

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 15TH DECEMBER
1999 AT 10.30AM:

.
CHAIRMAN: Good morning every one.

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MR. O'NEILL: Good morning, Sir. Mr. Copsey.

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CONTINUATION OF EXAMINATION OF MR. COPSEY BY MR. O'NEILL.

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1 Q. MR. O'NEILL: Yesterday we were dealing with your relationship with Mr. Wadley and the contacts that you had with him over the period from your appointment as director until January of 1990 and I think that your communications dealt with, amongst other things, the structures of the various companies involved, their assets, the disposition of their assets, the restructuring of companies, the transfer of funds, the pension of Mr. Gogarty, the possible sale of the JMSE and AGSE companies, the management structure, the system of accounting that was going to be put in place and such matters, isn't that right?

A. To a greater or lesser extent, each of them -- some I merely kept him informed on and some of them I gave advice on.

2 Q. Yes. And I take it that your communications with him weren't limited just to these fax documents but you were in regular telephone contact with him, isn't that right?

A. Yes.

3 Q. The document I was referring to you yesterday was a document which has been repaginated and I think you now have a complete set of that documentation now before you and if I could turn to page 99 and in this instance, the number on these pages is on the top right hand corner

rather than the bottom.

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This is at tab number 6.

A. Yes, I have got that.

4 Q. Tab 6, page 99 is a fax communication from Mr. Wadley to you in the usual format that he used and the subject matter was James Gogarty. It's JM/JG and I think in other hand is re J. Gogarty.

A. That's actually my hand.

5 Q. That's yours. And I think that was a fax which was written at a time when the proceedings or the ESB retention matter was still an issue, is that right?

A. That's correct.

6 Q. And the letter, or the fax reads "JM-JG.

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1. Putting aside feelings of aggression, my view is (a) try to deal with allocation of commission quantum through Lajos, not JG" and you wrote, I think you wrote in "JMSE" in the margin on the right-hand side?

A. That's correct.

7 Q. It goes on, "(b) complete liquidations this week and assign assets and spelle -- however check this will not upset tax clearance,
(c) give notice of assignments.
(d) declare Lajos dividend this week and give notice of assignments.

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2. We are left with lawyers holding:

a. Commission money and

b. Pension money.

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2. We should make sure these amounts are not held by

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Lajos. If they are, consider assign to

(a) Greenane or

(b) JMSE."

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Now I think Greenane was another company within the Murphy Group of companies, is that right?

A. Yes, I believe so.

8 Q. And it was an offshore company, is that right?

A. It certainly wasn't Irish.

9 Q. I think it was in fact the holding company for the English assets, is that right?

A. At this stage I wouldn't know.

10 Q. Very good. In any event, "Consider assign to (a) Greenane or (b) JMSE. Give notice to lawyers just before hearing but see paragraph 22."

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At item 4, "Aggression aside, do we mind lawyers holding funds if we do intend to pay

(a) commission,

(b) pension.

Particularly as it appears we will get no assistance from legal profession.

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5. Therefore JM has to determine whether he wants to pay JG.

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6. If he does not, then we must then consider publicity point.

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7. It must be assumed that publicity will arise.

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8. If he wants no publicity, he should pay up.

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9. But will paying up encourage further problems?

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10. If JM decides to oppose payment to JG and accept publicity risk, then we should seek transfer of funds to our solicitor to secure ensure interest for ourselves (and maybe not give notice in paragraph 3.) Try to arrange so interest can be received free of Irish tax.

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11. If funds left with other solicitors, we should make sure interest is for our account.

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12. Examine whether permitting JG to keep £300,000 for pension without Revenue consent gives JG tax problem, meets our obligation and still allows us a tax deduction. If so, consider how to let JG have tax problem.

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13. I do not see that we avoid JG raising extraneous matters by having a change of case approach now. If we seek to question commission payments, JG will continue to raise extraneous matters."

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Now there's a handwritten note on the margin on the left and unfortunately we only have a photocopy of that document. Is it possible for you to identify whether that addition was made by yourself or --

A. It's certainly my scribble but I can't make too much sense of it --

11 Q. Very good, we can pass to 14, "We also tend to link the payment more to electricity deal by carrying on with case.

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15. I see little point in opposing JG commission claim unless we are advised that we will succeed.

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16. If JM decides to firmly oppose commission payment (and is advised that there is a great possibility of success) then I think we should change counsel to counsel who are prepared to take on the lawyers.

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17. One would have thought there would then be two cases, namely

(a) against the lawyers for recovery of the funds, possibly by these assignee or JMSE,

(b) by JG against Lajos for payment"

and the word is blank but I think it probably is "pension"?

A. Possibly.

12 Q. "18. In respect of 17A, JG may be too late to obtain an order freezing Lajos funds. Even if he does, it does not give him the money.

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19. I think that apart from JG's approach, JM was happy with the deal on electricity and I am of the view that it is probably better to pay up and save

A. Costs.

B. Publicity.

C. Possible effect of B on other matters.

D. The weakness arising from our legal advice.

E. JM as a witness.

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20. If I am correct in paragraph 19, I would seek the best way to settle without appearing to give way but I fear we may have gone too far.

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21. If JM decides to oppose, then apart from the position in paragraph 16, I would seek to prolong the matter in respect of JG.

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22. What I am curious about is the ability of the lawyers/JG to claim a lien against what appears to be JMSE in respect of an amount due from Lajos. It does not appear logical and I wonder if this is linked to the unwillingness of our counsel to oppose lawyers.

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23. I think it would be a good idea in the future if we exchange views earlier before we get to the third parties/legal stage. Please bear in mind I am handicapped by my not having seen copies of agreements, writs or affidavits."

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I think that concludes that fax communication with you.

A. I think so, yes.

13 Q. And would that be a fair indication, Mr. Copey, of the relationship which existed between yourself and Mr. Wadley that he, in effect, was giving you the benefit of his advice and direction on the matters contained in this memorandum?

A. To an extent, it also illustrates that Edgar Wadley worked in London and saw Joseph Murphy more often than I did and therefore he had a different viewpoint on it from the one that I may have so, yes.

14 Q. So that in the hierarchy of things, if one takes Mr. Murphy Snr as the pinnacle, he was the person who was making the decisions on the advice of Mr. Wadley and yourself, isn't that right?

A. In the context of the pension, obviously in the context of

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day-to-day things but nobody else would be involved except me in financial matters, Jim Gogarty on other matters or production people on production. Obviously there was a layer of management.

15 Q. Yes. And if we could just deal with that layer of management or responsibility if I might put it that way. Was Mr. Murphy Snr the person to whom you and Mr. Wadley were reporting ultimately?

A. Ultimately, yes, he was the, as far as I was concerned, the person who employed me and was the most senior person in any of the operating companies.

16 Q. And as between yourself and Mr. Copey -- sorry, Mr. Wadley and as between yourself and Mr. Wadley, Mr. Wadley had brought you into the arrangement, is that right?

A. That's correct.

17 Q. And you were reporting to him?

A. Not necessarily. I am an independent person and I liaise with him. It wouldn't be a yes sir, no sir relationship by any means.

18 Q. Well, was he giving you directions or advices in these reports that he was writing to you?

A. He was certainly giving me his point of view.

19 Q. Yes, and did you, in general, follow his directions if he did give you directions, for instance, about the provision of particular accounts or the sending of information to individuals. Did you follow those advices or direction?

A. Oh yes, if he wanted information sent to A, B or C, I'd see no reason not to send it.

20 Q. Yes. And the range of matters which were covered by him and you included, amongst other things, Mr. Gogarty's pension and the matters that I mentioned to you?

A. I did, yes.

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21 Q. You resumed your evidence today, is that right?

A. Yes.

22 Q. Yes, so all aspects really of the business were capable of being reviewed by yourself and Mr. Wadley and reported on to Mr. Murphy, if felt appropriate, isn't that right?

A. Absolutely.

23 Q. The next document then is another fax communication which was on the 18th and I think that you can see in the body of this that there had been some communication with Mr. Murphy Snr and this appears at page 108 of that document. At item 16 where it reads, "JM has just phoned me. He states he does not want a court case. Therefore his instructions are that the payments to JG should be made but hopefully with the relief as at paragraph 13. I advised JM that it was a disadvantage to discuss paragraph 13 relief with JG if we considered we could obtain it ourselves."

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And item 13 is at page 107 and it deals with an apportionment of the amounts as follows: "It appears to me that we can apportion the amounts payable under the 3/10/1989 agreement as we will (a) in respect of present services under 3D and (b) in respect of past services under paragraph 4 of the agreement." So that as of this date, the 18th, Mr. Murphy's directions apparently were that the action should be settled, isn't that right?

A. That's correct.

24 Q. And the advices and matters which had been addressed by Mr. Wadley in his previous fax dealt at some length with what was considered the publicity point. If I could refer you to page 100 firstly at item 6 immediately after 5 where it considers the question of whether JM wishes to pay JG. It says "if he does not, he must consider the publicity

point."

It goes on in 7, "It must be assumed that publicity will apply" and 9, it raises the question will paying up encourage further problems. At "10. If JM decides to oppose payment to JG and accept the publicity risk, we should seek to transfer funds."

Now, what do you know was considered to be the publicity risk?

A. Well, the publicity risk stemmed from Mr. Gogarty's own affidavit. It was quite clear from that affidavit that he was bringing everything in bar the kitchen sink and in an attempt to use publicity as a leverage point.

25 Q. Yes?

A. And he knew very well that Mr. Murphy was a private person, was not a person who sought publicity and wanted to use that as a leverage against him. There's also the fact that if you are a businessman and somebody accuses you, as Mr. Gogarty did, and in my view incorrectly, that he accused Mr. Murphy of having committed some tax offences, then if there's enough publicity in a newspaper, the Revenue feel bound to investigate and that's something none of us would want, you, me or anybody else in this court unnecessarily and that was the position that Mr. Murphy found himself in.

26 Q. The reference then is made at paragraph 9 to further problems and obviously what is addressed here is the question of whether paying up will encourage further problems?

A. Well, I think that if you give in to, if I call it, a form of blackmail, that normally follows another form of blackmail and shows weakness to people. I think that's

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what's meant there.

27 Q. Paying up of course would have eliminated the publicity risk of hearings, is that right?

A. And that's what Mr. Wadley is doing here is weighing up the pros and cons of each course of action in a logical fashion.

28 Q. So presumably publicity would not have been the further problem that might come out?

A. No, I don't think so.

29 Q. That is I think perhaps referred to again at paragraph 13 of the fax where it states "I do not see that we can avoid JG raising extraneous matters by having a change of case approach now."

Do you know what the extraneous matters were that were being considered then between Mr. Wadley and yourself?

A. Yes. The extraneous matters were all listed out in Jim Gogarty's affidavit.

30 Q. But if they weren't to get publicity, they were an irrelevant matter, is that right? How would they become something of concern?

A. Well with somebody like Mr. Gogarty, you wouldn't quite know once he has raised an issue as to how when or why he is going to raise it again. I mean we only have to sit here today to see that how Mr. Gogarty has in fact used certain knowledge to create a hiatus for an enormous number of people.

31 Q. But are you saying that this is something which was actively considered then in 1990, that even if Mr. Gogarty's claim was settled and resolved, that there was still other matters which he might raise which could present difficulties or problems or concerns, whatever it

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might be, for the company?

A. This memo here sets out all possibilities and considers them. It's a bit -- I wouldn't want to give too much emphasis to it because that's only one small point out of a very long memo here but we all knew Mr. Gogarty to be unstable, or that was our opinion, and therefore when you are dealing with somebody who is unstable, you have to, if you are being sensible, take into account that he may continue to be unstable even if you settle with him and that's proved to be absolutely correct, that when he was given a very large sum of money, all he wanted was more.

32 Q. And when did he indicate that to you, Mr. Copsey, that having received the money which he did, that he wanted more?

A. Throughout my negotiations, every time the monies cranked up, if you look at my negotiations with him over the ESB settlement there, that he was quite obviously, to me, trying to increase the amount which was properly due to him and that was his attitude.

33 Q. And where was there an indication that having sought more money from you after the meeting of the 22nd February where you received his demand and communicated it onward to Mr. Murphy, when did he come back to you and ask for more?

A. He simply stated that it wasn't a sufficient amount --

34 Q. Yes?

A. -- and then started to take action on a number of occasions said to me, "I will continue with this sort of action until my pension is settled" and it was quite logical he wasn't going to settle for the amount that he rejected and therefore he was settling for a greater amount.

35 Q. Yes, but you did indicate that he kept coming back to you cranking up what he had asked for and I am just asking you

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to instance occasions which he had come back to you and said I want more and then more on top of that. When did that happen?

A. OK, well I will take you through it and it's all in the evidence here. We were talking about an amount of -- he claimed on the 7th January, he claimed an amount which I think from memory is about £500,000.

36 Q. If you want to refer I think to your memorandum, it's the first document and I think in the folder you have, it's the 7th February where that meeting took place. Page 1 of tab 1.

A. There he was claiming £515,000.

37 Q. Yes.

A. He did not seek to limit the amount that he was going to receive, the £515,000 in respect of the ESB monies plus his pensions, he ended up with considerably more. So therefore that's one indication he was seeking more than £515,000. When I was negotiating with him on the ESB, he failed to tell us that the correspondence and negotiations at the time that he was talking to us had shown that the amount on offer from the ESB was in fact not zero but was first of all £40,000 and then £130,000 and then during the course of those negotiations, both myself and Chris Oakley were utterly convinced that he had in fact -- that the ESB had offered more and I believe that since that date, it's been indicated that the ESB had offered considerably more.

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So, at every juncture he was trying to maximise and increase by any means that he could the amount of his pension. Now, as an aspiration, I don't mind anybody wanting to increase the amount that's due to them but I do

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object and did object to the financial director where he was misusing his position and giving incorrect information to us in order to achieve that objective.

38 Q. So do I understand from that answer that the area in which he was centering his demand for more money on a regular basis was in the context of the ESB negotiation where you say he has not disclosed that there were monies on offer. Is that the position?

A. That is the position.

39 Q. Yes. Now, in relation to the JMSE company itself which of course was operating since 1988 with yourself as one of the directors of it and which had two new directors appointed between 1988 and 1989, namely Mr. Gay Grehan and Mr. Frank Reynolds, it was an operating company as opposed to the land companies which were essentially land owning companies, is that right?

A. That's correct.

40 Q. And more of your time, I take it, would have been concerned with that on a weekly basis than with the land owning companies, isn't that right?

A. Absolutely. JMSE and AGSE, I had a lot to do with AGSE.

41 Q. Right. And in the course of so doing, I think it is the case that there were a limited number of board meetings taking place though there were a number of decisions being made in relation to the company and in particular, to the separation of JMSE and AGSE, isn't that right?

A. That's correct. The format of meetings did change when Mr. Tim Parker became chief executive. He favoured management meetings rather than board meetings. Now, you have to, by statute, have to have certain board meetings but it's not required by statute and he preferred to operate by frequent management meetings.

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42 Q. And were there frequent management meetings involving Mr. Gogarty, Mr. Grehan, Mr. Reynolds, yourself and Mr. Murphy who were the directors of the company?

A. I don't think the management meetings on a day-to-day basis involved Mr. Murphy very often.

43 Q. And how many management meetings do you think there were involving Mr. Murphy and the other directors?

A. I really couldn't remember with Mr. Murphy. I think it would be very few, if any, because he was not involved in the day-to-day management of the company. He certainly attended one or two board meetings which we have minutes of there. I think that certain management meetings would have been held as between Gay Grehan, Frank Reynolds and Jim Gogarty on operational matters excluding me, not in an unpleasant way to exclude but because there was no need for me to be there and then other meetings would have included me.

44 Q. I think that this was a matter which Mr. Gogarty certainly expressed some concern to you about in May of 1989 and if you turn to tab 7 of the booklet of documents in front of you, you will see a copy of a handwritten letter signed by Mr. Gogarty dated the 12th May 1989 and addressed to yourself, isn't that right so?

A. Yes.

45 Q. I take it you have had an opportunity of considering the document but I will just read it into the record if I may. It's on JMSE headed paper and it reads as follows:
"Dear Roger, I refer to previous requests for board meetings of JMSE/AGSE without success.

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I can understand infrequency of meetings in normal circumstances but you will agree the past 12 months have

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been traumatic for both the companies and directors.

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There are so many matters needing discussion and resolution that the deferments are very disquieting and the situation is further aggravated since no minutes have been made available.

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The only directors I have been able to raise concern at these deferments are yourself, Gay Grehan and Frank Reynolds. Both Gay and Frank are as anxious as I am to have early meetings, which I understand from your several responses, that you have been unable to get agreement from Joe.

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Perhaps you would consider our request as a matter of extreme urgency and make the necessary arrangements for meetings, hopefully within the next fortnight.

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Yours faithfully,

James Gogarty."

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That document I think expressed his concern at that particular time in May, is that right?

A. That's correct.

46 Q. And this was a time, was it not, when the AGSE company was considerably indebted to JMSE in the sum of perhaps 1.7 to £1.8 million, isn't that right?

A. That's correct.

47 Q. And they were both at that particular time related companies, isn't that right?

A. Correct.

48 Q. And what was intended was a separation of those companies,

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one of the consequences of that would be, I take it, that JMSE would rank with other unsecured creditors in the event that AGSE was to collapse?

A. That wouldn't alter the position at all. They were always unsecured with or without the associate relationship.

49 Q. Yes. That may well be so but they certainly had the same personnel at that particular time and by way of directors, isn't that right?

A. No.

50 Q. They didn't?

A. No.

51 Q. Were you not a director of AGSE?

A. Yes, they had common directors but they didn't have the same directors. Gay Grehan was not a director, Frank Reynolds wasn't a director.

52 Q. Very good. There was certain common directors which I assume would mean that JMSE would know exactly what was going on as regards AGSE and vice versa?

A. No.

53 Q. In a practical sense?

A. No, not really. The -- there was certainly information in AGSE which was not relevant to certain personnel in JMSE. Now, if you are a director of both, quite obviously you would know both but no, I don't follow your argument exactly what you are saying, if it's of any importance.

54 Q. I am asking you whether or not it is the case that if there were common directors on both AGSE and JMSE, that each company, in effect, would know what the other company was doing?

A. No. Certain personnel within each company would know and the position did not necessarily alter when AGSE became a UK company. I don't think, for instance, that I resigned

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by directorship of AGSE when that happened.

55 Q. Yes. I am not suggesting that it necessarily followed but that it is a matter which could well be of concern to the existing directors of JMSE. Would you understand that to be the position?

A. Oh yes, I would understand the concern, yes.

56 Q. And the concern which was expressed in May of 1989 by Mr. Gogarty was one which he stated was shared by his fellow directors, Mr. Grehan and Mr. Reynolds at that time?

A. Yes, I mean, I don't have an issue with this letter at all.

57 Q. Fine. So that there certainly was a live issue at that time in the board of JMSE as to the extent to which they were aware of what was going on in the long-term for JMSE, isn't that right?

A. That's correct.

58 Q. And I think that in the following documents, that concern continued to exist notwithstanding that Mr. Gogarty had retired as of the 10th July 1989. There was a meeting of the directors of JMSE at Santry on the 27th July, isn't that so?

A. That's correct. I think the fact that Mr. Gogarty had resigned made absolutely no practical difference to his concern which he still continued to express through Gay Grehan and Frank Reynolds.

59 Q. I take it that they also had their concerns and they are the concerns which are recorded in the document which is at page 119 and I think at this point we revert back to the page numbers being on the bottom right hand corner rather than the top as they were in the earlier documents?

A. Yes.

60 Q. If I could just read that minute to that meeting. It's minutes of a meeting of directors of JMSE Limited at Santry

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on the 27th July 1989. Present Roger Copsey, Gay Grehan --

A. Excuse me, can I just ask you were they the minutes adopted by the company or were they the minutes suggested by Gay Grehan and Frank Reynolds?

61 Q. They are -- it is a document which is expressed to be the minutes of the meeting and if you turn to page 121, you will see that it is signed by two of the directors on the 28th July 1989, that is Gay Grehan and Frank Reynolds with a copy to yourself and there then is an amount of correspondence passing between you and those directors where you propose a second set of minutes and it will be covered in the correspondence.

A. That's grand, thank you.

62 Q. This document is one which emanated from Mr. Grehan and Mr. Reynolds and I am putting it to you to establish whether you agree or otherwise with its content insofar as it expresses the concern of the directors of the company after the resignation of Mr. Gogarty.

"Present: Roger Copsey, Gay Grehan, Frank Reynolds.

The following matters were set out as the agenda of the meeting by Mr. Copsey. No formal notice of the meeting had been given.

1. Signing of accounts to 31st May 1988.
2. Approval of the 1987 previously signed accounts.
3. Mr. Gogarty's resignation.

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Accounts:

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Mr. Copsey stated that he wished to get the accounts in question signed as a matter of urgency and he said he would like to read through and explain the report by Mr. Bates,

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the JMSE auditor on the 1987/1988 accounts.

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"GG" - that's Gay Grehan - "stated that as a result of legal advice sought by him that it would be not appropriate for anyone to expect either FR (Frank Reynolds) or GG to sign these accounts as neither were directors of JMSE for the said period.

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It was also pointed out that Mr. Gogarty resigned as chairman and director of JMSE as a result of his dissatisfaction with these accounts and other matters.

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RC said that as GG and FR were now directors of JMSE, that they had a responsibility to ensure that these accounts were signed. He also pointed out that in fact FR was employed by the company in the period in question.

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GG stated it would be unfair of RC to expect FR to sign these accounts as he was not a director for the said period. FR suggested that as RC was appointed a director of JMSE at an earlier date, would he not sign these accounts with some other director still in office since that period?

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FR and GG then pointed out that they were appointed to the board of JMSE in December '88 and as at a subsequent meeting in March, they were appointed as signatories to the company cheques, etc. At no stage since their appointment have they had any proper board meetings or did they receive minutes of the two meetings mentioned.

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FR and GG also pointed out that they felt they are being

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left out of all important company decision-making and that an elite group meets on occasions and makes decisions related to JMSE without consultation with the Board of Directors.

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FR and GG referred to Mr. Murphy's request for them to join the board of directors and get involved in the decision-making and direction of the company. This in fact did not happen and has even been confirmed in action minutes that no board meetings will take place, only the minimum to comply with the company regulations.

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FR and GG suggested that this was totally out of line with company regulations and in this case, we were only being used to sign controversial accounts and to be a party to other controversial issues.

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We then carried on with a review of the report of the said accounts and a number of issues were raised. Mr. Copsy was requested to furnish the following information:

- A. FR and GG have not been yet been given copies of the '87' accounts and have asked for copies as a priority.
- B. Copy of the 1989 management accounts up to February 1989 if it is not possible to get the 1989 final accounts completed.
- C. Copy of solicitors report to RC as he had received legal advice as he had his own reservations on the said accounts.
- D. Copy of Ernst & Whinney report on the '87 accounts.

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Mr. Sweeney's severance package.

FR asked for clarification on MAS's package and the up to

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date position on same. RC outlined the bones of the deal as follows:

1. £60,000 payment.
 - A. £40,000 paid into a pension fund.
 - B. £20,000 paid against in connection with legal fees and other vouched expenses.
 - C. Saab Turbo, value £12,000.
 - D. £6,000 loan forgiven.

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FR and GG agreed to this deal so long as it was in full and final settlement with MAS that he would have no further dealings with or for the company or its officers after July 1989. FR asked could we not make it a condition of his package he would not have any dealings with the company staff in relation to helping them or encouraging them to find employment with other companies. RC suggested this was not possible as his contract of employment was terminated by this company. RC to give signed copies of the settlement agreement to FR and GG as soon as it is completed.

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Mr. Gogarty's resignation.

RC stated that he and other directors wished to accept Mr. Gogarty's resignation from the companies. RC also showed us a copy of a solicitor's letter from Mr. G offering his resignation.

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GG and FR suggested it was a very sad day to see Mr. Gogarty end his days with the company like this after all he did in building up and securing the companies. GG and FR also hoped that this would not affect his pension package in any way. RC and GG agreed that this had been

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approved at a meeting on the 3rd July 1989 and said it would be honoured in full as sanctioned at same meeting with Mr. Murphy.

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RC suggested that we would have no say as such in the final decision in accepting Mr. Gogarty's resignation as it is Mr. Murphy who will pay his pension, not GG, FR or RC.

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NB: GG and FR are unsure of the validity of all decisions and matters decided on and discussed at this meeting because all the other directors were not present and we had no communications from any of them regarding their wishes on these matters.

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Other matters:

Wages and pensions:

FR and GG advised RC that their pension had not been implemented and agreed in line with the works manager.

Wages increases have been paid to JMSE hourly staff and to AGSE senior management since June 1st.

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The JMSE management are now the only group due for a review. We have discussed this matter with T.J. Parker and he is considering it presently.

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JMSE accountant.

The recruitment of a JMSE company accountant was mentioned once again to RC. Mr. Murphy's wishes on this issue were outlined as discussed at a meeting of directors on the 3rd July when Mr. Murphy and Mr. Gogarty and RC and GG were present. RC told GG to fire ahead with the appointment in this instance.

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Signed Gay Grehan and Frank Reynolds. Dated 28th July 1989 and cc to Roger Copsey."

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I think that document encapsulated, as far as you were concerned, the concerns of the existing directors at that particular time, is that right?

A. I think the minutes which I drafted more accurately set out what was discussed at the meeting.

63 Q. Yes. You then furnished a copy of the minutes which you had prepared and I think that that is an enclosure to the document at page 122.

"Dear Gay, would you please indicate your agreement to the points set out in the minutes. If these minutes do not, in your opinion, fairly reflect the lengthy meeting we had, please give me a written note of each additional points or alternative wording."

And then the next document is the minutes of a board meeting of Joseph Murphy Structural Engineers held at Santry on the 27th July, 1989. That document runs from pages 123 to 126 and immediately after it then, there is a letter of the 10th August 1989 from yourself to Mr. Gay Grehan and I am a little unclear as to whether the minutes in fact accompanied that letter, rather than the letter of the 9th.

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In either event I will read the minutes first and then the detail of the second letter. These minutes are at page 123.

"Present: RJ Copsey, Gay Grehan, Frank Reynolds. There being a quantum present, the meeting commenced with R Copsey in the chair. The following matters were

discussed:

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A. A report by Bates & Company on the work in progress in respect of the '87 accounts and the'88 accounts.

B. The resignation of James Gogarty as a director of the company.

C. The position of G. Grehan and F. Reynolds as director.

D. The settlement with Marcus Sweeney.

E. The retirement terms with James Gogarty.

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1987 and 1988 accounts:

1. James Gogarty had expressed reservations on the value of the work in progress in respect of the 1987 accounts.

These accounts will be approved at board level and certified by the auditor of the company. Mr. Gogarty had apparently been specifically excluded from the meeting which approved the accounts and felt that the amount of stock shown in the balance sheet was extremely high especially in relation to the turnover for the period. He quite positively felt that the stock was overstated.

R Copey reported that he had requested Mr. Gogarty cooperate with the company's auditors, Bates & Company, in order to carry out an indepth investigation on any matters which gave him cause for concern and report to the board.

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A comprehensive report on the stocks figures for 1987 and 1988 from Bates & Company was tabled.

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2. A lengthy discussion ensued and the following conclusions were reached:

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a. The size of the stock figure on the balance sheet as at

31st May 1987 was misleading because of the items included under the heading 'Stock'. The majority of the balance sheet figures comprised items which would normally have been shown as debtors rather than stock. These items related to measurements unpaid at the year end and claims in respect of the contracts outstanding. It was agreed that in future accounts of the company would display the items in a less confusing fashion.

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b. Each of the items comprising stock figure as at 31st May 1987 appeared reasonable to the board and were specifically confirmed in the Bates & Company report. It was unanimously decided that the board had no reason to believe that the stock figure in the accounts as at 31st May 1987 were incorrect.

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3. In view of the fact none of the present board were directors or actively involved in the management of the company at a senior level during the period covered by the accounts, it was decided that the 1988 accounts and the management accounts to the 28th February 1989 should be scrutinised by the board members prior to reaching final conclusion on the 1987 accounts.

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4. It was noted that there was a significant difference between the total of the stock as at 31/5/87 and 31/5/88.

This difference arose as follows:

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a. There were no claims in 1988 and claims in excess of £300,000 in 1987. The 1987 claims related to the ESB and these were cleared during the period covered by the 1988 accounts. Messrs. Grehan and Reynolds agreed to check

that the claims position as of 31st May 1988 was correct shown at nil.

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b. Measurements in respect of contracts presented to the client at the year end but not paid amounted to in excess of £600,000 in 1987 but only £154,000 in 1988. It was noted that the latter figure appeared exceptionally low and Messrs. Grehan and Reynolds undertook to check that the 1988 figure was correct.

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5. It was agreed that R Copsey would send the following information to G Grehan and F Reynolds:

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A. Copies of the audited accounts to 31st May 1987.

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B. Copies of the final draft accounts to 31st May 1988.

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C. Copies of the management accounts to the 28th February 1989.

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6. G Grehan stated that he had sought separate legal advice regarding the advisability of him signing the accounts to the 31st May 1987. That advice had been that it would not be legally possible for him to sign the accounts.

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R Copsey stated that in his opinion, that advice was incorrect and contrary to the advice given by the company solicitors. That advice had been that in the circumstances where information had come to the board that past accounts might be wrong, it was proper for the board to investigate the matter and to involve the auditors of

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the company. If the board in factual information that the accounts were correct, it was the duty of the present board to finalise the accounts of the company.

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The minutes approving the accounts should make note of the lack of the directors' first hand knowledge or involvement in the preparation of the accounts and their reliance on present figures as far as they relate to previous accounts together with reports from independent experts.

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The responsibility of the director who signed the accounts is no different from the responsibility of a director who approved the signature on the accounts.

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It was agreed that R Copsey would obtain a letter from the company's solicitor setting out that advice.

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It was agreed that the 1988 accounts should not be approved by the board until all of the above information had been made available and scrutinised.

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Resignation of James Gogarty.

8. The resignation of James Gogarty as executive chairman and director of the company in the form of a letter from McCann Fitzgerald was tabled. It was noted that Mr. Gogarty's resignation had also been given verbally to the company accountant and directors of the company and, in view of his obvious wish to resign, the board reluctantly accepted his resignation. R Copsey stated that Mr. Joseph Murphy had been informed of this resignation and he reluctantly agreed to accept his resignation.

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The position of GG and FR as directors:

9. G Grehan and F Reynolds stated that they felt that monthly board meetings of the company should take place rather than management meetings which were contemplated by the chief executive, Mr. Tim Parker. They further felt they had not been kept fully informed of all matters regarding the company and indeed had only been asked to act in the capacity of director for the purpose of signing the 1988 accounts.

R Copsey undertook to inform Mr. Parker of this situation. Mention was made of an "elite board" and R Copsey explained that this terminology was misleading in so much that a group of people met with members of the Murphy family, as shareholders, only to keep them informed of actions taken or to obtain the opinion of the shareholders as to the future development of the Group.

Settlement with Marcus Sweeney:

Each of the board members had received a copy of the proposed terms of settlement with Marcus Sweeney. The negotiations had been carried out on behalf of the company by R Copsey in consultation with the company's solicitors, Gerrard Scallan and O'Brien. The legal advice had been pension premiums of £58,000 were due by the company on behalf of M Sweeney and that a court of law would award damages in respect of breach of contract by the company of between £60,000-£80,000. The proposed settlement which had been verbally accepted by M Sweeney amounted to a total cost of the company of £80,000 and it was unanimously agreed that the proposal should be implemented.

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Retirement terms for J. Gogarty:

11. It was understood that retirement terms had been agreed between J. Murphy and J. Gogarty subject to completion of an agreement to be drawn between respective solicitors. This agreement had not yet been received by the company and it was therefore agreed it was not appropriate to discuss the terms of the retirement package and how that may involve the company. However it was noted that JMSE would not be able to afford the substantial lump sum in respect of a retirement annuity.

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There being no further meeting, the business closed."

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And the copy furnished certainly shows the space for a signature by the chairman and it's unclear as to whether it was signed or not. Do you recollect that, Mr. Copsey?

A. I can't, it obviously sets out the meeting in a much more balanced and business-like fashion and the other minutes, which were really drafted to make the points that the particular people wanted to make, rather than record what was discussed at the meeting.

64 Q. Yes. I think you expressed that view in your letter to Mr. Grehan which is at page 127 and dated the 10th August.

"Dear Gay, I acknowledge receipt of your fax of the 2nd August setting out notes of the meeting of directors of JMSE on the 27th July 1989." I think that is how you described what he described as the minutes, is that right?

A. That's correct.

65 Q. "Attached hereto are more appropriate minutes of the meeting and would make the following comments on your own:

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1. The minutes need to be signed by the chairman of the meeting or the secretary of the company. It is not correct for two persons to sign the minutes.

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2. It is usual for the minutes of the previous meeting to be approved at a later board meeting and in this fashion all directors present at the meeting can approve the content thereof.

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3. As I mentioned at the meeting, it is often difficult to record all matters fairly as they were discussed and for this purpose, it might in the future be appropriate to have a third party to take the minutes. Obviously in a meeting which lasts two hours, it's not normally desirable to have the words taken down verbatim but it is necessary to record them in such a fashion to give fair record of the conclusions arrived at at the meeting. It's also necessary to note the arguments put by people but only if these are of particular importance.

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4. It is not correct to record that you stated you had sought legal advice that it would not be appropriate for anybody to expect FR or GG to sign these accounts as neither were directors of JMSE for the same period. The advice which you stated at the meeting was that it was not legally correct for you to sign the accounts. I pointed out it was in my opinion the legal advice which you had received was incorrect.

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5. On the question of the signature of the accounts 1987 and 1988, I pointed out that we all had a difficulty, including myself and Joe.

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Our detailed knowledge of the events which had occurred during the period covered by the accounts is limited because I had not been a director, in common with yourself and Frank, and Joe himself had not been concerned with the day to day running of the company.

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I stated that the law required the company to produce accounts, have them approved at a board meeting, and signed by two directors on behalf of the board. Because of this requirement, it was obvious that it was legally necessary for a person who had not been a director during the period covered by the accounts to sign the accounts, where no person who had been a director, or executive director, for the period covered by the accounts existed.

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6. With reference to the elite group, it was explained to yourself and Frank that this group of people fulfilled a function which was quite different and separate from the board of directors of any individual company. These people merely reported to the shareholders and did not make decisions which should more properly be made by the board of directors of the companies.

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Naturally if any member of the board felt that specific items which should be discussed with board members had not been discussed, this matter should be raised at a board meeting.

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7. It is not correct to say that a group of people conferring with shareholders, or indeed for board meeting not to be held on monthly basis, is totally out of line

with company regulations. Company regulations only require board meetings to be held in a few specific circumstances and thereafter it is up to the policy of the individual company. Some companies have monthly board meetings, others only have a board meeting once or twice a year.

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8. In respect of the finalising of the 1989 accounts I mentioned that the urgency for production of the 1988 accounts was such that the board should make an effort to sign those accounts without waiting for the 1989 final accounts. However, if the information contained in the Bates & Company report on the 1987 and 1988 accounts, together with information contained in the February 1989 management accounts, was not sufficient for the board to be able to form an opinion on the 1988 account, it would be necessary to specify the points of doubt and await the finalisation of the 1989 accounts and/or commission a further report by outside experts, as appropriate.

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9. I stated that I had never seen a copy of the Ernst & Whinney report and I made no note that it was suggested such a report would be available to the board. However, I will try to locate a copy of such report, if one were produced. It may be that the report was verbal.

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10. With regard to Marcus Sweeney's severance package, the board was asked to note that the company's solicitors had advised that the amount of the proposed settlement was considerably less than Mr. Sweeney might otherwise be entitled. Furthermore, it was my opinion that it was not legally possible to prevent him from having dealings with

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the company's staff in relation to helping them or encouraging them to find employment outside the company, quite apart from the terms of his contract of employment.

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11. It is important to note that I did not agree that JMSE had approved at a meeting on the 3rd July 1989 that an agreement relating to G Gogarty would be honoured. At a meeting on the 3rd July 1989, which was not a board meeting, Mr. Murphy agreed that he was to pay a settlement to Mr. Gogarty. At the same time I stated that the amount of such a settlement could adversely affect JMSE if it was proposed for the payment to be made through that company.

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12. I did not state that "we would have no say as such in the final decision in accepting Mr. Gogarty's resignation." I stated that I had consulted with Mr. Murphy and that he was in favour of accepting Mr. Gogarty's resignation as it was clear he wished to resign.

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A properly convened board meeting does have the final say in accepting a person's resignation. What in fact I said was that the final decision as to the payment of the pension/settlement to Mr. Gogarty was a matter for Mr. Murphy and GG/FR/RC would not have the final decision in that matter.

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13. As a matter of law, not all of the directors of the company have to be present at board meetings but they should all have received due notice of the meeting. I made it clear at the commencement of the meeting that I had consulted with Mr. Joseph Murphy and through him, Joseph Junior and Una, and they had agreed they did not want to

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attend. I had made them aware of matters which were to be discussed at the meeting. The decisions made by a board of directors of a duly convened meeting are valid and binding.

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14. On the question of JMSE recruiting a company accountant, what was said at the meeting was Joseph Murphy had stated that he wanted a person to be recruited to "chase cash". It was agreed at the meeting that cash collection and the chasing thereof was not a problem but I did state that the recruitment should go ahead if that were Mr. Murphy's wishes. Subsequent to the board meeting, I have discovered that the full facts of the case were not laid before the board meeting, so that a proper decision could not be made.

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The fact that the person being recruited was a fully qualified chartered accountant for the post of company accountant was not stated nor was the fact that the person had been interviewed by two board members earlier in the week stated.

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Many of the points above and indeed those contained in your minutes would not normally be set out in the minutes of a meeting as those minutes become too bulky and very much a he said/I said. However, I felt it was necessary to note the points which you had omitted in your own summary and to clarify some of the query points you have raised.

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You have not recorded that the report of the auditors was discussed in detail and that it was agreed unanimously at the board that the explanations given by the auditor of the

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stock and work in progress figures in the 1987 and 1988 accounts were satisfactory, with the exception of the low amount of unpaid measurements as at 31st May 1988.

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It was agreed that GG and FR would personally check these figures and report back to the board. Furthermore it was agreed that the seemingly high stock and work in progress figure on the balance sheet as of 31st May 1987 was explained by the fact that unpaid measurements and outstanding claims were recorded under the stock figure and that in future, for the purpose of clarity, these items should be separately shown on the balance sheet so as not to inflate the stock figure.

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Yours sincerely, RJ Copsey.

Copied to Frank Reynolds"

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This is the letter you sent to Mr. Grehan in response to his note or as he described it, his minutes of the meeting of the 27th July, isn't that right?

A. That's correct. I believe with that letter I enclosed my own suggested minutes of the meeting.

66 Q. Yes. Now, whilst you enclosed your suggested minutes, the response which you received from Mr. Grehan and Mr. Reynolds did not seemingly accept the points that you have made and that appears at document page 131, the following document, which is a letter from Joseph Murphy Structural Engineers Limited to Copsey Murray. For your attention:

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"Dear Roger, thank you for your letters of the 9th and 10th August, together with your minutes of the 27th July.

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We note the contents of yours letters together with your recording of the discussions at the said meeting, however we are satisfied that our understanding of the discussions are faithfully and truthfully recorded in our minute to you of the 27th July.

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Yours sincerely,

signed Gay Grehan and Frank Reynolds."

A. That's what he wrote.

67 Q. And I think it is the case that for a considerable period thereafter, certainly up until October of the same year, there were exchanges between yourself and Mr. Grehan and Mr. Reynolds touching essentially on the same subject matter that the directors felt that they should not be signing these accounts and that they weren't being kept informed of matters and all that was dealt with at meetings of the company, isn't that right?

A. They were the points that they were raising, yes.

68 Q. They were raising. Obviously it was resolved certainly at some point, isn't that right?

A. I think it was resolved that they agreed with me entirely that the accounts were correct and should be signed.

69 Q. Well where did they acknowledge that to be the fact?

A. When they approved the accounts of the board meeting unanimously.

70 Q. Is it the case that the accounts were signed by yourself and Mr. Murphy as directors and not by either Mr. Reynolds or Mr. Grehan?

A. That is correct but it was also explained to them and written advice given by the lawyers that approval at a board meeting by the directors unanimously conveys no more or less legal responsibilities on the persons who signed

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the accounts or approved the accounts. It's an academic point which the two of them were getting very worried about needlessly and in my view, most of this correspondence was called partly through their ignorance of things and that may be because they were newly appointed directors but more importantly because they were being -- without putting too fine a point on it -- being wound up by Mr. Gogarty. It was quite obvious to me that Mr. Gogarty's hand was behind this and since this correspondence, I have spoken to Frank Reynolds who confirms exactly that was the position, that these guys were being wound up by Jim Gogarty.

71 Q. And they continued then to be wound up for this period commencing with the opening of this correspondence and continuing until --

A. Yes.

72 Q. Until the 24th October?

A. And miraculously ending after Mr. Gogarty had negotiated his pension.

73 Q. Yes. The pension had in fact been agreed and that appears to have been recorded in a number of these minutes, isn't that so, prior to or at the meeting of the 3rd August, sorry, 3rd July, 1989, isn't that so?

A. Yes, I mean the question of Mr. Gogarty's pension was not an issue. There was always going to be a pension.

74 Q. Right. And the detail of it, as we know from your evidence yesterday and from the correspondence which had passed between the parties, was that since the 22nd May in essence, there had been an agreement in principle as to what was to happen, isn't that right?

A. Not a legally binding agreement but an agreement in essence, yes.

75 Q. Certainly a question as to whether it was legally binding

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or otherwise exercised Mr. Wadley's mind in the faxes as we see at a later stage when the ESB matter arose, isn't that right?

A. At that stage, which was much later, yes.

76 Q. Now, if we could deal with the position as it was in June of 1989, the beginning of June 1989, 12 months had lapsed since the coup had taken place, is that right?

A. Correct.

77 Q. All of the existing management team of JMSE had by that stage been removed, Mr. Conroy, Mr. Sweeney and Mr. Downes, isn't that right?

A. Correct.

78 Q. A new system was in place. Mr. Gogarty, who had been there as chairman in 1988 was still in the company in June 1989, isn't that right?

A. Correct.

79 Q. Although the terms of his pension in essence had been agreed on the 22nd May and you at the beginning of June were putting down your thoughts on how this could be best achieved from a taxation and financial point of view by Mr. Murphy or the Murphy companies, isn't that right?

A. To the benefit of both the Murphy companies and Jim Gogarty.

80 Q. Yes. And as matters were then in the first week of June of 1989 certainly, it looked like a bright future, the horizon was clearing as regards the problems which had bedeviled the parties for the 12 months beforehand, isn't that right?

A. I might add, much to my relief.

81 Q. Yes, and at that time, amongst other things, you felt it appropriate that you would perhaps submit a bill for your services to date and you did so on the 9th June in the sum

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of £16,500, is that so?

A. And I would say cheap at twice the price.

82 Q. And if we can turn now to the correspondence which passed around that time between yourself and Mr. Denis McArdle.

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CHAIRMAN: Would you like a take a break before you go on to that, just a short break, say five past twelve.

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MR. O'NEILL: Very good, Chairman.

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THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AS FOLLOWS:

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83 Q. MR. O'NEILL: Mr. Copsey. If I could refer you to the documents which are contained at tab 8 of the papers that were given to you yesterday. It's perhaps an aid to the refreshing of your memory of events around the 8th June of 1989. These documents, as you will see, as we go through them, I will just give a brief description of them. The first document is attendance by Mr. McArdle, the solicitor. The next document is a letter to the deposit manager of the Industrial Credit Corporation. The next document is an attendance by the solicitor's secretary on you. The next document is your own letter to Mr. McArdle in relation to your fees as agreed. The next letter is a document from Mr. McArdle to you regarding the sending of a cheque payable to JMSE and the next document again is a letter to yourself inquiring as to what's to happen to the cheque in question. The next document is again the solicitor's attendance on you presumably by telephone and the final document then is a letter to Mr. O'Keefe enclosing a cheque.

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Now, if we could deal firstly with the first of these documents and the copy is not great but I will read it in its entirety. It's dated the 8/6/1989.

Heading: "R Copsey, £30,000 wanted today. If possible, £10,000 cheque and £20,000 cash, underlined. June 15th election, contribution? Then in brackets, told him I could not get cash but it would be in the form of a bank draft."

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Now, firstly in relation to that document, Mr. Copsey, do you recollect having had a telephone conversation with Mr. Denis McArdle, the solicitor, on the 8th June 1989?

A. Yes.

84 Q. And what is your recollection, apart from that document, of that conversation?

A. Not really a lot different from what is written down there.

85 Q. Yes.

A. Of that particular conversation as to why it arose, yes, I have other recollections, but generally that would convey what we spoke about.

86 Q. OK. Well if we deal with the first line of it, "£30,000 wanted today." Can you tell the Tribunal when it was that a decision was taken that £30,000 would be required?

A. The decision as to when it would be required I believe was made that day when Jim Gogarty contacted me.

87 Q. And where were you when you were contacted by Mr. Gogarty?

A. As far as I can remember, I was in my office.

88 Q. Yes. Is that in Pembroke Road?

A. That's correct.

89 Q. Did Mr. Gogarty call to see you or did he communicate with you in writing or did he communicate with you by telephone?

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A. Well, he certainly didn't communicate in writing. I can't honestly remember whether he telephoned or came in to see me.

90 Q. In any event, the request was that £30,000 was wanted today. Can you tell the Tribunal how it was that he expressed that wish to you and what discussion between you took place regarding that request?

A. Yes. He asked me as to whether or not I could arrange for £30,000 and as set out here in the form of a £10,000 cheque and £20,000 in cash. It was for a political donation.

Now, I was obviously -- it was an unusual request to have £20,000 in cash so I asked him why on earth it would be necessary for a political contribution to consist of £20,000 in cash? He then explained to me that the general election was to be on the 15th June, which was only a week hence and in the event of things, that political parties had a lot of expenses towards the end of their campaign for things like posters, for people sticking up posters and other related expenses which it was convenient for them to pay out in cash.

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Now, that's exactly what he explained to me at the time.

91 Q. You have a recollection of those particular details, do you?

A. Yes.

92 Q. Yes. And the payment, you say, was to be £10,000 by way of cheque, £20,000 in cash. Did you ask him to explain why it was that only some of the money was to be in cash and some of the money was to be by way of cheque and that the greater proportion was to be in cash rather than cheque? I appreciate that you have already told us that there was a requirement for cash but does that explain a

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payment by way of cheque and cash?

A. No, it obviously doesn't explain it in the terms that you have put the question that I didn't ask because my assumption was that expenditure which the political party had, they only had a requirement for £20,000 in cash, otherwise they would have asked for £30,000 so I just assumed some expenditure was paid out of their bank account and some expenditure was paid by cash. They had calculated that is what they wanted.

93 Q. And I take it that this was the first you had learned of this on this particular day when this request was made to you by Mr. Gogarty, is that right?

A. That's correct, I had no discussion prior to that.

94 Q. Can you say whether or not it was in the morning or the afternoon that you had this discussion with him?

A. Now, I can't from memory, but working it back logically, it must have been in the morning because if you try to get cash of any description from a bank over and above, you know, £100 or £200, certainly at that time, you would have to make arrangements. I mean I would have said to him "I couldn't say whether or not £20,000 would be available in a day."

Now, I wouldn't even have attempted to ask for £20,000 in cash had it been in the afternoon because the bank simply wouldn't have been able to make those arrangements. That you'd have to phone a bank early in the morning in order to get that size of cash on the same day.

95 Q. And did Mr. Gogarty indicate to you which of the companies it was intended would be paying this cash?

A. No.

96 Q. Or cheque --

A. In fact I actually informed him that it wouldn't, that I

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wouldn't want, from a finance point of view, I wouldn't want it paid or borne by JMSE because this was obviously not what I would call a trading expense. It's not like buying steel or paying wages, and I would not have wanted that to reduce the profitability of a trading company which was heavily reliant on a bank overdraft and its results to support those borrowings so I would have excluded JMSE as being the party who would bear the cost of these monies.

97 Q. So Mr. Gogarty himself didn't indicate to you which company it was that was to provide this money for a political contribution?

A. No, I don't recall -- I don't recall anything like that, I don't think it happened, no.

98 Q. You of course had acted as an auditor for the Murphy companies between '72 and '78, isn't that correct?

A. That's correct.

99 Q. You knew something of their dealings, I take it, as an auditor. Was there anything in those years that indicated to you that this was a company or comprised individuals who were in the habit of making political payments to anybody?

A. Oh no, this was a totally exceptional payment.

100 Q. There had never been any record in those years in your audit of a political contribution having been made?

A. No, I couldn't say that but certainly nothing would, of this size.

101 Q. Did it strike you as you have described it, now as an exceptional payment, did it strike you then as an unusual transaction or payment?

A. It struck me as both unusual and exceptional.

102 Q. And it was coming from Mr. Gogarty who you knew at that time was retiring from the company and had been endeavouring to make a claim in respect of pension which

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you considered to be sizable, isn't that right?

A. Yes.

103 Q. Did you think to ask him whether or not he had discussed this payment with Joe or with any other member of the company, either the land owning companies or the other companies?

A. No, I didn't. Simply because it didn't cross my mind that he would have made such a request unless it was with the authority of Joseph Murphy Snr after discussing it with anyone else other than Joseph Murphy Snr. That wouldn't have been relevant at all. He wouldn't have discussed that sort of thing with Gay Grehan, Frank Reynolds or anyone else. The only other person he would discuss it with would be Joseph Murphy Snr and I just assumed, in fact it would have been exceptionally rude of me to say have you, I mean it is as night follows day.

104 Q. You were the financial controller of the company and presumably he was coming to you on your account for money, isn't that right?

A. I was financial director and he was asking me to arrange the funds.

105 Q. Yes. And what would be unusual about asking him then, given that you could identify it as an exceptional payment, for an explanation as to why it was being paid firstly, and secondly, as to whether he had sought approval or had discussed the matter with Joe?

A. There's no such thing as right and wrong. Of course I could have but I didn't and I have explained my reason for not doing so.

106 Q. Did you even think to ask him who the beneficiary of this particular bequest was going to be?

A. He said he wanted to make or decided to make a political

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contribution. I could not honestly say as to whether he mentioned a political party. He most certainly did not mention a political individual but at this stage I can't remember him mentioning a political party and to me it would have made no difference as to which political party it was being given.

107 Q. The request was that the money was wanted today, the 8th, isn't that right?

A. Yes. He explained that because it was so close to the election that the money was needed very quickly.

108 Q. Were you aware that on that day, the 8th June, 1989, a letter had been received by Mr. Gogarty in relation to the proposed acquisition or joint development of lands by Mr. Bailey?

A. No, and I can definitively say that my conversation with Jim Gogarty regarding the requirement for these monies, that he did not bring up and connect the two points.

109 Q. You were a director of the companies that would be affected if there was to be a joint venture development of these lands or if there was to be a sale of these lands, isn't that right?

A. If there was to be a joint venture and if there was to be a sale, yes.

110 Q. And in the normal course, you would expect to have received any letter of offer or proposal of joint development of these lands if it was received by a fellow director, isn't that right?

A. Actually not really. My only concern and again, you have to see my involvement as a director with these land companies, it was financial. If Jim or Joe or whoever wanted to discuss any number of hypothetical options with people, they would not consult with me on those

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hypothetical options. They would do their own discussions, wheelings, dealings, whatever terms you want to use and then would come to me when they had something firm and absolute in mind and it's then when my role would click in.

111 Q. Would you not have had a role, for example, in determining whether it would be in the long-term financial interests of the company to engage in principle in a joint venture, for example, rather than to sell out right and receive a capital sum which might be diverted to other company activities, would that not be an area that, as financial director, would be within your remit?

A. Yes, but again at which point one becomes involved, I mean I have obviously now read that letter from Bailey and I have also read the other evidence. I don't think there was ever any question, as far as I know anyway, ever any question of the Murphys, if I can put it that way, entering into a joint venture with Bailey and if there never was any possibility of them doing so, there wouldn't then have been any necessity for them to raise it with me.

112 Q. Yes. Equally, if there was some possibility that that would be a possible development, it is something which would have been sent to you presumably for your financial advice obviously, isn't that so?

A. In fact the Murphys were contemplating going into a joint venture and I will use the word 'Murphys' as a general term, yes, I would have expected to have been consulted when the idea was firming up in their mind and before they made a final decision. However, clients don't always do what I expect them to do but generally I would have expected them to, yes.

113 Q. You certainly would have expected them to consult with you in that event?

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A. I would have done, yes.

114 Q. And you know that Mr. Gogarty in his letter to Mr. Murphy Snr marked a cc to Roger Copesey in respect of that enclosure. Are you aware of that?

A. I am aware of that, yes.

115 Q. And did you in fact receive either the copy letter or the enclosure which was Mr. Bailey's letter of the 8th June 1989?

A. I actually don't believe that I did. Just a little word of explanation on that -- that of course years elapsed after I had given all of my papers back to the Murphys and I never saw them. I can't always remember everything exactly. I don't remember seeing that letter. I have to say here and now I wouldn't have had a problem in my own mind had I received the letter. Had, hypothetically, I received the letter at the time, I would have glanced at it and I would have filed it away because these were just discussions going on between what I would call the principals, I would have filed it away and then when they consulted with me, I would have taken it out and referred back to it. I remember at the time I had a limited amount of time to do things, it is worth saying that the Murphy group of companies at this point in time took up about 40 percent of my entire time. Now, there was an immense amount of work done for the Murphys. I was exceptionally busy at that time, working very very long hours and believe you me, if I got something in like that, I would spend a minimum amount of time until my expertise was required. So to come back and answer your original question, I don't believe I got a copy of the letter but if I had, I would have glanced and filed it away.

116 Q. Right. It certainly is a document which was important to

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your clients and one which if you received you would have appropriately filed?

A. Oh absolutely, yes.

117 Q. And equally if an unusual demand, as this one, was made of you by Mr. Gogarty for the payment or the requisition of the £30,000 sum, you presumably would have recorded that also?

A. Yes, in normal circumstances. These were -- it was an exceptional payment but the whole events concerning this £30,000 or the 20 and the 10 was exceptional. If we go on just a couple of hours later, it must have been only a couple of hours later, Jim Gogarty then cancelled his request for those monies and dealt with the matter separately. So my involvement was a very in and out involvement as far as the political donation is concerned and then just became a transfer of funds, which was completed a couple of weeks later.

118 Q. Well, what I was asking you is whether or not in view of the unusual nature of this transaction or indeed perhaps as a matter of routine, if a request is made of you for money which you in turn would have to pass on to somebody else, would you have recorded that fact in your record or your memorandum just as the company solicitor apparently did in his memorandum?

A. No, that's not the way I worked. I would have taken the transaction itself as my basis. The file shows that I did on occasions, if there was a very important and long meeting, I would take handwritten notes but generally I wouldn't -- you can see through the files that I would have had hundreds of telephone calls during that time and rarely if ever did I record the note of those telephone conversations.

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119 Q. The particular transaction here then was one which was by telephone to Mr. McArdle?

A. Correct.

120 Q. And your request was for a cheque and for cash and the reference refers to the election and a contribution questionmark. It then goes on to have in brackets here the words "told him I could not get cash but it would be in the form of a bank draft." Do you remember that being said to you?

A. Yes, I mean I don't remember word by word but yes, and I must assume that this note here must have been in two parts because I don't think that Denis McArdle would have been in a position when I first spoke to him to say whether he could or couldn't get it in cash. I think he probably would have had to check but in any case, yes, I do know that at some stage he said to me that he couldn't get cash, it would have to be in the form of a draft.

121 Q. I assume that you have been shown a copy of Mr. McArdle's statement or affidavit which deals with his best recollection of these events?

A. Yes, I have.

122 Q. You know from that that Mr. McArdle's reservation about getting cash was he didn't intend to expose one of his staff, presumably a young woman, to the risks that would be inherent in carrying a large sum of cash, £20,000, and that it was for that reason that he indicated that it would not be possible to comply with the request in cash?

A. Now you remind me, you are absolutely correct.

123 Q. Now, that is a concern I suggest which would have been apparent to you the moment you had indicated to him "I want £20,000 in cash if you can get it" and it's more likely than unlikely that he would have said "look, I told him I

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could not get cash for it but it would be in the form of a bank draft."

A. I agree with you entirely.

124 Q. So that armed with that knowledge, you knew that the request for £20,000 cash could not or would not be possible, isn't that right?

A. That's correct.

125 Q. And what effect did that have on your plan with regard to providing the money?

A. Well I would have got back to Jim Gogarty because this is an unusual request, there was no way if he had asked for £20,000 in cash and £10,000 in cheque that I would have delivered a £30,000 draft instead. So I would have got back to him and I think then that would then lead onto the next note, which Denis McArdle's secretary or receptionist has.

126 Q. Well what I want to know is what you did yourself rather than what she did subsequently but --

A. But what I did was to telephone her.

127 Q. Before you did that, I take it that on your account you had discussed with Mr. Gogarty what his requirement was and you had indicated to him that you would implement his request by applying to Mr. McArdle, the company solicitor, and organising the funds through the ICC deposit account of which you were aware, isn't that right?

A. Yes, I probably wouldn't have gone into detail to say it was from an ICC deposit account. I would have said I was aware that Denis McArdle was holding the fund and I would see whether they were available, I would have had to have said that because he may have had them on a timed deposit or anything but I would have made inquiries, yes.

128 Q. All this would have been in the context Mr. Gogarty was

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already a cheque signatory on the JMSE account and could have signed a cheque for 20, 30, 50 or indeed £100,000 provided it was co-signed with a fellow director, for example, an authorised signatory, Mr. Frank Reynolds, at that time, isn't that so?

A. That's absolutely correct and that's what he eventually did, yes.

129 Q. So he could have done that without ever consulting you at all, isn't that right?

A. Physically, yes, he could have done, yes.

130 Q. Yes. Do you know why it was then that he came to you about this matter if he did not know and you had not informed him of there being monies on deposit that were available in the ICC?

A. Well JMSE was -- there may not have actually been sufficient money in the account of JMSE at the time because JMSE was often bouncing up to its overdraft limit, especially at the beginning of a month. At the beginning of a month your creditors press you, you have to pay out your wages and you are waiting for your debtors to be collected in and contractors are notoriously bad in terms of cashflow because they have rather large lumps of monies and they have a series of people who authorise the drawdown of those monies including architects etc, so they have to get certificates, then maybe the main contractor has to sign off, etc. etc., so the amounts are delayed so my assumption would be at the beginning of the month, it may have been that there wasn't sufficient money in JMSE.

131 Q. If there was a concern about that, Mr. Copsy, it presumably is a concern that Mr. Gogarty could have addressed by contacting either the internal accounting people in JMSE or indeed by contacting the bank itself to

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establish whether or not --

A. Oh yes.

132 Q. Is that right?

A. Oh yes, I have already agreed with you. I mean, in general, I mean, he could physically have drawn money from JMSE with another co-signatory, yes.

133 Q. Right. And did he tell why it was that he was coming to you and involving you in this transaction if as we apparently can see, it wouldn't have been necessary for him to have done so?

A. I can't remember but only in so much that it wasn't a trading transaction but I can't remember discussing it further than what I have actually told you.

134 Q. And why did you determine it wasn't a trading transaction if in fact it was a payment by JMSE to this political party?

A. Well it's something certainly I wouldn't put down as a trading transaction. It isn't a trading experience, it wouldn't have been allowable against tax, it certainly wouldn't have been something which I would have wished to have shown as a charge against the profits because I was determined to keep the profits of JMSE as high as possible. Now, the fact that they were going to be charged against Grafton and Reliable's profits wasn't a problem to me at all but as I have already explained to you, it's very important in a trading company which is trading up to its overdraft and it's heavily borrowed, not over-borrowed but heavily borrowed, it's very important to have the maximum amount of profit showing in those accounts. I would not, as group director, have wanted this amount or any amount of £30,000 charged against the accounts and you can see that reasoning when I have been

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talking in the minutes of the companies, that even the charge for Jim Gogarty's pension I was anxious not to have charged against the accounts for the same reason.

135 Q. There is a considerable difference of course between a £300,000 deduction and a £30,000 deduction, isn't that right?

A. From little acorns large trees grow.

136 Q. How great was the turnover of JMSE at the time, can you recollect?

A. Not at all, I wouldn't have an idea.

137 Q. I think you have provided documentation to Mr. Wadley setting out the affairs of the Irish companies over a number of years leading up to 1988, is that right, 1984 to 1988 accounts? I think that those figures are available to you. It's in tab 6, I think we did see it a little earlier. Page 86 in tab, I should say in tab 6, Mr. Copsey.

A. The turnover --

138 Q. Summary of results: Irish companies, if we get to -- the last year is the only one we have to concern ourselves with. In 1988 turnover of the company there was £11.5 million.

A. Of course an expense, I would never really relate to turnover, it's so much more important if you relate it to profit. Just to illustrate what I am talking about here, that if you look at 1987, just results as an illustration --

139 Q. Yes?

A. The retained profit there was £45,952. If you had a charge of £30,000 against that, it makes quite a significant difference in percentage terms. That would be about 66 and two thirds. If of course you relate it to

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the turnover, it's an infinitesimal tiny amount but I would always look at the net profit rather than the turnover as a more meaningful factor to take into account when you are charging expenses but that's just by way of illustration to show why I'd be thinking in that way.

140 Q. Having determined that cash then wasn't available, you knew that once you had concluded your initial telephone call with Mr. McArdle and presumably you then got back to Mr. Gogarty to advise him that what you had hoped to provide was now not possible unless perhaps he took it in the form of a draft which seems to be the offer here?

A. Absolutely, yes.

141 Q. And presumably a draft could have been drawn on ICC in any bank where one could present it and get cash for it, is that right?

A. Without any problem at all.

142 Q. Yes. And did you explain this and discuss this with Mr. Gogarty that whilst cash itself was not available, a draft was and that was in effect the same thing?

A. Yes. As far as I recall, he seemed particularly anxious that he would have the cash that day. I don't know why. And so he immediately said that he felt he could make the arrangements through JMSE. Now, I can't recall -- it could have been since he spoke to me more money had come in because on a daily basis cheques would come in and cheques into JMSE tended to have been in large lumps of money, the sales weren't seven-and-sixpence or 79p or 76p. They would tend to be £50,000, £150,000, large amounts of money so for whatever reason, he felt that he could get the money from JMSE so as far as I was concerned, my only concern then was that I would replace the working capital which had been, that would then be depleted in cashflow terms and I would

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replace that with the money to be drawn by Denis McArdle.

143 Q. I see. So your initial concern was that you did not want to have this money going through the trading company like JMSE because the fund was not tax deductible and that it could have an impact on the accounts of the company and therefore your preference would be to put it through one of the non-trading companies and deal with it in that manner, isn't that right?

A. Actually tax was not an issue because a political contribution is not allowing for tax in any company so it was simply a hit against profits, if I can put it that way.

144 Q. But you had made the decision it was not to go through JMSE in any event?

A. Not to be charged to JMSE. When Jim Gogarty felt the necessity to take it out of JMSE because of his cash requirement, I then decided that that was, I could cope with that from the point of view I would merely treat it as a temporary loan by JMSE for a period of a week and that loan was to Grafton/Reliable which would be replaced and repaid, that loan would be repaid within a week or within days by the draft from Denis McArdle.

145 Q. And that is your recollection as to how it is to be accounted for and is that the explanation that you gave to Mr. Gogarty once you got back to him and said, "Look, I can't comply with the request to get £20,000 and a cheque for £10,000 but I suggest the way it will be done is that it will be done through JMSE. It will be on the basis of a loan account between the companies. It would be repaid within a period of a week or thereabouts." Is that how you explained it to Mr. Gogarty?

A. I don't think there was any chance of me explaining it to Mr. Gogarty. I actually don't normally explain my

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accounting entries to people. If they are non accountants, they find it very boring and normally they don't understand it so I have no doubt that I would not explain it to Jim. As far as he was concerned, he wanted to obtain the money. I am saying yes, I am in agreement with taking it out of JMSE instead of and I'll cope with the rest.

146 Q. You do have that recollection of suggesting that course would be adopted since the initial course that you had proposed was not apparently acceptable?

A. I didn't propose it came out of JMSE. I think he suggested to me and I was in agreement.

147 Q. Yes. And did he tell you how he was going to do this through JMSE?

A. No, it really wasn't a discussion. I believe I was, I believe I must have been in contact with Tim O'Keefe later so I was aware that it was being picked up etc.

148 Q. But on the day itself, you cannot recollect telling him that it should go through JMSE but your recollection is that you believe that he told you that he would put it through JMSE?

A. Yes.

149 Q. And that you then decided that that would be accounted for as a sort of inter-company loan but you didn't tell him that.

A. I can't imagine any circumstances where I would have bothered to explain it to him.

150 Q. So you then had to get back presumably to Mr. McArdle and tell him what the new situation was, isn't that so?

A. Hence my telephone call.

151 Q. And that telephone call is recorded as at page 154, which is a telephone attendance by a lady called Eilish on the

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same date, the 8th June 1989?

A. Yes.

152 Q. And it reads; "Roger Copsey said to forget call of this morning and "at his reasonable leisure" draw a cheque from client's account for £30,000 payable to JMSE. If you need a letter of instruction or such like, phone his secretary."
Signed Eilish, and the date, isn't that right?

A. Yes.

153 Q. This seems to suggest it was in the afternoon rather than in the morning, isn't that right?

A. It was certainly after the first call, yes.

154 Q. It says "Forget call of this morning..."

A. Yes, OK.

155 Q. It may or may not have been in the afternoon?

A. Whatever.

156 Q. Have you any recollection of how long after the initial discussion with Mr. Gogarty it was that you phoned back?

A. No, not really. I couldn't pin it down within a number of hours but the likelihood is that we are talking about between two and three hours, I would have thought because -- yes, because obviously the cheque, the draft hadn't been drawn at that time so if you narrow it down by eliminating common sense, possibility, I would have said a maximum of three hours, possibly one hour.

157 Q. On the same date, Mr. McArdle wrote to the bank, document 152: "We should be obliged if you would give the bearer of letter a cheque for £30,000 out of the above numbered account."

A. Yes.

158 Q. And presumably since the payee was not named in that, the bearer was to receive a cheque made payable to the account holder which would have been Mr. McArdle, is that right?

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A. Yes, that would have been an arrangement, I wouldn't have asked him to make it to bearer, that would have been his own method of doing things.

159 Q. The telephone request you had made was for a cheque for £30,000 payable to JMSE, in fact, an a bearer cheque was sought by him which would appear to suggest that this letter had gone out before your call had come in to suggest an alternative?

A. Yes, actually you are right, I hadn't thought of that but you are probably right, yes.

160 Q. And that bearer cheque in due course was received by Mr. McArdle and he wrote to you then on the 12th which was the Monday on the following week, is that right?

A. Yes.

161 Q. And that is document 156 under the heading "Re Grafton Construction Company Limited, Lands at Swords. I refer to our telephone conversation on Thursday last and I confirm --

A. Sorry, I have lost you on the reference.

162 Q. Yes. I think I may have advanced a little further than I should have. It is page 156.

A. OK, yes.

163 Q. "Dear Roger, the Grafton Construction Company Limited, lands at Swords. I refer to our telephone conversation on Thursday last and I confirm that I am sending a cheque for £30,000 payable to JMSE directly to Jim." And what we see here is the original of this letter so presumably it was received by you and it has come to the Tribunal in that form because the Tribunal also has the copy which is not on letterheading from Mr. McArdle.

A. Yes, I assume so, yes.

164 Q. That letter then is followed by another letter on the next

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page, 157. "Dear "-- this is on the 13th June -- "The Grafton Construction Company/Reliable Construction Limited. Further to my letter of the 12st inst the sum of £30,000 requisition from Industrial Credit Corporation has now come to hand. I telephoned Jim to inquire whether I should post it to him or if he would prefer to have it collected but he tells me he does not need it and I should send it to you. What am I to do?" And this letter was sent to you at Pembroke road, isn't that right?

A. That's correct.

165 Q. Again that letter, though we have a copy, appears to be a copy of the original letter and it has a date stamp of the 13th June which may well be your date stamp.

A. That's my date stamp, yes.

166 Q. So we can presume that that letter probably went by hand or courier to you from Fitzwilliam Square, is that right?

A. Yes.

167 Q. There then is an attendance equally dated the 13th June of 1989, an attendance by Mr. McArdle under the heading "R Copsey, £30,000 to JMSE, 1, Tim O'Keefe." 2 then deals with another matter. I think we can at this point possibly deal with that to get it out of the way.

The document at page 155 is a letter from you to Mr. McArdle, do you see that?

A. Yes.

168 Q. It's a letter which you sent on the 9th. "Dear Denis, I confirm that Joe authorised me to appropriate a sum of £16,500 from the amounts you currently hold from the above companies. I would be obliged for remit at your earliest convenience."

A. Correct.

169 Q. Now I think if we revert back to the document at page 158

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the reference to item 2 there seems to deal with that. It says "We will split it when he does final tax computation apportionate between the two companies, Grafton and Reliable. Went to Joe with overall bill. Joe said take some from such and such a co. It is for professional services. Will send me invoice."

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Do you have a recollection of discussing on the 13th with Mr. McArdle the content of your letter of the 9th and how the £16,500 was to be apportioned or dealt with in the company accounts?

A. I actually can't and to be honest with you, I am not quite sure why I would be discussing with Denis how it was going to be split. It really wouldn't make any difference to him whatsoever or be any concern.

170 Q. It seems that it may have been Mr. Murphy Snr who decided that it should be split?

A. I --

171 Q. It one reads further down, "Went to Joe with overall..." -- That would be we are talking about the £16,500 - "went to Joe with overall bill. Joe said take some from such and such a co, it's for professional services. Will send me an invoice."

A. I am actually not making an issue of it but I really can't understand, undoubtedly I did but I can't understand why I would be discussing the split of professional fees and tax comps with Denis McArdle. I discussed a lot with him but it wouldn't have been any concern of his whatever and he wouldn't have been interested.

172 Q. My interest at the moment is to endeavour to distinguish whether or not the first reference, that is to Tim O'Keefe, deals with the matter of the £30,000 payment and whether

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the second matter deals either with the £30,000 payment or whether it deals with the £16,500 payment which is mentioned in contemporaneous correspondence at the time?

A. I can see the difficulty. I actually can't help you there. I can't see why I should be discussing either the £16,500 split or the £30,000 split in terms of tax terms with Denis McArdle. All I can say is that it's headed £30,000 to JMSE. My initial assumption may be wrong, would have been that both 1 and 2 relate to the £30,000 and then it's a general note down the bottom that I don't have a fixed view on it and I am not sure that I can help you.

173 Q. If it did relate to the £30,000, it would suggest that the £30,000 payment was now going to be split between such and such a company and it was going to be put in for professional services and that an invoice was going to be generated in respect of it, if it did relate to that?

A. Oh no, no, there's no way that the invoice and -- sorry, the "Went to Joe with overall bill," downwards quite obviously does not relate to the £30,000. That must be a bill for professional services. That part must relate to -- and I would suggest maybe even his own bill because I believe at that particular point of time, he had a bill as well so that's why he says overall bill. It may have been mine and his but I really am guessing here a little.

174 Q. Is it possible then that the content of the attendance that refers to the £30,000 payment is limited to the point about halfway down where there's a reference to Grafton and Reliable so that it would read, "R Copsey, £30,000 to JMSE. 1, Tim O'Keefe. 2, will split it when he does final computation apportionate between the two lots, Grafton and Reliable."

Do you think that is relating to it?

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A. That would have been my initial assumption, I wouldn't have a problem if somebody wanted to put forward another guess but that would have -- if you had asked me that is what I would have thought and I would have thought the last bit "went to Joe" was a general comment on his, my bills and a general amorphous sum.

175 Q. Obviously dealing with bills then and not with this particular payment, is that right?

A. Yes.

176 Q. So the position as far as you were aware as of the 8th June was that the payment was going to be paid through the JMSE account, whether it be by cheque or withdrawal or draft or whatever it might be, is that right?

A. That's correct. I would have thought that he was still going to draw the cash. I am sure that's what he was going to do.

177 Q. And that in due course, you would learn how this took place and in due course, a payment would come from Grafton/Reliable through Mr. McArdle at his leisure and that that would then in turn be sent to JMSE, is that right?

A. Yes, I mean just, it's not an important point but at leisure, I probably put that in as a remark because as a typical client type thing, the world was going to come to an end if it couldn't be done this way immediately etc and then an hour later, they phone you up and say forget everything I said, so it would have just been a jokey remark between myself and Denis.

178 Q. It was also to take away the urgency of a payment today which had been your initial request of him, is that right?

A. Yes.

179 Q. And substituted with a cheque coming from him for £30,000

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made payable to JMSE?

A. Correct.

180 Q. And you may know from your consideration of Mr. McArdle's affidavit that a cheque was received by Mr. -- it was a cheque made payable to him which he then endorsed over?

A. Correct.

181 Q. Though his letter to you of the 12th June suggests that perhaps the cheque had been made payable to JMSE. In effect, payable to JMSE by means of the endorsement rather than by being the payee?

A. Which was made clear in his letter of the 14th June to Tim O'Keefe.

182 Q. So on the 12th June he says to you, "I refer to our telephone conversation of Thursday last. I confirm I am sending a cheque for £30,000 payable from JMSE directly to Jim."

A. That's correct, yes.

183 Q. So that presumably you had discussed with him in your telephone conversation that the money was to be sent to Jim, is that right?

A. To JMSE for the attention of James Gogarty, yes.

184 Q. Right. And then it appears that Mr. Gogarty did not want this money?

A. Yes.

185 Q. And do you know why that was?

A. Well I would have thought -- sorry, I am trying to offer a logical explanation. He did sit and consult with me. I would assume that as far as his concern, which was the political donation, he dealt with that so why does he need £30,000? My concern was not what he needed but what JMSE as a company needed in cashflow terms.

186 Q. But if he was aware of this arrangement whereby monies were

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coming from JMSE by way of cheque to reimburse the funds of JMSE, he would immediately have identified this cheque coming in as a cheque for that purpose and would have dealt with it by handing it to the accountant for lodgement to the JMSE account as envisaged initially in the meeting or the discussion which you had had with him?

A. We are both trying to second guess what was in his mind.

I am offering a logical explanation. I have already explained to you that I probably wouldn't have gone into very much detail with him as to what I was going to do concerning the reimbursement and the loan and the entries so again, as a logical explanation, that wouldn't have weighed too heavily on his mind. The transaction, as far as he was concerned, would have been one of political donation and the rest was up to me and that's exactly what happened so he said he didn't want it so he didn't want it so I just arranged with the solicitor what I wanted.

187 Q. Well of course he should have wanted it, isn't that right, because to complete the transaction, he should have taken this cheque and lodged it to meet the liability which had been incurred by JMSE on the 8th, in writing two cheques, is that right?

A. But I gave up a long time ago believing everybody would do what they should do. It didn't seem important to me at all.

188 Q. It didn't?

A. No.

189 Q. Did you ever ask him?

A. No.

190 Q. Did you ring him up and say, "Jim, why have you not accepted this cheque?" Did you explain to him that the purpose was it would go back into the account so as to

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clear the indebtedness of JMSE?

A. No, as I explained, I was actually very busy and if he didn't want, I would deal with it and by the time I phoned him and then had to deal with it, I would have wasted time.

191 Q. But you did phone JMSE about it?

A. About what?

192 Q. About dealing with this particular cheque because Mr.

Gogarty had declined it and you now had make an alternative arrangement for it to get it into the accounts of JMSE, is that right?

A. No, I simply asked Denis McArdle to send it to Tim.

193 Q. Did you not tell Tim, who was your employee, but based as JMSE's accountant, that the money would be coming to him as a result of your discussion with the accountant?

A. I would have thought that I would have already cleared that with him because Tim and I were in fairly regular contact concerning cashflow so as you see from documentation that I set in a system of very detailed cashflow monitoring of the companies which consisted of itemising when and which receipts were expected in to meet payments going out. So undoubtedly Tim O'Keefe would have been aware of that.

194 Q. And the only way he could be aware of it is by contact from you because you were the only person who was aware of it?

A. Yes.

195 Q. I think, Sir, it might be a convenient time to break.

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CHAIRMAN: Very good, quarter past two.

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THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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THE TRIBUNAL RESUMED AS FOLLOWS AT 2.15PM:

MR. O'NEILL: Good afternoon, Mr. Copsey. Just before lunch, we were dealing with your contacts with Mr. Tim O'Keefe in relation to this matter and before re-embarking on that inquiry, could I just ask you in relation to your contact with Mr. Murphy Snr around this time. Is it the case, given your letter of the 9th June 1989 to Mr. McArdle, that you had been in fact in touch with Mr. Joseph Murphy Snr who had authorised to you appropriate the sum of £16,500 towards your fees?

A. Yes.

196 Q. And that had probably taken place on that date since it was not a matter which was raised in your, at least two telephone discussions with Mr. McArdle on the previous day, is that right?

A. No. I mean that could have been raised at any time. My usual thing would have been to dictate notes like this which wouldn't have been of absolute urgency and that could be on a tape for two or three days. So there is no -- I think it highly unlikely that it was that same day.

197 Q. I see. If, by that same day, you mean it was highly unlikely to have been the 9th?

A. Yes, highly.

198 Q. It could have been the 8th?

A. It could have been the 8th, probably before, but whenever, yes.

199 Q. But certainly around this time there would have been no difficulty for you in contacting Mr. Murphy Snr had you requested to do so?

A. Yeah, no problem.

200 Q. If we can just then return to the dealings which you had with Mr. O'Keefe. Mr. O'Keefe, as you have told us, was

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at that point in time a trainee accountant with your firm and he had been seconded by you to JMSE where he was carrying out the in-house accountancy function there, isn't that right?

A. Yes. He was acting as financial controller.

201 Q. Right. And you had, as you have told us and is recorded in the minutes of the company in 1988, set up a detailed budgeting system for the company on a weekly basis recording expenditure and receipts and what have you, isn't that right?

A. Yes, the detailed cashflow, yes.

202 Q. Detailed cashflow. And of course one can't plan for everything and this payment of £30,000 out of the JMSE account would have been appeared to have been an unplanned payment certainly until the 8th June when it was implemented, isn't that right?

A. Correct.

203 Q. And having been contacted by Mr. McArdle and informed of Mr. Gogarty's unwillingness to accept this money, he required you to indicate to him what he should do with the money now and you contacted him presumably by telephone, telling him that he should send it to Tim O'Keefe at JMSE and he would appear to have followed that instruction by his letter of the 14th June 1989 which is document 159, where he states "Dear Mr. O' Keefe, on the instructions of Mr. Roger Copsey, I enclose herewith cheque for £30,000 which I have endorsed in favour of JMSE. Yours sincerely."

A. Yes.

204 Q. And I take it that in anticipation of that money being received by Mr. O' Keefe, you had spoken to Mr. O' Keefe to prepare him for the receipt of this money and to deal with

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it accordingly, isn't that right?

A. Yes, I mean I would have spoken to him at any time from really the, I would have suggested the 9th June onwards, possibly at the time of the original transaction.

205 Q. Right. So you think that he may have known about it, indeed at the same time as or Mr. Gogarty did from the 8th onwards, is that right?

A. I think it highly likely, and I have spoken to Tim about this, but neither of us can -- have a recollection of a specific conversation. We both think it highly likely that if he was requested by Mr. Gogarty to draw a cash cheque and go and cash it, then he would in all probability have checked with me so I would accept that in all likelihood, he would have checked that with me and I would have said that I knew about it and at that time, in all probability, I would have told him how to record it in the books as an intercompany loan and I would have told him that within a few days, he would be receiving a reimbursement of £30,000.

206 Q. I see. So your recollection at this point in time is that certainly before Mr. O' Keefe collected the money or had anything to do with the transaction, he would have checked it with you, is that right?

A. As I said, it's not my recollection. But I can't -- I can't envisage any other circumstance than that happened.

207 Q. But you can't recall that, though you can recall other matters of the same day?

A. Yes, memory is a funny thing. You remember some things and not others.

208 Q. Right. So you, having given instructions to Mr. McArdle, you sent this money to Mr. O' Keefe and you were about to tell us then what you had indicated to Mr. O' Keefe about

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this transaction. Could I ask you firstly whether you informed Mr. O' Keefe that the payment was a political donation firstly?

A. No. I'd actually have no reason to tell him because he was dealing the books of JMSE and from JMSE's point of view, it was not a political donation. I am talking in accounting terms.

209 Q. Right. I just want to know the level of detail that you passed to Mr. O' Keefe at the time.

A. No --

210 Q. It didn't include identifying what the payment was for?

A. No, otherwise he would have put it on the cheque stub.

211 Q. So you indicated to him that it was to be treated as an intercompany loan, is that right?

A. Yes, because that's exactly what it was.

212 Q. Okay. So you told him it was an intercompany loan and he should treat it in that fashion?

A. That's as a fact, yes.

213 Q. And did you tell him how and when that intercompany loan was to be settled or did you know that at the time?

A. Well I think I did, because I think it's quite obvious from here that the arrangement was made immediately.

214 Q. So that when the money came in, it was to be accounted for as a discharge of that intercompany loan as between --

A. That's correct.

215 Q. JMSE and Grafton and Reliable, isn't that right?

A. That is correct.

216 Q. Now, if I might turn now to tab 9 where there are a series of documents. The first of those at page 160 is a cheque stub for a cheque number 011547, it's dated 8th June 1989. It is re: Grafton and then in brackets cash, close brackets, £10,000. Can you identify whose handwriting

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that is?

A. That's Tim O'Keefe's handwriting.

217 Q. And I think you know from the JMSE accounts that this is a JMSE chequebook in respect of an account held at the AIB in Baggot Street, Dublin in the name of Joseph Murphy Structural Engineers Limited, isn't that right?

A. That's my understanding, yes.

218 Q. And this was a chequeing account upon which the signatories included Mr. Reynolds and Mr. Gogarty, is that right?

A. That is correct.

219 Q. And were you also a signatory?

A. Yes, I was, yes.

220 Q. The cheque stub here obviously formed part of the entire chequebook itself and would be retained presumably for accounting purposes once it had been completed?

A. That's correct, yes.

221 Q. The next page then is 161 and again it is dated 8th June 1989. It is for a cheque number preceding the last number by 1, again it says "Re: Grafton, cash", and in this instance it's £20,000, isn't that right?

A. Yes.

222 Q. Again the handwriting here is Mr. Tim O'Keefe's, is that right?

A. Yes.

223 Q. Would that suggest to you that since he wrote the stubs for the cheques, that he probably wrote the cheques themselves also?

A. Yes, I would think so, yes.

224 Q. Though of course he was not a signatory, so somebody would have to sign them before they were presented, is that correct?

A. Yes, his would have been a clerical function in that

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respect.

225 Q. Right. The reference to cash here, can you say why that would have been put in rather than re: Grafton intercompany loan?

A. No.

226 Q. And of course since he did not know that it was for a political contribution, it would not be entered on the face of the cheque, is that right?

A. That's correct.

227 Q. The next document then is 162 and this is a photocopy of the Allied Irish Bank's account or statement of account in relation to the account from which the cheques were drawn and the very last entry on the 8th June is an amount of £20,000 debit on the account, isn't that right?

A. That's correct.

228 Q. And if we turn to the next document at page 163, that is I think an internal bank document rather than its printout to the customer, but it records that the £20,000 payment on the 8th June was cheque number 011546, so that we can identify the last payment on the 8th June of 1989 as the cheque made out to Grafton and recorded as Grafton cash on the cheque stub, isn't that so?

A. Yes.

229 Q. Presumably the other transactions took place earlier in the day than this one and this was the last transaction of the day?

A. I am not quite sure of the internal workings of a bank.

230 Q. The next document then at 164 is again a statement of the same account and on the 20th June, it records a lodgment in the sum of £30,000 by way of credit to the account, isn't that so?

A. That's correct.

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231 Q. The next entry on page 165 is another statement from the bank and this is on the 22nd June, two days later, and it would appear that on that date, cheque number 011547 was presented and debited to the account in the sum of £10,000, isn't that right?

A. That is correct.

232 Q. So as regards the two initial cheques both dated the 8th June, it appears one was presented for cash at AIB on that date and was probably the last transaction on that account that day and the other was presented fourteen days later and debited to the account, isn't that right?

A. That's correct.

233 Q. And in the interim, the £30,000, presumably the JMSE payment from Grafton, had been lodged to the account on the 20th?

A. That's correct.

234 Q. The next document that I would refer you to is a document recording the cheque entries or the cheque journal for JMSE for the month of June 1989 and it runs from page 166 to page 169, isn't that so?

A. Sorry, I am just checking the numbers -- yes.

235 Q. It starts on the 1st June 1989 and the last entries are on the 30th June 1989.

A. Yes.

236 Q. In all, there are three and perhaps three and a fifth or three and a quarter at most pages full of individual cheques, isn't that right?

A. That is correct.

237 Q. And if we go to the second page by reference to the 8th June of 1989, there are a very limited number of cheques on that day, isn't that so?

A. Yes.

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238 Q. Four cheques in total of which two were written to Grafton Construction and they bear the cheque numbers that accord with the stubs which you have already identified, isn't that correct?

A. Yes, funnily enough one of them should be for Reliable but both of them are recorded Grafton.

239 Q. But indeed both the cheque stubs were also recorded Grafton. There was no attempt to divide them between Grafton and Reliable in the chequebook, isn't that so?

A. You are correct.

240 Q. Now, that I think completed the cheque journal entry and the bank's references to those particular documents and the next document I will refer you to commences then at page 170. These documents outline the manner in which this payment of £30,000 was treated by others and the first document at 170 is a document prepared by Denis McArdle, solicitor, under the heading "The Grafton Construction Company Limited, lands at Forest Road Swords, County Dublin. Cash account." And that document sets out in the column on the right, the receipt of monies and in the column on the left, the disbursement of those monies, isn't that so?

A. That is correct.

241 Q. And if we move to the item on the 13th June 1989, there is a reference to JMSE £30,000, isn't that so?

A. That is correct.

242 Q. And that accords with the correspondence which had passed -- which we have already opened which indicated that there was going to be a payment out of the ICC funds which were in the client account of McArdle and it was to take place at that time, isn't that so?

A. That is correct.

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243 Q. It also I think, for completeness, just records that on the 16th, your £16,500 was paid also. The item immediately beneath the £30,000 was the next payment out in sequence and that was on June 16th, £16,500 to Copsey Murray, isn't that so?

A. It was indeed.

244 Q. Now the next document I am going to refer you to is at 171 and this is a nominal ledger of JMSE, isn't that right?

A. It looks like it, yes.

245 Q. And what it shows is the relationship of JMSE and Grafton Construction Limited during the period between the 1st June 1989 and the 31st October 1989, isn't that so?

A. That is correct.

246 Q. The opening balance is a zero but on the 30th June, there is a reference to cheque number 11546 in an amount of £20,000 and cheque number 11547 for £10,000, isn't that right?

A. That is correct.

247 Q. And then the next credit to that is on the same date, and it has a reference CB £30,000, isn't that right?

A. Correct.

248 Q. So that from the point of view of accounting within JMSE, there was an account of an intercompany loan which appears in a nominal ledger and which records the payment out of 30 and -- in the form of 20 and 10 -- and a subsequent credit more or less the same accounting period of 30, isn't that right?

A. That's correct.

249 Q. Do you know what CB refers to?

A. Cash book, I would imagine.

250 Q. Cash book, I see.

A. As opposed to PC, which would be petty cash.

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251 Q. And CHQ is cheque, is it?

A. And INV is obviously invoice.

252 Q. So it left by cheque, the 20 and the 10 and then there is a cash book reference to the 30 coming in, is that right?

A. Yes.

253 Q. So the next document that I would refer you to commences at page 172 and that document runs from page 172 to 189 and it's described as "Grafton year ending 31/5/90, TB and journals plus lead schedules."

A. Yes.

254 Q. Now, TB is obviously shorthand for something in accountancy?

A. Trial balance.

255 Q. Trial balance, and journals and lead schedules?

A. Lead schedules is a backup information. If you have a figure of 10,000, it may be made up of five cheques of 2,000 for instance.

256 Q. Could this be described as the working papers rather than the audit itself?

A. Yes. And I think that these probably are John Bates' working papers.

257 Q. Yes, I believe they are.

A. Okay, right.

258 Q. These working papers of trial balance and journals and lead schedules would be part of the audit function which was being carried out for Grafton in that particular year ending the 31/5/1990, isn't that so?

A. Yes. I mean strictly speaking under law, auditing starts when the accounts, profit and loss and balance sheet have been prepared, but in the normal course of events in a small company like this, it would all be done by the same person.

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259 Q. Well, the auditor -- I think that is a function that is distinct from the in-house accountant, isn't that right?

A. Yes, but -- without making it too complicated, I think what John was doing here was fulfilling the function which would otherwise be an in-house function because it's such a small company they wouldn't have an in-house accountant. And then he wore a different hat and did the audit. But that's very common.

260 Q. But whilst Mr. Bates did this audit function, there was a permanent representative of your firm actually providing the financial control in the company at the time and keeping weekly records, budgeting the expenditure of the company, recording its receipts and completing the cheque journals, isn't that right?

A. I think we have to distinguish here between Grafton and JMSE. What you just said was correct for JMSE, incorrect for Grafton.

261 Q. I see. So what was accounting for the Grafton situation?

A. Well, the Grafton situation, I have to step back just one. It was a very small company, there may have been large sums of money passing through it at any one point of time, but for any number of years, it may have just one or two ground rents to collect. In this particular year, there were lots of transactions because there were sales. During the two-year period with which my firm was concerned, there would have been virtually no transactions at all covered by the period on which we were working and therefore it would have been very normal to have written up the books of the company at the end of the year because if you only have six transactions, you are not going to open up the books every day. You just do it in one fell swoop at the end of year. Now, I assume that is exactly what

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John did when he did these accounts. Because remember, we were no longer acting for the company at the point of time that these were prepared. So in answer to your question that my firm would have had little or nothing to do with the entries relating to this particular period other than the drawing of cheques, but the writing up of the books, we would have had nothing to do with it whatsoever.

262 Q. Right. Mr. Bates is also the auditor of JMSE, is that right?

A. He is, yes.

263 Q. And he would be aware of the relationship obviously between these two companies and equally aware of the fact that from time to time, there would be intercompany loans between them for various purposes?

A. Oh absolutely, and he would have automatically agreed the intercompany balances.

264 Q. Yes. So in the documents between pages 172 and 189, there is an explanation for the various receipts, expenditures, of the company, isn't that right, in some considerable detail so that the figures actually balance, isn't that right?

A. Yes. This is the first time I have seen these working papers, because I'd have no reason to see them, but look, I know how accountants would work, and on the basis of what you said, I would agree, but not having studied and looked at the time papers.

265 Q. Well would you like to perhaps have a look at them now and see whether or not they appear on their face to be detailed audited accounts of the receipts, expenditures and financial transactions of Grafton Construction Company to the year ending 31st May 1990?

A. What this would appear to be are the accounting records as

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written up by John Bates of the company for that period.

They themselves would then be audited. There would be a separate set of working papers where he would audit.

266 Q. Yes. And we'll come to the audit which is the auditor's report starting at page 191 in this booklet, but if I could turn to page 177 of the documents in front of you.

A. Yes.

267 Q. In the working papers of the auditor, he records expenses etc paid by JMSE on behalf of Grafton, isn't that so?

A. That is correct.

268 Q. And in that column you would expect in the normal course that the money that was paid over which ultimately ended up with Mr. Burke would be recorded, isn't that so?

A. If I had been recording it with my knowledge, I would have recorded that as political donation.

269 Q. But it is not so recorded, isn't that correct?

A. That's probably because I didn't actually write it up.

270 Q. If you just look slightly further up on that column, immediately under the general heading of "Audit adjustments" you will see "Enhancement expenditure £20,000" and then "Enhancement expenditure, £10,000." Do you see those two references?

A. That's correct. That is what I just said I would have recorded as political donation.

271 Q. Very good. I take it since you didn't insert the words "enhancement expenditure", you are not in a position to tell us why that was done, is that so?

A. No, I am not.

272 Q. If we turn to page 185 of the same document. There is a breakdown under the heading "Development property, the Grafton Construction Company Limited development property" and then the property cost at the beginning of the year is

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quantified, isn't that right?

A. Correct.

273 Q. And then immediately underneath that, "enhancement expenditure" and there are two items there, the first is land at Poppintree and that is £65,273 and I think that is a figure which represents the acquisition costs of the additional lands in Poppintree during that year and the stamp duty and legal fees that went with it, isn't that so?

A. That was the O' Shea & Shanahan transaction, if I recall.

274 Q. That was the O' Shea & Shanahan transaction. Beneath that at 2 is an item which is cash, £30,000.

A. That's what it says, yes.

275 Q. Is that unusual to record enhancement expenditure as cash? In other words, if I could perhaps elaborate somewhat on the question. Enhancement expenditure, I take it, means that the value of the lands has been enhanced during the currency of the year in question by a specific amount and that explains the first entry, because land worth £65,000 had been acquired by the company and therefore it's enhancement expenditure and it's entered as such?

A. That is correct.

276 Q. But how could cash amount to enhancement expenditure?

A. I mean you are asking me to speculate. All I can say is if I had been writing it up, but you know, I had knowledge -- if I had been writing it up, or normally if I had been writing up any set of books, I would not normally have put cash, I would have put an explanation. I think you are quite right in what you are saying, and the point that you are making is cash doesn't make anybody any wiser and I would normally have put something in order to make them wiser.

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277 Q. If, for example, one had incurred a cost in respect of the land by way of surveying the land or architect's fees or something of that nature, with a view to achieving planning permission for the land, it would be recorded there as planning permission, isn't that right?

A. That is correct.

278 Q. The value of the land would have been enhanced by that particular expenditure.

A. That is correct.

279 Q. Is there any explanation why a political donation to a politician would find itself in as the enhancement of the value of the lands to your knowledge?

A. None whatsoever.

280 Q. The next document I would refer you to is document 190 and that document I think, unlike the document beforehand which comprised the pages from 172 to 189, is a Copsey Murray document rather than a document prepared by Mr. John Bates, the auditor.

A. That is absolutely correct.

281 Q. The Tribunal believes that this document was included in the audit papers available to the auditor and certainly came to the Tribunal in that way and I am asking you firstly to identify, if you can, whose handwriting it is that records this information on this document.

A. That is Tim O'Keefe's.

282 Q. I see. The document is headed "Reliable/Grafton cash balance" is that right?

A. That is correct.

283 Q. And it then goes on to deal with proceeds and costs, isn't that so?

A. That is correct.

284 Q. The proceeds comprise the deposit of £125,000, the balance

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of £1,202,540, and then a draft, that is for £122,460, is that right?

A. That is correct.

285 Q. And that figure, as we know, is the sum which was expended on the insuring of planning permission and services -- sorry, of services in respect of the planning permission which was to be sought for this land, isn't that right?

A. That's my recollection, yes.

286 Q. So all of that came in at £1.45 million, is that right?

A. Yes.

287 Q. Now the next entries are the costs as opposed to the proceeds and the first of those costs is recorded as planning permission, isn't that right?

A. That's correct.

288 Q. And beside that is JMSE and a figure of £80,250, isn't that so?

A. That is correct.

289 Q. Now, that figure I think represented the payment on account, if I might put it that way, which had been made by Grafton/Reliable towards the £122,460 which had been paid by JMSE to the County Council rather than directly by Reliable and Grafton, isn't that so?

A. That is correct. The way this is set out, as you will see, and just relating to the £80,000, the way it's set out is a funds flow statement, that's why it's headed cash balance. It isn't really income and expenditure. It's relating cash. So right at the bottom you have funds available. This is what would technically be termed a funds flow statement so you are tracking funds, cash.

290 Q. You are tracking the funds. You are allocating them to particular types of expenditure sufficient to identify what

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those transactions were, isn't that right?

A. In some ways, but more generally this is just really starting off in terms of what actually happened to the cash. It's different -- what you are referring to are the books of the company. This is really a funds flow statement which doesn't form part of the books of the company. But anyway, maybe that's getting technical.

291 Q. Fine. Whilst it may not form the books of the company as such, it sets out under various headings types of cashflow or expenditure and --

A. That's correct.

292 Q. I will just detail those headings. Firstly there is planning permission. Secondly there is fees. Thirdly there are intercompany loans. Fourthly there are purchase of lands and then there are repayments of intercompany loans, and then there is liabilities to tax, isn't that right?

A. That is correct.

293 Q. And then ultimately it shows a balance allowing for all these forms of expenditure, isn't that right?

A. That's correct.

294 Q. And just identifying the various expenditures under these headings in respect of the first one, planning permission, there are two entries and the first can be identified as the sum of £80,258 which was paid as an initial part payment of the £122,460 which had been paid by JMSE to Dublin County Council and was now being partially reimbursed, isn't that right?

A. That's correct.

295 Q. The next entry then is JMSE, and again it's a figure of £30,000, isn't that so?

A. That is correct.

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296 Q. Now, that is under the heading "Planning permission", isn't that correct?

A. That is correct.

297 Q. And is that the £30,000 which is comprised by the payment of 10,000 and 20,000 in the two cheques written to Grafton cash?

A. That is what I would think, yes.

298 Q. So that whoever prepared this document was attributing the £30,000 to the acquisition or cost incurred in planning permission, isn't that so?

A. He has put it under that heading, yes.

299 Q. Now, Mr. O' Keefe, who has prepared this document is a person who is in constant contact with you, as you have told us, in relation to the financial affairs of this company, isn't that right?

A. That is correct.

300 Q. And can you offer any explanation as to why it is that Mr. O' Keefe attributed the £30,000, which was paid ultimately to Mr. Burke, as payment to planning permission for JMSE?

A. No.

301 Q. When did you first see this document?

A. I think you will find my handwriting here which says that -- if you look at the figure of £984,673, you will see in there that the writing there says "Total loan" so I would have seen this before today, but I am not quite sure when.

302 Q. Very good. To date, the document itself certainly one can say that it was after you were paid your fees of £16,500 because under the next heading of fees, the first item there is Copsy Murray & Co, £16,500, isn't that right?

A. Yes, I mean this document -- you are right -- was prepared after that. All documents prepared should be dated. I

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really have no way of saying when this was prepared.

303 Q. Now, Mr. O'Keefe was not a person who was intimately involved in the reasoning behind the payment of this £30,000, isn't that right?

A. That's correct.

304 Q. And you have told us already that you did not give him an explanation for what it was to be paid for in that you did not tell him specifically that it was for a political contribution, isn't that so?

A. That is correct.

305 Q. You told him that it was for an intercompany loan and it should be accounted as such in the JMSE documents, isn't that right?

A. That is correct.

306 Q. But being an intercompany loan, there was a corresponding entry that would have to be made in considering it from the point of view of Reliable and Grafton, isn't that right?

A. That is correct.

307 Q. And that is this document insofar as there have been documents discovered relating to the explanation for this expenditure, isn't that right?

A. That is correct.

308 Q. Does it follow that somebody must have told Mr. O'Keefe that this payment was for planning permission?

A. No.

309 Q. And why do you think that Mr. O'Keefe would have recorded on this document that it was for planning permission if he had not been told that that was what it was for?

A. I don't know. I mean, if you want an explanation, the -- this schedule was prepared at some time by Tim O'Keefe for a particular purpose which -- and the particular purpose would have been to say which funds were

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available. That was the purpose of this. It wasn't in order to write up the books of the company, but in doing so, you would normally track things so that you can check them afterwards.

Now, in doing the schedule, he may or may not have referred to me at any point of time for explanation on anything.

He could have made any form of assumption. He has put it under the heading there. I can't give an explanation for that. All I can say is quite positively that I did not tell him it was planning permission. There is no way I could have told him it was planning permission because as far as my knowledge was, it was not planning permission.

I had absolutely no knowledge whatsoever of its purpose other than political donation and I had no knowledge of any meeting, which I have discovered subsequently happened with Mr. Burke. So whatever the explanation for that is, it is not that I told him to put it under planning permission.

I can't give an explanation for that.

310 Q. I see. Nonetheless, having considered this document at some stage yourself, and amended it or noted upon it the terms of the loan here in brackets, is that right?

A. Yes.

311 Q. That obviously involved you considering this document and the expenditure which had been detailed in it. There certainly weren't many transactions, as you have told us, with this particular company because it wasn't a trading company and it seems to be a very simple document to read and understand, isn't that right?

A. Yes, but I wouldn't have checked this particular document other than really to worry about the purpose, which was the funds available. This would have been presented to me by Tim O'Keefe on the basis that these were the funds

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available. Available for what, I presume a transfer to X, Y or Z and if he did not come to me with any queries, I wouldn't have bothered. I might have just made a note there, total loan. I am not even sure -- funny enough the figure of £763,205 actually is not even my writing, nor Tim's. That's somebody else's writing. So there is no particular reason for me to have checked the detail of this at all.

312 Q. Had you in fact checked it, two things would have become obvious to you, isn't that right? Firstly, there was seemingly a payment for planning permission of £30,000 for which you were unaware?

A. Yes. Had I checked it, I would have corrected that but as these didn't form part of any accounts, it wasn't particularly important as to what that purpose was. We are talking about pluses and minuses in terms of a funds flow statement.

313 Q. Equally, had you checked it, you would have noted that whilst it provided for planning permission and for fees and for intercompany loans for the acquisition of lands, it didn't provide for payment for political purposes of £30,000 of which you were aware, isn't that right?

A. That is correct.

314 Q. So that the ultimate figure here may or may not have to be adjusted by the addition of another £30,000, unless of course the £30,000 that was detailed under the heading planning permission was one and the same payment, isn't that right?

A. No. There can be no doubt that that £30,000 there is the £30,000 which was the political donation, because this is an account of the Reliable and Grafton cash balance. This would have been reconciled in arithmetical terms back to

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the sale document and where the monies went. So there was no other £30,000 to be included on this funds flow statement.

315 Q. But had you read this document in the knowledge which you had at the time, that as far as you were concerned, there was no planning permission payment?

A. Had I checked this document in detail, I would have noticed that that was incorrect but, again, the reason I didn't have to check the document is that all I was concerned with and the concern of the document is in fact the availability of an amount of money which is at the bottom of the page.

316 Q. If that were so, is there any reason to put in the detail at all other than to record that the funds available are 246,000-odd as set out there?

A. That is, as an aide memoir, if anybody comes back and wants to know afterwards what these amounts are. Now, if the query had been raised as it's being raised now, and somebody had come back to me and said what is that £30,000 for, what sort of planning permission is it, I would have immediately corrected it, as I have down now, and say that it's not a planning permission, it is a political donation.

317 Q. Equally, if you were performing an audit function and this document came to you with the papers that you were considering in the preparation of your audit, it would find itself in the working papers that the auditor was preparing, isn't that right?

A. Yeah. We have to get back to the difference between the preparation of the accounts and the auditing function. Now, it may be done by the same person but you are wearing two different hats. You have two different legal liabilities. He would have used this paper, as presumably

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he did, for the basis of preparing his accounts. When he came along to carry out his audit function, which is a different function, what should have happened is that he should have confirmed what that £30,000 was for, what proof is there. One would have needed an invoice or an explanation from the directors which would be much more detailed than simply JMSE £30,000, or as he recorded in his own working papers, cash £30,000.

318 Q. Well he had a record here of planning permission, JMSE, £30,000.

A. No, the point that I am making to you is obviously -- I will just repeat -- is that he has, for the purposes of preparing a set of accounts which is not an auditing function, that for the purposes for preparing the set of accounts he has an explanation here. That explanation is not sufficient for an audit function, the audit function being different from the preparation of the accounts.

319 Q. Well, do you consider then the working papers and the trial balance journals to have been an accounting function or an audit function?

A. I don't remember considering it. As a fact of law, it is different.

320 Q. Well which is it?

A. As I explained earlier, the preparation of the accounts is an accounting function and then the audit is an auditing function. The auditing function is something which is governed by the Companies Act but preparation of the accounts is a mechanical exercise.

321 Q. I am asking you whether the trial balance journals and lead schedules form part of the accounting function or the audit function.

A. I am just trying to explain this in the way which you

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understand. I am not trying to be awkward. It is actually difficult for people who are not accountants to understand some of the rather boring functions that we carry out. The writing up of the trial balance and the lead schedules thereto are parts of the books of the company and that is an accounting function. The checking of those, and I will give you some illustrations on checking -- the checking of those is an audit function. Now, just take a trial balance -- just take on a trial balance. Part of that may be a bank balance. So you have written up your cash books and you have got a balance, okay. Then an auditor would come along, check that had been written up against the bank statements, write to the bank and say, "Hi, I am the auditor, can you confirm independently to me the balance?" and then you would check that. That's an auditing function. The writing up is an accounting function. The scribing is accounting.

322 Q. Okay. This document that we refer to as the trial balance and journals and lead schedules is a document prepared by Mr. Bates who was the auditor of the company, isn't that right?

A. But he prepared them in his accounting function.

323 Q. Well, is the auditor entitled to be both the accountant and the auditor of a company at company law?

A. Yes, but what he has to do is to take one cap off and put another cap on, but it's quite legal to do that.

324 Q. Is that not what you were criticised for and found to be at fault by your professional body?

A. And as I explained to you at the time, there is a grey area always there and you have to be careful and sometimes you step just a tinchy bit over the grey line and you are wrong and if you are just the other side of the grey line,

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you are right. So yes, you have to exercise judgement. Sometimes that judgement is clouded by other issues and you may get it wrong. We can debate this, but the recommendations -- there have been many reports on this -- recommendations have said, but it's not ever been enacted in our Institute. That said, there has been recommendations in certain reports that the two functions should be entirely divorced, but that actually hasn't happened in legislation or under edict from our Institute or from the other major accounting bodies. But really what it says is that you have to be just a little bit careful because you are wearing two different hats and have two different legal functions, if that helps explain.

325 Q. Certainly the person who is preparing the later document in time would have to have regard for the existence of earlier documents and the content of those documents if it made available for either an accounting or an audit function, isn't that right?

A. And then when forming his opinion he would have to -- he or she would make up their own mind and their own opinion as to whether they had sufficient information to be able to express a proper opinion on the set of accounts.

326 Q. Right. And if somebody was provided with the document described as the cash balance, it is an unambiguous statement that there was planning permission for JMSE at a cost of £30,000?

A. Not in auditing terms, no.

327 Q. In auditing terms, no.

A. In auditing terms, you do not believe everything you are told, which is the whole point of auditing.

328 Q. Could I suggest that the auditor isn't bound to check every single item of expenditure. He is obliged to carry out

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random checking of certain matters and do trial balances on certain deals, but he is certainly entitled to accept at face value documents which have been prepared by in-house accountants, isn't that right?

A. Well we are now getting into you asking me to be critical or otherwise of some other professional's work, so I think that I have given you the information. I think you can draw whatever conclusions you want or you can do your own checks. I think that it's sufficient I have said in terms of what work another firm of accountants should or shouldn't have carried out.

329 Q. I am just asking you, Mr. Copsey, whether or not you are suggesting that the auditor or person carrying out an audit function of this company, if presented with the cash balance document, would be obliged to make inquiries into each one of the items which are set out here to see whether or not they were expended in the manner described. Under the heading "Costs" for example, do you believe that the auditor would have had to have checked with you to see whether or not Copsey Murray received £16,500 or that he could be criticised for not doing so?

A. No. What an auditor should do is to make up his own mind as to what he feels is proper and right and draw his own conclusions. Each auditor would make their own decisions as has to bear the consequences, as I know, of having made up your mind on the information which you have. Sometimes you are right and sometimes you are wrong.

330 Q. But an auditor, could I suggest, wouldn't disregard or ignore a particular payment being attributed to a particular expenditure unless he was given positive evidence or carried out an investigation which demonstrated that that description was erroneous, isn't that so?

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A. I think to repeat myself, that if I -- which doesn't necessarily make me correct -- but if I had in fact been auditing a set of accounts which said that there was, where I was inclined to put enhancement expenditure, I would have for two reasons, both tax and for the presentation of the accounts point of view, I personally would have thought that in the context of these accounts, that £30,000 would have been sufficient, that I would have made further inquiry. That's a personal opinion. If you are asking me as to whether Mr. Bates would have done so, that's a decision for Mr. Bates to make.

331 Q. In any event, he chose to record this expenditure as cash?

A. He did. When we both know it wasn't all cash. We know that 10,000 of it was cheque and 30,000 was cash, but yes you are quite correct, he has recorded it as cash.

332 Q. The working papers that were prepared by the auditor here ultimately, I take it, form the basis of the audit report which he prepared for that year?

A. No. The checks that he carries out on the accounts form the basis of his audit report. He is reporting on the accounts.

333 Q. Okay. And in the audit report which runs from pages 191 to 198 of the documents that are before you, it sets out the affairs of the company and in particular at entry 198, or page 198 rather, there is a description of the trading and profit and loss account for the year ended 31st May 1990, isn't that so?

A. That is correct.

334 Q. Under the headings there, one has the sale of land and then deductions, is that right?

A. That's correct.

335 Q. Deduct cost of lands and then enhancement expenditure.

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A. That is correct.

336 Q. And the enhancement expenditure is £95,273 of which we know £65,273 is attributable to the acquisition of further lands as so enhancing the value of the landholding of the company, isn't that right?

A. That is correct.

337 Q. And the balance then is the £30,000 that was paid to Mr. Burke, isn't that right?

A. It's the £30,000 which I am told was paid to Mr. Burke.

338 Q. Very good. I don't think there is any dispute but that the £30,000 was paid.

A. I just want to emphasise that no one is under any illusion, I did not know the money was being paid to Mr. Burke.

339 Q. You of course did not know to which political party it was being paid or whether it was being paid to a party or an individual or a local representative of a political party or a cumann or anything of that nature, is that right?

A. I didn't know. My assumption was it was being paid to a political party.

340 Q. When you sought from Mr. McArdle in the first instance a cheque and cash, who was the cheque to be made payable to you if you didn't know was going to receive the funds?

A. I actually don't know.

341 Q. Well, how could he comply with the request of yours to provide a cheque for £10,000 and £20,000, the cash is incidental, but how could he comply with that request if you had not told him to make it payable to you?

A. I don't know, and it didn't clear -- sorry, I don't know, I can't remember and it actually isn't clear in Denis McArdle's notes or correspondence either. So I really can't offer an explanation for that.

342 Q. This particular transaction and I am talking about the

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raising of these monies and the dealing with the cheques in the manner in which they were dealt with, was an exceptional and unusual circumstance from your point of view, isn't that right?

A. Yes.

343 Q. Had you ever been involved for any company, whether it be a Murphy company or otherwise, in paying out a substantial political contribute of £30,000 or so?

A. No.

344 Q. And I take it there was some element of mystery about it even when you had completed the transaction because you didn't know who it was for and you didn't know who received the money, isn't that right?

A. That is correct.

345 Q. And it was money which had been taken out of the company in cash by Mr. Gogarty, as far as you are concerned, isn't that right?

A. Well 20,000 of it, yes.

346 Q. 20,000 of it in cash certainly on that date for which he had produced no receipt and nothing to indicate that somebody other than, for example, himself was the beneficiary of this largesse, isn't that right?

A. Well actually on the particular day, I wouldn't have expected a receipt because he hadn't made the payment, but yes, in general what you are saying, I agree.

347 Q. And you had set up what you call a detailed budgeting, an accounting system and specifically the company policy had been stated with regard to cash payments to persons who were employees, isn't that right?

A. That is correct.

348 Q. And if one was to comply with that accountancy procedure as set up by the company, you would have expected that you

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would have got a receipt from Mr. Gogarty to show that this expenditure had gone to where it had gone, rather than accepting his word for it, isn't that right?

A. Yes, in normal circumstances. There is a particular policy which you are talking about related to unvouched expenses paid to employees and the deduction of PAYE, but that's just because you alighted on that in particular, but generally, yes, I would agree but, again, this was an exceptional payment.

349 Q. The fact of it being an exceptional payment, would that not increase the necessity, in your mind, as the financial director of the company, to satisfy yourself that this payment was for the purpose for which Mr. Gogarty had indicated, particularly in view of your knowledge of him at that time and your belief that he was being unreasonable to an extent?

A. Okay. If you want -- I think you have asked what is a fairly general question. If I could spend just a little time answering it.

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First of all, that vis-a-vis Jim Gogarty, the one thing which I didn't suspect is that he was going to use the money as a bribe and nothing in his dealings with me or with the company to that date indicated to me that he was committing criminal acts. Now, he certainly didn't explain to me and he didn't come to me on that day and say "Hello Roger, I want to commit a criminal act, will you please give me the money to do so?" Had he done so, and I might add that Denis McArdle, who had as much information at that time as I did, had either of us suspected for one moment that this was going to be used for a bribe, neither of us would have partaken as professional people -- or as

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ordinary people I might add as well -- in any such transaction. So I viewed it as a very particular and special payment as a political payment. Now, my rationale and my thinking at the time was that I think that political things, especially in Ireland, are extremely private. I don't discuss political matters with people except that they are special friends of mine. I find if you scratch below the surface of most Irish people, you can find problems if you start talking about political matters. Now, if Joe Murphy and I believed at the time that Joe Murphy had approved this payment, if Joe Murphy wanted to give £30,000 to a political party, then it was no part of mine to question whether he should or shouldn't do so. I would not bring it up. It could have been anything. It could have gone back to the civil war, you know? As far as I am concerned, this was an intensely private matter. I didn't think to check that Jim Gogarty was telling me the truth. I assumed that he was telling me the truth and I deliberately didn't question the payment because of its peculiar and very particular nature.

350 Q. I see. Being aware of the payment and being aware of the fact that it was to be comprised in a cash payment of £20,000 and a cheque payment of £10,000, and in the knowledge that you were expecting a receipt certainly for the cash element of that, what did you do to establish that it was in fact a political payment, if anything?

A. I didn't. I accepted the word of Jim Gogarty.

351 Q. You would have expected that the cheque for £10,000 was going to be a cheque made out to the recipient, be it an individual politician or a political party, isn't that right?

A. I think I must have been aware by the time that this

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payment was made that it wasn't made out to a particular political party or to a particular individual, to answer your question. On the 8th, I would have been aware that -- of what was on the cheque stub because I have already said that I would have been in contact with Tim O'Keefe.

352 Q. Sure. But the cheque stub would merely record from the internal accounting point of view of the company who it was going to be attributed to, isn't that right?

A. Well it actually says cash on it. That's the point. It says cash on both of them. We know one was cash and the other one was made out to cash.

353 Q. Well, how do you know that?

A. I think it says it on the cheque stub, doesn't it?

354 Q. Well what the cheque stub says is what the cheque stub says. What the cheque says is something else, isn't that right, or could be?

A. Well yes, but I think we had covered earlier that we decided that it was more than likely that Tim O'Keefe wrote up both parts of the cheque. So he would have written out the cheque and written out the cheque stub and normally what you would do, unless there is a very peculiar reason otherwise, you would write on the cheque stub what is actually written on the cheque.

355 Q. So, what your understanding of this then, Mr. Copsey, is that not only was there cash in the form of legal tender notes to the value of £20,000, but there was also a cheque made out with the payee described as cash?

A. Correct.

356 Q. And that surely would be an even more extraordinary situation than merely receiving a cheque for £10,000 made payable to the payee, be it a political party or an

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individual, and also cash which might be used for immediate expenditure that day, for instance?

- A. I don't think that any part of this transaction did I think was normal. I have already made that very clear.
- Okay. I don't think it now, and I didn't think it then.
- I thought it was very unusual. I have given my reasons.
- I was told that it was a political donation. I was not told that Jim Gogarty was going to try to bribe somebody which is now what he said, so therefore he lied to me, okay. I made the assumption, which apparently is now the wrong assumption, that Joe Murphy Snr had sanctioned this and in that case, it was its unusual nature that made me act in an unusual fashion. Had this been anything else, had it not been a political donation -- they were, as it were, the magic words which as far as I was concerned, I was not going to inquire any further, because this was an intensely private matter.

357 Q. The cheque itself would have come back through -- I am talking now of the £10,000 cheque -- came back to the bank, as we know, on the 22nd June and that cheque would have been available for scrutiny by you, either to establish who the payee was or indeed, if necessary, to find out through which account it had been transacted, isn't that right?

- A. I would never go to that level of detail in a set of books. I didn't write them up. I wouldn't have seen one returned cheque from any of the Murphy companies all the time I acted for them.

358 Q. But this was an extraordinary transaction as you have already described?

- A. If I had wanted to know, but I didn't want to know. I didn't want to inquire. I could have phoned up Joe Murphy and said, "Joe, justify why you want it. Why do you want

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it payable to that political party? Why? Tell me why."

I could have demanded all of these things. I could have done an awful lot of things but I didn't.

359 Q. The first thing you did however was to make an assumption that Joe Murphy knew about this payment and had authorised the payment though you made no -- you received no assurance to that effect from Mr. Gogarty, isn't that right?

A. I received no direct assurance, but both Jim Gogarty and I knew that there was no question that Jim Gogarty should have made a political donation without clearing it with Joe. So it was as night follows day, and that is why I didn't bother to ask.

360 Q. If Mr. Murphy was to have made a political donation or any single expenditure out of the company for purposes other than the trading purposes of the company and this wasn't a trading expense, isn't that right?

A. Correct.

361 Q. Was there any reason for him not to have got in touch with you directly as the financial controller -- correction, the financial director of the company saying "I want you to pay the sum of £30,000 to X or to Y or whatever it might be, this is a political contribution that I want to make."

A. There are a number of things which Joe Murphy and Jim Gogarty did together. They had known each other an awful lot longer than I had known them and there have certain things which Joe simply didn't explain to me and my understanding or my view of the transaction at the time was that this was something between the two of them. Joe had chosen not to raise the subject with me and I took my cue from that because he had not raised the subject with me, then he would not want me to raise the subject with him. Now, had it been an ordinary business matter, I would have

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taken it up but because, as I keep on using the phrase, an intensely private matter, I took my cue from him and didn't make inquiries. Of course I have now found out that was incorrect and if you want me to answer now, I would very much like to have made inquiries. I would very much like to have recorded it all in writing. I would very much like to have sworn everything before a commission of oaths so that when I come here, that I have an absolutely open and shut book with perfect explanations. Unfortunately, I don't. I can only sit here and tell you exactly what I thought, why I thought it and why I did it.

362 Q. Did you give any thought at the time Mr. Gogarty came to you with the suggestion that he did, that monies would be paid in this fashion, to the fact that relationships between himself and Mr. Murphy certainly appear to have been strained for quite sometime, from 1988 certainly until the meeting on the 22nd May of the same year, 1989, as this transaction?

A. Look, strained relationships in business are not unique but I don't expect people, even within that context, to start drawing cheques of £30,000 and making political donations without clearing it. So the short answer is I didn't. I don't think there is a direct -- in my mind anyway, there was no direct correlation between the two. None whatsoever.

363 Q. And does it follow then that once the transaction had taken place, the absence of any receipt or any acknowledgment for that did not present any problem for you or ongoing concern in the company's affairs, is that right?

A. No. It didn't and when this matter would have surfaced again and when the matter would have been dealt with, was when in fact we would have prepared in the normal course of

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events the accounts of Grafton.

364 Q. Yes:

A. Now, this is where I came and I didn't want to seem in the least bit critical of John Bates. What actually happened here, things fell between two stalls. We would normally have written up the books and given them to John to audit. So there would have been this distance between the two functions. Now, we were asked to step down from our assignment in August of 1990. So the explanation which was quite clear in my own mind and carried by me simply didn't come to light and for some reason -- now, I have spoken to John about this but I think it's very best that he gives his own evidence -- that for some reason he didn't speak to me directly regarding this matter and I could have cleared it very, very quickly and very, very easily.

365 Q. Now, I take it you have continued to be in practice in Ireland since 1989, is that so?

A. Yes.

366 Q. You are still practicing as an accountant here though I think you do an number of international business, is that right?

A. My practice, there is about 20 people in it and I am probably the only one that does any international work.

367 Q. I see. And you live in Ireland, do you?

A. Yes.

368 Q. When did you first learn of the fact that there was disquiet in the public press about there having been a payment to a politician to secure planning permission in north Dublin? Can you recollect that?

A. Not really. I suppose at the same time as anyone else, but I wouldn't have taken very much notice of it. I am not a terribly gossipy person, if I could put it like that.

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369 Q. And when did you learn of Mr. Gogarty making allegations in the public media of there being wrongdoing on his part in the payment of monies to a politician?

A. I really don't know. I can only again give the answer, which doesn't help you very much, but probably at the same time as everyone else.

370 Q. Does that mean it's something you would have learned of through the media and the coverage that there was in the public domain?

A. The very, very first time that I knew that Jim Gogarty was making any allegations at all I think was at the end of 1996/beginning of 1997 when out of the blue, when I was in sunny Moscow in Russia, I got a phone call from Michael Bailey who said that Jim Gogarty was making accusations about the bribing of politicians. Now, he didn't mention JMSE's involvement but simply told me that Jim Gogarty was making accusations about politicians being bribed. He explained to me that he wanted my assistance in contacting Joe Murphy Snr because Jim Gogarty's main problem seemed to be that he wanted to shake hands with and make up their old differences and then everything would be okay. Now, that's a very disjointed conversation. It didn't really mean very much to me but that is what Michael Bailey said to me.

371 Q. Had you met Mr. Bailey before this?

A. Yes. I personally met him on the closing -- sorry, certainly in the negotiations in the solicitor's office re:: the batch of lands, not the Forest lands. I don't think I met him on the Forest lands but I met him on what you call the Murphy lands.

372 Q. And they were the north Dublin lands?

A. Yes, the ones which were completed, wasn't it December, in

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1989?

373 Q. So are you saying that you hadn't learned of this in the media or not before that date in late --

A. I don't know. That's the first absolute recollection that I know that Jim Gogarty was making, what I would call a fuss about, payments to politicians.

374 Q. Right. And having been -- that matter having been brought to your attention, did it occur to you that you had a direct involvement in one payment to a politician with Mr. Gogarty and that it was around the time that the lands in north Dublin were being negotiated for sale with Mr. Bailey?

A. No. The two did not --

375 Q. How did you not make that connection?

A. Okay. Well I mean the first thing is I got this phone call out of the blue. I had never spoken to a Michael Bailey other than the one or two meetings in Denis McArdle's office. I got this whilst I was in the middle of a meeting in Moscow. So I dealt with it very quickly and I simply said that I would make a phone call to Joe Jnr. In fact, I phoned rather than Joe Snr. But why didn't it click then? Because the facts that I was given were that he may or may not have mentioned the name Burke, but it was bribery and corruption and I knew nothing about bribery and corruption. It was just as simple as that and I don't think any amounts were mentioned and certainly -- and if they were, it would have been the usual 40, 60 or 80, anything but 30, so the simple facts of the matter are I did not connect the two in any way, shape or form.

376 Q. You could recognise the fact that Mr. Bailey had been involved in 1989 in the acquisition of a large part of the

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Murphy lands because you were present or negotiated some of that in late 1989, isn't that so?

A. That is correct.

377 Q. You could identify that Mr. Bailey obviously had a concern about the matter because he was the person who was ringing you, isn't that right?

A. He told me he had a concern, because -- what he said was that this could potentially be damaging to, as he said then, the Fianna Fail party, okay. I assumed he had an interest in politics and that was where he was coming from. There was no connection. And the connection in time, in my own mind, if you look at it which is the way I was looking at it, obviously using my own mind, was that a political donation, not a bribe, a political donation, was paid early in June and the transaction with Michael Bailey, as far as I was concerned, was sort of October, November, December of that year. There was no connection. And he most certainly didn't say to me that he was in any way, shape or form connected with the actual payment. His connection or concern was simply one as concern for the Fianna Fail party.

378 Q. I see. Do I take it from that that Mr. Bailey did not tell you that he had been involved in assisting Mr. Gogarty in making a large political donation by attending at the home of Mr. Ray Burke in June of 1989 where he saw a large sum of cash being passed over to Mr. Burke?

A. No. Absolutely not. And I think you will see from -- well, I think both Mr. Gogarty and Mr. Bailey leave me out entirely from that transaction. But in answer to your specific question, that Mr. Bailey did not mention that to me which was not a very long conversation I had with him, because as I say, I was in the middle of a

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meeting.

379 Q. Obviously it was of considerable concern to him if he went to the trouble of tracking you down and finding you were in Moscow --

A. Well he phoned my office, yeah, and he seemed to be very anxious that Joe Murphy Snr would step in. I phoned Joseph Murphy Jnr who said to me that his father wouldn't meet or correspond with Jim Gogarty but that he would so inform Michael Bailey and that was the last I heard of the matter from Michael Bailey.

380 Q. So as best you can, when can you say that was in 1996?

A. I think it was at the end of 1996. I am not quite sure. I can't pinpoint why, but my general feeling is that it was at the end of 1996. It could possibly have been at the beginning of 1997.

381 Q. I mean were you in Moscow on a week's visit or longer or --

A. About nine or ten days per month for four years.

382 Q. Per month?

A. Per month.

383 Q. So --

A. It could have been any month over four years on that basis, but it wasn't.

384 Q. True, I was just hoping that you might be able to target it with a little more certainty.

A. No, I have actually tried to think of dates but I can't.

385 Q. Fine. But you did in fact ring Mr. Murphy, was it Junior or Senior?

A. No, Junior, because I knew that Senior was retired at that stage.

386 Q. Having phoned Mr. Murphy, I take it you were telling him a somewhat unusual tale that you had received a phone call in Moscow from a man you had met ten years before in a

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contract and he was now asking you to provide him with details about Mr. Gogarty and payments to politicians, is that right?

A. I must admit I thought the whole incident was rather bizarre but...

387 Q. And how did you go about explaining this to Mr. Murphy Junior when you phoned him or did you have the impression that once you started to talk to him about it, that he was able to tell you --

A. Yes, he was aware. Because -- actually I haven't checked the dates so this may be one way of checking it, but he certainly said he had met Michael Bailey regarding Gogarty, so it was after that, so he seemed to have prior knowledge. He had picked up very quickly. I didn't spend very long explaining. I got to the point very quickly that he wanted -- Gogarty wanted to meet his father. End of story, really.

388 Q. Did you say anything to him about the fact that you were aware that Gogarty had made a political payment through the company of £30,000 for which he had never receipted the payment to the company. Perhaps it was something to check?

A. No. As I previously said, I actually didn't in any way, shape or form connect the two. Look, with hindsight, it even seems slightly strange to me why didn't I connect but it's very difficult over a number of years. People's minds work in different ways. I tend, because I deal with an awful lot of unusual transactions for clients not in terms of political donations but I tend to leave those aside. If I have stopped dealing with a client for maybe seven or eight years, I have forgotten all his affairs. I don't bring them back to mind. If somebody

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triggers my mind, I then start thinking about it.

Bribery, corruption, Burke, simply didn't trigger anything in my mind.

389 Q. I take it when you came back to Ireland then you learned more, albeit through the media, of the concerns that existed about a payment to Mr. Burke by Mr. Gogarty was ultimately named as so doing, is that right?

A. I really don't know -- you might know, I don't know when Mr. Gogarty was named.

390 Q. Did you ever read anything to indicate that it was in connection with the Murphy lands that a payment was supposedly made to Mr. Burke? Did you learn of that by any chance?

A. The first time I had recollection of the subject being raised with me was by Joseph Murphy Jnr which I think was April or May, whatever the date he said, in about that period by telephone.

391 Q. And at this time, were you in Dublin?

A. Yes.

392 Q. And he telephoned you. What did he indicate to you? What concern did he have?

A. Well I think that he said that allegations had been made that JMSE had paid an amount of money to Mr. Burke as a bribe.

393 Q. Was he able to tell you what year that was in?

A. I think in all probability he did. And I am probably thinking that he identified it as June 1988.

394 Q. I think it's '89 --

A. My apologies, yes.

395 Q. He specifically indicated to you that he wanted to know whether or not you knew anything of a payment of £40,000 made in or around June, 1988 -- sorry, '89 to Ray Burke,

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isn't that so?

A. We all make mistakes. Yes.

396 Q. Now, that focused matters, I take it, for you in time, certainly to one month, isn't that right?

A. It did and in its own way that was actually particularly unhelpful because we are talking bribes here. Whether Mr. Bailey was mentioned at that time as well, I think it must have been. I think those things, in my own mind -- Mr. Bailey was at the end of 1989. The political donation was in the middle. Bailey had nothing to do with it whatsoever and I couldn't see where Bailey came in at all. Burke meant nothing to me. And also I simply at that time hadn't even remembered that there was a political donation. Now, we come back to the fact that it's unique etc, but I simply didn't remember that there had been a political donation.

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You have also got to take into account that here was a client, well an ex-client, phoning me up, just asking me something and at the time I said to him, "I can't remember. I am certain that no bribes were paid." The amounts which were mentioned were, I think were doing the rounds at that time so I assume what Joe must have asked me, was it 40, 60 or 80,000. Nothing helps me remember.

397 Q. Presumably you were being contacted because you had had an accountancy function or certainly a financial direction function in JMSE which was the company which allegedly had paid the money, isn't that right?

A. Oh absolutely, and it was quite logical he should ask me.

398 Q. Right. And equally logical for you to say, "Well let's have a look at the accounts and see if we can trace any such payment because obviously it could well have been a

0000109

disguised payment"?

A. Well that's exactly what I said, well when I say exactly, I didn't say "Well, let us look". I said "Have you checked the books?" which is the obvious thing. So he said he had and they hadn't been able to find anything. So because it didn't ring a bell with me and because he had confirmed he couldn't find anything ergo there wasn't anything. And that was the end of matter as far as I was concerned.

399 Q. I take it, albeit perhaps in hindsight, that if one was to look at the three pages of cheque journal entries for the month of June of 1989 in JMSE, one would have recorded that there were two payments of 10 and £20,000 for cash, sorry, not in the cheque journal for cash, but for Grafton Construction, isn't that right?

A. Yes. It's difficult enough though, funny enough in accounting terms of relating items. I know that seems strange but if you are looking for something you tend to focus in or 30, 30, 30, 30 and if you see 20, you just don't even notice it but I wasn't doing the search so I don't know.

400 Q. But did you offer any accountancy advice to Mr. Murphy as to what he should do? Did you suggest "Send me the books, my accounts people did the books at the time and I will check. I still have Mr. O' Keefe on my staff, come down, we'll sit down around a table with the papers and we'll bury this if it's the case"?

A. No. If he had wanted me to do that, he would have asked me. He didn't ask me. He was no longer a client of mine so I wouldn't particularly have offered that as a service.

401 Q. Okay. Did you meet him again -- did you contact or have contact with him again, I should say?

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A. No, he came into my office. I think he has described, I think it was the beginning of August or end of July. I haven't got a date in my diary because it wasn't -- I don't think that there was a predetermined appointment. But anyway, he popped into my office which was, I believe, after he had met the politician, Dermot Ahern, would it be?

402 Q. Yes.

A. Yes, okay. He then discussed the matter in more detail than he had done previously because the previous telephone call had been quite a short call and I think really, from his point of view, I rather got the impression that I was only confirming something which he had already thought was the case. That is that there was no such transaction but he then came to me on that later date and met with me and we talked, I think in some detail, about the matter.

403 Q. And what information, if any, did you learn on that occasion which was not already known to you from your telephone conversation in May or indeed from your telephone conversation towards the end of the previous year with Mr. Bailey or indeed what you might have gathered from newspaper reports? Was there any fresh information that you can recall at this point in time which allowed you to reach a conclusion other than that which you had reached beforehand in May?

A. No. I can't. But something must have triggered in my mind, but it didn't trigger anything terribly specific. It was -- I often describe it as a penny dropping at the back of your mind and maybe it was something to do with June rather than December. Maybe we are talking about -- I don't know. But it came to my mind that I did remember some form of political donation. Not a bribe,

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but a political donation. So I said to Joe Jnr at the time, I think I recall something, I think that he ought to check more carefully, which is what he did.

404 Q. Well having thought about it, and having realised that your memory indicated that there was a political contribution, did you remember the unusual features of that and, in particular, the way in which you were brought in to seek the money from Mr. McArdle or the way in which you decided to account for this payment as an intercompany loan or the absence of receipts or any of these matters which had impressed on you the unusual nature of the transaction in the first instance?

A. No. None of that came to memory. When that came to memory was when, at a later meeting, that Joe Jnr came back to me and he had information from Denis McArdle's records and it was then that I started to recall the detail of what had gone on.

405 Q. Is that the items of attendance and correspondence which you have been referred to in the course of your evidence at tab 8?

A. Yes, he either showed those to me or related them to me.

406 Q. And was that done at a meeting?

A. That was done at a meeting.

407 Q. And was that held in your office or elsewhere?

A. I am sure -- I didn't travel anywhere to meet him so it must have been in my office.

408 Q. So he would have brought the documentation to you if there was documentation?

A. Yes, either the documentation or the information. I know he definitely told me there are telephone attendances and he gave me details, I can't actually recall whether he showed them to me.

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409 Q. Can you date when that meeting took place?

A. I think that was later in August. I do have a diary for that time. I think it was the 25th August. I mean I can double check that with my secretary.

410 Q. If you would please.

A. Yeah.

411 Q. Were you alone with Mr. Murphy and yourself or was there anybody else present?

A. No, we were alone.

412 Q. You had prepared an amount of documentation, I take it not in anticipation of this particular Tribunal, but rather in the course of your functions as financial director of the company and you had given those papers to the Murphy companies on cessation of your role as director, is that right?

A. Yes. On the cessation of my firm's assignment, yes.
Yes, yes --

413 Q. In August of 1990.

A. Yes, I think it was the 14th August, which happens to be my birthday, that's why I remember.

414 Q. Were you ever, or did you ever have sight of this documentation in the form in which it was provided by you to the Murphys?

A. No, no. By the time -- this has been a very confusing factor to me, that I have got this information back in an entirely different form from the one that I delivered it to them. I never saw it in the form that I gave it back to them.

415 Q. And had you ever seen all of the documentation or can you say whether you have seen all of the documentation that you provided to them?

A. Well no. I mean, for instance, quite an amount of

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information we have gone through over the last few days, I mean some of it I haven't seen before, I don't believe.

416 Q. Yes, I am talking more particularly of information which had been in your possession at the time you handed it over to JMSE. Now, as I understand your answer, you never saw that information in the same format as you had given it to JMSE and the Murphy companies, is that right?

A. That is correct.

417 Q. I was asking you whether you had seen it all in any formality or whether there is documentation which was provided by you which has not come back or been considered by you?

A. That really is an impossible question to answer, because well we are talking about, what is it? Eight, nine, ten years back, and if you don't do something, don't see something, it's rather more difficult than actually seeing it, so -- but look, in general, in general, I think anything important is here. I don't see any missing gaps, but I can't answer that question absolutely.

418 Q. You did indicate earlier in your evidence that you remember a particular document which dealt with the negotiations which had taken place with Mr. Murphy Snr and some involvement with Mr. Wadley in the pension arrangements following the Boddington Hotel meeting and you say that document certainly was one that you had seen, you had seen it some months ago and you have never seen it since?

A. I am actually checking on that at the time. I read all of the transcripts -- I don't remember all of them, but you read all 132 whatever transcripts there may have been and I made notes as I was going along and I have a note regarding that. Now, whether that was a trick of my memory or an absolute document, I am yet to track down but I am going to

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do that with Lorraine from the solicitor's this evening.

So really in answer to your question, I am not aware of anything was missing. I mentioned that other document.

I have got to confirm whether what I have in my mind is a note that I made or an actual note that's missing from the documentation.

419 Q. Right. Finally, did you ever record what Mr. Bailey had said to you in Moscow?

A. No.

420 Q. Did you ever note that?

A. No, absolutely. It was no concern of mine. Nobody was a client of mine. I wouldn't in any circumstances note anything like that.

421 Q. Nor, did you keep any record of Mr. Murphy's inquiries either of you in May or in July?

A. No. Happily at that time I thought it was somebody else's problem.

422 Q. Right. Now it obviously wasn't going away, isn't that right?

A. Well I actually never envisaged that I would be giving evidence, but there we are.

423 Q. Well in August of 1997 at the meeting which was held in your offices, did you record the detail of that?

A. No.

424 Q. And why was that?

A. Because I don't record the detail of things which I am not getting paid for unless, of course, I now know that I am involved in a Tribunal.

425 Q. Well was it not apparent to you in August of 1997 that you had information which was certainly material to the payment of monies to Mr. Burke and that it might be appropriate that you recorded the position there and then?

0000115

A. No. Because at no point of time -- at no point of time until all the detail came out did I know that the £30,000 which was a political donation related to the 40, 60, £80,000 given as a bribe to or, should I say, alleged bribe to Mr. Burke. I mean, still maybe you could call me slow in connecting things like that, but I didn't connect, so I can't say anything different.

426 Q. So even when the Denis McArdle file of papers was available to you, shown to you by Mr. Murphy Jnr, you still did not believe that there was a connection between the payment of 10 and 20,000 recorded as the Grafton payments and Mr. Burke, is that the position?

A. No. Being naive, I honestly didn't think that Jim Gogarty had marched up to somebody with a great big brown envelope and says "Would you give me planning permission in return for this?" I didn't.

427 Q. I see. Thank you.

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CHAIRMAN: Right, it's a little late to start any further examination, so tomorrow morning half past ten.

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Mr. Cooney, have you any idea of time? No? Mr. Cush?

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MR. COONEY: I think there will be a couple of other questions before us, Mr. Chairman.

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CHAIRMAN: Anyone else got any idea of time?

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MR. CALLANAN: I thought I'd be about an hour and a half.

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MR. FOX: I have a number of questions too, Mr. Chairman, but I imagine no more than 15 minutes.

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MR. MOHAN: Mr. Chairman, I think I might be may be a half
an hour.

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MR. LEONARD: I would expect to be about a quarter of an
hour.

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MR. O'NEILL: I'd say the next witness to be called will be
Mr. O' Keefe. Mr. Maher, subject to his health, because
we have learned of an illness and Mr. Reynolds.

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CHAIRMAN: Very good.

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MR. O'NEILL: And Mr. Bates I should say also.

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CHAIRMAN: Tomorrow morning, half past ten.

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THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
THURSDAY, 16TH DECEMBER 1999, AT 10.30AM.