18 payments to, well in the first instance Mr. Dunlop, you were making
- 19 payments to Mr. Ambrose Kelly in July of 1995 and you were having your
- 11:18:33 20 conversations with Mr. O'Farrell about the planning corruption or the
- 21 planning controversies that were then extant, you had entered into
- 22 negotiations with Grosvenor, isn't that right?
- 23 A. Yes but I had very few conversations with Michael O'Farrell about planning
- 24 corruption, you know, it's not that simple. It was mentioned very rarely
- 11:18:52 25 or discussed very, very rarely.
- 26 Q. 193 And can I suggest to you if it was something that was discussed very, very
- 27 rarely it would be something that would be of significance if it's being
- 28 discussed very rarely, isn't that right?
- 29 A. I wouldn't say of significance, no, the opposite really.
- 11:19:11 30 Q. 194 Right. During the time that you were involved in the Horgan's Quay

11:19:15 1 controversy with Mr. Ambrose Kelly and during the currency of the Donnelly  
2 Neary Donnelly controversy and the Alan Dukes planning controversy, you  
3 entered into negotiations with Grosvenor for Grosvenor to take an interest  
4 or a share or consider taking an interest or a share in Barkhill, in

11:19:34 5 Quarryvale, isn't that right?

6 A. That is correct, yes.

7 Q. 195 Now, as a starting premise on this, can the Tribunal take it,  
8 Mr. O'Callaghan, that it would have been a matter of concern to you and to  
9 Allied Irish Bank if allegations of corruption in connection with

11:19:51 10 Quarryvale were made during the currency of those negotiations?

11 A. Yes.

12 Q. 196 Right. And would it be fair to say from your knowledge of dealing with  
13 foreign investors as it were, coming into this country that there would  
14 look askance to put it mildly at any suggestion that any rezoning or other  
15 material benefit had accrued as a result of an act of bribery or an act of  
16 corruption?

17 A. Yes.

18 Q. 197 And that in August of 1995, matters were current in the media some of  
19 which were personal to you but some related to planning corruption, isn't  
20 that right?

11:20:30 21 A. Some to planning corruption, yes.

22 Q. 198 And then on the other side your partner, Mr. Gilmartin had two meetings  
23 one in May and one in June of 1995, made what you describe as wild  
24 allegations, isn't that right?

11:20:45 25 A. Yes.

26 Q. 199 And about which it would be fair to say you dismissed because you regarded  
27 them as being of no substance whatsoever, isn't that right?

28 A. Coming from him, yes.

29 Q. 200 But you also knew that he was prone to make those allegations, isn't that  
30 right?

11:20:57

- 11:20:58 1 A. Very much so. Yes.
- 2 Q. 201 Because you had nope it from 1989?
- 3 A. Yes.
- 4 Q. 202 Isn't that right, and it was a hall mark of your relationship that he
- 11:21:05 5 continued to make allegations, isn't that right?
- 6 A. Yes.
- 7 Q. 203 So when you entered into your negotiations with Grosvenor, which became I
- 8 think at a very early stage a very real prospect for investment into
- 9 Quarryvale, isn't that right?
- 11:21:20 10 A. Yes.
- 11 Q. 204 Was it a concern of yours that Mr. Gilmartin should be kept as far away
- 12 from the potential deal as possible?
- 13 A. Well, not for that reason really, that really didn't crop up, exactly what
- 14 you have said now didn't crop up as far as Grosvenor were concerned. But
- 11:21:41 15 we would have been concerned in case Tom Gilmartin if he got his hands on
- 16 Grosvenor, he might upset the deal in the sense that from a totally
- 17 different point of view, I don't think he would have known what he was
- 18 talking about, from a development point of view I'm talking about.
- 19 Q. 205 In any event it is the case that by, I think 11970, which is dated the
- 11:22:04 20 28th September 1995, there were draft heads of terms between Grosvenor
- 21 Estates and O'Callaghan Properties, isn't that right?
- 22 A. That's right.
- 23 Q. 206 Now, I think that there might have been some concern later expressed at
- 24 board meetings about this agreement being in the name of O'Callaghan
- 11:22:19 25 Properties but it was clear from the board meetings that Barkhill would be
- 26 substituted in any final legal documentation, isn't that right?
- 27 A. Yes. We used the name O'Callaghan Properties because it was better known
- 28 name than Barkhill, that was the only reason.
- 29 Q. 207 Yes. Did Mr. Gilmartin know or have any involvement in the negotiations
- 11:22:36 30 leading to the culmination of this draft heads of agreement?

- 11:22:40 1 A. Oh he knew about it but I don't think he had any involvement, but he knew  
2 about it.
- 3 Q. 208 By September of 1995, had documentation been provided to him in connection  
4 with this matter?
- 11:22:53 5 A. I can't say but I would suspect, I'm sure it was, but I can't say for  
6 definite, he was kept informed.
- 7 Q. 209 Mr. Gilmartin says he wasn't a party to any negotiations?
- 8 A. Oh no he wasn't, that's for sure. Yeah.
- 9 Q. 210 He says he was barred effectively from attending at meetings and that also  
11:23:12 10 Mr. Forman and Paul Cawood of Connell Wilson was also barred from having  
11 any involvement in the negotiations?
- 12 A. We didn't want the Grosvenor deal to fail.
- 13 Q. 211 He says in his evidence to the Tribunal that the meetings were held in  
14 secret in relation to the Grosvenor deal?
- 11:23:32 15 A. Not in secret, they knew about them but we didn't invite them to attend  
16 because we didn't want it to go wrong.
- 17 Q. 212 Subject to any documentation you wish to produce to the Tribunal, Mr.  
18 O'Callaghan, on that issue, there does not appear to be any documentation  
19 informing Mr. Gilmartin of the existence of negotiations between Grosvenor  
11:23:48 20 and yourself prior to the draft heads of terms of the 28th September '95,  
21 would you agree with that?
- 22 A. But it was discussed at board meetings.
- 23 Q. 213 There weren't any board meetings at that took place prior to the 28th  
24 September 1995 and the date on which first mentioned Grosvenor to  
11:24:05 25 Mr. O'Farrell, which was the meeting in August of 1995 to which I have  
26 referred or which you have agreed was the first time Grosvenor was  
27 mentioned, isn't that right?
- 28 A. Yes, that's right.
- 29 Q. 214 Would it follow from that then, Mr. O'Callaghan, that there doesn't appear  
11:24:17 30 to have been any communication between those two dates to Mr. Gilmartin

- 11:24:20 1 unless it was verbal via yourself?
- 2 A. It would only have been verbal, no other way.
- 3 Q. 215 I beg your pardon, I had asked you whether or not Mr. Gilmartin had been  
4 furnished with any documentation, I had understood you to say he would  
11:24:32 5 have been furnished with the material?
- 6 A. No sorry, it's quite possible that AIB could have informed him about it,  
7 that's possible. My only communication with him would have been verbal.
- 8 Q. 216 The first documentation that is generated is the document that's presently  
9 on screen which in it's final paragraph, at 11974, records that the offer  
11:24:57 10 is confidential to O'Callaghan Properties and their advisors Colliers  
11 Erdman Lewis and remains open for acceptance until 12 noon Friday 6th  
12 October, isn't that right?
- 13 A. Yes.
- 14 Q. 217 I think following that agreement a board meeting was arranged for the 5th  
11:25:12 15 October, isn't that right?
- 16 A. I think so, yes.
- 17 Q. 218 Isn't that right? Would you agree that the purpose of the meeting of the  
18 5th October was in order to approve the heads of terms that had been  
19 agreed between Grosvenor and O'Callaghan Properties?
- 11:25:31 20 A. Yes, I think so.
- 21 Q. 219 And that this appears to be the first document that was generated in a  
22 series of documents in relation to the Grosvenor deal, would you agree  
23 with that?
- 24 A. Yes.
- 11:25:36 25 Q. 220 If there is nothing in the bank documentation between your conversation  
26 with Mr. O'Farrell on I think the 15th August and the date of this  
27 document, which appears to be the 28th September 1995, would you agree  
28 that it's not until this point in time that matters have become  
29 crystallised and documentation has been generated?
- 11:25:55 30 A. That's possible, yes.

- 11:25:56 1 Q. 221 Apart from whatever you may have discussed with Mr. Gilmartin in your  
2 telephone conversations with him, keeping him up to date, you don't appear  
3 to have kept any record of your negotiations, would that be fair?  
4 A. Yes.
- 11:26:07 5 Q. 222 Right. Certainly if you kept records of your negotiations they weren't  
6 furnished to Mr. Gilmartin or the bank to this point in time?  
7 A. I can't -- that seems right, but the bank were aware of everything we were  
8 doing with Grosvenor, that I do know.
- 11:26:24 9 Q. 223 I'm not suggesting, Mr. O'Callaghan, that they weren't, I am concentrating  
10 now on the documentation that might have been generated up to this point  
11 in time which is September?  
12 A. I can't say for definite.
- 13 Q. 224 Now, I think that a board meeting was arranged at 11980, which is an  
14 agenda, isn't that right?  
11:26:40 15 A. Yes.
- 16 Q. 225 Which under paragraph 4 deals with interest in scheme but didn't appear to  
17 identify on it's face, the fact that there was an offer or a potential  
18 joint venture with Grosvenor, isn't that right?  
19 A. Yes.
- 11:26:52 20 Q. 226 But it does clearly refer to interest in the scheme and investor interest,  
21 although it refers to IKEA and Power City, isn't that right?  
22 A. Yes.
- 23 Q. 227 And paragraph five refers to investor interest also, isn't that right?  
24 A. Yes.
- 11:27:04 25 Q. 228 Would it be fair to say that everybody would have known who got this  
26 agenda, that one of the matters that was going to be discussed at this  
27 meeting was the Grosvenor deal?  
28 A. Yes.
- 29 Q. 229 And that Mr. Gilmartin equally would have known --  
11:27:19 30 A. Oh, yes.

11:27:20 1 Q. 230 -- of the state of play as it were in relation to the Grosvenor deal even  
2 if he hadn't been a party to the actual negotiation?  
3 A. That's right.  
4 Q. 231 Would it mean then, Mr. O'Callaghan, that if Mr. Gilmartin was in main  
11:27:31 5 relying on you to keep him informed of what was happening?  
6 A. Yes.  
7 Q. 232 Right. And at this stage --  
8 A. Sorry, me and the bank.  
9 Q. 233 You and the bank. But insofar as you are communicating with him at this  
11:27:42 10 stage, is it the case that you weren't having the difficulties you  
11 identified yesterday with getting in contact with him?  
12 A. I can't remember, but I'm sure -- I can't remember, whether it was  
13 difficulties on the telephone with him, with his telephone at that stage  
14 I'm not sure, but I do know that I did mention Grosvenor to him.  
11:27:58 15 Q. 234 You are satisfied that he would have known about the negotiations and what  
16 was happening?  
17 A. Yeah but I'm not sure to what extent now, I wouldn't have gone into any  
18 great detail with him.  
19 Q. 235 Right. At the record of the board meeting on the 5th at 11981, you are  
11:28:18 20 recorded as being present and Mr. Pitcher, then Mr. Farrell,  
21 Ms. Basquille, Mr. Deane and Mr. Maguire are invited to attend the meeting  
22 and then Paul Sheeran arrived subsequently and was invited to attend,  
23 isn't that right?  
24 A. Yes.  
11:28:31 25 Q. 236 There was a request for adjournment made by Mr. Gilmartin that morning to  
26 Mr. O'Farrell but the board decided to proceed, isn't that right?  
27 A. Yes because we had to.  
28 Q. 237 I was about to simply remind you of the fact that the draft heads of terms  
29 had provided that there had to be acceptance or not by the 6th October,  
11:28:46 30 isn't that right?



- 11:28:47 1 A. That's right.
- 2 Q. 238 Now, a number of matters were discussed but really the primary matter that  
3 was discussed was at 11982, isn't that right, which deals with the  
4 protection potential deal from Grosvenor, isn't that right?
- 11:29:03 5 A. Yes.
- 6 Q. 239 And in the final paragraph "The board decided that Riga as project  
7 managers would be authorised to pursue the Grosvenor offer to bring it to  
8 final heads of terms stage on behalf of the company in preference to any  
9 other offer available to the company".
- 11:29:16 10 A. Yes.
- 11 Q. 240 Isn't that right? And "The board also noted that when formal heads of  
12 terms were being prepared all references to O'Callaghan Properties would  
13 be changed to Barkhill Limited with the exception of the project  
14 management fee which would stay with Riga."
- 11:29:33 15 A. That's right.
- 16 Q. 241 Now, at 11983, the bank's note of the, their record of the meeting and at  
17 11984, they describe under the heading "investor interest" as essentially  
18 coming down to deciding between Grosvenor versus Land Securities, isn't  
19 that right?
- 11:29:49 20 A. Yes.
- 21 Q. 242 In the second last paragraph acknowledges that Charles Lee will be looking  
22 for a fee, isn't that right?
- 23 A. I haven't seen that.
- 24 Q. 243 The second last paragraph on that page where it commences "Barkhill's  
11:30:04 25 legal".
- 26 A. Yes.
- 27 Q. 244 Also you "highlighted Connell Wilson will be looking for fees regardless  
28 of the fact that they have not been directly involved."
- 29 A. That's right. Yes.
- 11:30:13 30 Q. 245 Was Mr. Gilmartin informed either by you or by Mr. Maguire or by

- 11:30:17 1 Mr. Sheeran of the events that happened?
- 2 A. I think he was, yes.
- 3 Q. 246 He was informed I think at 12015 by Mr. Deane, isn't that right?
- 4 A. Yes, I think he was informed probably prior to that.
- 11:30:33 5 Q. 247 On the 1st November '95, I think Mr. Deane sends out a letter which is
- 6 cc'd to the other parties involved, but which he updates him on the
- 7 progress of the discussions since the last board meeting, isn't that
- 8 right?
- 9 A. Yes.
- 11:30:48 10 Q. 248 Now, at this time would it be fair to say you had a reasonable expectation
- 11 that this investment or potential investment by Grosvenor would bear
- 12 fruit?
- 13 A. Yes.
- 14 Q. 249 Right. And from the signing of the draft heads of terms or the agreement
- 11:31:02 15 in relation to the draft heads of terms in September 1995, you were
- 16 optimistic that they would go ahead, isn't that right?
- 17 A. Yes.
- 18 Q. 250 And it would follow from that then that they would require to be informed
- 19 of the extent of the liabilities, isn't that right, that Barkhill had?
- 11:31:19 20 A. Yes.
- 21 Q. 251 Because what they were proposing to do was to become involved, isn't that
- 22 right, in the development itself?
- 23 A. Yes.
- 24 Q. 252 Right. And that would have meant being in a position to provide to them
- 11:31:29 25 the books and accounts of Barkhill, isn't that right?
- 26 A. Yes.
- 27 Q. 253 And to provide information in relation to liabilities including the 1
- 28 million subordinated loan?
- 29 A. Yes.
- 11:31:40 30 Q. 254 And expenses that had been paid out, isn't that right?

11:31:43 1 A. Mm-hmm.

2 Q. 255 And at that time, at 11926, that is August '95, Mr. Fleming wrote to

3 Ms. Cowhig asking for a detailed breakdown of the inter-company loan

4 account from the 31st of October '93 to the 31st April '94, isn't that

11:32:06 5 right?

6 A. Yeah.

7 Q. 256 And at 12031 on the 20th November '95, Mr. Fleming wrote to Ms. Basquille

8 telling him that an analysis of the inter-company loan account between

9 Riga and Barkhill had not yet been forwarded by Barber who act as Riga's

11:32:26 10 auditors. The moment between the two dates was 121,706, a figure I think

11 we have seen before, isn't that right?

12 A. Yes.

13 Q. 257 And I think in reply in January of 1996, at 9710, in dealing with the

14 issue of the movements Barber & Co. identified a figure of 129,261 which

11:32:51 15 included the 80,000 Shefran money, isn't that right?

16 A. Yes.

17 Q. 258 And that was further explained at 9712, looking at the last paragraph on

18 this letter first it says "Regarding the difference you quote on the

19 movements of the inter-company loan account with Riga and Barkhill of

11:33:14 20 7,555. From our letter of the 8th August '95, we do not see this figure

21 arising".

22

23 In fact I think if you add the original figure raised by Mr. Fleming of

24 121,706 to the figure of 7,555 identified by Barber & Co. you come up with

11:33:35 25 the figure of 129,261, of itself that figure of 7,555 is not of any

26 significance, what is of significant is at 9710 the inter-company loan,

27 included the 80,000 Shefran money, isn't that right?

28 A. Yes.

29 Q. 259 Right. And I think you have told the Tribunal that you had no involvement

11:33:56 30 in that, isn't that right?

11:33:58 1 A. Sorry involvement in which?

2 Q. 260 In the movement out of that money?

3 A. Oh, yes.

4 Q. 261 That's a matter between Mr. Deane and Ms. Cowhig, isn't that right?

11:34:05 5 A. That's correct. Yes.

6 Q. 262 And if we go back to 9712 which is February of 1996 and looking at the

7 first paragraph of that letter, it refers to the letter of the 2nd

8 February '96, in relation to the inter-company account between Barkhill

9 and Riga, the difference of 60,000 pounds arises from a cost originally

11:34:25 10 taken as Barkhills but was subsequently discussed and decided to be a Riga

11 cost, isn't that right?

12 A. That's right.

13 Q. 263 That 60,000 pounds that's being discussed there is the 25,000 pounds to

14 Mr. Dunlop, the 20,000 I think to Mr. McGrath, 5,000 pounds to

11:34:40 15 Mr. O'Halloran and 10,000 expenses, isn't that right?

16 A. That's it.

17 Q. 264 So is it fair to say and do you agree, Mr. O'Callaghan, that the analysis

18 of the company's books and accounts show that the movement or that the

19 consideration of these payments arose as a result of the investor interest

11:34:59 20 that was expressed by Grosvenor?

21 A. Yes.

22 Q. 265 Right. I think Mr. Deane, Ms. Cowhig's evidence was that one of the

23 issues of concern was potential investors overseeing the books or looking

24 over the books, isn't that right?

11:35:15 25 A. Yes.

26 Q. 266 You don't dispute that, isn't that right?

27 A. No.

28 Q. 267 You agree with that. And I think both of those figures are on the 2nd

29 February '96 are dealt with by Mr. Fleming at 9711, when he identifies the

11:35:25 30 two differences, the first being the 60,000 which is made up of the four

- 11:35:30 1 payments we have dealt with, isn't that right?
- 2 A. Yes.
- 3 Q. 268 And the second was the movements on the inter-company loan which includes
- 4 in the figure of 129,261 and indeed the 121,706 the 80,000 Shefran
- 11:35:44 5 payments, isn't that right?
- 6 A. Yes.
- 7 Q. 269 Right. And that that consideration arose as a result of conversations
- 8 between Ms. Cowhig and Mr. Deane which was predicated upon the fact that
- 9 there was an investor in this case, the investor was Grosvenor, isn't that
- 11:35:59 10 right?
- 11 A. Yes.
- 12 Q. 270 Right. Now, I think that at 12022, after Mr. Gilmartin had been told
- 13 about the Grosvenor deal or the potential for the Grosvenor deal,
- 14 Mr. O'Callaghan, did he come back to the bank and yourself and say that he
- 11:36:17 15 wanted to sell his shares?
- 16 A. Yes.
- 17 Q. 271 Right. And I think that ultimately you tried to acquire his shares and
- 18 come to an agreement with Mr. Gilmartin, isn't that right?
- 19 A. Yes I did. Mr. Gilmartin wanted to sell his shares in September '91.
- 11:36:33 20 Q. 272 In this note at 12022, he notified Allied Irish Bank that he would be
- 21 anxious to sell his shares, isn't that right?
- 22 A. Yes, that's correct.
- 23 Q. 273 I think subsequently at 14470, Mr. Maguire as secretary informed Mr. Deane
- 24 that Mr. Gilmartin wanted to sell his shares, isn't that right?
- 11:36:52 25 A. That's correct.
- 26 Q. 274 Right. And I think that what happened then was at 12027 yourself and
- 27 Mr. Deane met with the bank on the 16th November, isn't that right, and
- 28 briefly with you on the 17th, you had two meetings with the bank?
- 29 A. Yes.
- 11:37:11 30 Q. 275 On the following page at 12028, the last three paragraphs first, the bank

11:37:21 1 asked you whether your recent involvement in the Lowry political  
2 controversy had caused Grosvenor any concern, he indicated that Grosvenor  
3 had raised the matter with him and it was fully discussed, as a result  
4 Grosvenor, according to Owen, are happy with the situation, is that  
11:37:34 5 accurate, it was a matter that was raised with you by Grosvenor?  
6 A. I raised it with them, that is correct, yes.  
7 Q. 276 Well, the document records it being the other way around, Mr. O'Callaghan,  
8 which is that Grosvenor had raised it with you, isn't that right?  
9 A. That is not correct, the other way around.  
11:37:49 10 Q. 277 Be that as it may, one or other of you had a concern about the publicity  
11 and it was discussed?  
12 A. Well I had, I did.  
13 Q. 278 Would it follow from that that if there had been allegations about  
14 Barkhill or Barkhill had been involved in controversy or the rezoning of  
11:38:03 15 Quarryvale had been involved in controversy, again it was a matter that  
16 would have been considered by Grosvenor?  
17 A. I didn't discuss that with Grosvenor because it wasn't relevant but yes, I  
18 did discuss the Horgan's Quay situation.  
19 Q. 279 I don't think I am making myself clear to you, Mr. O'Callaghan, does it  
11:38:17 20 follow from that, that if there had been public controversy involving  
21 Barkhill or the rezoning of Barkhill that is something that either you  
22 would have drawn to the attention of Grosvenor or Grosvenor would have  
23 drawn to your attention?  
24 A. If there was, yes, I would.  
11:38:31 25 Q. 280 Now, in the next paragraph dealing with the sale of the shares the  
26 document records:  
27  
28 "They have received a letter from Seamus Maguire similar to the one we  
29 received indicating that Tom Gilmartin wants to selling his shares. I  
11:38:44 30 indicated there are two parallel issues, the first relates to the

11:38:48 1 shareholders agreement and legal situation. In this context Tom cannot  
2 sell his shares without the other shareholders permission. Accordingly,  
3 he is essentially locked in. I indicated that we would be taking our own  
4 legal advice on this matter and we'll responding formally as appropriate."

11:39:04 5  
6 I think they didn't write, the bank, isn't that right, to Mr. Gilmartin  
7 and tell him he could not sell his shares without the other shareholders  
8 agreement, isn't that right?

9 A. I think so.

11:39:13 10 Q. 281 In the next paragraph "However the parallel issue is how to deal with the  
11 underlying reason for Tom's stance. Owen indicated he would have to go  
12 across next week to meet Tom. Their view is they should try to do a deal  
13 with him to buy out his shareholder's loans and equity. However, they  
14 have no cash at present and can only see such a buy out being done with  
11:39:28 15 proceeds from the Quarryvale development. In this regard they asked for  
16 my view on a proposal which would involve an immediate payment to Tom of  
17 100,000 to come from O'Callaghan's own resources, 500,000 to be paid on  
18 receipt of an up front payment from Grosvenor and to be funded from this  
19 up front payment. I indicated that if the bank was getting around 16  
11:39:51 20 million from this up front payment I would not foresee a difficulty in  
21 allowing a payment of 500,000 to be made to Tom Gilmartin. They would  
22 envisage a further payment of around 4 million to be paid to Tom on  
23 receipt of the performance related payment. I indicated that our view on  
24 this would be largely influenced by the residual debt we'll be carrying at  
11:40:05 25 the time. In any case Owen is going to meet Tom to see what can be done."

26 A. Yes.

27 Q. 282 And would it be fair so say from that, that your starting position in  
28 relation to negotiating the deal with Mr. Gilmartin was a payment of  
29 100,000, 500,000 and 4 million, 4.6 million, isn't that right?

11:40:22 30 A. Yes.

- 11:40:23 1 Q. 283 What was the underlying reasons for Tom's stance outlined or referred to  
2 by Mr. O'Farrell in the opening sentence of that paragraph?  
3 A. Sorry what is that?  
4 Q. 284 You see "However the parallel issue was how to deal with the underlying  
11:40:34 5 reasons for Tom's stance".  
6 A. Yes that was Tom wanted to get out and how could we do it, how could we  
7 afford to do it I presume is what he is talking about there.  
8 Q. 285 What were the underlying reasons, Mr. O'Callaghan?  
9 A. I'm not sure what he meant by that. As far as Michael O'Farrell was  
11:40:56 10 concerned I think if it was possible to buy out Tom Gilmartin he would  
11 have been very happy.  
12 Q. 286 Yes. And insofar as you were concerned, and Mr. Deane were concerned, if  
13 you could buy out Mr. Gilmartin you would have been reasonably happy with  
14 that?  
11:41:09 15 A. Sure he was of absolutely no benefit at all to us, he was direct opposite.  
16 Q. 287 But you can't assist --  
17 A. Of course we wanted to buy him out.  
18 Q. 288 Would there be a concern held by both Mr. Deane and yourself and by the  
19 bank that Mr. Gilmartin was a potential hazard to the Grosvenor deal  
11:41:25 20 insofar as he was prone to make wild allegations including allegations of  
21 corruption?  
22 A. I wouldn't say allegations, you see if he got involved in the deal he  
23 could have blown the deal apart because the reason Hammerson deal fell  
24 apart was because of himself and Forman. They just didn't know how to  
11:41:42 25 handle these situations, it's as simple as that, if they got at the  
26 Grosvenor deal they would have blown it apart as well and we were all in  
27 trouble, it was our last chance.  
28 Q. 289 So it would be fair to say up to this point in time you had been  
29 successful in keeping Mr. Gilmartin from the Grosvenor deal, isn't that  
11:41:59 30 right?



11:41:59 1 A. Yes because we had to.

2 Q. 290 I think on the 17th November '95 at 12029, the board of Grosvenor

3 confirmed approval of the Quarryvale deal on the 16th November '95, isn't

4 that right?

11:42:12 5 A. Yes.

6 Q. 291 And there might have been certain alterations or changes made in the

7 planning permission but in general the deal was good, isn't that right?

8 A. Yeah.

9 Q. 292 And what was going to happen now was working out the details, isn't that

11:42:24 10 right?

11 A. That's right, yes.

12 Q. 293 And the amount of the payment that would be made by Grosvenor was a matter

13 of central interest, because out of that payment the bank were going to be

14 substantially repaid, isn't that right?

11:42:34 15 A. Yes.

16 Q. 294 Would it be fair to say that the banks position now that they saw

17 likelihood of repayments being made, was their concern was that they

18 should be paid as much as possible?

19 A. Oh, yes, absolutely.

11:42:45 20 Q. 295 Now, I think that the bank told Mr. Gilmartin that he couldn't dispose of

21 his shares unless they were offered to other shareholders first, that was

22 their legal advice, isn't that right?

23 A. Yes.

24 Q. 296 I think at 12045 the bank rang you, isn't that right?

11:43:02 25 A. Yes.

26 Q. 297 And you had gone to London to meet with Mr. Gilmartin, isn't that right?

27 A. Probably gone to Luton I'd say.

28 Q. 298 Yes.

29 A. If I had, yes.

11:43:13 30 Q. 299 You had a long meeting with Mr. Gilmartin because you have so told the

- 11:43:16 1 bank, isn't that right?
- 2 A. Yes.
- 3 Q. 300 Now, what did you discuss with Mr. Gilmartin at that meeting, on the 23rd
- 4 November 1995?
- 11:43:27 5 A. I have only a very vague recollection of it actually, in fact I can barely
- 6 remember that meeting, it must have been in Luton I think. My
- 7 recollection of it is very, very poor. It must have been, I must have
- 8 tried to agree with Tom what his terms would be for him to, for us to buy
- 9 him out of the company.
- 11:43:54 10 Q. 301 That seems to have happened at the end of the meeting if the note is
- 11 accurate, Mr. O'Callaghan, because the note goes on to record towards the
- 12 end of that meeting he indicated to Tom that they may be able to come to
- 13 an arrangement to buy out his shares or loans on the following basis,
- 14 isn't that right?
- 11:44:12 15 A. Yes.
- 16 Q. 302 That seems to be something that if this note is accurate happened at the
- 17 end of your long meeting with Mr. Gilmartin?
- 18 A. Well, what I would have done is I would try to explain the Grosvenor deal
- 19 to him and asked him to leave it alone and let us complete it and handle
- 11:44:26 20 it ourselves, more than likely is what would have been on my mind.
- 21 Q. 303 Was there any discussion raised by Mr. Gilmartin about the allegations
- 22 that had been in the newspapers or the controversy involving yourself?
- 23 A. Oh we were gone way beyond that, the discussion at this stage was money,
- 24 from what I can recollect the most important point I can assure you was
- 11:44:42 25 money. His position financially and our own position with the banks, so I
- 26 can tell you that's what we were talking about, not about paper talk or
- 27 allegations or anything like that.
- 28 Q. 304 Mr. Gilmartin had, I think, gone to the bank and mentioned to the bank the
- 29 fact that he had been approached by television company, one in England and
- 11:45:01 30 one in Northern Ireland in relation to Quarryvale and yourself, isn't that

- 11:45:04 1 right?
- 2 A. Yeah but sure that was a fantasy. Tom never said that to me actually, he
- 3 said that to the bank, as I said to you yesterday that was one of his
- 4 first fantasy stories.
- 11:45:13 5 Q. 305 Yes. Leaving aside whether it was true or not, once you knew about it,
- 6 Mr. O'Callaghan, I suggest to you that that is something you would have
- 7 raised with Mr. Gilmartin?
- 8 A. No, I didn't know about it, he didn't say that to me. I knew absolutely
- 9 nothing about this.
- 11:45:27 10 Q. 306 When did you become aware of that allegation by Mr. Gilmartin?
- 11 A. Probably two or three years later actually.
- 12 Q. 307 Right.
- 13 A. Much later, in fact I think I saw that in Tribunal documents, this thing
- 14 about this, I am talking now about the television company supposed to be
- 11:45:42 15 contacting him, are we talking about the same thing.
- 16 Q. 308 Yes.
- 17 A. Oh I didn't know about that at all.
- 18 Q. 309 Did you have any discussion with him about your involvement in the Lowry
- 19 affair which had been reasonably well publicised?
- 11:45:52 20 A. Probably. Could have been discussed but not in any great detail. Our
- 21 discussions at the time and I am trying to recollect what happened, would
- 22 have been very serious and they were about the situation he was in
- 23 financially and the situation we were in financially and the possibility
- 24 of saving both situations by having Grosvenor involved in Quarryvale.
- 11:46:11 25 Q. 310 Well, Mr. Deane according to your note had been in London that day and had
- 26 been there the previous day, the day you met with Mr. Gilmartin doing the
- 27 deal with Grosvenor, isn't that right?
- 28 A. He would have been in London, I would have been in Luton.
- 29 Q. 311 You were both in the same country, isn't that right?
- 11:46:26 30 A. Yes.

- 11:46:26 1 Q. 312 You spent the day talking to Mr. Gilmartin, you have a long meeting with  
2 him however long it takes?  
3 A. I am trying to recollect.
- 4 Q. 313 And Mr. Deane is dealing with Grosvenor, isn't that right?  
11:46:35 5 A. Oh, yes.  
6 Q. 314 And in your note and as you report to the bank negotiations were  
7 continuing quickly, in relation to the documentation and a lot of progress  
8 had been made, isn't that right?  
9 A. Yes.
- 11:46:44 10 Q. 315 And in fact Grosvenor according to the following paragraph were aiming for  
11 a closing date of the 11th December next, isn't that right?  
12 A. Yes.  
13 Q. 316 Which was regarded as ambitious by everybody on this side of the water,  
14 isn't that right?  
11:46:57 15 A. Yes.  
16 Q. 317 But it would certainly show it was an imminent deal, isn't that right?  
17 A. Yes.  
18 Q. 318 Now, did Mr. Gilmartin suggest to you in the course of that meeting that  
19 he should become involved in the negotiations?  
11:47:08 20 A. I don't think so really. I think he had enough problems at the time he  
21 just wanted this to be solved I think financially.  
22 Q. 319 Did he make any threats or complaints or say that he would go to the  
23 papers or he would go to the media in anyway in relation to matters that  
24 he knew about if he didn't get his way?  
11:47:29 25 A. Tom Gilmartin never his life made a threat to me. One exception and that  
26 was at a board meeting in Bank Centre, never otherwise did Tom Gilmartin  
27 raise his voice to me about anything.  
28 Q. 320 I am not suggesting he raised his voice, Mr. O'Callaghan, I am saying did  
29 he suggest to you or suggest in anyway that if he didn't get his way with  
11:47:48 30 whatever it was he wanted on the buy out that he would go to the media?

- 11:47:52 1 A. Never made such a suggestion to me.
- 2 Q. 321 What was the board occasion on which Mr. Gilmartin made the threat to you
- 3 to which you have just referred?
- 4 A. The one we referred the meeting we had, the board meeting, was it 25th May
- 11:48:04 5 I think in '95.
- 6 Q. 322 The one that was dealt with yesterday where Mr. Gilmartin made a series of
- 7 allegations?
- 8 A. That's it.
- 9 Q. 323 Which you agree were recorded by Mr. Deane, isn't that right?
- 11:48:13 10 A. Yes.
- 11 Q. 324 Do you say that it was at that meeting that Mr. Gilmartin made a threat
- 12 against you?
- 13 A. I wouldn't say threat, raised his voice, gave out, ranting and raving used
- 14 a lot of language etcetera.
- 11:48:25 15 Q. 325 But other than that did Mr. Gilmartin ever on a face-to-face basis with
- 16 you make any threat against you?
- 17 A. Never.
- 18 Q. 326 Now, I think by the 8th December at 12057 --
- 19
- 11:48:37 20 CHAIRMAN: Ms. Dillon, can we just stop there and take a short break.
- 21
- 22 **THE TRIBUNAL ADJOURNED FOR A SHORT BREAK**
- 23 **AND RESUMED AGAIN AS FOLLOWS:**
- 24
- 12:07:34 25 CHAIRMAN: Good afternoon. Now, Ms. Dillon.
- 26 Q. 327 MS. DILLON: In this document, Mr. O'Callaghan, of the 8th December 1995,
- 27 in the second paragraph, can we increase is it please, the report to the
- 28 bank following the conversations with you and a telephone conversation
- 29 with Mr. Gilmartin was that the Grosvenor deal was going well and that
- 12:07:53 30 that a meeting had taken place on Monday in London involving Deane and

- 12:07:59 1 O'Callaghan and two main people from Grosvenor, did you see that?
- 2 A. Yes.
- 3 Q. 328 Would it follow yourself and Mr. Deane who were progressing on a
- 4 face-to-face basis, the Grosvenor deal?
- 12:08:10 5 A. Oh, yes.
- 6 Q. 329 Now in the second paragraph?
- 7 A. Sorry which paragraph?
- 8 Q. 330 The third paragraph, I beg your pardon. If it can be scrolled down
- 9 please, what is recorded there is reference to the discussions that had
- 12:08:21 10 taken place between Mr. Gilmartin and yourself and Mr. Gilmartin has
- 11 recorded as wanting in effect 5.75 million together with a remainder sum
- 12 which is not identified, would you agree that at this stage Mr. Gilmartin
- 13 appears to be putting a counter offer on the table to buy out his shares?
- 14 A. Yes, I think so, yes.
- 12:08:40 15 Q. 331 In the final, in the next paragraph where Mr. O'Farrell records his
- 16 conversation with Mr. Gilmartin, in the last sentence, two sentences he
- 17 made the following points to Mr. Gilmartin he stated "I made it clear to
- 18 him that the figures I had been talking about were in the context of Tom
- 19 exiting from the situation as I had understood this is what he wanted. If
- 12:09:00 20 the situation arose whereby he continued to be involved resulting in
- 21 potential difficulties down the road, I would not be as warm to
- 22 recommending the release of 1 million pounds and this would have been to
- 23 be discussed".
- 24 A. Yes.
- 12:09:13 25 Q. 332 That would appear to suggest that the banks view as of December 1995 was
- 26 that they would support an attempt to buy out Mr. Gilmartin to at least
- 27 the tune of a million pounds because they were anxious, effectively to see
- 28 him exit as he himself wanted, isn't that right?
- 29 A. Yes.
- 12:09:33 30 Q. 333 Now, the one thing I wanted to ask you about there was whether or not

- 12:09:36 1 Mr. O'Farrell had ever discussed with you the potential difficulties he  
2 foresaw if Mr. Gilmartin remained involved in Barkhill and the Grosvenor  
3 deal?
- 4 A. It wasn't, the difficulties were immense if he stayed involved because he,  
12:09:52 5 as I said before he was of no benefit at all to the operation, and he  
6 wanted -- Tom Gilmartin wanted to leave Quarryvale from September '91, so  
7 he was of no benefit to us. We had a whole Quarryvale problem and it was  
8 a problem with a capital P, ended up with us and we had no assistance no  
9 help from anybody. We would have been delighted to have another partner  
12:10:16 10 to give us a hand, the main problem was financial.
- 11 Q. 334 Yes, I mean I think it is your understanding that Mr. Gilmartin had been  
12 declared a bankrupt, isn't that right?
- 13 A. Yes.
- 14 Q. 335 And it's, I think also your understanding that Mr. Gilmartin had to be  
12:10:32 15 supported by Riga and Barkhill following the intercession of Mr. Sheeran,  
16 isn't that right?
- 17 A. Yes, he had.
- 18 Q. 336 I think you would have appreciated from that and looking back on it, that  
19 Mr. Gilmartin was in severely straightened financial circumstances, isn't  
12:10:46 20 that right?
- 21 A. Yes, he was.
- 22 Q. 337 Would you agree that you would have known from very early on that it was  
23 unlikely that Mr. Gilmartin would be able to avail himself of further  
24 equity to invest in Barkhill?
- 12:10:58 25 A. That is correct, yes.
- 26 Q. 338 Right. Now, you are aware of Mr. Gilmartin's allegations that all the of  
27 his problems were orchestrated by yourself and the bank in order to reduce  
28 his interests in Barkhill and to increase your interest, isn't that right?
- 29 A. Ridiculous, but I know that, yes.
- 12:11:15 30 Q. 339 You say that in the nature of Mr. Gilmartin to make ridiculous and

12:11:18 1 outlandish allegations, isn't that right?

2 A. Yes.

3 Q. 340 You will have heard his evidence to the Tribunal about you falling out of

4 a broom cupboard on one occasion, that you were spying on him, isn't that

12:11:28 5 right?

6 A. Yes, I heard that.

7 Q. 341 Yes, that is similar in fact to the allegation that was made against you

8 in the Horgan's Quay controversy, isn't that right? In other words the

9 allegation against you and Mr. Kelly in the Horgan's Quay was that you

12:11:43 10 were involved in organising surveillance on certain people?

11 A. No, I wasn't, not me.

12 Q. 342 I beg your pardon.

13 A. No this all happened up here in Dublin, I wasn't involved in this, I

14 wasn't accused of being involved.

12:11:54 15 Q. 343 I beg your pardon, my misunderstanding. But in any event was that another

16 example of the type of wild allegation made by Mr. Gilmartin?

17 A. Nothing could compare with the allegations made by Tom Gilmartin, they

18 never -- completely crazy.

19 Q. 344 Sorry I meant the allegation that you had fallen out of a broom cupboard

12:12:11 20 in an attempt to overhear what Mr. Gilmartin was saying to Mr. Maguire?

21 A. Yes.

22 Q. 345 Is that another example of the type of allegation that Mr. Gilmartin was

23 prone to make?

24 A. Yes.

12:12:20 25 Q. 346 Right. Is it your evidence at that there never was a circumstances in

26 which such an event ever happened?

27 A. Good God, no.

28 Q. 347 And were they the type of matters that you had in mind when you were

29 discussing the potential buy out of Mr. Gilmartin when you were talking to

12:12:37 30 the bank?



- 12:12:37 1 A. Oh no, they would only be on the periphery really, because as I said to  
2 you was much more important than this. This whole Quarryvale was thing  
3 was a magnificent mess if I can put it that way because of Gilmartin.  
4 This man had gone away, I don't want to go through this now, but this man  
12:12:54 5 had gone away and bought -- put land together and there was no money in  
6 the place he shouldn't have bought it. We were landed with this glorious  
7 financial mess. We wanted help from any source that we could get it if we  
8 could. We had a bank who were on our banks really and him bankrupt in  
9 Luton and he wouldn't answer the telephone. We wanted a partner, these  
12:13:13 10 are the important, not the points you are making there, the important  
11 point is that we wanted a financial partner to come in, if we could find  
12 one. We wanted to make sure that when we did find one that he didn't stop  
13 them, by that I mean that we couldn't get him involved in the negotiations  
14 with Grosvenor or anybody like that he would probably have made a mess of  
12:13:32 15 them.
- 16 Q. 348 Do you say then that Mr. Gilmartin was excluded from the negotiations with  
17 Grosvenor because of a view held by you and by Mr. Deane that  
18 Mr. Gilmartin if he was permitted to interact with Grosvenor could cause  
19 the deal to collapse?
- 12:13:43 20 A. With the greatest of respect, Mr. Gilmartin and Grosvenor wouldn't last  
21 around a table for ten minutes.
- 22 Q. 349 All right. And it's your view that Mr. Gilmartin was not instrumental in  
23 bringing Grosvenor to the table, isn't that right?
- 24 A. Absolutely not.
- 12:13:57 25 Q. 350 Right. Now overall, Mr. O'Callaghan, what did you stand to gain from the  
26 Grosvenor deal?
- 27 A. Basically first of all to reduce the bank debt and get out, the main  
28 problem was get out of the tangle we were in, the mess we were put in by  
29 Gilmartin.
- 12:14:15 30 Q. 351 If we start with the basics, how big was the site?

12:14:18 1 A. 180 odd acres.

2 Q. 352 How much were you giving to Grosvenor?

3 A. I think about 40 or 50.

4 Q. 353 How much were they paying you?

12:14:24 5 A. In total 24 million.

6 Q. 354 Okay, and what were you going to be left within terms of a land bank after

7 the Grosvenor deal?

8 A. Over 100 acres.

9 Q. 355 Would the effect of the Grosvenor deal be to substantially wipe out the

12:14:40 10 Allied Irish Bank debt?

11 A. Yes.

12 Q. 356 Right. And would the effect of the Grosvenor deal even allowing to buy

13 out Mr. Gilmartin, had left you in a situation where you had a development

14 partner who would build and assist in the development of the town site at

12:14:55 15 Quarryvale and in addition to that Barkhill would own 100 acres or

16 thereabouts at Quarryvale?

17 A. Yes, but you have to bear this in mind with a site that had a cap on it of

18 250,000 square feet, it had a limited permission.

19 Q. 357 Of course. That was the situation to which you had agreed in December

12:15:14 20 1992, isn't that right?

21 A. Yes.

22 Q. 358 All right. And the entire site?

23 A. The best we could possibly get.

24 Q. 359 The entire site had a C and E zoning, isn't that right?

12:15:23 25 A. Yes.

26 Q. 360 It was a combined zoning?

27 A. Yes.

28 Q. 361 But there was no limit on the amount of industrial development you could

29 put on the land, isn't that right?

12:15:30 30 A. Except, precisely but you couldn't sell industrial land, or industrial

- 12:15:35 1 units so it was a useless permission.
- 2 Q. 362 All right. But in any event at the end of the Grosvenor deal in a worst
- 3 case scenario, what you would have been left with is you had an investment
- 4 partner who had a big bank behind it, isn't that right, had plenty of
- 12:15:48 5 money?
- 6 A. Yes.
- 7 Q. 363 Grosvenor. You would have --
- 8 A. No, I wouldn't say, no I wouldn't say they had plenty of money behind they
- 9 were, they were able to get plenty of money.
- 12:15:58 10 Q. 364 You would have had taken out most if not all of the Allied Irish Bank debt
- 11 on Barkhill?
- 12 A. That is correct, yes.
- 13 Q. 365 You would have been able to renegotiate better terms with Allied Irish
- 14 Bank, isn't that right, in relation to the development going forward,
- 12:16:09 15 isn't that right?
- 16 A. Yes the banks became very nice when all that happened, that's very true.
- 17 Q. 366 You would have had also 100 acres of prime development land, isn't that
- 18 right?
- 19 A. That's correct.
- 12:16:19 20 Q. 367 That land wouldn't have been encumbered in anyway once you had taken out
- 21 Allied Irish Bank?
- 22 A. Yes.
- 23 Q. 368 If Mr. Gilmartin was bought out of the deal for 5 or 7 or 8 or 9 million
- 24 pounds, then you would have the benefit of Mr. Gilmartin's shareholding,
- 12:16:33 25 isn't that right?
- 26 A. That's right.
- 27 Q. 369 And the banks up, the upside of the bank's 20 per cent was capped at 2
- 28 million, isn't that right?
- 29 A. That's right.
- 12:16:40 30 Q. 370 So the maximum you would have had to pay Allied Irish Bank for it's

12:16:45 1 shareholding would have been 2 million pounds, is that the case?

2 A. That's correct.

3 Q. 371 So really in order to negotiate or the inquantifiable element of the

4 negotiation was how much it would take to buy out Mr. Gilmartin, is that

12:16:57 5 fair?

6 A. That's right.

7 Q. 372 All right. Now, in addition to that we shouldn't forget I think,

8 Mr. O'Callaghan, about the Merrygrove lands, isn't that right?

9 A. Yes.

12:17:06 10 Q. 373 Because at that stage you had the original Merrygrove site, isn't that

11 right?

12 A. That's right.

13 Q. 374 And you had a contract or an agreement with the Corporation to acquire an

14 additional 28 acres, isn't that right?

12:17:16 15 A. That's correct.

16 Q. 375 What was the total acreage in Merrygrove?

17 A. 61 acres.

18 Q. 376 And that was not something that was going to be affected by the Grosvenor

19 deal, isn't that right? In other words, you weren't selling any of the

12:17:28 20 Merrygrove land to Grosvenor?

21 A. No.

22 Q. 377 So if you were able to buy out Mr. Gilmartin, if you could take out the

23 bank's 20 per cent share you would have the 68 acres at Neilstown?

24 A. 61.

12:17:41 25 Q. 378 61 I beg your pardon, at Neilstown?

26 A. Yes.

27 Q. 379 And you would be left with 100 acres at Quarryvale?

28 A. That's correct.

29 Q. 380 And you might have a relatively small liability to the bank in view of the

12:17:51 30 position you found yourself before the Grosvenor deal?

- 12:17:54 1 A. That's correct.
- 2 Q. 381 So would you agree that despite the difficulties that you had experienced  
3 with Mr. Gilmartin and despite the problems you had with Allied Irish Bank  
4 and seeking to persuade them to fund you, the upside was significant for  
12:18:07 5 Barkhill?
- 6 A. It's so easy to say that in hindsight, I could not agree with that. At  
7 the time we were extremely lucky and God knows we don't know how lucky we  
8 were that we found people like Grosvenor to get involved. We had failed  
9 to get any other development partner involved with us and without a  
12:18:25 10 development partner like Grosvenor, Quarryvale would have gone down within  
11 months and we'd have owed the banks 24 million pounds instead, that was  
12 the risk we were taking.
- 13  
14 We had failed with British Land, failed with Hammerson, failed with  
12:18:40 15 Hammerson, we had failed with all these guys, we were left with just one,  
16 the last one. That's why we couldn't get Gilmartin near it. If we didn't  
17 get Grosvenor we were in a serious, serious situation, believe you me. So  
18 it's very easy to say in behind site we were left with all this land and  
19 80 acres and this and that and everything else. It was a massive, massive  
12:18:58 20 risk.
- 21 Q. 382 The lands, correct me if I'm wrong, Mr. O'Callaghan, I had understood  
22 probably incorrectly in view of what you had just said that the banks debt  
23 was secured on the 168 acres at Quarryvale, isn't that right.
- 24 A. Yes.
- 12:19:12 25 Q. 383 Insofar as the bank were concerned their security was tied in by way of a  
26 first mortgage, isn't that right, on the lands?
- 27 A. Mm-hmm.
- 28 Q. 384 Right. So that the risk that was there or exposure that was there was  
29 limited to a degree, isn't that right?
- 12:19:27 30 A. It would be limited, yes, if you could, get somebody to buy it.

- 12:19:30 1 Q. 385 Because at the end of the day even if the whole deal went down as you have  
2 described, the land remained there and while it may never have completely  
3 cleared the bank, it would have substantially cleared the bank and at this  
4 stage, Mr. O'Callaghan, which is 1995, things were beginning to improve in  
12:19:48 5 the economy?  
6 A. But nobody knew it, there was a sign of the whole thing picking up in  
7 1995, but everybody was working from year to year, we expected it to go  
8 down again in 1996. Nobody knew at that stage there was going to be 12  
9 years left in this.
- 12:20:02 10 Q. 386 Yes. What I had suggesting to you and you appear to be agreeing with me,  
11 Mr. O'Callaghan, is that at this stage in 1995 things had started to pick  
12 up in this economy?  
13 A. Started to pick up yes, but nobody knew for how long.
- 14 Q. 387 And it continued to do so?  
12:20:15 15 A. But nobody could see that.
- 16 Q. 388 Of course, but it continued to do so.  
17 A. We were all lucky it did continue. Lucky if you could call it that, yes.
- 18 Q. 389 Is it your evidence to the Tribunal, Mr. O'Callaghan, that to be left with  
19 161 acres on which there was little or no outstanding debt to the bank  
12:20:31 20 would have been a down side or a bad return for yourself and Mr. Deane?  
21 A. Not a bad return, but wouldn't justify the risks that we took actually,  
22 the whole Quarryvale thing was a silly risk.
- 23 Q. 390 I see.  
24 A. Silly risk, nothing could justify it, a risk that we were put into, we  
12:20:52 25 didn't want to go into ourselves.
- 26 Q. 391 Ultimately, at the end of the day, can I ask you, Mr. O'Callaghan, looking  
27 back on it now, do you feel that you made a satisfactory profit on the  
28 Barkhill deal?  
29 A. That can't be claimed yet because as I am talking to you now we still have  
12:21:07 30 a centre with 250,000 square feet there because when the cap was lifted it

12:21:12 1 was subject to a master plan. It wasn't lifting the cap and building all  
2 the retail you could build there like Dundrum or Blanchardstown or those  
3 places. It was subject to a master plan which would turn Quarryvale into  
4 a proper town centre and that has not been approved yet by the council  
12:21:28 5 even as of today.

6 Q. 392 Is the answer then to the Tribunal no, that it's your position that you  
7 did not make a sufficient or adequate profit in relation to the  
8 Quarryvale?

9 A. Absolutely not. I am trying to give you the reason why, it was hard to  
12:21:39 10 believe but that's a fact.

11 Q. 393 Right. Do you accept, Mr. O'Callaghan, that you retained substantial land  
12 bank following on the closure of the deal with Grosvenor?

13 A. Oh, yes, no doubt about that.

14 Q. 394 And that in addition to that, by virtue of the stadium project that you  
12:21:55 15 had commenced, you were in a position to acquire the additional acreage  
16 from Dublin Corporation?

17 A. Yes.

18 Q. 395 And that that sale, while you made an arrangement was not closed I think  
19 finally until 2000 as we have seen, isn't that right?

12:22:09 20 A. For the reasons you understand.

21 Q. 396 Yes, isn't that the position?

22 A. Yes.

23 Q. 397 It closed in 2000 at the original contract price.

24 A. No.

12:22:17 25 Q. 398 Subject, if you allow me to complete, subject to an allowance being made  
26 for interest, isn't that right?

27 A. The original contract price was 1.2 million, it ended up at 10 million,  
28 that's what we paid for it.

29 Q. 399 I had understood to you agree with Mr. Deane's evidence that the, in  
12:22:31 30 effect the profit margin on that element of the thing amounted to a sum of

12:22:36 1 12 million pounds approximately?

2 A. Yes.

3 Q. 400 Isn't that right?

4 A. Yes.

12:22:38 5 Q. 401 Would you have regarded that as a good or a fair return on your

6 investment?

7 A. That was a good return, yes.

8 Q. 402 All right.

9 A. But again purchasing a site in '89/'90 which nobody else would touch.

12:22:53 10 Q. 403 Yes. Are you talking now --

11 A. Neilstown.

12 Q. 404 About your purchase of Neilstown?

13 A. Yes.

14 Q. 405 An that you bought it in circumstances in which nobody else would touch

12:23:02 15 it, isn't that right?

16 A. Mm-hmm.

17 Q. 406 Now, insofar as the Grosvenor deal is on the table at the end of 1995,

18 would you agree that it would have been of benefit to yourself and the

19 bank and to Mr. Deane if Mr. Gilmartin could be bought out?

12:23:17 20 A. Oh, yes.

21 Q. 407 Right. And that it would have allowed you to progress forward with

22 Grosvenor as your partners without the difficulties that you have outlined

23 you were encountering with Mr. Gilmartin?

24 A. Yes.

12:23:28 25 Q. 408 Right. And that therefore there was a commercial benefit to both yourself

26 and the bank in buying out Mr. Gilmartin, isn't that right?

27 A. Oh, yes.

28 Q. 409 Right. And I think that you had a board meeting on the 12th December '95

29 at 12060, attended by Mr. Sheeran and Mr. Maguire also but Mr. Gilmartin

12:23:48 30 didn't attend, isn't that right?



12:23:50 1 A. Sorry what date is that, December?

2 Q. 410 12th December.

3 A. Yes.

4 Q. 411 And I think that at 12062, the board decided in the second last paragraph

12:24:01 5 that the priority was to achieve an exchange of documentation, in other

6 words, to conclude the Grosvenor deal, isn't that right?

7 A. Yes.

8 Q. 412 Right. And in the bank's note of this meeting, at 12064, Mr. Gilmartin

9 telephoned the bank on the 14th December and reiterated that he wanted to

12:24:21 10 be bought out, isn't that right?

11 A. Yes.

12 Q. 413 And Allied Irish Bank outlined to Mr. Gilmartin that they want to be

13 repaid, isn't that right?

14 A. Yes.

12:24:30 15 Q. 414 So by December of 1995, you and Mr. Deane wanted Mr. Gilmartin out for

16 various reasons, the bank wanted to be repaid it's money, Mr. Gilmartin

17 wanted to buy out his shareholding in Barkhill and you all wanted to

18 conclude the deal with Grosvenor, is that fair?

19 A. That's fair.

12:24:48 20 Q. 415 Would you agree that all of the parties who were involved at that stage

21 would have regarded the Grosvenor deal as likely to be able to deliver

22 what each party wanted?

23 A. Yes.

24 Q. 416 And that it would provide funds from which Mr. Gilmartin could be bought

12:25:03 25 out possibly, it could pay out the situation in relation to the bank and

26 it would leave yourself and Mr. Deane, together with the bank, in sole

27 control of Barkhill if Mr. Gilmartin sold his shares to you?

28 A. Yes, that's correct, there is one very, very important point to be made or

29 added to that, that is that Mr. Gilmartin could have stayed on board if he

12:25:22 30 wished. We made that offer to him as well, he did not have to go, he

12:25:32 1 could have stayed put as a sleeping partner, stayed in Luton and be  
2 involved to this very, very day, we did not ask Tom Gilmartin to leave, he  
3 made the suggestion, I think that's probably the most important point of  
4 all.

12:25:38 5 Q. 417 Mr. Gilmartin wanted to be bought out?  
6 A. Yes, he did.  
7 Q. 418 Yes.  
8 A. But he could have stayed and I suggested that to him on a few occasions,  
9 but as a sleeping partner, let us look after the proposition and I could  
12:25:49 10 have stayed based in Luton as a 40 per cent shareholder in the company and  
11 he could be still there today if he wanted to.  
12 Q. 419 As a sleeping partner would you have envisaged in that, Mr. O'Callaghan,  
13 that Mr. Gilmartin would be a person who wouldn't attend at board meetings  
14 and wouldn't have any day to day involvement or interaction with either  
12:26:10 15 the financiers or co developer Grosvenor?  
16 A. Yes, and to explain that, by all means attend board meetings on a monthly  
17 basis but not get involved otherwise because he wouldn't have understood  
18 what this was all about really.  
19 Q. 420 Mr. Gilmartin, in any event, didn't take up your offer, isn't that right?  
12:26:28 20 A. No that's the pity, yes.  
21 Q. 421 Notwithstanding your offer to him, I think, he entered into an agreement  
22 with you at 12096 at the end of December, isn't that right, for a buy out  
23 of his shares?  
24 A. That's correct, yes.  
12:26:44 25 Q. 422 And I think it was to provide for an initial payment of 200,000, isn't  
26 that right?  
27 A. Yes.  
28 Q. 423 And then various other payments that are set out.  
29 A. Payments spread out then during the Grosvenor deal, so much when the sale  
12:26:57 30 was closed, so much when the performance payment was paid etcetera.

- 12:27:01 1 Q. 424 They were phased payments?
- 2 A. They had to be phased, that's the only way we could do it.
- 3 Q. 425 At 12097 that was signed by Mr. Gilmartin, isn't that right?
- 4 A. That's correct, yes.
- 12:27:10 5 Q. 426 He is stated at the bottom of the document that he signed the above heads  
6 of terms without prejudice and in good faith, Tom, isn't that right?
- 7 A. That's correct.
- 8 Q. 427 Can you just tell the Tribunal the circumstances in which, first of all  
9 that document came to be prepared by who and the circumstances in which it  
10 came to be signed?
- 11 A. It was prepared by John Deane as far as I know and we, it was before  
12 Christmas, we sent it to Tom, having agreed it with him, and he was slow  
13 in signing it actually at the time, and he eventually agreed to sign it,  
14 which he did, but I believe as he said at the bottom there I think he  
15 wanted to take some independent advice as well, he spoke to Deloitte &  
16 Touche about it.
- 17 Q. 428 I think he approached Mr. Harrington and Dunloe Ewart?
- 18 A. I think that was a little afterwards, maybe a few weeks after that I  
19 think.
- 12:28:05 20 Q. 429 Yes, I think that by December 19th an approach had been made to Mr. Stuart  
21 Harrington of Dunloe, isn't that right?
- 22 A. I thought that was a few weeks later.
- 23 Q. 430 Yes. At 20434, in this memo to Mr. Noel Smyth, Mr. Harrington sets out on  
24 December 19th 1995 the breakdown of the shareholding and in the fifth  
12:28:31 25 paragraph that he understands that Owen O'Callaghan is attempting to buy  
26 Tom Gilmartin's share for a figure of approximately 7 and a half million  
27 and then he has been approached by an agent purporting to act for Tom  
28 Gilmartin inquiring as to whether Dunloe would be interested in acquiring  
29 those shares. Furthermore the same agent has also enquired as to whether  
12:28:52 30 Noel Smyth and partners would be interested in obtaining Tom Gilmartin

12:28:57 1 personally, isn't that right?

2 A. I wasn't aware of that at the time, while I was talking to Tom Gilmartin  
3 that was going on at the same time but he didn't tell me about it. That's  
4 why I thought that was a little bit later actually.

12:29:03 5 Q. 431 Well, by the 22nd December at 12077, the banks documents at the top  
6 records a number of conversations with O'Callaghan and Deane and Tom  
7 Gilmartin and Paul Sheeran and they can be summarised as follows, the  
8 first is Paul Sheeran indicating to me that Mr. Gilmartin had authorised  
9 him in writing to release documentation to Pat Harrington who is acting on  
10 behalf of Stuart Harrington and Noel Smyth. Paul indicated that the  
11 documentation comprised the minutes of various board meetings and a copy  
12 of the shareholders agreement had not been provided.  
13  
14 I am not sure that last sentence is accurate, Mr. O'Callaghan. In the  
15 next paragraph.

12:29:42 16  
17 "I subsequently spoke to Tom Gilmartin and expressed disappoint he had  
18 taken this course of action. I expressed concern in relation to  
19 confidentiality and indicated that I hoped he had arranged confidentiality  
20 agreement. He said that he had insofar as he could. He reconfirmed he  
21 wanted out of the situation and if O'Callaghan was not prepared to do a  
22 deal he had no option but to go to third parties."

23 A. Yes.

24 Q. 432 That would steam suggest at the time that Mr. Gilmartin was negotiating  
12:30:09 25 with you he was equally negotiating with other parties, isn't that right?

26 A. That's right.

27 Q. 433 And if you look at 12075 on the same day, on the 22nd December,  
28 Mr. Gilmartin rang the bank in relation to an agreement he had received  
29 from John Deane setting out the heads of terms. He indicated he was under  
12:30:29 30 pressure to sign and return a copy of the agreement and before doing so he

12:30:32 1 wanted to satisfy himself that the bank was aware of terms and standing  
2 behind the deal. The bank confirmed they had received a copy of the deal  
3 from John Deane and while they had not received formal board approval, we  
4 were agreeable from principle. John Deane had earlier asked for the  
12:30:46 5 transfer of 20,000 pounds to Mrs. Gilmartin." Was that right?  
6 A. We thought at the time that we were dealing strictly with Tom on his own  
7 but obviously he was talking to other people.  
8 Q. 434 Yes, it would seem the bank were aware and told by Mr. Sheeran, isn't that  
9 right?  
12:31:00 10 A. Yes.  
11 Q. 435 That Mr. Gilmartin had asked him to approach other people on his behalf,  
12 isn't that right?  
13 A. Yes.  
14 Q. 436 And then when Mr. Gilmartin rings the bank about the shareholders  
12:31:09 15 agreement on the same day, he confirms that he had received them and that  
16 he was under pressure to sign the agreement, isn't that right?  
17 A. Yes.  
18 Q. 437 He signed the agreement I think on the 22nd, although that's not clear  
19 from the document at 12097.  
12:31:25 20 A. Yes.  
21 Q. 438 Isn't that right?  
22 A. Yes.  
23 Q. 439 Now, I think the sum of 20,000 pounds at 12078, at the bottom of the Riga  
24 bank account you see 20,000 pounds to Vera Gilmartin, isn't that right?  
12:31:39 25 A. Yes, I have it here.  
26 Q. 440 Right. And that sum was paid, isn't that the position?  
27 A. And returned, yes.  
28 Q. 441 On the 9th January '96, at 12088, in a mark up to AIB seeking confirmation  
29 of agreements about development funding and shareholding buy out, at 12091  
12:32:02 30 the bank record the history of the shareholder buy out with Mr. Gilmartin,

12:32:06 1 isn't that right?

2 A. Yes.

3 Q. 442 And the breakdown of the payments that it was proposed to be made, isn't

4 that right?

12:32:12 5 A. Yes, yes.

6 Q. 443 And at the bottom it says "our support for this deal reflects the

7 following, the attraction of removing Gilmartin's influence, involvement

8 from the situation". Isn't that right?

9 A. Yes.

12:32:26 10 Q. 444 So one of the things the bank took into account in deciding to assist in

11 the funding of the buy out of Mr. Gilmartin was the removal of him from

12 the situation, isn't that right?

13 A. Yes.

14 Q. 445 And that concurred with your own view, isn't that right?

12:32:38 15 A. Oh, yes, yes.

16 Q. 446 Next matter, the risks Gilmartin's actions could give rise to vis-a-vis

17 completion of the Grosvenor deal. Isn't that right?

18 A. Yes.

19 Q. 447 What actions were the bank and yourselves obviously considering at that

12:32:53 20 time?

21 A. Well, I can tell you what mine were. That was that we didn't want Tom

22 Gilmartin sitting down across the table with Grosvenor, because we felt he

23 would upset the deal, by upset the deal I meant from a financial point of

24 view, because of the way Tom would probably have had a meeting with

12:33:11 25 Grosvenor it would have lasted ten hours and nobody left at the table when

26 he was finished. We were just afraid he would upset the Grosvenor deal.

27 Q. 448 I had understood, Mr. O'Callaghan, and correct me if I am wrong, that the

28 board agreed that it was Riga as project manager who would deal with

29 Grosvenor, isn't that right?

12:33:28 30 A. Yes.

- 12:33:29 1 Q. 449 So Mr. Gilmartin wouldn't be sitting down across any table?
- 2 A. But he wanted to.
- 3 Q. 450 Excuse me, Mr. O'Callaghan, unless you agreed to it, isn't that right?
- 4 A. But he wanted to, sorry.
- 12:33:37 5 Q. 451 Insofar as you appear to be suggesting to the Tribunal that it was open to  
6 Mr. Gilmartin to come into any meeting that he wanted, that was a matter  
7 that remained within the control of Riga as project manager, isn't that  
8 right?
- 9 A. Yes.
- 12:33:49 10 Q. 452 Therefore it was open to yourself and Mr. Deane who were negotiating with  
11 Grosvenor at all stages to include or exclude Mr. Gilmartin as you saw  
12 fit, isn't that right?
- 13 A. Yes, that's if he would stay excluded all the same.
- 14 Q. 453 In any event, you had been successful in keeping Mr. Gilmartin from  
12:34:05 15 interfering in the deal to this point in time, isn't that right?
- 16 A. That was vital, yes.
- 17 Q. 454 If we look then again at the concern of Mr. Gilmartin's actions, that is  
18 recorded there, Mr. O'Callaghan, can I ask you whether it was in your  
19 contemplation and that of the bank that Mr. Gilmartin might go to the  
12:34:22 20 newspapers as he had previously threatened about matters that were of  
21 concern to him?
- 22 A. That never crossed anybody's mind, we weren't even thinking about that  
23 actually.
- 24 Q. 455 Right. Had you any concerns about any of the prior allegations that had  
12:34:41 25 been made by Mr. Gilmartin?
- 26 A. Not at all, we were going in a totally different direction, we were  
27 concerned in case he would go in and talk too much at the meeting, promise  
28 Grosvenor this and that, and make a mess of the whole thing. That's what  
29 we were worried about, we were worried about the financial situation of  
12:34:47 30 this.

- 12:34:48 1 Q. 456 Were you concerned that for example if Mr. Gilmartin was allowed meet with  
2 the Grosvenor people that he might reiterate the complaints he had been  
3 making continuously to you since 1989 about Mr. Lawlor and Mr. Redmond and  
4 how he had acquired the land and how he had been blocked and all of those  
12:35:02 5 allegations?
- 6 A. I don't think he would have done that but it's possible he would have  
7 rambled on about that but I don't think he would have done that.
- 8 Q. 457 All right. So your concern in relation to the risks Mr. Gilmartin's  
9 actions could give rise to vis-a-vis the completion of the Grosvenor deal  
12:35:14 10 related to your belief and that of the bank, that if Mr. Gilmartin was  
11 permitted to inter-meddle in the deal he might bring the deal down, is  
12 that right?
- 13 A. Might make a mess of it.
- 14 Q. 458 That related solely as I understand your evidence to Mr. Gilmartin's  
12:35:28 15 inability to understand the financial aspects of the deal?
- 16 A. And this type of deal, yes, exactly, precisely.
- 17 Q. 459 Right. And I think it is the position, again I can be correct if I am  
18 wrong, that the control of the deal rested with yourself and Mr. Deane,  
19 isn't that right?
- 12:35:44 20 A. That's the way we wanted it left, that is true.
- 21 Q. 460 I think you had been appointed at the board meeting to deal with it on  
22 behalf of Barkhill?
- 23 A. That's correct, yes.
- 24 Q. 461 Now, I think Mr. Gilmartin wrote to Deloittes seeking advice on the deal,  
12:35:58 25 isn't that right?
- 26 A. Yes.
- 27 Q. 462 At an early stage in January, isn't that the position?
- 28 A. I haven't seen that.
- 29 Q. 463 Sorry I beg your pardon at 12095. Mr. Gilmartin sent through to Deloitte  
12:36:12 30 & Touche advice on the structure of this deal and the document he sent



- 12:36:16 1 with that at 12096 and 97, was the agreement he had made in December,  
2 isn't that right?
- 3 A. Yes.
- 4 Q. 464 Now, I think that Mr. Gilmartin at 12101, that by the 22nd January 1996  
12:36:41 5 the bank had been told that Mr. Gilmartin was returning to Ireland to  
6 review the documentation that Mr. Maguire was acting for him, it is the  
7 second last paragraph?
- 8 A. Yes.
- 9 Q. 465 But that that had subsequently been changed to Noel Smyth, isn't that  
12:36:54 10 right?
- 11 A. Yes, yes.
- 12 Q. 466 And at 12102, Mr. Gilmartin phoned the bank to advise them that he had  
13 appointed Noel Smyth to act for him, isn't that right?
- 14 A. Yes.
- 12:37:08 15 Q. 467 And in the second paragraph he expressed dissatisfaction with the way the  
16 deal had progressed in that he had no assurance that the later payments  
17 would be made and advised that this element of the deal had changed within  
18 the time heads of agreement had been reached and the brief document  
19 outlining terms had been prepared by John Deane. He went on to suggest  
12:37:26 20 that he was now going to look elsewhere in relation to a buyer for his  
21 shares and would be returning the 20,000 initial payment made by Riga  
22 before Christmas.
- 23 A. Yes.
- 24 Q. 468 He also made reference to the fact that he was unhappy with Michael  
12:37:37 25 O'Farrell's previous indication that the bank's agreement to release some  
26 of the Grosvenor payments related only to a sale to Riga. He indicated it  
27 was important that a board meeting should be called as soon as possible,  
28 isn't that right?
- 29 A. Yes.
- 12:37:51 30 Q. 469 The final part in fairness yourself, Mr. O'Callaghan, records Tom refused

- 12:37:54 1 to acknowledge that he had previously indicated his satisfaction with the  
2 terms of John Deane's letter to me and did not appear willing to discuss  
3 matters in a rational manner, isn't that right?
- 4 A. Yes.
- 12:38:05 5 Q. 470 That would suggest if it's an accurate note in relation to the meeting  
6 that Mr. Gilmartin was continuing in the same vein that has previously  
7 been outlined in relation to his attitude and approach to both yourself  
8 and the bank, would you agree with that?
- 9 A. Yes.
- 12:38:20 10 Q. 471 And that what was outlined to the bank and recorded by Mr. Deane in May of  
11 1995, still seemed to be the position in that Mr. Gilmartin continued to  
12 be irrational and unhappy with you and the bank in January of 1996, isn't  
13 that right?
- 14 A. Yes.
- 12:38:35 15 Q. 472 And would it be fair to say, Mr. O'Callaghan, that there hadn't been any  
16 substantial change in the complaints that Mr. Gilmartin was making from  
17 the time that he had started to make them to you in 1989?
- 18 A. Oh by complaints you mean --
- 19 Q. 473 Yes, Mr. Gilmartin's allegations about interference and being blocked and  
12:38:55 20 being stopped and about Mr. Redmond, Mr. Lawlor, County Councillors,  
21 planning, all of those, that there was allegations of planning and  
22 impropriety and allegations of political interference?
- 23 A. It wasn't that, Mr. Gilmartin's complaint with us, his real complaint to  
24 us was our involvement in the project.
- 12:39:16 25 Q. 474 But do you agree, Mr. O'Callaghan, that the complaint recorded by your  
26 partner Mr. Deane in May of 1995 are not a million miles away from the  
27 complaints that you acknowledge Mr. Gilmartin made to you in 1989?
- 28 A. You know these were all excuses, Tom Gilmartin's complaint was against me  
29 in particular being involved in the Quarryvale project. This was Tom's  
12:39:40 30 complaint, he said that on numerous occasions, that was his real, real

12:39:44 1 problem and I didn't want to be there, but I had to be there.

2 Q. 475 Do you understand the question that I am asking you, Mr. O'Callaghan?

3 A. Yes, I do indeed.

4 Q. 476 If you could just address your mind to answering it then, which is what I

12:39:56 5 would like to you tell the Tribunal is whether or not you accept that the

6 complaints that were identified to you by Mr. Gilmartin in 1989 continued

7 to be a common thread in the complaints that Mr. Gilmartin made, some of

8 which were recorded in May of 1995 by Mr. Deane?

9 A. At this stage the answer to that question is no, because the main

12:40:21 10 complaints that Tom Gilmartin made about us and the main complaints he did

11 make were basically about our involvement in his company.

12 Q. 477 And did Mr. Gilmartin ever make complaints to you about the involvement of

13 Shefran?

14 A. No.

12:40:34 15 Q. 478 Or complaints to you about your arrangements or agreements with county

16 councillors?

17 A. No.

18 Q. 479 Did you ever suggest to Mr. Gilmartin that you had councillors on your pay

19 roll?

12:40:45 20 A. No.

21 Q. 480 Did you ever suggest to Mr. Gilmartin that you had politicians on your pay

22 roll?

23 A. No.

24 Q. 481 Did you ever discuss with Mr. Gilmartin any payments you had made to any

12:40:54 25 of the councillors while you were both involved in Quarryvale?

26 A. No.

27 Q. 482 Such as payments you had made to Mr. Gilbride or to Mr. McGrath?

28 A. No.

29 Q. 483 How did Mr. Gilmartin come to know of a 20,000 pounds payment or a 10,000

12:41:06 30 pounds to Mr. McGrath?

- 12:41:10 1 A. I don't know, but he didn't get it from me, I can't answer that, I don't  
2 know.
- 3 Q. 484 Is it possible that you may have on some occasion, as Mr. Gilmartin has  
4 described, waved the cheque to Mr. McGrath and shown it to Mr. Gilmartin,  
12:41:28 5 is that possible?
- 6 A. You can take it that's certainly not my style, that's not possible.
- 7 Q. 485 Is that not something you would ever have done, Mr. O'Callaghan, is that  
8 fair?
- 9 A. Never in my life would I do a thing like that.
- 12:41:41 10 Q. 486 Okay. Now, I think at this stage on the 26th January 1996, it became  
11 clear I think to yourself and to the bank that Mr. Gilmartin was not going  
12 to complete the original heads of agreement signed by him, is that fair?
- 13 A. Yes, at this stage we had offered him 7 million pounds.
- 14 Q. 487 Now, I think that Mr. Noel Smyth was retained, isn't that right, by Mr. --
- 12:42:04 15 A. Yes, he was.
- 16 Q. 488 And Mr. Gilmartin, I think a board meeting was arranged at 12114 for the  
17 7th February, isn't that right, and the agenda for that is at 12115?
- 18 A. Yes.
- 19 Q. 489 Now, I think that at that meeting at 12136, which was primarily to deal  
12:42:27 20 with the Grosvenor position and accepting the Grosvenor deal, isn't that  
21 right?
- 22 A. Yes.
- 23 Q. 490 Mr. Noel Smyth attended at that and according to the minutes at 12138, the  
24 final paragraph records "Noel Smyth outlined Tom Gilmartin's position in  
12:42:47 25 relation to the company. A general discussion took place and Neville  
26 O'Byrne responded by denying the suggestions made by Noel Smyth. It was  
27 agreed Noel Smyth would correspond with Neville O'Byrne on the matters  
28 outlined", isn't that right?
- 29 A. Yes.
- 12:43:00 30 Q. 491 What complaints did Mr. Noel Smyth make to the meeting?

- 12:43:04 1 A. There is a list of them there actually somewhere. He was complaining that  
2 Tom Gilmartin had been treated badly by both the bank and ourselves and  
3 that Tom Gilmartin's shareholding had been suppressed and he was treated  
4 as a minority shareholder and basically everything you could possibly  
12:43:23 5 think of Noel Smyth through at everybody that particular day, there is a  
6 list somewhere in discovery there.
- 7 Q. 492 Yes, in this note of the minutes of the board meeting there is no record  
8 of the complaints that are made by Mr. Smyth, isn't that right?
- 9 A. Yes.
- 12:43:37 10 Q. 493 That's the first thing. In the bank note at 12139, is this the list to  
11 which you are referring?
- 12 A. Can I see?
- 13 Q. 494 If we increase the centre portion please.
- 14 A. Yes, that's what I am talking about, yes.
- 12:44:00 15 Q. 495 Now, in that Mr. Smyth was critical, if you look at the third last point  
16 it was suggested that it may be fair for the bank to say it has supported  
17 the company however Noel Smyth would be critical in this regard, while Tom  
18 would prefer to avoid legal action, isn't that right?
- 19 A. Yes.
- 12:44:19 20 Q. 496 The next point the belief was indicated that Owen O'Callaghan was holding  
21 40 per cent of Barkhill on behalf of Tom Gilmartin?
- 22 A. Yes, that is correct, yes.
- 23 Q. 497 Without prejudice to what has been said the Grosvenor deal should  
24 progressed, isn't that right?
- 12:44:35 25 A. Yes.
- 26 Q. 498 And then it goes on to record certain allegations or complaints that were  
27 made by Mr. Noel Smyth, isn't that right?
- 28 A. Yes.
- 29 Q. 499 It records Mr. O'Byrne asked Noel Smyth to put the allegations in writing,  
12:44:44 30 he commented that the allegations were serious and the bank would be

12:44:47 1 rejecting them. He confirmed that he had been personally involved in the  
2 deal and disagreed with the comments. Noel Smyth's response was that Tom  
3 was put under duress to sign the shareholders agreement to which Neville  
4 replied that he had been represented and advised by Seamus Maguire. Noel  
12:45:03 5 Smyth commented that some documents had been signed by Tom without legal  
6 advice and considered criminal but he would do this work subsequently. He  
7 indicated he was critical of the banks initial advance of 8 million and  
8 subsequent requirement for a partner to be signed up days before an  
9 important zoning meeting on the 14th December 1990, isn't that right?

12:45:17 10 A. Yes, could that be lifted up a little please?

11 Q. 500 Yes sorry, I beg your pardon.

12 A. Yes.

13 Q. 501 Now, in Mr. Deane's note at 12140, in the third line of this Mr. Deane  
14 records Noel Smyth stating that there was severe misrepresentation and  
12:45:38 15 duress by the bank, that is right?

16 A. Yes.

17 Q. 502 On the following page headed "other comments on Noel Smyth's allegations",  
18 under the heading "OOC" it goes: "Nature of allegations, how it is  
19 alleged he acted in anyway other than in the best interests of the  
12:45:55 20 company. OOC considerable work, shadow of general allegations made,  
21 please detail specific allegations. All work done was in the best  
22 interests of the company."  
23

24 And then beneath that "criminal actions nothing short of, withdrawn word  
12:46:12 25 criminal but implied nonetheless, actions bordering on criminal".  
26

27 Do you see that note by Mr. Deane?

28 A. Yes.

29 Q. 503 Where Mr. Deane records that while Mr. Smyth withdrew the word "criminal"  
12:46:25 30 in relation to the conduct that had happened it was Mr. Deane's impression

12:46:29 1 that even though had word had been withdrawn, nevertheless the actions  
2 complained of were bordering on the criminal, do you see that?

3 A. Yes.

4 Q. 504 Is that your recollection also, Mr. O'Callaghan?

12:46:40 5 A. I think he said that actually.

6 Q. 505 What Mr. Deane appears to be recording there is while it was withdrawn by  
7 Mr. Smyth, the tenor of what Mr. Smyth was saying was that the conduct  
8 bordered on the criminal, isn't that right?

9 A. That's what he said.

12:46:53 10 Q. 506 Beneath that "state the nature of the allegations against OOC -- that's  
11 yourself -- of which it is alleged, justify this description", isn't that  
12 right?

13 A. Sorry am I reading that, I have it sorry, yes, okay. Okay.

14 Q. 507 Would you agree with me, that at that board meeting Mr. Smyth made strong  
15 allegations against the bank in the first instance?

16 A. Yes, he was disgraceful actually.

17 Q. 508 And do you regard those allegations that were made by Mr. Smyth as being  
18 outrageous?

19 A. Absolutely.

12:47:28 20 Q. 509 And without foundation?

21 A. Absolutely.

22 Q. 510 Nonetheless they were allegations of oppression, isn't that right, by  
23 yourself and Mr. Deane and the bank of Mr. Gilmartin, isn't that right?

24 A. That's correct, that's what he was saying, yes.

12:47:41 25 Q. 511 You rejected those allegations?

26 A. Completely, the man was notorious in what he said that day.

27 Q. 512 Mr. Smyth?

28 A. Yes.

29 Q. 513 Right. Would it be fair to say that you described, you would describe  
12:47:51 30 what Mr. Smyth said at that meeting as outrageous and being without

12:47:54 1 foundation?

2 A. Absolutely.

3 Q. 514 Is that the position?

4 A. Yes.

12:47:58 5 Q. 515 Right. Now, Mr. Smyth wrote I think subsequently to Mr. Deane at 12147,  
6 and in the last paragraph he set out that "Riga and yourself,  
7 Mr. O'Callaghan, prevailed upon Mr. Gilmartin to employ duress and undue  
8 influence to increase your proposed shareholding in the company from 25 to  
9 40 per cent and to provide the bank with those shareholdings", isn't that  
12:48:32 10 right?

11 A. Yes.

12 Q. 516 And in particular at 12148 in the third last paragraph or last paragraph.

13 A. Sorry the last paragraph?

14 Q. 517 Third last "Our client is furthermore concerned regarding a number of  
12:48:42 15 particular aspects of the company's affairs. In particular, regarding the  
16 use of company funds."

17 A. Yes.

18 Q. 518 "We accordingly call upon you to furnish us with all information in your  
19 possession regarding the payment of all and any monies on behalf of the  
12:48:53 20 company to any third parties and unconnected with the development or  
21 acquisition of the property in question".

22 A. Yes.

23 Q. 519 Now, what did you understand by that complaint?

24 A. I don't know, I didn't read it before I suppose this was because Tom  
12:49:12 25 Gilmartin was making the allegation that we were spending money without  
26 his permission and authority etcetera and they were looking for details of  
27 all of the accounts.

28 Q. 520 Well, just dealing with that allegation by Mr. Gilmartin, is it your  
29 position that Mr. Gilmartin had complained that monies were being spent  
12:49:30 30 without his knowledge?



- 12:49:32 1 A. I am sure he said that at one stage, yeah.
- 2 Q. 521 Is that what this relates to?
- 3 A. I think so.
- 4 Q. 522 Yes. Does it follow from that that that was a complaints that
- 12:49:39 5 Mr. Gilmartin had made?
- 6 A. To Noel Smyth, yes.
- 7 Q. 523 To Noel Smyth and one of the matters of which Mr. Gilmartin complained and
- 8 about which Mr. Smyth wrote, was that money had been taken out of the
- 9 company without his knowledge or consent, isn't that right?
- 12:49:54 10 A. Yeah, I am sure he said that, yes.
- 11 Q. 524 Was that a complaint that Mr. Gilmartin had made previously?
- 12 A. I think he had been making that from the very, very beginning as far as I
- 13 know.
- 14 Q. 525 And one of Mr. Gilmartin's continuous threads had been that there wasn't a
- 12:50:07 15 proper accounting to him in relation to the funds of Barkhill, isn't that
- 16 right?
- 17 A. Yes, I think he was on, quite extensively about that.
- 18 Q. 526 Yes. Now, insofar as this step is, so far as this matter is complained of
- 19 by Mr. Smyth, what step was taken to deal with that allegation?
- 12:50:25 20 A. At this particular stage.
- 21 Q. 527 Yes.
- 22 A. Nothing actually. We had on numerous occasions explained all of this
- 23 before to Tom Gilmartin, he had been invited to numerous board meetings
- 24 where the whole thing would have been outlined to him if he turned up, the
- 12:50:40 25 banks went to fears pains, particularly Mary Basquille, to explain what
- 26 happened, that's just a throw away statement.
- 27 Q. 528 Yes but is there any board meeting that records an explanation given to
- 28 Mr. Gilmartin for the payments to Shefran?
- 29 A. To Shefran.
- 12:50:54 30 Q. 529 Yes.

- 12:50:55 1 A. I can't recall but I am sure the banks have outlined to him, I am sure  
2 Mary Basquille explained all about him, explained the Shefran payments to  
3 him.
- 4 Q. 530 Is there any board meeting at which Mr. Gilmartin's complaints in relation  
12:51:09 5 to not getting information in relation to Shefran are recorded?
- 6 A. I can't recall that.
- 7 Q. 531 Can you recall any document, Mr. O'Callaghan, in the documentation we have  
8 gone through while you have been in the witness box, which records  
9 Mr. Gilmartin's complaints about not being kept fully informed or given  
12:51:27 10 information in relation to the payments that were made?
- 11 A. I don't fully understand that question.
- 12 Q. 532 In other words, if you accept that this is a continuous complaint of  
13 Mr. Gilmartin?
- 14 A. Yes.
- 12:51:40 15 Q. 533 That Mr. Smyth is making?
- 16 A. Yes.
- 17 Q. 534 And this is not something you are hearing for the first time?
- 18 A. Oh, yes.
- 19 Q. 535 I would suggest to you that it's likely that those complaints, if made by  
12:51:51 20 Mr. Gilmartin should be recorded in the board minutes, isn't that right?
- 21 A. Yes.
- 22 Q. 536 And one should see the information being provided by either Deloitte &  
23 Touche or Barber & Co. to Mr. Gilmartin?
- 24 A. But he wasn't at the board meetings to make the complaint.
- 12:52:05 25 Q. 537 But insofar as you have told the Tribunal this was a continuous complaint  
26 of Mr. Gilmartin?
- 27 A. Oh, yes.
- 28 Q. 538 Did you take any step to provide the information to Mr. Gilmartin which he  
29 was seeking?
- 12:52:16 30 A. Not myself, but this information, these complaints would have been made by

- 12:52:20 1 Tom Gilmartin as has been recorded on numerous occasions to Mary  
2 Basquille, in other words to the bank. She would have recorded this and  
3 mentioned to us at our meetings of course. And she undertook and always  
4 did to the best of my knowledge, give Tom Gilmartin all the information  
12:52:36 5 she had.
- 6 Q. 539 But you see, Mr. O'Callaghan, we know now, even if you didn't appreciate  
7 it at the time, that two of the payments that were attributed to  
8 Mr. Gilmartin's loan account were payments made to politicians by you,  
9 isn't that right?
- 12:52:49 10 A. We have admitted that was an error.
- 11 Q. 540 Yes. Accepting all of that.
- 12 A. And Mr. Gilmartin saw that in his accounts and he never said a word about  
13 it, in fact he didn't read the stuff, that's the problem.
- 14 Q. 541 Is it Mr. Gilmartin's fault, I just want to understand this now if I can,  
12:53:05 15 Mr. O'Callaghan, are you telling the Tribunal that it's your view that it  
16 is Mr. Gilmartin's fault that when payments were attributed to his  
17 director's loan that were two payments to two politicians of which he was  
18 unaware, that he didn't complain about that?
- 19 A. Partially his fault, yes.
- 12:53:24 20 Q. 542 Okay.
- 21 A. In other words, he didn't read the documents.
- 22 Q. 543 Do you think that you as the person who had made the payments should have  
23 taken the step of informing Mr. Gilmartin that they were two political  
24 payments before they were attributed to his loan account?
- 12:53:36 25 A. I didn't know they were attributed, I didn't know that until only  
26 recently.
- 27 Q. 544 All right. You in any event you knew they were payments being made for  
28 Barkhill, isn't that right?
- 29 A. Oh, yes.
- 12:53:45 30 Q. 545 And they weren't payment that is were ever disclosed, isn't that right?

12:53:48 1 A. Yes.

2 Q. 546 And when the Shefran payments came, sorry when the question arose about  
3 payments being made for which there was not proper or appropriate  
4 accounting, did you ever sit down with Mr. Gilmartin and discuss with him  
12:54:02 5 the payments?

6 A. But there was not proper -- there was always proper accounting.

7 Q. 547 Did you sit down with Mr. Gilmartin and explain to him what the Shefran  
8 payments were for?

9 A. No.

12:54:16 10 Q. 548 All right. Is it your view then that the allegations that were made by  
11 Mr. Smyth at this meeting which is followed up in correspondence, are  
12 without foundation and are in effect outrageous allegations?

13 A. Yes.

14 Q. 549 All right. And I think that subsequently the bank wrote, isn't that  
12:54:28 15 right, at 12171, rejecting the allegations and describing them as  
16 defamatory, isn't that right?

17 A. That's right. I haven't seen it but yes.

18 Q. 550 12171, if you look at the second last paragraph at 12172?

19 A. Yes.

12:54:45 20 Q. 551 Isn't that right? And in addition --

21 A. Yes.

22 Q. 552 -- the bank deny they were aware of any payments such as are alleged by  
23 Mr. Smyth, if you go further up that page please to the second paragraph,  
24 isn't that right, isn't that the position?

12:55:04 25 A. Yes.

26 Q. 553 Now, I think that around this time that Mr. Smyth prepared what's  
27 described as a brief for counsel at 12195, isn't that right?

28 A. Yes.

29 Q. 554 He sets out his understanding of the issues that arose or concerned  
12:55:24 30 Mr. Gilmartin in his dispute with you and with the bank, isn't that right?

- 12:55:28 1 A. Yes.
- 2 Q. 555 And if we look at paragraph, first of all 1.5, and paragraph 1.5 deals  
3 with the following "Due to an error by the Querist's solicitors" and the  
4 Querist is Mr. Gilmartin. "The condition relating to planning permission  
12:55:48 5 was not included in the option and when O'Callaghan subsequently demanded  
6 the payment of the 1.3 million the Querist was unable to discharge same  
7 and under threat of the company being put into receivership by the bank in  
8 December of 1990, was forced to transfer 25 per cent of his equity stake  
9 in Barkhill in lieu of the cash". Isn't that right?
- 12:56:07 10 A. If that's what's there, yes, that's what's there.
- 11 Q. 556 Now that is, that document is prepared presumably on foot of instructions  
12 from Mr. Gilmartin, isn't that right?
- 13 A. Same story, yes.
- 14 Q. 557 That document acknowledges that the mistake in the original agreement  
12:56:21 15 between yourself and Mr. Gilmartin related to Mr. Gilmartin's solicitor,  
16 isn't that right and not otherwise?
- 17 A. It wasn't a mistake.
- 18 Q. 558 No but do you understand the point I am making?
- 19 A. I do.
- 12:56:33 20 Q. 559 In ease of yourself, Mr. O'Callaghan, is that this document acknowledges  
21 if Mr. Gilmartin is the author of the information on foot of which Mr.  
22 Smyth prepared it, that the error that was made in relation to the  
23 condition was an error attributable to Mr. Gilmartin's solicitor, isn't  
24 that right?
- 12:56:49 25 A. That is true, that's a terrible lie, it was not Mr. Gilmartin's  
26 solicitors, did he not make that mistake. He tried to avoid that mistake  
27 being made, it was Gilmartin made that mistake.
- 28 Q. 560 In any event, there is no suggestion in in document that the original  
29 agreement was, the option agreement was in any way altered by Mr. Deane,  
12:57:08 30 isn't that right?

- 12:57:09 1 A. Yes.
- 2 Q. 561 And there is no suggestion of that here, isn't that the position?
- 3 A. That's correct.
- 4 Q. 562 And the finger in this instance is pointed at Mr. Maguire, isn't that
- 12:57:17 5 right?
- 6 A. Which is totally wrong.
- 7 Q. 563 And you disagree with that?
- 8 A. One hundred per cent and so does everybody else I'm afraid involved,
- 9 except Gilmartin.
- 12:57:24 10 Q. 564 Now at 1.8 at 12197, the document records that "The Querist" Mr. Gilmartin
- 11 "Will state that in the intervening period immense pressure was brought
- 12 upon him to take on O'Callaghan as his partner as he was the bank's
- 13 preferred option for the development of the property in question".
- 14 A. Yes.
- 12:57:44 15 Q. 565 Now, do you agree in the first instance that you were brought in as a
- 16 result of the bank?
- 17 A. Oh I do, yes.
- 18 Q. 566 Right. "During this time the Querist will also say that whilst the
- 19 rezoning was postponed on several occasions he was under duress to pay
- 12:57:59 20 contributions to TDs, councillors and members of the then Fianna Fail
- 21 government and was openly threatened that in the event of his filing to do
- 22 so, his rezoning would not take place. In most instances he resisted
- 23 these claims but on a number occasions believing that it would
- 24 significantly help the process, agreed make financial contributions to the
- 12:58:17 25 party which in one case a sum of 50,000 pounds it was retained by the
- 26 individual minister himself". Isn't that what the document says?
- 27 A. Yes.
- 28 Q. 567 Now, at that time were you ever made aware of fact that Mr. Gilmartin was
- 29 put under pressure to make contributions to councillors or Fianna Fail or
- 12:58:35 30 to TDs?

12:58:40 1 A. What time is this are we talking about?

2 Q. 568 The intervening period if one looks at the earlier document would be

3 December, after the original agreement was, the agreement was signed I

4 think late 1990?

12:59:04 5 A. 1990, at that stage, no not at all.

6 Q. 569 You would of course have been aware from 1989 of Mr. Gilmartin's

7 allegations that he had been requested to make payments to councillors,

8 isn't that right?

9 A. This is Hanrahan.

12:59:11 10 Q. 570 You knew about that, isn't that right?

11 A. Yes.

12 Q. 571 But you also knew, according to the statement I showed you earlier, that

13 of Mr. Gilmartin's allegations that unless you paid councillors you could

14 get nothing done in Dublin?

12:59:21 15 A. Oh, yes, he said that, yes.

16 Q. 572 Which was a generalised --

17 A. Totally.

18 Q. 573 And in addition to that you had the more specific allegation made by

19 Mr. Gilmartin in relation to Councillor Hanrahan, isn't that right?

12:59:32 20 A. Yes.

21 Q. 574 Yes. And in addition to that, you yourself had made a number of payments

22 to councillors, isn't that right?

23 A. Political contributions in fairness.

24 Q. 575 Political contributions or in the case of Mr. Lawlor not a political

12:59:45 25 contribution?

26 A. For work done.

27 Q. 576 For work done. Isn't that right? And in so far as this is concerned do

28 you agree that Mr. Gilmartin would have been complaining to you over the

29 period of your relationship with him of the fact that he was being

12:59:56 30 requested for money or that nothing could happen unless people were paid?

13:00:00 1 A. No not to me, with the exception of the two people again.  
2 Q. 577 I beg your pardon?  
3 A. Tom Gilmartin would -- he only mentioned to me the two particular people,  
4 the late Liam Lawlor and Redmond.  
13:00:15 5 Q. 578 You don't agree that Mr. Gilmartin made complaints to you about the  
6 conduct of councillors in general?  
7 A. He would have said in general yes, sorry, yes.  
8 Q. 579 And do you agree that Mr. Gilmartin complained or did he ever complain to  
9 you about the fact that the rezoning of Quarryvale was being delayed?  
13:00:32 10 A. No, I have read that many times, he never said at that to me once, that  
11 was physically impossible of course, but he never made that complaint to  
12 me, but I did hear he made it to other people, I think he made it to the  
13 bank.  
14  
13:00:45 15 CHAIRMAN: All right Ms. Dillon it's just one o'clock.  
16  
17 MS. DILLON: Sorry, Sir, yes.  
18  
19 CHAIRMAN: So we'll sit at 2 o'clock.  
13:00:52 20  
21 MS. DILLON: Yes, sir, it depends on Mr. O'Callaghan  
22  
23 CHAIRMAN: Yes, if it suits Mr. O'Callaghan.  
24 A. Yes.  
13:01:04 25  
26 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**  
27  
28  
29  
30



**THE TRIBUNAL RESUMED AS FOLLOWS AT 2 PM:**

- 13:01:09 1
- 2
- 3 MS. DILLON: Mr. O'Callaghan.
- 4
- 14:06:33 5 CHAIRMAN: Good afternoon.
- 6 A. Afternoon, Sir.
- 7 Q. 580 MS. DILLON: I think, jumping forward slightly, Mr. O'Callaghan, that in
- 8 March of 1996, an agreement was made between yourself and Mr. and Mrs.
- 9 Gilmartin, both of you represented, isn't that right?
- 14:06:50 10 A. Yes.
- 11 Q. 581 And at 12267, I think, subject to correction, that the agreement provided
- 12 for the payment of 8.7 million by way of staged payments?
- 13 A. Yes.
- 14 Q. 582 Yes. But I think ultimately, while a sum of 200,000 pounds was paid on
- 14:07:13 15 the signing of that agreement, as can be seen from 12277, which directed
- 16 the confirmation of the 200,000 pounds being transferred, isn't that
- 17 right?
- 18 A. Yes.
- 19 Q. 583 That ultimately, it was agreed between the parties that there would be a
- 14:07:31 20 single payment and no staged payments, isn't that right?
- 21 A. Ultimately, yes.
- 22 Q. 584 And on the 30th May 1996, at 12495, a cheque in the sum of 7,475,000
- 23 pounds was made payable to Thomas and Vera Gilmartin and in the second
- 24 instance to Noel Smyth & Partners, isn't that right?
- 14:07:55 25 A. Yes.
- 26 Q. 585 That together with the sum of 200,000 pounds which had been paid in March,
- 27 provided for a total payment of 7,675,000 pounds to Mr. and Mrs. Gilmartin
- 28 which effectively and in reality, bought out their shareholding in
- 29 Barkhill, is that correct?
- 14:08:12 30 A. Well paid to Mr. Noel Smyth, yes.

- 14:08:15 1 Q. 586 But it was in completion of the agreement whereby Mr. and Mrs. Gilmartin's  
2 interest in Barkhill was bought out?  
3 A. Yes.
- 4 Q. 587 And I think that in order to accelerate that payment for Mr. and Mrs.  
14:08:27 5 Gilmartin, the bank advanced the money to enable that to happen, isn't  
6 that right?  
7 A. Yes.
- 8 Q. 588 Right. And ultimately I think you completed your deal with Grosvenor and  
9 entered into the joint development with Grosvenor in Barkhill, isn't that  
14:08:40 10 right?  
11 A. Yes.
- 12 Q. 589 Right. And at a later stage, I think in late 1996 and early 1997, there  
13 was a Barkhill bank account which had a cheque book, which proceeded to  
14 commence to make payments, isn't that right?  
14:08:55 15 A. Yes.
- 16 Q. 590 But in the intervening period payments were still funded by Riga, although  
17 attributed in the books of Riga to being a Barkhill payment, isn't that  
18 right?  
19 A. Yes.
- 14:09:05 20 Q. 591 Right. Isn't that the position?  
21 A. Yes, yes.
- 22 Q. 592 Now, that in effect completed Mr. Gilmartin's involvement in the Barkhill  
23 development, isn't that right?  
24 A. Yes.
- 14:09:15 25 Q. 593 Right. And from that point on, that is the end of May 1996, did you ever  
26 have any communication or correspondence with Mr. Gilmartin prior to this  
27 Tribunal being established?  
28 A. No.
- 29 Q. 594 Were you ever aware or made aware of the nature of the complaints that  
14:09:34 30 Mr. Gilmartin was making against Mr. Frank Dunlop for example?

- 14:09:39 1 A. No.
- 2 Q. 595 Or that Mr. Gilmartin was suggesting that Mr. Dunlop had been used by you
- 3 to route payments to senior politicians?
- 4 A. No, when was he making these suggestions can you tell me?
- 14:09:52 5 Q. 596 At any stage, were you made aware, prior to this Tribunal being
- 6 established that Mr. Gilmartin had complaints in relation to Mr. Dunlop?
- 7 A. No.
- 8 Q. 597 Right. Would it be fair to say then that you were aware of complaints
- 9 being made by Mr. Gilmartin which commenced in 1989 and on an -- on a
- 14:10:13 10 sporadic basis Mr. Gilmartin continued to make complaints of one sort or
- 11 another until the conclusion of your relationship with him in May of 1996?
- 12 A. Yes.
- 13 Q. 598 Within the level or the type of complaints that Mr. Gilmartin made, he
- 14 made complaints of political interference, isn't that right?
- 14:10:32 15 A. Yes.
- 16 Q. 599 Some of those complaints were of generalised political interference?
- 17 A. Yes.
- 18 Q. 600 He made complaints of specific political interference by Mr. Liam Lawlor.
- 19 A. Yes.
- 14:10:46 20 Q. 601 He made complaints against Mr. George Redmond.
- 21 A. Yes.
- 22 Q. 602 He made complaints about Councillor Finbar Hanrahan.
- 23 A. Yes.
- 24 Q. 603 Right. He, in addition to that made complaints about how money that he
- 14:11:00 25 said belonged in Barkhill had been used, isn't that right?
- 26 A. Yes.
- 27 Q. 604 Yes. And he made complaints about not being able to get answers to the
- 28 questions that he was putting in relation to how the money was being
- 29 treated or dealt with, within Barkhill?
- 14:11:17 30 A. Yes.

- 14:11:18 1 Q. 605 Right. He made complaints to Allied Irish Bank normally through Ms. Mary  
2 Basquille, isn't that right?
- 3 A. Yes.
- 4 Q. 606 Who in turn would have brought forward those complaints to you or  
14:11:31 5 Mr. Deane, is that fair?
- 6 A. Well, not always, but to her colleagues in the bank.
- 7 Q. 607 Yes, would it be fair to say that insofar as those complaints are  
8 documented within the bank as documentation, they are somewhat light on  
9 detail and that some of those briefings between the bank and yourself and  
14:11:46 10 Mr. Deane were probably verbal briefings?
- 11 A. Yes.
- 12 Q. 608 Would you describe it as a hallmark of the relationship between  
13 Mr. Gilmartin that he was inclined to make complaints on an ongoing basis  
14 and to blame everybody other than himself for the difficulties in which he  
14:12:03 15 found himself?
- 16 A. That would be very accurate, yes.
- 17 Q. 609 Was it also your view of Mr. Gilmartin that his main motivation was a  
18 difficulty he had himself in coming to terms with the fact that he was  
19 unable to bring the entire of the Quarryvale deal to fruition?
- 14:12:20 20 A. Yes.
- 21 Q. 610 Right. And that part and parcel of that was the circumstances under which  
22 Mr. Gilmartin found himself compelled to deal with you because you had the  
23 Neilstown site?
- 24 A. Yes, would be part of it, yes. But part of it only.
- 14:12:33 25 Q. 611 And part also of Mr. Gilmartin's complaints related to the fact that  
26 Mr. Gilmartin saw Allied Irish Bank as having been instrumental in  
27 bringing you into the Quarryvale deal, isn't that right?
- 28 A. Yes.
- 29 Q. 612 And it would be fair to say I think and you don't disagree,  
14:12:48 30 Mr. O'Callaghan, that the bank certainly encouraged you and Mr. Deane to

- 14:12:53 1 get involved and the records so show, isn't that right?
- 2 A. I wouldn't be involved otherwise.
- 3 Q. 613 Yes. The bank indeed I think subsequent to doing this deal there was a
- 4 dinner, isn't that right, after you did the deal with Mr. Gilmartin?
- 14:13:05 5 A. Oh, yes.
- 6 Q. 614 There was a celebratory dinner.
- 7 A. Yes, there was indeed.
- 8 Q. 615 I think hosted in the bank at 12598, isn't that right, on the 25th June
- 9 '96?
- 14:13:21 10 A. Yes.
- 11 Q. 616 And I think the bank hosted that event, isn't that right?
- 12 A. Yes.
- 13 Q. 617 I think following that Mr. Deane wrote at 12608 in which he thanked the
- 14 bank?
- 14:13:36 15 A. Yes.
- 16 Q. 618 Right. And complimented the bank on it's willingness to stay with the
- 17 project throughout the difficult times and thank them for the
- 18 professionalism, encouragement and support they received from the bank,
- 19 isn't that right?
- 14:13:51 20 A. That's right.
- 21 Q. 619 I think would be fair to say and I don't think you disagree,
- 22 Mr. O'Callaghan, that your view of the bank throughout '93, '94 and '95
- 23 was that they could have extended greater support and funded more of the
- 24 costs that Riga was require to fund, isn't that right?
- 14:14:05 25 A. Absolutely.
- 26 Q. 620 And it was a matter of contention between yourself and the bank, the
- 27 funding of the expenses that required to be funded for Barkhill, isn't
- 28 that right?
- 29 A. Yes.
- 14:14:13 30 Q. 621 And I think at 12609, Mr. O'Farrell wrote to Mr. Barry Pitcher, who was

14:14:25 1 also involved on behalf of AIB Capital Markets and described it as "a long  
2 haul and not always straightforward, given some of the personalities  
3 involved and thanking him for his calm, helpful and supportive approach",  
4 isn't that right?

14:14:33 5 A. Yes.

6 Q. 622 Would it be fair to say that Mr. Gilmartin, in his dealings with the bank  
7 and in his dealings with you, throughout the period that you were the  
8 project manager for Quarryvale, that Mr. Gilmartin resented you being the  
9 project manager of what he saw as his project?

14:14:53 10 A. Oh, yes.

11 Q. 623 Right. But leaving aside then the question of that concern in  
12 Mr. Gilmartin's mind, and his distaste for the fact that Riga was the  
13 project manager instead of himself, it is the case that prior to you ever  
14 becoming the project manager in Quarryvale, Mr. Gilmartin made allegations

14:15:14 15 that councillors in Dublin had to be paid before anything could be done,  
16 and you recorded that, isn't that right?

17 A. Yes.

18 Q. 624 And Mr. Gilmartin said that to you in 1989?

19 A. Yes.

14:15:24 20 Q. 625 And did Mr. Gilmartin ever resile from that position, Mr. O'Callaghan, in,  
21 for the length that you knew him, for the duration of your relationship?

22 A. Well, he dropped those allegations I'd say in '94/'95, I didn't hear him  
23 repeat them very often then actually, it was more financial matters we  
24 were discussing at that stage.

14:15:54 25 Q. 626 When you say he didn't repeat them very much, is the Tribunal to  
26 understand from that, that on, not as regular a basis but occasionally,  
27 Mr. Gilmartin continued to make complaints about political interference?

28 A. He mightn't have mentioned it from '94 on at all actually, now that I can  
29 recollect.

14:16:12 30 Q. 627 Insofar as the stadium was concerned, in the negotiations that took place

- 14:16:17 1 that led to the final agreement with Mr. Gilmartin, was any consideration  
2 given to what would happen to Merrygrove and the stadium site that you can  
3 recollect?
- 4 A. With Mr. Gilmartin?
- 14:16:28 5 Q. 628 Yes, in the negotiations.
- 6 A. Well, no not in the negotiations, but if we had managed to succeed with  
7 the stadium proposal I would have then at that stage gone back to the bank  
8 and to Tom Gilmartin to explain the situation in detail to them.
- 9 Q. 629 Yes of course, but that would pre suppose that Mr. Gilmartin was still on  
14:16:45 10 board as it were, isn't that right?
- 11 A. Yes.
- 12 Q. 630 When you did your final deal with Mr. Gilmartin and the cheque for 7.7  
13 million was paid, Mr. Gilmartin was out of the picture, isn't that right?
- 14 A. Yes.
- 14:16:57 15 Q. 631 In the negotiations that led to that final deal being made on the 31st May  
16 1996, was any consideration given by the negotiating parties to the  
17 Merrygrove position, and the lands that were owned at Neilstown?
- 18 A. No.
- 19 Q. 632 Is it that it wasn't raised by anybody on behalf of Mr. Gilmartin or was  
14:17:18 20 it simply not a matter that was addressed at all?
- 21 A. Well, both actually, now that you mention it, it wasn't raised and it was  
22 a matter that wasn't addressed, absolutely. Possibly because  
23 Mr. Gilmartin had no interest in that particular site, he never rated that  
24 site. It wasn't raised is the answer to your question.
- 14:17:35 25 Q. 633 Yes. If it had been raised it's something that would have been dealt  
26 with, is that the position?
- 27 A. I am sure it would, by Mr. Smyth in particular, I'm surprised -- yes, you  
28 are right.
- 29 Q. 634 Was the Neilstown site and the development of the Neilstown site as a  
14:17:50 30 potential stadium, was that something that was while it might have started

- 14:17:54 1 out in effect as a stalking horse for Quarryvale, was that something that  
2 became a real and genuine project at least for a period of time?
- 3 A. Absolutely, yes.
- 4 Q. 635 Was that a project in which you had a genuine belief that if you were able  
14:18:06 5 to obtain government support it would be possible to develop the stadium?  
6 A. If we had obtained government guarantee, yes, it would.
- 7 Q. 636 Mr. Gilmartin has told the Tribunal of his belief that the stadium was  
8 never a real project and there was never an intention to build the  
9 stadium, and would you agree that insofar as that might have been the  
14:18:28 10 initial position, ultimately it came your view that with proper government  
11 support it could be achieved?  
12 A. Yes.
- 13 Q. 637 Yes. And that the original genesis of the stadium proposal was that  
14 offered by Mr. Liam Lawlor as an alternative use for Clondalkin in order  
14:18:44 15 to secure the support of the councillors for Quarryvale?  
16 A. Yes.
- 17 Q. 638 Right. I think it would be fair to say that you yourself in your  
18 subsequent dealings with the officials of South Dublin County Council  
19 wanted to find an alternative use for the stadium site, the Neilstown  
14:19:00 20 site, isn't that right?  
21 A. That's correct.
- 22 Q. 639 In '96/'97 as we have seen you were involved again in an effort with the  
23 Hamman brothers I think, to bring Wimbledon Football Club to Dublin?  
24 A. '97/'98.
- 14:19:15 25 Q. 640 '97 and '98. And that necessitated a visit to Mr. Flynn organised for you  
26 by Mr. Crowley, isn't that the position?  
27 A. Correct.
- 28 Q. 641 And that would have, the position would have seemed that point that there  
29 was a real prospect of that becoming a reality, isn't that right?  
14:19:31 30 A. Well if the, if we had got permission from the FAI and at that particular



- 14:19:40 1 time we did not need any government support, yes it would have then become  
2 a reality.
- 3 Q. 642 But I have understood your evidence correctly to the Tribunal, in relation  
4 to your first endeavour, the death Nell for the stadium project was  
14:19:56 5 sounded by Mr. Ahern when he indicated in November '94, that there was  
6 going to be no government support and he wasn't going to support the  
7 stadium, isn't that right?
- 8 A. That was the second stadium, the all purpose stadium that the then  
9 Taoiseach refused to support.
- 14:20:11 10 Q. 643 And the project came alive again when the proposal was mooted to transfer  
11 Wimbledon Football Club to Dublin, isn't that right?
- 12 A. That's correct, that did not need any government support or assistance.
- 13 Q. 644 It however needed the support of the Commissioner at European level  
14 because there were European law implications, isn't that right?
- 14:20:27 15 A. It would have needed him, only if the FAI here in Ireland objected to it,  
16 which they did.
- 17 Q. 645 Insofar as the stadium was concerned, is it the case, Mr. O'Callaghan,  
18 that from the time that the Quarryvale lands were rezoned up to the time  
19 you completed your deal with Mr. Gilmartin, nothing in fact happened on  
14:20:47 20 those lands?
- 21 A. Nothing happened, yes.
- 22 Q. 646 Part of the problem being the infrastructural problem and the lack of  
23 access, isn't that right?
- 24 A. Not really.
- 14:20:57 25 Q. 647 All right?
- 26 A. Infrastructure, as I have heard it mentioned many times, was not a  
27 problem, with regard to the Neilstown land, it's been said by a lot of  
28 people here, that is not correct, it was not a problem. The  
29 infrastructural problem was the entrance to Quarryvale, that was the  
14:21:15 30 difficult problem, cost a lot of money to get into the Quarryvale site of

14:21:18 1 the N4 bypass road. It would have cost much, much less to sort out the  
2 Neilstown road problem.

3 Q. 648 But insofar as the Neilstown site was concerned, Mr. O'Callaghan, is it  
4 the position that apart from the stadium proposal, nothing was suggested  
14:21:38 5 for the Neilstown site throughout the time that Mr. Gilmartin was  
6 involved?

7 A. Yes.

8 Q. 649 Right. And that when Mr. Gilmartin tells the Tribunal of his belief that  
9 there was never any genuine intent to develop a stadium and that it was  
14:21:54 10 simply something that was proposed in order to assist or develop  
11 Quarryvale, in fact he could very well have been right in that, at certain  
12 points in time, isn't that right?

13 A. He would have been right for about six months and that's about all.

14 Q. 650 If I understood your evidence in relation to the stadium correctly, again  
14:22:10 15 correct me if I am wrong, it was not a development with which  
16 Mr. Gilmartin was kept up to date in any meaningful way?

17 A. Not in a meaningful way.

18 Q. 651 That it might have been referred to in conversation by you?

19 A. Well, it was.

14:22:23 20 Q. 652 Yes. But as to the detail of it, he wasn't provided with the information,  
21 he certainly didn't attend any of the Chilton & O'Connor meetings, isn't  
22 that right?

23 A. No, no.

24 Q. 653 Is it possible, Mr. O'Callaghan, that the lack of information that was  
14:22:35 25 provided in a documentary form might have harboured within Mr. Gilmartin a  
26 feeling that he was being deliberately excluded from the projects, that is  
27 both Quarryvale and the stadium?

28 A. Oh, yes.

29 Q. 654 And that looking back on it now, that it may very well have been the  
14:22:57 30 position that the failure to provide documented information to

- 14:23:00 1 Mr. Gilmartin in relation to the matters about which he had questions, led  
2 to a concern within Mr. Gilmartin that material or matters were being kept  
3 from him?
- 4 A. Well, yes, he could have been concerned about that yes, let's face it,  
14:23:15 5 when all these matters were to be put on the table he wasn't present, we  
6 couldn't get him to meet with us.
- 7 Q. 655 Certainly there doesn't appear to be any documented flow of information  
8 that detail or answer in a document fashion the queries and concerns that  
9 Mr. Gilmartin is recorded as having expressed at some of the meetings,  
14:23:36 10 isn't that right?
- 11 A. I think they have been answered, they were recorded at the meetings the  
12 board meetings.
- 13 Q. 656 Yes but insofar as they required responses, there doesn't appear to be any  
14 documented responses, although if I understand you correctly, you say  
14:23:49 15 everything was explained to Mr. Gilmartin?
- 16 A. Afterwards yeah, but in a limited way by me, but in a detailed way by the  
17 bank.
- 18 Q. 657 Right. Now, I think that in 1996, Mr. O'Callaghan, after you had  
19 completed your deal with Mr. Gilmartin, that effectively was the end of  
14:24:06 20 Mr. Gilmartin's involvement with you until this Tribunal was established,  
21 isn't that right?
- 22 A. Yes.
- 23 Q. 658 Now but in 1996, I think there were a number, a few other matters to I  
24 should bring to your attention, I think one of which is on the 20th March  
14:24:24 25 1996, Mr. Dunlop made a payment of two and a half thousand pounds to  
26 Mr. O'Halloran, 12282. And he made a donation or payment of 250 pounds to  
27 the St. Patrick's Day Parade for Mr. Brady, isn't that right?
- 28 A. Yes.
- 29 Q. 659 Is that a payment that Mr. Dunlop made to Mr. O'Halloran following a  
14:24:49 30 request from Mr. O'Halloran to him?

- 14:24:52 1 A. Yes.
- 2 Q. 660 And did Mr. Dunlop approach you?
- 3 A. Oh, yes.
- 4 Q. 661 What did he ask you?
- 14:24:59 5 A. Well, that was the by-election in '96 and the Councillor John O'Halloran  
6 at the time intended to stand for the by-election in west County Dublin  
7 and he asked for support and he asked Frank Dunlop for support. Well, he  
8 asked it from me actually through Frank Dunlop and I agreed to give it to  
9 him.
- 14:25:23 10 Q. 662 Was this the first occasion on which Mr. Dunlop had approached you for a  
11 political donation for any politician?
- 12 A. I think so, yes.
- 13 Q. 663 You have told the Tribunal of your belief that in 1991 when the local  
14 elections were happening that Mr. Dunlop would have to make donations  
15 around that time and that you had a similar belief I think in November  
16 1992 when the 70,000 pound was paid, and there was a national election,  
17 isn't that right?
- 18 A. Yes, yes.
- 19 Q. 664 I think it's been your evidence to the Tribunal that with the exception of  
14:25:55 20 the payment of 5,000 pounds to Mr. GV Wright and the Sean Gilbride  
21 payments, that you didn't discuss political payments with Mr. Dunlop,  
22 isn't that right?
- 23 A. That's right, yes.
- 24 Q. 665 And that your position is that while yourself and Mr. Dunlop went out to  
14:26:12 25 see Mr. GV Wright, there was no discussion about the payment, isn't that  
26 right?
- 27 A. That's correct.
- 28 Q. 666 So is this then, in March of 1996, the first occasion on which Mr. Dunlop  
29 approached you asking for your support for a political donation to a  
14:26:26 30 politician?

- 14:26:27 1 A. I think so, but this is in a slightly different context, as far as I know  
2 John O'Halloran was trying to contact me, wasn't able to do it, contacted  
3 me through Frank Dunlop. I think that's where that one came about  
4 actually. John O'Halloran spoke to Frank Dunlop and he in turn contacted  
14:26:46 5 me, but it was at John O'Halloran's request that he spoke to me.
- 6 Q. 667 Mr. Dunlop I think agreed this was the first time that there was a  
7 reference to a political contribution and that he approached you after  
8 having been approached by Mr. O'Halloran and that you agreed to, or  
9 approved the payment, he made the payment and was subsequently reimbursed,  
14:27:06 10 isn't that right?
- 11 A. Yes but the request was from John O'Halloran to me indirectly.
- 12 Q. 668 Yes, so Mr. O'Halloran knew to approach Mr. Dunlop to request you to make  
13 a political payment?
- 14 A. Yes, he wasn't able to contact me. John O'Halloran was in the habit of,  
14:27:21 15 you will see it there, in the habit of doing a lot of charitable work,  
16 charitable walks and that and he was always looking for small  
17 contributions towards it and he used contact Frank Dunlop for them knowing  
18 they would come from me. He wasn't for some reason couldn't contact me,  
19 I'm not too sure why.
- 14:27:38 20 Q. 669 I think this payment was made, the reimbursement of Mr. Dunlop was made by  
21 Riga, isn't that right?
- 22 A. Yes.
- 23 Q. 670 I think that that was attributed to being a Barkhill payment, isn't that  
24 the position?
- 14:27:51 25 A. I think so, yes.
- 26 Q. 671 In effect this payment is a payment for the benefit of Barkhill?
- 27 A. Yes, John O'Halloran would be Barkhill.
- 28 Q. 672 Yes, it's not a Riga only payment, isn't that right?
- 29 A. No, no.
- 14:28:01 30 Q. 673 Even though Riga makes the payment it's a payment made for the benefit of

14:28:06 1 Barkhill, isn't that right?

2 A. Yes, yes.

3 Q. 674 How did Mr. O'Halloran know to approach Mr. Dunlop for a political

4 donation that was to be sourced to you?

14:28:15 5 A. Well he rang him, in fact what he probably did was rang looking for the

6 phone number possibly, not sure of that, but he wasn't able to contact me

7 that was the reason he contacted Frank Dunlop.

8 Q. 675 But the reason he contacts Mr. Dunlop is to secure a political donation

9 from you?

14:28:30 10 A. From me, yes, to ask me actually for it.

11 Q. 676 That's what I am asking you, in the light of the fact that there had been

12 no discussion between yourself and Mr. Dunlop ever in relation to the

13 payments apart from the trip to Mr. GV Wright in November 1992, was it

14 known that if one wanted a political donation from Owen O'Callaghan that

14:28:55 15 one went to Mr. Dunlop?

16 A. No.

17 Q. 677 Why then did Mr. O'Halloran go to Mr. Dunlop when he wanted a political

18 donation from you?

19 A. Because I don't think he was able to contact me.

14:29:01 20 Q. 678 I see.

21 A. He knew that Frank Dunlop would have my known number, so typical John

22 O'Halloran, which is the way he operates, I know him pretty well, he

23 didn't contact me, he would ring Frank Dunlop and ask Frank Dunlop to ring

24 me for him.

14:29:15 25 Q. 679 Would it follow from that then that at least Mr. O'Halloran was aware of

26 the fact that he could approach Mr. Dunlop for a political contribution

27 from you?

28 A. Well no, I wouldn't put it that way. In fact I would say what John

29 O'Halloran was doing was looking for my telephone number or looking to

14:29:33 30 make contact with me, the means of doing that was through Frank Dunlop, he

- 14:29:37 1 would know that.
- 2 Q. 680 Right. At 3165 in your statement to the Tribunal on this regard at
- 3 paragraph 5 you say.
- 4
- 14:29:45 5 "In or about the month of March 1996, Frank Dunlop & Associates made a
- 6 contribution on my behalf to John O'Halloran in the sum of 2,500 pounds.
- 7 As far as I can recall John O'Halloran contacted Frank Dunlop seeking a
- 8 contribution from Frank Dunlop towards expenses in connection with the
- 9 by-election. Frank Dunlop rang me and asked me if I was prepared to
- 14:30:03 10 contribute as well. I agreed contribute 2,500 pounds."
- 11
- 12 That would suggest that the contact between Mr. O'Halloran and Mr. Dunlop
- 13 was for a donation from Mr. Dunlop but your evidence is when
- 14 Mr. O'Halloran contacted Mr. Dunlop he was seeking a contribution from
- 14:30:20 15 you, isn't that right?
- 16 A. That's correct, at the time I thought, when I wrote that statement I
- 17 thought and I am still not 100 per cent clear on this one, that John
- 18 O'Halloran rang Frank Dunlop for a contribution from Frank Dunlop towards
- 19 his '96 by-election and at the same time asked Frank Dunlop to ask me to,
- 14:30:36 20 would I give him a contribution. I still feel that will there might have
- 21 been two contributions made at the time, one of 2,500 me and the other
- 22 from Frank Dunlop to John O'Halloran I am not clear about that point.
- 23 Q. 681 I think Mr. O'Halloran confirms there was one payment of 2,500 pounds and
- 24 I think Mr. Dunlop's records do not show a separate payment of 2,500
- 14:30:58 25 pounds by cheque in any event, I think that's the position?
- 26 A. Well, at the particular time I thought Frank Dunlop was also going to help
- 27 John O'Halloran to elect himself as well.
- 28 Q. 682 I think in June of 1996 Riga made a payment at 12579 of 200 pounds to
- 29 Fianna Fail by way of a political donation, isn't that right, and
- 14:31:18 30 approximately halfway down this page you will see an entry Fianna Fail,

- 14:31:23 1 isn't that right?
- 2 A. Yes.
- 3 Q. 683 And if you go across you will see that that's analysed I think if that
- 4 could be increased, right it's analysed to Cork I think payments, isn't
- 14:31:35 5 that the case and then if one goes to 12582, you see that that payment to
- 6 Fianna Fail is analysed under "political donations", isn't that right?
- 7 A. I don't see it.
- 8 Q. 684 Do you see the second column up from the bottom which says "political", do
- 9 you see there is an entry "Fianna Fail 200"?
- 14:32:01 10 A. Oh, yes, okay.
- 11 Q. 685 Do you see that?
- 12 A. Yes.
- 13 Q. 686 Now, within that clearly in the accounting records of Riga there was a
- 14 mechanism for accounting for political donations, isn't that right? In
- 14:32:14 15 other words, if a political payment was made it's attributed to political
- 16 subscriptions, isn't that right?
- 17 A. Yes.
- 18 Q. 687 If however the payment is made for the benefit of Barkhill it's put into
- 19 the Barkhill loan, isn't that right?
- 14:32:26 20 A. Yes.
- 21 Q. 688 It's not necessarily identified in the Barkhill loan as a political
- 22 payment, isn't that right?
- 23 A. Yes.
- 24 Q. 689 Right. Now, I think in July of 1996, at 12401, Mr. Dunlop raised an
- 14:32:46 25 invoice for "public affairs activity re Therese Ridge", isn't that right?
- 26 A. Yes.
- 27 Q. 690 In the sum of a thousand pounds and then there is to other public affairs
- 28 activities Fianna Fail, Fine Gael, 750, isn't that right?
- 29 A. Yes.
- 14:33:00 30 Q. 691 Right. Now, insofar as that is concerned, in what circumstances was that



- 14:33:04 1 payment made?
- 2 A. Oh dear I can't remember that.
- 3 Q. 692 If I show you your statement, Mr. O'Callaghan, at 3165 and if you start at
- 4 paragraph six at the very bottom of the page.
- 14:33:17 5
- 6 "In or about the month of July '96, Frank Dunlop contacted me to say that
- 7 he was aware that Councillor Therese Ridge was organising a Fine Gael
- 8 fundraising dinner and he thought I should support it. I asked Frank
- 9 Dunlop to contribute on my behalf the sum of 1,000 pounds to this event on
- 14:33:32 10 the basis I would reimburse him. This amount was included in Frank
- 11 Dunlop's invoice of the 17th July 96". That's your statement on the
- 12 issue.
- 13 A. Yes.
- 14 Q. 693 If that is correct it follow that is Mr. Dunlop approached you again and
- 14:33:45 15 indicated or advised you that you should make political support available
- 16 to Ms. Ridge?
- 17 A. Yes.
- 18 Q. 694 Isn't that right?
- 19 A. Yes.
- 14:33:53 20 Q. 695 Insofar as the balance of that invoice at 12401 is concerned, it would
- 21 suggest that in addition to that he recommended that you make some
- 22 donations or other either to Fianna Fail or Fine Gael or both of them
- 23 amounting to 750 pound, isn't that right?
- 24 A. It looks like that, yes.
- 14:34:09 25 Q. 696 It would follow from the payment to Mr. O'Halloran then and the payment to
- 26 Ms. Ridge in 1996, that there had been some change in your relationship
- 27 with Mr. Dunlop, whereby Mr. Dunlop is now advising you to make certain
- 28 payments to councillors, isn't that right?
- 29 A. Yes.
- 14:34:24 30 Q. 697 Right. When did that happen, Mr. O'Callaghan?

- 14:34:27 1 A. I can't remember exactly when that happened, but that actually is a case  
2 of Frank Dunlop being contacted by certain councillors to contact me  
3 really, because they knew I was the, to contact me the way to do that was  
4 to contact Frank Dunlop. I wouldn't have been as active at the time as I  
14:34:46 5 was in '92/'93 in Dublin.
- 6 Q. 698 Would that suggest, Mr. O'Callaghan, to you that councillors who wanted  
7 political donations from you knew to approach Mr. Dunlop in the first  
8 instance?
- 9 A. Well, they knew that if they wanted to contact me that they could contact,  
14:35:03 10 the way to contact me if they couldn't get me themselves was to contact  
11 Frank Dunlop, they would know that.
- 12 Q. 699 Certainly you would know Councillor Ridge better than most of the  
13 councillors, isn't that right?
- 14 A. Yes, I would.
- 14:35:13 15 Q. 700 I think you had taken her around Cork at the time of the Seanad election,  
16 isn't that right?
- 17 A. And Limerick.
- 18 Q. 701 And I think she subsequently turned the sod on the Quarryvale site, isn't  
19 that right?
- 14:35:25 20 A. She did indeed, yes. Chairman of the County Council.
- 21 Q. 702 She was Chairman of South Dublin County Council at the time and therefore  
22 would have been somebody who would have been well known to you, isn't that  
23 right?
- 24 A. Absolutely.
- 14:35:33 25 Q. 703 Nonetheless it is the case that the approach to you for the political  
26 support appears to have been routed through Mr. Dunlop, isn't that right?
- 27 A. Yes.
- 28 Q. 704 So would it follow from that that by 1996, that the councillors would have  
29 been aware of the fact that in order to get political support from you  
14:35:50 30 they could approach Mr. Dunlop?

14:35:52 1 A. No I wouldn't say that, this is an isolated case, it's quite possible that  
2 Councillor Therese Ridge just met Frank Dunlop and mentioned this to him  
3 about this, whatever function this is and said by the way ask me as well  
4 to contribute, such a general thing really, there was no set pattern.

14:36:09 5 Q. 705 I think in September of 1996, at 12668, Riga made a donation of 1,000  
6 pounds to Fianna Fail, isn't that right?

7 A. Yes.

8 Q. 706 If we look at 12670, sorry I should say to you before we leave the issue  
9 in relation to Mr. Dunlop's invoice, at 12401 that was regarded as a  
14:36:40 10 Barkhill expense and the invoice is to Barkhill, isn't that right?

11 A. Yes, that would be Barkhill, yes.

12 Q. 707 That wasn't deemed to be a political expense, isn't that right?

13 A. It wasn't deemed?

14 Q. 708 Isn't that right?

14:36:51 15 A. Yes.

16 Q. 709 It was deemed to be part and parcel --

17 A. Yes, sorry yes.

18 Q. 710 -- of Mr. Dunlop's expenses as a creditor?

19 A. That's correct, yes.

14:36:58 20 Q. 711 And just to revert then to 12668, which is a cheque made payable to Fianna  
21 Fail, isn't that right?

22 A. Yes.

23 Q. 712 And that was analysed at 12670, approximately seven up from the bottom, as  
24 a payment to Fianna Fail, isn't that right, a golf classic?

14:37:24 25 A. Yeah.

26 Q. 713 And if you go across the line?

27 A. Yes.

28 Q. 714 And you increase that, I think you will see that that's analysed to  
29 "sponsorship", isn't that right?

14:37:34 30 A. Yeah.

- 14:37:35 1 Q. 715 And if we look at "sponsorship" at 12673 the third item down on the bottom  
2 column is the payment of 1,000 pounds for the golf classic, isn't that  
3 right?
- 4 A. Yes, correct.
- 14:37:55 5 Q. 716 It's identified at a Fianna Fail golf classic, is that the position?  
6 A. Yes.
- 7 Q. 717 Right. Now, I think in September '96 you also provided political support  
8 at 12687, to Councillor Peter Brady's race night sponsorship, isn't that  
9 right?
- 14:38:11 10 A. Yes.
- 11 Q. 718 And I think you did so through Riga and that was analysed to sponsorship  
12 also I believe, isn't that right?
- 13 A. I think so, yes.
- 14 Q. 719 Now, in October 1996 at 12713, Riga made a political donation to Mr. Liam  
15 Lawlor's golf classic, isn't that right?
- 14:38:34 16 A. Yes.
- 17 Q. 720 Right. And that cheque is signed by yourself and Mr. Lucey, isn't that  
18 the position?
- 19 A. Yes.
- 14:38:43 20 Q. 721 And on the reverse of it at 12722, it's signed by Mrs. Lawlor, isn't that  
21 right?
- 22 A. Yes.
- 23 Q. 722 Signed by Hazel Lawlor?
- 24 A. Yes.
- 14:38:56 25 Q. 723 What were the circumstances in which that donation came to be paid?  
26 A. Well, simply he asked me for the, to contribute towards the golf classic  
27 and provide a golf team, which we didn't do but we provided the 1,000 per  
28 team, which is what was the normal request, gave him the cheque and I  
29 don't know how his wife signed it, I don't know anything about that.
- 14:39:20 30 Q. 724 In any event it was an approach that was made to you directly,

14:39:23 1 Mr. O'Callaghan, is that correct?

2 A. Oh, yes from Liam Lawlor, yes.

3 Q. 725 I think at 12712, approximately a third of the way down, cheque payments

4 book, this is entered against Liam Lawlor golf classic, isn't that right?

14:39:39 5 A. Yes.

6 Q. 726 And if we move across the line and increase, it's analysed under sundries,

7 you see the word "sponsorship" beside it, isn't that right?

8 A. Yes.

9 Q. 727 That is a different analysis, Mr. O'Callaghan, to the cheque payments that

14:39:54 10 have been made to Mr. Lawlor of 10,000 and 20,000 pounds respectively,

11 isn't that right, which have been entered up as cash payments?

12 A. Yes.

13 Q. 728 Why was that?

14 A. Well that was for work done actually, those two payments were for work

14:40:08 15 done the 10 and the 20.

16 Q. 729 Mr. Lawlor isn't entered as you know in the cheque payments book as a

17 creditor, isn't that right?

18 A. Yes.

19 Q. 730 It was analysed under sundries, isn't that the position?

14:40:18 20 A. Yes.

21 Q. 731 They are described as "poll C", political contributions all it be I think

22 your evidence is that that is incorrect, isn't that right?

23 A. That is incorrect, yes.

24 Q. 732 However on this occasion the payment is made as identified with in the

14:40:31 25 cheque payments book as being a payment to Liam Lawlor, isn't that right?

26 A. Yes.

27 Q. 733 It says "L Lawlor golf classic", isn't that the position?

28 A. Yes.

29 Q. 734 Why is it, Mr. O'Callaghan, that in 1996 when this payment came to be made

14:40:46 30 to Mr. Lawlor, whether political or whatever it was, that it was dealt

- 14:40:50 1 with by identifying Mr. Lawlor as the recipient?
- 2 A. I don't know, it was just I presume at the time we were just more familiar
- 3 with it, I don't know exactly.
- 4 Q. 735 Now, I think that dealing with Mr. Dunlop for a moment, that in 1996 the
- 14:41:09 5 retainer up to April of 1996 as we have seen was a sum of 2,420 pounds,
- 6 isn't that right, being 2,000 pounds plus VAT?
- 7 A. Yes.
- 8 Q. 736 I think we had taken the invoice up as far as April of 1996, isn't that
- 9 right?
- 14:41:26 10 A. Yes.
- 11 Q. 737 If we look at the April invoice at 12398, you see it's an invoice to
- 12 Barkhill, isn't that right, in the sum of 2,420?
- 13 A. Yes.
- 14 Q. 738 At 12399 there is the May invoice, isn't that right?
- 14:41:43 15 A. Yes.
- 16 Q. 739 At 12400 there is the June invoice in the same amount?
- 17 A. Yes.
- 18 Q. 740 At 12402 there is the August invoice in the same amount, isn't that right?
- 19 A. Yes.
- 14:41:57 20 Q. 741 And also in addition at this time you paid the sum of 1,000 pounds to
- 21 Therese Ridge together with the 750 pounds, isn't that right?
- 22 A. Yes.
- 23 Q. 742 I think the total amount was 11,430 pounds, 12403 please and in the bottom
- 24 column I think the third entry down, you see a reference to Frank Dunlop
- 14:42:26 25 the amount is 11,430 pounds, isn't that right?
- 26 A. Yes.
- 27 Q. 743 That's referable to Mr. Dunlop's retainer from April through to August,
- 28 including the monies that were paid for the support for Ms. Ridge, isn't
- 29 that right?
- 14:42:38 30 A. Yes.

- 14:42:39 1 Q. 744 Right. Now, this I think is a payment directly by Barkhill, isn't that  
2 right?
- 3 A. Yes.
- 4 Q. 745 By this stage I think yourself and Mr. Lucey were the signatories on the  
14:42:47 5 Barkhill account, isn't that right?
- 6 A. Yes, I think so, yes.
- 7 Q. 746 Yes, I think this was a cheque book or a cheque account and a cheque  
8 payments book that was being operated I think, by Mr. Lucey and signed by  
9 yourself and Mr. Lucey or Mr. Deane, isn't that right?
- 14:43:04 10 A. Yes.
- 11 Q. 747 And these repayments were made directly by Barkhill itself, isn't that  
12 right?
- 13 A. Yes.
- 14 Q. 748 In respect of these outgoings. Now, at this time in June of 1996, at  
14:43:20 15 12568, this entry, you have looked at this entry before, Mr. O'Callaghan,  
16 which relates to Mr. Dunlop recording "A, arrange new retainer for Frank  
17 Dunlop & Associates, B, agree and pay success fee to Frank Dunlop" and  
18 then something is obliterated and all of that is to happen in 10 to 14  
19 days, isn't that right?
- 14:43:44 20 A. Yes.
- 21 Q. 749 Right. Now, up to this point in time Mr. Dunlop, which is the date of the  
22 last payment in August, the amount of the retainer was 2,000 pounds plus  
23 VAT, isn't that right?
- 24 A. Yes.
- 14:44:00 25 Q. 750 The next retainer which was September '96, 12698, was also 2,000 pounds  
26 plus VAT, isn't that right?
- 27 A. Yes.
- 28 Q. 751 And in October, 12699, there was an expense in relation to aerial  
29 photography, isn't that right?
- 14:44:24 30 A. Yes.

14:44:25 1 Q. 752 And then after that are there was an increase to 5,000 pounds?  
2 A. Yes.  
3 Q. 753 Isn't that right? It would mean then that at some stage between June 1996  
4 and the 31st October 1996, you had a discussion with Mr. Dunlop about an  
14:44:43 5 increase in relation to the retainer, isn't that right?  
6 A. Yes.  
7 Q. 754 Right. And looking at the recorded document at 12568 and if that could be  
8 increased please.  
9  
14:45:00 10 CHAIRMAN: That's not the document?  
11  
12 MS. DILLON: Yes, that is the document, I think, Sir.  
13  
14 CHAIRMAN: Oh sorry.  
14:45:05 15 Q. 755 MS. DILLON: Recording a discussion on the 13th June '96 between yourself  
16 and Mr. Dunlop, between 5.15 and 6.45 during the period of an hour and a  
17 half, you met with him at Frank Dunlop & Associates and you undertook to  
18 A, arrange a new retainer for Frank Dunlop & Associates, do you agree with  
19 that?  
14:45:25 20 A. Yes.  
21 Q. 756 B, to agree and pay a success fee to Frank Dunlop?  
22 A. Yes.  
23 Q. 757 And all of that was to happen in 10 to 14 days, isn't that right?  
24 A. Yes.  
14:45:34 25 Q. 758 In addition you agreed some other matter.  
26 A. Yes.  
27 Q. 759 Because that's recorded but obliterated.  
28 A. Yes.  
29 Q. 760 There is nothing in Mr. Dunlop's diary, Mr. O'Callaghan, you may take it  
14:45:44 30 from me, between this date, that is the 13th June '96 and the date of the



14:45:52 1 1 first increased retainer of the 31st October '96, that records any other  
2 agreement between you?  
3 A. Yes.  
4 Q. 761 However, I must suggest to you that some time within a fortnight of you  
14:46:02 5 having this meeting with Mr. Dunlop you must have had another meeting with  
6 Mr. Dunlop to discuss the matters that he has recorded on the 13th June  
7 '96, do you agree with that?  
8 A. Okay 13th June.  
9 Q. 762 This diary is --  
14:46:16 10 A. Yes, okay, yes.  
11 Q. 763 And I think -- I say that, Mr. O'Callaghan, in view of the fact that Mr.  
12 Dunlop's diary entry records that everything was to happen within 10 to 14  
13 days, isn't that right?  
14 A. Oh, yes.  
14:46:29 15 Q. 764 So there had to be something that was to be discussed over and above the  
16 increase in retainer and over and above the success fee, isn't that right?  
17 A. Yes.  
18 Q. 765 All right. And you don't dispute what Mr. Dunlop has there about the  
19 retainer, isn't that right?  
14:46:43 20 A. That's correct.  
21 Q. 766 And you don't dispute what he has there that you were discussing a success  
22 fee although there had been no agreement as to it's amount?  
23 A. Yes, that's correct.  
24 Q. 767 So what was the third element of your discussion with Mr. Dunlop?  
14:46:56 25 A. I don't, I really don't know. I don't know, has it been blown up.  
26 Q. 768 It has been examined, Mr.  
27 A. Yes, examined.  
28 Q. 769 But it has not been possible, because the obliteration is so heavy, to  
29 identify what's beneath it?  
14:47:17 30 A. I don't know.

- 14:47:18 1 Q. 770 Well, you agree I think that the success fee did change in October of  
2 1996?
- 3 A. The retainer changed.
- 4 Q. 771 The retainer changed in 1996?
- 14:47:27 5 A. Yes, it did, yes.
- 6 Q. 772 And you were having discussions with Mr. Dunlop about a success fee but  
7 nothing had been formalised?
- 8 A. No that's correct as well, yes.
- 9 Q. 773 And therefore the matter that's obliterated has to be a third matter,  
14:47:39 10 Mr. O'Callaghan, that's neither of those, isn't that right?
- 11 A. Mm-hmm.
- 12 Q. 774 And it must be something as I put to you before, that was important to  
13 both of you?
- 14 A. Yes.
- 14:47:53 15 Q. 775 None of that is of assistance, is it, Mr. O'Callaghan?
- 16 A. No I'm afraid not, I would have assumed, if success fee wasn't there that  
17 it was the success fee but I just don't know, I just don't know.
- 18 Q. 776 Certainly by, 12729, the 31st October, this is the first of the 5,000  
19 retainers, which is the increased retainer, isn't that right?
- 14:48:20 20 A. That is right.
- 21 Q. 777 Your evidence to the Tribunal is that that was the original amount agreed  
22 between yourself and Mr. Dunlop, but you were unable to pay it until this  
23 date, the first date which is October '96?
- 24 A. Until Barkhill really came into play, that's right, yes.
- 14:48:35 25 Q. 778 And that thereafter in 1998, you made a balancing payment of 100,000  
26 pounds to Mr. Dunlop in acknowledgement of the unpaid retainers?
- 27 A. That is correct.
- 28 Q. 779 Is that the position?
- 29 A. That's correct, yes.
- 14:48:48 30 Q. 780 Now, you know that Mr. Dunlop told the Tribunal that payment of 100,000

- 14:48:51 1 pounds in June '98 was a success fee part payment?
- 2 A. Yes, he has that confused in my opinion.
- 3 Q. 781 You say he is wrong in that regard, isn't that right?
- 4 A. Yes but I understand why it happened, I have thought about it. He
- 14:49:03 5 actually thought that the success fee was being discussed and that's it
- 6 there, the success fee was being discussed at the same time as the
- 7 retainer, because his balancing payment if you like on the retainer was
- 8 paid he got it mixed up with the success fee. It's a balancing payment of
- 9 the retainer not a success fee.
- 14:49:21 10 Q. 782 Certainly from the 31st October 1996, Mr. O'Callaghan, the 5,000 pounds
- 11 per month had commenced, isn't that right?
- 12 A. Yes, stayed put.
- 13 Q. 783 That continued as a static payment going forward, isn't that right?
- 14 A. And that was the agreement that was made in September '93 actually.
- 14:49:44 15 Q. 784 Yes, but that's not recorded as you know in Mr. Dunlop's diary, isn't that
- 16 right?
- 17 A. No it's not.
- 18 Q. 785 But going forward from October '96 that was the level of the payment that
- 19 was being made to Frank Dunlop & Associates by way of retainer?
- 14:49:56 20 A. That's correct.
- 21 Q. 786 All right. And those invoices go to Mr. Aidan Lucey of Barkhill, isn't
- 22 that right?
- 23 A. Yes.
- 24 Q. 787 As can be seen, they are stamped paid and they have a VAT number at the
- 14:50:05 25 bottom?
- 26 A. Yes.
- 27 Q. 788 Isn't that right?
- 28 A. Yes.
- 29 Q. 789 Would you agree with me, Mr. O'Callaghan, that insofar as all of Mr.
- 14:50:10 30 Dunlop's retainer invoices are concerned, whether they are for a sum of

14:50:15 1 1,000, 2,000 or 5,000, they are all invoiced from Frank Dunlop &  
2 Associates, they contain a VAT number and they are nearly all cases  
3 stamped or acknowledged as having been received?  
4 A. Yes.  
14:50:27 5 Q. 790 Right. And at 12730, there is the November '96 invoice again, addressed  
6 to Mr. Lucey, stamped received on the 2nd December '96 and marked paid,  
7 isn't that right?  
8 A. Yes.  
9 Q. 791 But these are invoices to Barkhill, isn't that the position?  
14:50:47 10 A. Yes.  
11 Q. 792 Right. I think both of those invoices were paid in one cheque at 12731 on  
12 the 10th January 1997, and I think if you look in the third column, second  
13 last entry of the Barkhill cheque payment it's book you will see 12,100  
14 pounds to Mr. Dunlop, isn't that right?  
14:51:14 15 A. Yes.  
16 Q. 793 Right. And that is the payment by Barkhill, isn't that right?  
17 A. Including VAT, yes.  
18 Q. 794 Yes. Now were you aware of -- can you tell the Tribunal was there any  
19 other arrangement made between yourself and Mr. Dunlop around this time,  
14:51:27 20 for the payment of any extra monies or separate monies to Mr. Dunlop?  
21 A. Absolutely none.  
22 Q. 795 In October of 1996 at around the, prior to the first recorded increased  
23 retainer payment, Mr. Dunlop attended at his bank with his bank manager  
24 and provided certain information, including the information at 14185 and  
14:52:01 25 in providing the information of the investment dealings in course that Mr.  
26 Dunlop said he had extant at that time, which was the 3rd October '96, he  
27 described the following:  
28  
29 "Quarryvale shopping development in course/completion Christmas 1988, that  
14:52:19 30 should be '98 I think. Owen O'Callaghan development, 1 million pounds as

14:52:23 1 owing to Frank Dunlop with 500,000 Irish pounds relating to back up  
2 contract support and payable as follows: 200,000 pounds October '96,  
3 400,000 pound October 1997, 300,000 contract support, 400,000 October  
4 1998, 200,000 pounds contract support."

14:52:46 5 A. This was to his bank manager, was it?  
6 Q. 796 This is to his bank manager. In October of 1996 and my question I suppose  
7 really to you, Mr. O'Callaghan, is whether first of all you think it's  
8 likely that, that information as provided by Mr. Dunlop to his bank  
9 manager might be connected to the matter that's obliterated at 12568?

14:53:15 10 A. It's possible, yes.  
11 Q. 797 In other words, is it possible that what Mr. Dunlop recorded on the 13th  
12 June 1996 was a belief in his mind that he was going to get a million  
13 pounds from you or from Barkhill?  
14 A. As a success fee?

14:53:32 15 Q. 798 I can't say that, I am just asking you this now, Mr. O'Callaghan?  
16 A. As a success fee it's possible, yes.  
17 Q. 799 Are you saying that it's possible that you agreed with Mr. Dunlop in June  
18 1996 that his success fee would be a sum of a million pounds?  
19 A. Oh not at all, no, no.

14:53:49 20 Q. 800 Right. What Mr. Dunlop is recorded as telling his bank manager at 14185  
21 in October is that what he was due was a million pounds?  
22 A. Yes.  
23 Q. 801 Isn't that right?  
24 A. Yes, if I add it up, yes.

14:54:06 25 Q. 802 And he breaks it down into staged payments, isn't that right?  
26 A. Yes.  
27 Q. 803 Isn't that the position?  
28 A. Absolutely.  
29 Q. 804 And insofar as Mr. Dunlop told his bank manager that, is there any truth  
14:54:17 30 in this, Mr. O'Callaghan?

- 14:54:18 1 A. From my point of view absolutely none at all, none at all.
- 2 Q. 805 Now, Mr. Dunlop in fairness to yourself, Mr. O'Callaghan, told the
- 3 Tribunal that it's likely he did tell that to his bank manager but equally
- 4 it wasn't true?
- 14:54:33 5 A. Okay, that's good news, yeah.
- 6 Q. 806 That was the sum of Mr. Dunlop's evidence?
- 7 A. But that it wasn't true.
- 8 Q. 807 Yes.
- 9 A. Okay.
- 14:54:41 10 Q. 808 Right. Now, that was what Mr. Dunlop told the Tribunal, obviously clearly
- 11 he didn't tell his bank in October 1996, when he was providing that
- 12 information to them that there was in fact no such extant agreement, isn't
- 13 that right?
- 14 A. There wasn't any.
- 14:54:57 15 Q. 809 Right. However it is nonetheless the case, Mr. O'Callaghan, that Mr.
- 16 Dunlop tells his bank that he expects to get a million pounds from you,
- 17 isn't that right?
- 18 A. Yes.
- 19 Q. 810 And he has been obliterating information in relation to secret financial
- 14:55:14 20 agreements he believes he has with you in his diaries, isn't that right?
- 21 A. Yes.
- 22 Q. 811 He does that prior to providing the diaries to the Tribunal, isn't that
- 23 right?
- 24 A. Yes.
- 14:55:23 25 Q. 812 And therefore he is concealing something that involves himself and
- 26 yourself and money from the Tribunal, isn't that likely?
- 27 A. That is correct.
- 28 Q. 813 You accepting all of that, can't explain what it was that Mr. Dunlop was
- 29 concealing, isn't that right?
- 14:55:37 30 A. I can't, I feel embarrassed not being able to explain it because I was at

14:55:41 1 the meetings. I can tell you that all I can say and this is guesswork is  
2 maybe, and I am purely guessing, because this has appeared so many times,  
3 that Frank Dunlop wrote in his diary that figure of a million pounds  
4 maybe. It was never discussed, never intended, the success fee has been  
14:55:59 5 paid at 300,000 pound as you know, and that's it. There was never  
6 anything else discussed, in fact there was no figure discussed the 300,000  
7 pounds came about simply because of his revenue problems in '98, as far as  
8 I am concerned that's the end of it. I have told him that and I told him  
9 that at the time, I am not saying he accepted that, but all I can say to  
14:56:19 10 you is maybe he was writing down that figure of a million pounds in his  
11 diary and if he was, he is obliterating it as well, that's all I can think  
12 of, nothing else. If he did that he didn't tell me about it.

13 Q. 814 You made your final agreement with Mr. Gilmartin on the 31st May 1996.

14 A. Yes.

14:56:36 15 Q. 815 Isn't that right? The entry in relation to the success fee that we looked  
16 at a moment ago is June of 1996 with a portion of it obliterated, isn't  
17 that right?

18 A. Yes.

19 Q. 816 Right. There is a partial implementation, 12568, of what Mr. Dunlop has  
14:56:55 20 recorded at the bottom, in that the retainer does change in October of  
21 1996, isn't that right?

22 A. That's correct, yes.

23 Q. 817 Is it possible, Mr. O'Callaghan, that having paid off Mr. Gilmartin in the  
24 settlement deal that you had made with him on the 31st May 1996, you  
14:57:13 25 entered into an agreement with Mr. Dunlop for the payment of a million  
26 pounds to him at that stage?

27 A. Not at all, and Mr. Dunlop knew nothing about the arrangement with  
28 Mr. Gilmartin.

29 Q. 818 Was it kept from Mr. Dunlop that Mr. Gilmartin was no longer a participant  
14:57:30 30 in Barkhill?

- 14:57:31 1 A. Oh, yeah. He didn't know that at all.
- 2 Q. 819 I ask you this only to see is that connection that led to this arrangement
- 3 with Mr. Dunlop, whatever it was?
- 4 A. No not at all.
- 14:57:40 5 Q. 820 All right. Now, I think in December, at 12751, there is the December
- 6 invoice for January, isn't that right, and that is duly paid by Barkhill,
- 7 isn't that the position?
- 8 A. That's correct.
- 9 Q. 821 And that continued to be the position, isn't that right?
- 14:57:59 10 A. Yes.
- 11 Q. 822 Now, I think just dealing with something we were dealing with this
- 12 morning, at 3753, I think in December 1996, if you look at the entry on
- 13 this document, where Mr. Alan Dukes' name is mentioned, you will see that
- 14 Mr. Alan Dukes became Minister for Transport, Energy and Communications
- 14:58:24 15 when Mr. Lowry resigned on the 3rd December 1996?
- 16 A. Yes.
- 17 Q. 823 That is recorded there, Mr. O'Callaghan.
- 18 A. Yes.
- 19 Q. 824 And was that the event that you would have recorded as concluding the
- 14:58:36 20 Horgan's Quay matter?
- 21 A. I don't think so, concluding the Horgan's Quay matter was when the report,
- 22 if I'm correct, when the report was issued by the consultant appointed by
- 23 Michael Lowry to do an investigation into all the semi-States and how the
- 24 systems were performing, when that report was issued and it found
- 14:59:01 25 absolutely nothing wrong that happened with CIE I think that's what I
- 26 would have meant by the conclusion.
- 27 Q. 825 Yes, on the 9th January 1997 the following year, the invoice in relation
- 28 to the Horgan's Quay matter is provided to you by Mr. Dunlop, isn't that
- 29 right?
- 14:59:16 30 A. Yes.



- 14:59:16 1 Q. 826 Right. And do you see any connection between the resignation of Mr. Lowry  
2 in December of 1996 and the payment of the invoice, or proffering of the  
3 invoice in January of '97?
- 4 A. No not at all.
- 14:59:29 5 Q. 827 All right. Now I think, at 12740, on the 8th November 1996, Mr. Dunlop  
6 has an entry in his diary for 1 o'clock "OOC in Deadman's Inn then to  
7 Silver Granite" and beneath that at 2.15 "Quarryvale/Bertie", isn't that  
8 right?
- 9 A. Yes, can I just see that please? Yes, is that Deadman's Inn is it, oh I  
15:00:02 10 see Deadman's Inn, yes.
- 11 Q. 828 Yes. That would suggest that you met with Mr. Dunlop in the Deadman's Inn  
12 you went to the Silver Granite and subsequently there was a meeting with  
13 Bertie, whom I suggest is Mr. Ahern, in Quarryvale, isn't that right?
- 14 A. Okay.
- 15:00:17 15 Q. 829 If I show you 14244, Mr. O'Callaghan?
- 16 A. This is '96 isn't it? Yes, yes.
- 17 Q. 830 Yes, you will see in Mr. Ahern's statement to the Tribunal on the last  
18 paragraph on this page where he says "On the 8th November '96 as part of a  
19 tour of constituencies in anticipation of a general election he visited  
15:00:39 20 the constituency of Dublin west as one of the many canvassing engagements  
21 he undertook that day. It included a trip to the Quarryvale site. I meet  
22 briefly with Mr. O'Callaghan, he updated me on when the development was  
23 expected to be completed. I was accompanied on this occasion by a group  
24 of members and supporters of the local Fianna Fail organisation".
- 15:00:59 25 A. That is correct.
- 26 Q. 831 Does it follow then from a consideration of 12740 that you met with Mr.  
27 Dunlop first?
- 28 A. Yes.
- 29 Q. 832 And that following on your meeting with Mr. Dunlop you met with Mr. Ahern  
15:01:14 30 at Quarryvale?

15:01:15 1 A. Yes. I met him on site with all the local candidates, I remember that  
2 well, yes.

3 Q. 833 And you updated him on what you proposed for Quarryvale, isn't that right?  
4 A. Yes, we showed him the plans of the development etcetera.

15:01:26 5 Q. 834 Was there any discussion at that meeting about the fact that Mr. Gilmartin  
6 was no longer involved?  
7 A. No.

8 Q. 835 Was Mr. Gilmartin mentioned at all?  
9 A. I doubt it very much.

15:01:37 10 Q. 836 Did Mr. Ahern seek any support for the forthcoming election from you on  
11 that occasion?  
12 A. No, not really, he had all his, as I remember it he had all his budding  
13 candidates with him, it was just a general chat about the election.

14 Q. 837 Now I think in 1997, Mr. O'Callaghan, in January of 1997 Mr. Dunlop  
15:01:58 15 furnished the invoice from respect of the Horgan's Quay matter, isn't that  
16 right?  
17 A. Yes.

18 Q. 838 12764?  
19 A. That's correct.

15:02:07 20 Q. 839 And that is addressed only to Riga and not to Barkhill as the retainer  
21 invoices had been addressed, isn't that right?  
22 A. Yes, it was a Riga issue.

23 Q. 840 It was only, it was retained within Riga and was never suggested to be  
24 part of the Barkhill funds, isn't that right?

15:02:21 25 A. Oh never.

26 Q. 841 You say that is because it was not connected in anyway to Barkhill, isn't  
27 that right?  
28 A. No this was strictly Cork. Yes.

29 Q. 842 So it was easy within the accounting of Riga and Barkhill to keep these  
15:02:38 30 matters separate?

- 15:02:39 1 A. That's correct.
- 2 Q. 843 So the attribution of an expense either to Cork or Dublin was a specific  
3 task that was undertaken on each time an expense arose, is that right?
- 4 A. Yes.
- 15:02:47 5 Q. 844 So it's unlikely errors were made attributing expenses from Cork to Dublin  
6 and Dublin to Cork, isn't that right?
- 7 A. That's true, it's very easy to make a mistake between North Clondalkin,  
8 Clondalkin and Quarryvale, some of the invoices had North Clondalkin they  
9 referred to stadium site and some attributed them to Quarryvale site, it's  
10 very hard to make a mistake between Cork and Dublin.
- 11 Q. 845 I any 1997, throughout 1997 Mr. Dunlop continued to furnish the invoices  
12 that we have already seen, isn't that right?
- 13 A. Yes.
- 14 Q. 846 And at 12780, the January invoice was addressed to Barkhill and duly paid,  
15 isn't that right?
- 15:03:29 16 A. Yes.
- 17 Q. 847 12831 is the February invoice, 12841 is the March invoice, 12882 is the  
18 April invoice, 12917 is the May invoice, 12950 is the June invoice, 12961  
19 is July, 12973 is August, 13004 is September, 13033 is October, 13058 is  
20 November and 13085 is December, isn't that right?
- 15:04:12 21 A. Yes.
- 22 Q. 848 They were all invoiced to Barkhill, isn't that right?
- 23 A. Yes.
- 24 Q. 849 None of them were attributed to Riga, isn't that the position?
- 15:04:25 25 A. Yes.
- 26 Q. 850 They were all paid out of Barkhill?
- 27 A. Yes.
- 28 Q. 851 In all cases they were acknowledged as having been received on a  
29 particular date, they are stamped paid and they are initialled by somebody  
15:04:34 30 who authorises the payment?

- 15:04:36 1 A. Yes.
- 2 Q. 852 And in 1997, I think also there were a number of political contributions,  
3 isn't that right?
- 4 A. Could have been, yes.
- 15:04:50 5 Q. 853 Yes. And if I think first there was a payment of 250 pounds to Mr. Sean  
6 Ardagh at 12793, isn't that right, at 12795?
- 7 A. Yes.
- 8 Q. 854 And that I think is analysed as an election contribution at 12798, isn't  
9 that the position?
- 15:05:18 10 A. Yes.
- 11 Q. 855 12798. I think in the second last column there that is a political,  
12 deemed to be a political payment, isn't that right?
- 13 A. Yes.
- 14 Q. 856 The sum of 250 pounds is referable I think to the cheque to Mr. Sean  
15 Ardagh?
- 15:05:37 16 A. Yes.
- 17 Q. 857 Now, I think in June of 1997 there was a payment to, sorry -- June of  
18 1997, sorry May of 1997, 12891, this is a sum of 10,000 pounds  
19 attributable to Essential Services, isn't that right?
- 15:06:10 20 A. Yes.
- 21 Q. 858 What are the circumstances in which that payment was made,  
22 Mr. O'Callaghan?
- 23 A. If I'm not mistaken I think this was for the use of, this was for the use  
24 of their offices, Essential Services in Clondalkin.
- 15:06:27 25 Q. 859 Yes.
- 26 A. Serviced offices that I was using there, which is, used or leased by  
27 Councillor McGrath.
- 28 Q. 860 When you say serviced offices, are these in Mr. McGrath's office  
29 buildings, there was an office available for Barkhill, is that the  
15:06:45 30 position?

- 15:06:45 1 A. No for me.
- 2 Q. 861 For you. I had understood that you were part of Mr. Dunlop's invoice  
3 related to the same matter, that Mr. Dunlop was providing office  
4 facilities to you?
- 15:06:55 5 A. In the city, yes.
- 6 Q. 862 In the city?
- 7 A. Yes.
- 8 Q. 863 But on site as it were, Mr. McGrath was providing you with office  
9 facilities?
- 15:07:03 10 A. You see we didn't have an office in Dublin, we still do not have an office  
11 in Dublin which was a big mistake and we still haven't rectified. So in  
12 the city we used Dunlop's office and in Clondalkin, which was basically a  
13 building site, occasionally I used an office that McGrath allowed me to  
14 use.
- 15:07:22 15 Q. 864 This cheque is payable on the 6th of the 5th '97, 6th May '97?
- 16 A. I think that's what that's for.
- 17 Q. 865 This was an invoice at 12895?
- 18 A. Yes. This is probably a matching invoice.
- 19 Q. 866 Can I suggest it's not exactly matching, Mr. O'Callaghan, because it's  
15:07:39 20 dated 19th June 1997 some two weeks after the cheque was paid?
- 21 A. Yes, first of all it's period January to June '97 for a start that should  
22 be January '96 to June '97.
- 23 Q. 867 Okay. It's stamped as being received by Riga or Barkhill on the 26th June  
24 '97, isn't that right?
- 15:08:00 25 A. Yes.
- 26 Q. 868 However the cheque was paid, isn't that right?
- 27 A. Yes.
- 28 Q. 869 In May of 1997?
- 29 A. Yes.
- 15:08:07 30 Q. 870 How was that?

- 15:08:08 1 A. When I would have been asked for it on a few occasions I would have agreed  
2 pay it, it was glad to have the use of that office, I paid it and asked to  
3 invoice me and the invoice came afterwards.
- 4 Q. 871 Was it your habit, Mr. O'Callaghan, to pay somebody by way of a cheque in  
15:08:23 5 circumstances in which they hadn't produced an invoice?
- 6 A. Very, very rarely, but this was an exceptional case because it was a  
7 facility that was being made to me, I suppose I was taking advantage of it  
8 really. I was allowed to use the office after 6 o'clock and that type of  
9 thing, I had to pay for it, when I was asked for it I paid for it and I  
10 said be sure and give me an invoice which is not what we normally do. We  
11 work the other way actually, and the invoice was furnished.
- 12 Q. 872 What agreement had you with Essential Services, Mr. O'Callaghan, in  
13 relation to the provision of these services?
- 14 A. That I could use this office whenever I wanted to use it.
- 15:09:01 15 Q. 873 Had you a written agreement for example?
- 16 A. No.
- 17 Q. 874 Had you any document, documentation passing between yourself and Mr. Colm  
18 McGrath other than the existence of this invoice in relation to that  
19 agreement?
- 15:09:14 20 A. That's all really.
- 21 Q. 875 There was nothing else?
- 22 A. No.
- 23 Q. 876 Isn't that right? And I think that at 12944, while it was paid by Riga,  
24 isn't that right?
- 15:09:29 25 A. I can't see it.
- 26 Q. 877 Sorry, I will show you the cheque first, 12891, the cheque is paid by  
27 Riga, isn't that right?
- 28 A. Yes.
- 29 Q. 878 At 12944, it's written up to the Barkhill loan, isn't that right?
- 15:09:49 30 A. Yes, yes.

- 15:09:51 1 Q. 879 Why was that?
- 2 A. It's a Barkhill service again, for Barkhill.
- 3 Q. 880 I think we have seen Barkhill had it's own cheque book, isn't that right?
- 4 A. I don't know why it was Riga instead of Barkhill, I can't explain that but
- 15:10:05 5 it was attributed to Barkhill because it was Barkhill.
- 6 Q. 881 At this time, Mr. O'Callaghan, was there an election?
- 7 A. I don't think so.
- 8 Q. 882 8473 please, you will see at the bottom of the first column, the first
- 9 column please, that on the 15th May 1997 an election was called that was
- 15:10:30 10 held on the 6th June 1997, isn't that right?
- 11 A. 1997, yes, okay.
- 12 Q. 883 You see that?
- 13 A. Yes.
- 14 Q. 884 I think you didn't disagree with what Mr. Ahern said in his statement that
- 15:10:48 15 in November he was on a tour of the constituency in advance of upcoming
- 16 elections, isn't that right?
- 17 A. Yes, that's correct.
- 18 Q. 885 So it wouldn't have been a surprise to you that an election was called in
- 19 1997, isn't that right?
- 15:10:59 20 A. No, no.
- 21 Q. 886 Indeed I think it is the case that you, Fianna Fail sought a donation from
- 22 you in May of 1997 and you gave a cheque for 10,000 pounds to
- 23 Mr. Richardson, isn't that right?
- 24 A. Yes, yes.
- 15:11:11 25 Q. 887 Now, going back again then to look at the cheque at 12891, do you know
- 26 whether or not Mr. McGrath was a, stood in that election.
- 27 A. I don't, I can't remember, it's possible that he did.
- 28 Q. 888 Is there any possibility, Mr. O'Callaghan, that this was by way of a
- 29 contribution to Mr. McGrath for the election?
- 15:11:39 30 A. Oh no, if McGrath wanted a contribution for the election he would have got

- 15:11:43 1 it separately, he'd have asked for it separately, that's for sure.
- 2 Q. 889 Can you explain why it was that it was paid prior to any invoice being  
3 issued by Mr. McGrath's company?
- 4 A. Because as I said to you, he asked me for it, I owed him for his office,  
15:11:57 5 use of his office which I had been using for about 18 months I think and I  
6 gave it to him and asked him to invoice me, invoice followed on. By right  
7 he should have given me the invoice first of course.
- 8 Q. 890 But that didn't happen?
- 9 A. No the other way around I'm afraid, yeah.
- 15:12:12 10 Q. 891 I think at 12902, on the 13th May, some seven-days later you wrote a  
11 cheque for 10,000 pounds to Fianna Fail, isn't that right?
- 12 A. That's right, yes.
- 13 Q. 892 Again signed by Mr. Lucey, drawn on Riga, isn't that the position?
- 14 A. I think that's at the request of Fianna Fail as far as I know.
- 15:12:34 15 Q. 893 Yes I think you received a letter and I think ultimately that sum was  
16 probably handed to Des Richardson, isn't that right?
- 17 A. More land likely.
- 18 Q. 894 I think we have seen in the correspondence from Mr. Ahern at 16438 on the  
19 14th May '93, where Mr. Ahern thanks you for meeting with Des Richardson  
15:12:54 20 on the 13th May and for your generous donation, isn't that right?
- 21 A. Yes.
- 22 Q. 895 Do you think that it's possible that in fact the money that you paid to  
23 Mr. McGrath was a political payment?
- 24 A. No, I don't.
- 15:13:05 25 Q. 896 Right. Did you use the offices provided by Mr. McGrath for the purpose of  
26 meeting councillors in connection with the upcoming review of the 1993  
27 plan?
- 28 A. No not at all, I used McGrath's office because all I had in Dublin was a  
29 building site office, which wasn't a very, it's okay during the daytime  
15:13:29 30 actually but it wasn't a very private operation in the middle of



15:13:31 1 Quarryvale while it was being build, you'd have 300 or 400 people working  
2 there, whenever I wanted a bit of privacy to do some of my own office work  
3 I used his office off site. I could alternatively have come into town to  
4 use Frank Dunlop's office but I was, as I told you before I didn't even  
15:13:49 5 have a car with me on those days. So McGrath's office was extremely  
6 convenient and private, but I didn't use it for any other purpose of  
7 course, that would be the last thing I would do to speak to other  
8 councillors there.

9 Q. 897 You did speak to other councillors, isn't that right?

15:14:03 10 A. No, in his office.

11 Q. 898 No if you just let me finish, you did speak to other councillors in  
12 connection with the review of the 1993 plan in connection with lifting the  
13 cap on Quarryvale?

14 A. Yes, I did.

15:14:14 15 Q. 899 But you didn't do so in Mr. McGrath's office, isn't that right?

16 A. Not at all, sorry I couldn't do that, he had a big sign outside his office  
17 with Fianna Fail party plastered all over it, I couldn't do that.

18 Q. 900 At this time also did you know Mr. Michael Billane?

19 A. I knew Mick Billane, yes.

15:14:31 20 Q. 901 Was he Chairman at this time of South Dublin County Council?

21 A. Quite possible, he was Chairman definitely at one stage, I think that  
22 could have been it, yeah.

23 Q. 902 I think Councillor Ridge was Chairman at some stage, isn't that right and  
24 Mr. Billane was Chairman at some stage, isn't that right?

15:14:48 25 A. Yes.

26 Q. 903 And at 12927 on the 10th May '97 did you make a payment to Citywise for  
27 the purchasing of a bus at the instigation of Mr. Billane.

28

29 CHAIRMAN: 10th June.

15:15:08 30

- 15:15:09 1 MS. DILLON: '97. Sorry I beg your pardon, 10th June 97, yes?
- 2 A. Yes, I did. At the request of Councillor Billane and the Citywise
- 3 organisation or the Citywise group.
- 4 Q. 904 Whom you met I think at 13963, and in fact I think you had, you met with
- 15:15:32 5 them on Friday last, which was around the 6th June 1997, isn't that right?
- 6 A. Yeah.
- 7 Q. 905 And I think following on that you agreed to support the endeavour by
- 8 assisting in providing a mini bus and there was some correspondence about
- 9 logos following on from that, isn't that right?
- 15:15:48 10 A. That's right, yeah.
- 11 Q. 906 That effectively I think was treated as a charitable donation, 12931,
- 12 isn't that right?
- 13 A. Well, it should have been anyhow.
- 14 Q. 907 If you look up second from the bottom under the analysis of sundries?
- 15:16:04 15 A. Yes.
- 16 Q. 908 Isn't that right?
- 17 A. Yes.
- 18 Q. 909 And at 12932 was written to charitable donations, isn't that right?
- 19 A. Yes. And incidentally that wasn't -- we were not the only people
- 15:16:19 20 involved, there were other people involved in the provision of that bus as
- 21 well.
- 22 Q. 910 But insofar as you were concerned and insofar as Riga was concerned, your
- 23 contribution was through Councillor Billane, isn't that right, he had
- 24 introduced you to the project, sought your support and you gave your
- 15:16:34 25 support in relation to it, isn't that right?
- 26 A. Yes.
- 27 Q. 911 That was also done in the currency of that election, is that fair?
- 28 A. It wouldn't have anything to do with the election.
- 29 Q. 912 No, during the time of the election? I think the voting day was the 15th
- 15:16:50 30 of June, isn't that right?

15:16:51 1 A. Yes.

2 Q. 913 And I think in that election Mr. Ahern was elected Fianna Fail won the  
3 election and Mr. Ahern was elected Taoiseach I believe, isn't that right?

4 A. That's correct, yes.

15:17:01 5 Q. 914 16626, isn't that right?

6 A. Yes.

7 Q. 915 You have already detailed to the Tribunal your contacts with Mr. Ahern  
8 post his election, isn't that right?

9 A. Yes, '96, yes.

15:17:15 10 Q. 916 In that context, isn't that right?

11

12 CHAIRMAN: Sorry, Ms. Dillon, the election was not held on the 6th June?

13

14 MS. DILLON: Yes, I think so.

15:17:27 15

16 CHAIRMAN: The payment to Citywise was the 10th June.

17

18 Q. 917 MS. DILLON: 6th June, 8473. Yes. 15th May and 6th June. Now, on the  
19 16th June 1997, at 12958, Mr. Dunlop has an entry in his diary for 7 pm,  
15:17:54 20 if it can be increased please? And it records as follows: "Per OOC at  
21 Bewleys Hotel, Newlands Cross. Will pay over final amount in October 9th,  
22 '97." That is the 16th July 1997. Now in the first instance,  
23 Mr. O'Callaghan, do you agree it's likely you met with Mr. Dunlop on the  
24 16th July 1997?

15:18:28 25 A. It's likely indeed, yes.

26 Q. 918 Now, if Mr. Dunlop is accurate in what he has recorded there, what sum or  
27 final amount were you to have paid over in October 1997?

28 A. I genuinely don't know.

29 Q. 919 All right. If I can show you again 14185, which was the information  
15:18:52 30 provided by Mr. Dunlop to his banker in October '96 and you will see it

15:18:57 1 provides for a payment of 400,000 pounds in October 1997, isn't that  
2 right?

3 A. That's all news to me.

4 Q. 920 If we go back to 12958, Mr. O'Callaghan, do you agree with me that unless  
15:19:13 5 Mr. Dunlop is fantasising about this matter that you must have had a  
6 meeting with him at which something was discussed that involved money?

7 A. Yeah, it looks it, absolutely.

8 Q. 921 What Mr. Dunlop is recording there is his belief that a final amount would  
9 be paid to him by October 9th, '97, isn't that right?

15:19:35 10 A. Yeah.

11 Q. 922 If Mr. Dunlop had a belief that a final amount was to be paid to him in  
12 October '97, it would follow that some other amount had been paid prior to  
13 this time, isn't that right?

14 A. Yes.

15:19:46 15 Q. 923 You say no such amount was paid, isn't that right?

16 A. No, no.

17 Q. 924 I propose to leave it there, Sir.

18

19 CHAIRMAN: Right.

15:19:56 20

21 MS. DILLON: One or two short matters in '97 that can be dealt with fairly  
22 quickly in the morning and the rest I think --

23

24 CHAIRMAN: All right. Sitting at half past ten

15:20:07 25

26 MS. DILLON: Yes, sir.

27

28 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,**  
29 **THURSDAY 16TH OCTOBER 2008 AT 10.30 AM.**

15:20:31 30