

1 PLANNING TRIBUNAL - DAY 304

2 .

3 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 10TH OF OCTOBER,

4 2001, AT 10:30 A.M.:

5 .

6 CHAIRMAN: Good morning everyone.

7 .

8 MR. HANRATTY: Mr. Finnegan, please.

9 .

10 MR. JOHN FINNEGAN RETURNS TO THE WITNESS-BOX AND

11 CONTINUES TO BE EXAMINED BY MR. HANRATTY AS FOLLOWS:

12 .

13 1 Q. MR. HANRATTY: Good morning, Sir. Good morning, Mr.

14 Finnegan.

15 A. Morning.

16 .

17 MR. HANRATTY: I understand you are giving a ruling,

18 Sir.

19 .

20 CHAIRMAN: Ruling re financial records of Foxtown

21 Investments furnished to the Tribunal by Mr. John

22 Finnegan:

23 .

24 These documents are, we understand, a limited number of

25 extracts of bank accounts of Foxtown Investments

26 Limited, between the years 1973 and 1979.

27 .

28 They do not purport to comprise the totality of the

29 bank accounts for this period.

30 .

1 Messrs. Kennedy McGonagle Ballagh, solicitors for Mr.
2 Finnegan, have objected to the circulation of these
3 documents and have requested 24 hours notice prior to
4 any such circulation.

5 .
6 I have reviewed the documents concerned. Whilst
7 apparently it would be the evidence of Mr. Finnegan
8 that only a limited number of entries on these accounts
9 relate to the transactions under inquiry, it would not
10 be prudent of the Tribunal to confine its inquiries to
11 those transactions identified by Mr. Finnegan as being
12 relevant.

13 .
14 It is my view that it is necessary for the purposes of
15 the present inquiry that these documents be circulated
16 in their totality (28 pages) to Messrs. Brennan and
17 McGowan, as these are the people who are most familiar
18 with the transactions involving themselves and Mr.
19 Finnegan.

20 .
21 These documents are given on the basis of
22 confidentiality, and cannot be circulated by Messrs.
23 Brennan and McGowan to any party other than their legal
24 advisors.

25 .
26 To further protect the privacy of Mr. Finnegan, I do
27 not propose to place these extracted bank accounts on
28 screen at the public hearings, but Counsel for the
29 Tribunal will hand a hard copy of the document to Mr.
30 Finnegan for the purpose of Mr. Finnegan answering

1 questions in connection therewith. The document will
2 be, however, referred to by Counsel for the Tribunal by
3 reference to its page number, for the purposes of the
4 transcript, but it will not appear on the screen.

5 .
6 Further, if Messrs. Brennan and McGowan identify
7 further entries (other than the ones identified by Mr.
8 Finnegan as being relevant) from these documents which
9 they say are relevant to the present inquiries, then I
10 direct that, in the first instance, I be told of the
11 basis on which it is asserted that such transactions
12 are said to be relevant.

13 .
14 It is not for Mr. Finnegan and/or his legal advisor to
15 state which transactions on these documents are or are
16 not relevant to the present inquiries. That is a
17 matter solely for me, and I have determined that the
18 entire of these documents, subject to qualification as
19 set out above, shall be circulated to Messrs. Brennan
20 and McGowan and shall, in the manner aforesaid be put
21 in evidence.

22 .
23 I am satisfied that these qualifications more than
24 adequately protect the privacy and confidentiality
25 attaching to these documents.

26 .
27 That is my ruling.

28 .
29 MR. HUSSEY: Thank you very much, Sir.

30 .

1 2 Q. MR. HANRATTY: Mr. Finnegan, you were going to obtain
2 instructions overnight in connection with the inquiries
3 made by your solicitor, presumably Mr. O'Shea, from the
4 estate of Mr. Traynor recording any records he had in
5 connection with your Jersey or Guernsey Trust?

6 A. Mm-hmm.

7 3 Q. And have you obtained any such instructions?

8 .

9 MR. HUSSEY: I am sorry, Sir, just before Mr. Finnegan
10 answers that question. My solicitor is just handing in
11 correspondence which - from herself between solicitors
12 and the Traynor estate.

13 .

14 I don't think Mr. Finnegan is actually aware of this
15 correspondence at this particular point in time.

16 .

17 (Documents handed to Counsel for the Tribunal)

18 .

19 4 Q. MR. HANRATTY: What we have been handed, Mr. Finnegan,
20 is a short letter, which we will have copied in a
21 moment and circulated to you. It is dated yesterday's
22 date, I think, yes, 9th of October, 2001. It is from
23 Mr. Tony Traynor, executor of the estate of the late
24 James Desmond Traynor, and it says:

25 .

26 "Dear Miss Henry, re John Finnegan Foxtown Investments
27 Limited Amber Trust.

28 .

29 As I explained to you on the telephone today, and to
30 Michael O'Shea of your office on a previous occasion I

1 do not hold and never did hold, see sight of or receive
2 any documents relating to Mr. John Finnegan, Foxtown
3 Investments Limited or Amber Trust."

4 .
5 Is that the total extent of the communications that
6 have occurred between you or somebody on your behalf
7 and Mr. Traynor's estate?

8 A. Well, we were talking about it yesterday, Sir, and
9 that's what it is.

10 5 Q. So he refers to a telephone conversation with Mr.
11 Michael O'Shea on a previous occasion, and I infer from
12 the letter that that is the height of it, is that
13 right?

14 A. It appears so, yes, Sir.

15 6 Q. Is that the only attempt that has been made to obtain
16 or to identify the location of any documents, if they
17 exist, concerning Mr. Traynor's dealing with the Trust
18 on your behalf?

19 A. I don't quite understand that, Sir.

20 7 Q. Mr. Finnegan, Orders for Discovery were made against
21 you?

22 A. Yes, Sir.

23 8 Q. By this Tribunal, in the context of the inquiries which
24 the Tribunal has been making. Obviously, Mr. O'Shea
25 identified that documents which Mr. Traynor may have
26 had concerning his dealings with the Trust on your
27 behalf would be relevant within the context of the
28 Discovery. It appears that at some unspecified point
29 in time, I don't know whether it was yesterday or a
30 month ago or six months ago, he had a telephone

1 conversation with Mr. Traynor's executor, and that that
2 appears to be the height of his attempts, on your
3 behalf, to identify whether there were such documents,
4 and if there were, where they might now be found.

5 .
6 It appears, as I understand that letter, that no
7 correspondence was sent to the Traynor estate, and no
8 further inquiries were made or pursued on your behalf
9 to ascertain the location of such documents, if they
10 exist. That is my interpretation of that letter. And
11 I stand subject to correction in any way that anybody
12 feels it should be corrected that I suggest to you, is
13 a grossly inadequate response to an Order from a
14 Tribunal.

15 A. Sorry, Sir, this - I have my lawyers advising me, and I
16 did - you know, they know what has been requested, Sir,
17 by the Tribunal.

18 9 Q. Yes?

19 A. And this is what the response - they are the
20 professionals, and I have --

21 10 Q. Do you know when the telephone conversation referred to
22 with Mr. O'Shea took place?

23 A. No, sir.

24 11 Q. Do you know what the subject matter of that telephone
25 conversation was?

26 A. I don't, Sir, and - this all popped up yesterday. I
27 didn't even see this, because Fiona Henry just - was
28 late arriving. No, I don't know any more. If there is
29 anything more to learn from Michael O'Shea, I will ask
30 him, but that is all I know, Sir.

1 12 Q. Well, we would certainly like to know when the
2 conversation was had, and if Mr. Traynor's executor
3 asserted that he had no files, whether the matter was
4 pursued any further.

5 A. Well, I should - yes.

6 13 Q. We would also like to know what precisely was the
7 nature and the content of this telephone conversation.
8 So, perhaps you might be able to find that out over
9 lunch and we might revisit it in due course?

10 A. They will have a note of that now, Sir.

11 14 Q. The other thing I want to ask you is, have you any more
12 information now about the progress of your attempts in
13 Guernsey to obtain the documents from the trustees?

14 A. Well, would you mind, Sir - I haven't heard anything
15 this morning because I haven't been speaking. Do you
16 mind, if that is reported, what the latest is. I
17 haven't had a chance --

18 15 Q. Would you like to leave that over until after lunch?

19 A. All right, if that is all right with you.

20 16 Q. Yes.

21 A. Thank you, Sir.

22 17 Q. What we are particularly interested in knowing is
23 whether the proceedings have yet been issued and
24 instituted, and whether there is any timescale of
25 having this application brought before whatever court
26 it has to be brought before.

27 A. Thank you. That is, I am sure, noted, and I will have
28 that reported. Thank you.

29 18 Q. We will deal with it, then, after lunch?

30 A. Yes.

1 19 Q. Now, yesterday we were talking, we started to talking
2 about the various transactions commencing with the
3 first one, which was Monkstown. Before we get into the
4 detail of Monkstown. Can I ask you in general terms
5 about the nature of the arrangements that you had with
6 Brennan and McGowan, not only in respect of Monkstown,
7 but in respect of all the other land transactions that
8 we have been talking about.

9 .
10 To put it another way, what was the deal that you had
11 with them?

12 A. The position is this: That I was at the - each one of
13 these transactions were stand-alone, Sir, and I think
14 through the accountants - when they came along looking
15 at the scheme, I was asked, would I participate. And I
16 think at this stage that, to participate in a scheme
17 which was being prepared by Owens Murray, Hugh Owens --

18 20 Q. Is this for Monkstown?

19 A. Yes, Sir.

20 21 Q. We know that there was a somewhat different scheme in
21 each case?

22 A. Well, the - I think the principle of the scheme was
23 more or less - I am not an accountant, Sir. I find it
24 a little bit hard to follow. I am sure one would
25 appreciate that. I think the principle was, would I -
26 I think it was important for them to have somebody
27 outside in. I would participate in the scheme.

28 22 Q. Well, what was the principle of the scheme?

29 A. The principle of the scheme was this: That having
30 acquired land, and any land which is being acquired, a

1 developer in the normal course of events has, will
2 anticipate what profit he is going to make out of it.
3 And it would be - a lot would depend on how one - this
4 is in the normal course of events - how one would
5 approach it, and whether it was a builder/developer or
6 a builder.
7 .
8 The difference being, Sir, is this: Is that a
9 builder/developer knows how to build and knows costings
10 and one thing and another. And I think here what the
11 situation is, that Brennan and McGowan had the access
12 to or were builders themselves at one, and at one stage
13 did build a lot of houses. That the scheme that was -
14 well, drawn up by Hugh Owens was that looking at what
15 they could do for the future development of the site,
16 and it was bringing forward anticipated profits, and
17 this came through on the basis of a rather elaborate
18 scheme of borrowing, borrowings and using companies, a
19 number of companies, some of which you may have had
20 some background on, Sir. And emanating that, that it
21 was that - I was asked to participate in that, Sir.
22 .
23 Now, having completed my transaction. And I think -
24 will we talk about - we are talking about Monkstown,
25 Sir?

26 23 Q. I am talking about the principle.

27 A. The principle.

28 24 Q. On which you were - of the scheme in which you were
29 involved in each of these transactions?

30 A. Well, the scheme, although it may vary, I think the

1 principle of it was more or less the same, that it was
2 bringing forward profits. And that was brought about
3 by Brennan and McGowan arranging transactions with
4 people whom either assisted them in building previously
5 and who may have had trade backgrounds, but who were
6 going to get parts of the property. And they would
7 have a package, not like an ordinary transaction. Now,
8 the package to them could include finance wrapping that
9 they would be backed and guaranteed by, by Brennan and
10 McGowan. And this was all set up through Hugh Owens.
11 .
12 Now, it was a rather complicated scheme, but that is
13 what the principle of it was. Now, these people could,
14 in fact - I think the anticipation was that they were
15 going in and they could develop at a very reasonable
16 rate, that if you go out to contract you are out in
17 competition to getting pricing for Mr. McGowan and
18 developing; I think it was felt that these were people
19 who worked with Brennan and McGowan over the years and
20 would like to have had the opportunity of participating
21 in a smaller way rather than getting involved in a
22 larger overall transaction. And this market, which
23 they had brought to them, within themselves, was, I
24 suppose, to them, a novel - and that they - I was
25 asked, would I participate in these. This may have
26 helped them in someway, maybe perhaps the fact that -
27 known that I was participating, perhaps raising some of
28 the finance, I am not sure. But in these schemes I was
29 asked, then, to - I had to inject in certain capital
30 into them, for which I was paid a proportion.

1 25 Q. Mr. Finnegan, I have no idea, I am afraid, of what you
2 are talking about, and I do not understand what you are
3 saying.

4 .
5 We know that in ordinary commercial relations there are
6 arrangements, agreements, understandings entered into
7 with people which fall under some general headings
8 which you can identify and recognise, and what I am
9 trying to understand is what sort of an agreement you
10 had with Messrs. Brennan and McGowan.

11 .
12 Now, we know that in each of these cases it, at the
13 core of it, involved the acquisition of property by
14 Brennan and McGowan with a view either to development
15 or sale on for a profit. That was the one common
16 feature of all of these transactions, isn't that right?

17 A. Yes, Sir.

18 26 Q. We have been told by Brennan and McGowan, and they do
19 appear to be supported by the circumstantial
20 documentation, that you were not a partner in these
21 ventures, in the sense of a full equal partner for the
22 entire development?

23 A. Correct.

24 27 Q. And with the exception of Sandyford, your
25 participation, and perhaps to a lesser extent Stephen's
26 Green, your participation was confined to a share in
27 the distribution of monies which were sent over to
28 Jersey?

29 A. Yes, Sir.

30 28 Q. So you were not a partner in the schemes, isn't that

1 right, or in the projects?

2 A. No, I was. No - well, the definition --

3 29 Q. We are talking about - let's just take an example.

4 Let's start with Monkstown, which was the first. They
5 wanted to acquire land in Monkstown with a view to
6 development. You were not a one-third partner in that
7 project?

8 A. Mm-hmm.

9 30 Q. Isn't that so? You were a one-third partner in a
10 distribution of a specific sum of money which was sent
11 over to Jersey at the very commencement, shortly after
12 they bought the land, in fact, and before any
13 development or anything was done with it?

14 A. Well, could you say to me, Sir, then, what was
15 "shortly"?

16 31 Q. Within a month, approximately a month. The nuns were
17 paid their ú210,000 in November of 1977, and you were
18 paid your ú105,000 in December of 1977?

19 A. Mm-hmm.

20 32 Q. That was the end of your involvement with Brennan and
21 McGowan vis-a-vis that land, as we understand the
22 evidence so far?

23 A. Yes, but I had - yes, the - but the others had
24 contracted to purchase the land 12 months previously.

25 33 Q. You are missing my point, Mr. Finnegan. My point is, I
26 am trying to understand the nature of the agreement
27 that you had with Messrs. Brennan and McGowan in
28 relation to this particular property.

29 .

30 Now, we have been told by Messrs. Brennan and McGowan

1 that your only participation in this matter was to get
2 part of the ú350,000 that was sent over to Jersey in
3 December, 1977, and that once you received that, you
4 had no further participation in the development of this
5 land or in the sale of this land or in anything else to
6 do with this land. Is that correct or not?

7 A. Well, I think that the - the position came around that
8 I was asked by Brennan and McGowan to participate in
9 this scheme. Now, they had agreed to buy - Brennan and
10 McGowan agreed to buy.

11 34 Q. Could you address the question I put to you, Mr.
12 Finnegan. The question is: Do you agree with Messrs.
13 Brennan and McGowan that after you received payment of
14 the ú100,000, which you directed be sent to Foxtown,
15 and the ú5,000 bank draft which was sent to you, you
16 had no further involvement in the Brennan and McGowan
17 project with regard to this land in Monkstown?

18 A. Yes, Sir.

19 35 Q. You agree with that?

20 A. Yes, Sir.

21 36 Q. So that seems to clearly establish that you were not a
22 partner with them, in this project?

23 A. Well, I was to the stage that I was asked to come in,
24 that they - that it was coming in and putting in my
25 money into the scheme, the scheme.

26 37 Q. Right. Well, now, you just tell me from start to
27 finish, vis-a-vis Monkstown, what was agreed between
28 yourself and Messrs. Brennan and McGowan in relation to
29 Monkstown and when was it agreed. Well, perhaps we
30 might start with when you say it was agreed?

1 A. I think sometime during - I think initially, when
2 Brennan and McGowan acquired the property, I understand
3 it was their intention to develop this themselves.

4 38 Q. Yes. When did you reach whatever agreement you
5 reached with Brennan and McGowan about going into some
6 kind of an arrangement with them?

7 A. I think this matured sometime in between the time
8 during the planning time. There was an application for
9 planning permission for the development of the
10 property. I think the discussions were sometime which,
11 by the way, I believe that the timespan of that was
12 something in or around 12 months. What I recollect,
13 that during that time, I think Brennan and McGowan had
14 formulated ideas of what they might do, rather than
15 just developing the land themselves, and had consulted
16 with Hugh Owens. I reckon that when they talked to me,
17 was somewhere around six or eight months after the
18 acquisition of the property.

19 39 Q. But they didn't acquire the property until December of
20 1977?

21 A. Well, they had signed a contract.

22 40 Q. No, they closed the sale, they signed the contract in
23 August of 1976?

24 A. Yes.

25 41 Q. They closed the sale of the nuns' interest in the land,
26 which was their leasehold interest, in December of
27 1977?

28 A. Yes, Sir. Prior to that.

29 42 Q. Prior to that. How long prior to that?

30 A. Prior to the completion - you see, the planning

1 permission didn't come through, so whilst there was a
2 contract in existence, it was a conditional contract.

3 43 Q. Yes.

4 A. And it was during that planning span time.

5 44 Q. Was it before or after the planning permission?

6 A. As far as I recollect, it was before the planning
7 permission.

8 45 Q. Yes. And was it long before the planning permission?

9 A. There was some different dates on when the planning
10 permission came through, but I think it was something
11 like, ballpark, maybe three or four months sort of
12 time.

13 46 Q. Let's just look at the chronology of events, or the
14 sequence of events as we know them.

15 .

16 We know that the nuns signed a contract to sell their
17 leasehold interest to Brennan and McGowan for ú210,000
18 in August of 1976?

19 A. Yes, Sir.

20 47 Q. We know that in December of 1976, the nuns entered into
21 a contract to buy the freehold of the property which
22 they had already agreed to sell from the De Vesci and
23 the Longford Estate.

24 .

25 We know that the sale of their property to Brennan and
26 McGowan did not close until December of the following
27 year, in other words, more or less a year after they
28 agreed to buy the freehold.

29 .

30 We understand that the planning permission sought by

1 Brennan and McGowan was obtained some time in the
2 Autumn of 1977, perhaps a month or two prior to the
3 closing of the sale of the leasehold interest.

4 .

5 Now, by reference to that chronology, when do you say
6 you entered into an agreement or an arrangement of some
7 kind with Messrs. Brennan and McGowan?

8 A. Prior to the completion - there are two different
9 stages here. The signing of the contract, and it was
10 the completion date.

11 48 Q. Yes?

12 A. Prior to the completion date.

13 49 Q. In other words, before December of 1977?

14 A. Yes, Sir.

15 50 Q. Yes. How long before December?

16 A. I think it was - my recollection is in or around some
17 months before that, Sir.

18 51 Q. We know that in the middle of 1977 there appears to
19 have been a contract, although we don't have a copy of
20 it, but it is referred to in a letter from Cathal Young
21 O'Reilly, where the nuns agreed to sell on their
22 interest under the contract for the purchase of the
23 freehold. That seems to have been around July of 1977?

24 A. I think halfway through --

25 52 Q. Yes. When do you say you had your agreement, whatever
26 it was, with Mr. Brennan and Mr. McGowan?

27 A. It was prior to any steps being made to the, to any of
28 the - to the scheme being put into operation.

29 53 Q. Prior to the scheme being put into operation?

30 A. Yes, yes, Sir.

1 54 Q. What did you understand the scheme was here?

2 A. That which I explained to you.

3 55 Q. I see. That long answer which you gave me at the
4 outset. What was your agreement with Messrs. Brennan
5 and McGowan in relation to the scheme?

6 A. My agreement was that they had - that now - they asked
7 me to get involved. It was anticipated that what they
8 were going to do, they had in their minds the framework
9 of what they were going to do, was to sell on to
10 associated parties, that probably being the best way,
11 of people known to them.

12 56 Q. They were going to sell on the sites, maybe?

13 A. Yes, but in a particular way of a package which
14 involved - they put this to me, "This is what we are
15 going to do. Now, we now have various people which
16 would be anxious to take part of this from it. We are
17 dividing it up. We are going to divide it up into
18 various" --

19 57 Q. What I want to understand is what agreement did you
20 have with them, Mr. Finnegan. They agreed to do what
21 in consideration of you doing what?

22 A. They - I understood initially, when I would get
23 involved with them, when for getting involved in it I
24 would get a third of what, a third of the transaction.

25 58 Q. What transaction?

26 A. Whatever profits would arise out of the development.

27 59 Q. But you see, Mr. Finnegan, there was no profits at this
28 stage.

29 A. But --

30 60 Q. They didn't turn a sod on the land. They hadn't even,

1 if I may say so, acquired the land at this stage?

2 A. What do you mean "acquired", Sir?

3 61 Q. They hadn't completed the purchase of the property.

4 A. If there is a contract in existence, a binding

5 contract, I think, Sir, you would know more about it

6 than I do, that at that stage there is - that means the

7 only thing - there is a deal done, the only thing is

8 the possession isn't given until such time as the

9 balance of the purchase money is paid over.

10 62 Q. You keep using the phrase "profit". There was no

11 profit at this point in time.

12 A. Well, this is what I want to say to you, Sir: There

13 are different ways of doing this: One, anyone who buys

14 a product, lands or otherwise, or buildings, who are in

15 the development world, anticipate that they are going

16 to make money out of it. You will have seen this with

17 all the developments that have taken place around

18 Ireland and around Dublin in the last few months. You

19 wouldn't have the faintest idea, nor would I, of some

20 of the profit ratios that these people would have made.

21 Some of them were builders and some of them were

22 developers. The difference is this: Is that the

23 builder/developer has a more hands-on situation of what

24 he anticipates what he can actually make out of it,

25 because land is the basis of producing a product, and

26 the product will be that which, the product you can

27 build on it.

28 .

29 Now, these people, Brennan and McGowan, went through

30 this scheme with the - and this is where I think the

1 brainchild of Hugh Owens came forward, and this is what
2 they asked me to participate in. "We now are going to
3 do the following: We are going to do transactions with
4 other people." And at this stage now - by the way,
5 this had been done before, not in such a, if you like,
6 a sophisticated, complicated way, with other builders
7 who would buy a large chunk of land and divide it into
8 --

9 63 Q. Can I interrupt you, Mr. Finnegan. Let's just talk
10 about the actual transaction that took place. Brennan
11 and McGowan through a Brennan and McGowan Irish company
12 called Green Isle Holdings Trust Limited sent ú350,000
13 over to two Brennan and McGowan, Finnegan companies
14 that had been established for the very purpose of this
15 transaction in Jersey. And the monies that were sent
16 over for payment of some expenses, including Mr. Owens'
17 fees, were distributed between the three of you.

18 .
19 Now, what has that got to do with profit on anything?

20 A. Well, I am trying to tell you, Sir. It was taken that
21 they had done deals - profit was - that they were
22 putting in situ a rather complicated scheme, which I
23 can't follow from A to Z. But it was that they were
24 going to create borrowings and borrowings within a loop
25 of companies. It is quite a complicated affair. And
26 in that they were saying, "Well, now" --

27 64 Q. It is actually quite straightforward. They formed two
28 companies. We have seen the instructions on foot of
29 which it was done, and the manner on which it was done.
30 Two companies were formed, one was called Bouganville

1 Investments Limited, and the other was called Rapallo
2 Limited. Somebody produced a service agreement under
3 which Rapallo agreed to provide services for ú10,000
4 for two years and 11 months, thereby creating an
5 indebtedness of ú350,000. No services of any kind were
6 provided. And Bouganville nonetheless regarded itself
7 as indebted to Rapallo for ú350,000. Then Mr. Owens
8 came up with this correspondence, which I presume you
9 have heard several times now in the evidence, which he
10 orchestrated in advance, which should be exchanged
11 between three solicitors and which was, in fact,
12 exchanged between three solicitors on the dates
13 ordained in advance by Mr. Owens, in which the
14 solicitor for Green Isle Holding Trust, a Brennan and
15 McGowan company, writes to the solicitor for
16 Bouganville, a Brennan and McGowan Jersey company, in
17 which you were involved as well, asking, would they
18 sell their interest.
19 .
20 This whole scheme was arranged under which Bouganville
21 would write back saying, "No, the company won't sell
22 it, but if you want to buy the directors' shareholding
23 in this company which owns the freehold interest, you
24 can do so if you discharge this indebtedness to
25 Rapallo."
26 .
27 Now, we all understand that. I take it, at this stage
28 you understand that. That is, in fact, what happened.
29 That has nothing whatsoever to do with any profit of
30 any kind on this land?

1 A. I beg to disagree with you, Sir. The position is they
2 had, Brennan and McGowan informed me that what they
3 were doing was this: Regardless of what way they may
4 have been - this was such a scheme that I find it very
5 hard to follow. I am glad, Sir, you can follow it. I
6 found it difficult to follow.

7 65 Q. The money that was sent over was substantially
8 borrowed?

9 A. Was substantially borrowed on the basis of onward
10 transactions that they were doing with these other
11 companies.

12 66 Q. Why did they get you involved in it?

13 A. I think that as far as I was concerned, that I think
14 perhaps at that particular time they may very well have
15 needed somebody who was going to put some cash in it,
16 or they may have - there are a number of things. They
17 asked me, would I come along on it, get involved in it.
18 The situation was, at that time, they were putting in,
19 I don't know, because actually looking back on it, you
20 may see a little more on it, but at the time they were
21 organising a lot of borrowing around.
22 .
23 They were getting a cash injection from me. That, and
24 the loop, the complicated loop of extracting - say
25 these people, for example - I haven't worked this out
26 now. This gives you a rough thing. Somebody is going
27 to build ten houses. They say, "Well, we can make
28 ú1,000 a house out of it?" Another guy comes along and
29 says, "Look, what we can do is this: We are
30 builders/developers." They were foreman on the jobs.

1 "We know there is a lot of money being wasted on
2 building. We can make four or ú5,000."

3 67 Q. Mr. Finnegan, all Brennan and McGowan could have had in
4 relation to this property at this point in time was an
5 expectation that in the fullness of time, when they
6 either developed this land or sold it, they would make
7 a profit?

8 A. That's right, but they were borrowing on the
9 anticipation.

10 68 Q. They were obviously entitled to borrow on the security
11 of the land, which they did, in fact, do?

12 A. Yes.

13 69 Q. They sent the money to Jersey?

14 A. But they borrowed on the anticipation - they gave
15 either projections of what they were doing with their,
16 this scheme to the bankers.

17 70 Q. They may have had wonderful projections, Mr. Finnegan,
18 showing they were going to make wonderful profits, but
19 what I am talking about is what happened before they
20 turned a sod on this land or sold it to anybody. They
21 had bought the land, their own company in Ireland,
22 Green Isle Holdings Trust Limited, borrows money, sends
23 it over to Jersey and divides it in three.

24 .

25 MR. HUSSEY: I am sorry, I beg your pardon. Green Isle
26 Holdings is not their own company.

27 .

28 MR. HANRATTY: We have had this before. It is
29 substantially a Brennan and McGowan company.

30 .

1 MR. HUSSEY: It is not.

2 .

3 MR. HANRATTY: With other directors and shareholders as
4 well.

5 .

6 MR. HUSSEY: It is not.

7 .

8 MR. HANRATTY: This company, Green Isle, which bought
9 the nuns' interest in the land, raised ú350,000 on the
10 security of the land, sent it over to the Jersey, sent
11 it over to Jersey and divided it among three people,
12 some of whom, incidentally, since your counsel has so
13 interrupted, were not directors of Green Isle at all?

14 A. Yeah, well, the company - say the company was made up
15 of a number of parties, but to the best of my knowledge
16 and belief was certainly not - I don't think the major
17 holder was Brennan and McGowan. I think they had a lot
18 of other people interested, and this was part of the
19 sale on. And I think part of the - the deal was they
20 were saying, "Well, look, if you take it and agree to
21 take it from us to show up this, whatever the profit
22 is, we will participate in that company with you."

23 .

24 I wasn't involved in this now. They were going to
25 participate in the on-going company which was taking
26 the agreement. To what extent, I am not quite sure,
27 they were in with it, 20 percent or 25 percent, or
28 something like this, but they had these other people
29 involved in the company. So, that's where they had
30 done their figures in saying, "We can, out of these

1 transactions now, with planning permission to go, we
2 will - we project we are going to make so much out of
3 it."

4 71 Q. Why did they bring you in? Brennan and McGowan could
5 have done this themselves. They could have sent the
6 whole ú350,000 over to Jersey and divided it among the
7 two of them?

8 A. In hindsight, that is what one might think, but perhaps
9 at the particular time, I think, my participation might
10 have been more important than that, that at the time
11 that I think there was a lot of borrowings going on,
12 and they had actually bought a site for market value.
13 They were now - they were now rolling in an anticipated
14 profit.

15 72 Q. Why did they bring you in?

16 A. I think that they brought me in, one, that they wanted
17 the cash from me. Two, I think that it may have been,
18 and what I learned that it was necessary to have, if
19 you like - these were inter - now, I am not an
20 accountant, I can't give you a full run - intercompany
21 related deals.

22 73 Q. Why did they bring you in, Mr. Finnegan?

23 .

24 MR. HUSSEY: If you would let the witness answer the
25 question. The witness is attempting to complete the
26 answer.

27 .

28 MR. HANRATTY: With respect, he is not answering the
29 question.

30 .

1 A. I am trying to answer it, Sir.

2 74 Q. MR. HANRATTY: Why did they bring you in?

3 A. I think they brought me in, one, either for - at the
4 particular time they needed to get some actual cash in
5 and to show to bankers, perhaps, that there was another
6 party who was prepared to invest. Now, can I just come
7 in at one stage?

8 75 Q. Just to pause it there for a moment.

9 A. Yes.

10 76 Q. Both Brennan and McGowan said that you brought no cash
11 into this deal?

12 A. Well, I did.

13 77 Q. How much?

14 A. 30 something odd thousand.

15 78 Q. Where did you have that money?

16 A. That money came from Foxtown.

17 79 Q. In Guernsey?

18 A. Yes, Sir.

19 80 Q. And where did it go to?

20 A. It was paid to, as far as I - paid either to Brennan
21 and McGowan or agents such as either Hugh Owens or one
22 of the parties.

23 81 Q. Let's take it from the start. Was it in Foxtown's
24 account in Guinness & Mahon (Guernsey) Limited?

25 A. Sir, I can't tell you at the particular moment which
26 account it was in.

27 82 Q. How was it taken from Guernsey to Ireland?

28 A. I don't recollect.

29 83 Q. To whom was it paid?

30 A. As far as I recollect, Sir, it was either paid to - I

1 think it was a transfer to the Bank of Ireland.

2 84 Q. Can you produce one shred of documentary evidence
3 indicating an investment by you of ú33,000 or any sum
4 into this project?

5 A. The - Sir, on the documents which you will be looking
6 at, that you are --

7 85 Q. There is a debit for ú33,333.33 Sterling?

8 A. Yes, Sir.

9 86 Q. What is that supposed to show?

10 A. And it is --

11 87 Q. It shows that there was a debit on the account?

12 A. Yes.

13 88 Q. It shows nothing else, isn't that right?

14 A. There was, though, on that piece of paper, that there
15 was a note of a party who was dealing with it in the
16 office, and his thing was, he had written in on it --

17 89 Q. We will hand you a copy of the account that you are
18 referring to.

19 .

20 It is for the purpose of the transcript. We are not
21 putting it up on the screen. It is page 4838.

22 .

23 And perhaps a copy for the Sole Member as well.

24 .

25 (Documents handed to the Sole Member and to the
26 witness)

27 .

28 MR. DUNNE: I wonder, Sir, could we be furnished with a
29 copy?

30 .

1 90 Q. MR. HANRATTY: I will get copies ready, and we will
2 come back to it.

3 .

4 We have been told that this document that you have
5 produced is the account of Foxtown Investments Limited.

6 Is that right?

7 A. Yes, Sir.

8 91 Q. In what bank?

9 A. I don't know which --

10 92 Q. The sheet that you are looking at which contains, which
11 is the one which contains this transaction to which I
12 presume you are going to refer, gives no indication
13 that it is a bank account, other than the fact that it
14 has a date, a description, a value date, a debit a
15 credit and a balance. It doesn't identify any bank or
16 any branch or any account holder, isn't that right?

17 A. It did come along, Sir - it was alongside some other
18 Guinness & Mahon --

19 93 Q. Yes. So, are you saying, by inference, that this is a
20 statement on the same account, or is there any reason
21 why --

22 A. All I can tell you, Sir, I have what I have. I have
23 this.

24 94 Q. All right. Will you tell us what it is, then?

25 A. I am just going down to see - first of all, this is a
26 schedule here.

27 95 Q. Let's just take it from the start, Mr. Finnegan.

28 A. I am just trying to look. I am not good at this.

29 96 Q. There is a date column on the left-hand side in
30 chronological sequence. Do you see that?

1 A. Yes.

2 97 Q. The particular transaction to which I understand you
3 are making reference is the third last one, 11th of
4 November, 1977?

5 A. Sorry. Yes, right.

6 98 Q. Right. Do you see that?

7 A. Yes, Sir.

8 99 Q. And there is a debit in the sum of ú33,333.33?

9 A. Mm-hmm.

10 100 Q. And that leaves a balance on the account of ú1,498.40 ?

11 A. Mm-hmm.

12 101 Q. Now, the details in relation to this debit are -
13 "B377", what does that mean?

14 A. I don't know, Sir.

15 102 Q. What significance are you attaching to this
16 transaction, if you even know what it is?

17 A. Okay. Let me say something, to clear the wind on this
18 altogether. First of all, I want to say I am not an
19 accountant. I am not a guy who runs numbers like this.
20 This is something that I have - this - the writing on
21 this is, by the way, a person, a member of my staff who
22 has put the definition of this. I understand that this
23 33,000 did show up on another summary as well within
24 that lot of figures somewhere. By the way, when the
25 figures come in, this will all - you will see more.

26 103 Q. Mr. Finnegan, what is this? What is this document?

27 A. It is what it is, Sir.

28 104 Q. What is it?

29 A. It is a summary of - this came out of an old file along
30 with figures, and it is - figures that have related to

1 a Foxtown account.

2 105 Q. Where does Foxtown appear?

3 A. Well, I think if you - this is - this came - by the
4 way, as far as I recollect, looking when these were
5 going in, Sir, there is another piece of paper along
6 with it.

7 106 Q. Would you like the whole series, the 28 pages, perhaps,
8 that might --

9 A. I am not very good at this.

10 107 Q. I think we will give you the whole 28 pages, so that we
11 don't have any confusion.

12 .

13 (Documents handed to witness.)

14 .

15 If you thumb through those pages, you will see the
16 first page describes itself as a statement, although it
17 does not identify any bank or any branch of any bank,
18 isn't that right? It says "Foxtown Investments
19 Limited", isn't that so? It contains transactions from
20 March, 1973 to April, 1974?

21 A. Sorry. Now, Sir, I am not the fastest --

22 108 Q. Page No. 4827, which is the first in the series.

23 A. 4837?

24 109 Q. 4827.

25 A. Okay. Let me get this.

26 110 Q. Mr. Finnegan, what I am going to do is I am going to
27 give you a stapled bundle, and we will go through the
28 stapled bundle in the sequence in which they appear in
29 the bundle. I think that is probably the easiest way.

30 A. All right, thanks.

1 .

2 (Documents handed to witness.)

3 .

4 A. Thank you.

5 111 Q. Now, you see the first document in that bundle?

6 A. Yes.

7 112 Q. It says "statement", and under the word "statement" it

8 says "Foxtown Investments Limited"?

9 A. Yes, Sir.

10 113 Q. It doesn't give any indication of any bank or any

11 branch of any bank, isn't that right?

12 A. No.

13 114 Q. The second document is a statement. And again under

14 "statement" it has "Foxtown Investments Limited",

15 although this document is in a different format than

16 the previous page. At the bottom of it is "Guinness &

17 Mahon Limited, 17 College Green", isn't that right?

18 A. Yes, Sir.

19 115 Q. So this is an account in 17 College Green, is it?

20 A. I don't know.

21 116 Q. Well, Mr. Finnegan, you are, as I understand your

22 statement to the Tribunal in connection with some of

23 these transactions, are relying on this and advancing

24 this as evidence that you injected and invested money

25 into these various Brennan and McGowan transactions?

26 A. Yes, Sir.

27 117 Q. And you are now saying you don't know what it is?

28 A. No, I didn't say that, Sir.

29 118 Q. Well, what did you say?

30 A. You asked me, Sir, was this an account in Guinness &

1 Mahon (Dublin).

2 119 Q. Yes. Well, is it?

3 A. I said I don't know. But I do see over on the other
4 part of it here, Foxtown Investments Limited in Jersey.
5 I don't know whether that is - I don't - I would have
6 to probably assume that if it is, that this is a
7 Dublin, a Dublin account.

8 120 Q. Well, it says, "Guinness & Mahon Limited, 17 College
9 Green, Dublin 2."

10 A. Well, just take it on what it is.

11 121 Q. So the account is in that branch?

12 A. Right.

13 122 Q. It says on the top right-hand side of it, if you look
14 at it, "non-resident call deposit account". So,
15 Guinness & Mahon (Dublin) appears to have had accounts
16 in that branch called "non-resident call deposit
17 accounts". So what is a non-resident call deposit
18 account?

19 A. It's an account, a non-resident account.

20 123 Q. We know that Foxtown Investments Limited is a
21 non-resident company, because it is a Jersey registered
22 or a Guernsey registered company, isn't that so?

23 A. Yes, Sir.

24 124 Q. Would it mean, for example, that this is a deposit
25 account for a non-resident company, and that the nature
26 of the account is a call deposit?

27 A. I don't know, Sir.

28 125 Q. Well, that seems the most obvious inference from it.
29 You know what a call deposit account is, as opposed to
30 a term deposit account, or don't you?

1 A. Well, it is on call.

2 126 Q. Yes. You can get your money out at any time without

3 giving prior notice. In a term deposit account, if it
4 is a month term, you have to give a month's notice. If
5 it is a three month term, you have to give three
6 months' notice. This is not one of those. It is a
7 call deposit or otherwise known as a demand deposit
8 account. I take it, the normal type of deposit account
9 that most people have, isn't that right?

10 .

11 So it is a call deposit account, but it is
12 non-resident. Presumably, it is described as
13 non-resident because the holder on the account
14 indicated at the left-hand side on the top of the page,
15 and also at the bottom of the page, is Foxtown
16 Investments Limited. We know that the account is held
17 in Guinness & Mahon in 17 College Green in Dublin,
18 isn't that right?

19 A. That's what it looks like here, Sir.

20 127 Q. So Guinness & Mahon - a non-resident company had a call

21 deposit account in Guinness & Mahon (Dublin). As you
22 can see on the bottom of that account, the last balance
23 shown on it is zero. That is in November of 1974,
24 isn't that right?

25 A. Yes, Sir.

26 128 Q. Now, turn to the next page. This is another identical

27 type of a statement, and is identical in every respect
28 to the previous one, except that the transactions in it
29 are different transactions in a different period, from
30 April 1973 to October 1974. Isn't that right?

1 A. Mm-hmm.

2 129 Q. And they show balances ranging from ú1,267 to ú1,110,
3 approximately. Similarly, with the next statement,
4 same thing, same company, same bank, except this is not
5 a call deposit account, it is a one month's notice
6 account. Isn't that right, it has a different account
7 number? If you look at the previous page, you will see
8 that the account number is 17 --

9 A. Where is the account number on them?

10 130 Q. On the top right-hand side beside the date.

11 A. Yes, Sir.

12 131 Q. And the account number on the one that we have just
13 been speaking with a moment ago is 1700143. But this
14 account number on the third page, which is page 4830,
15 is 1700245.

16 A. Yes.

17 132 Q. And if you look at the legend on top, it says,
18 "non-resident one month's notice deposit." So it is a
19 different type of account, and a different account
20 number. So it is quite clearly a different account
21 altogether. This covers a period from January 1974 to
22 December 1974, with balances ranging from 29,000 at the
23 start to 40,000 at the end. Isn't that right?

24 A. Mm-hmm.

25 133 Q. Now, while we were on that page, can we just look at
26 one transaction, the third last transaction, December
27 19 - "December the 4th," I think it is, "1974 transfer
28 to Guinness & Mahon Jersey Trust general account". Do
29 you see that? Second last transaction under the
30 particulars column?

1 A. I see it, yes.

2 134 Q. "Transfer to Guinness & Mahon (Jersey) Trust general
3 account."

4 A. Yes.

5 135 Q. That would appear to suggest that Guinness & Mahon
6 (Jersey) Trust had an account in Guinness & Mahon
7 Limited, in Dublin, wouldn't it?

8 A. Yes, Sir.

9 136 Q. And that the account was what is described as a
10 "general account"?

11 A. Yes.

12 137 Q. The sum in question is €1,900?

13 A. Yes, Sir.

14 138 Q. The Guinness & Mahon (Jersey) Trust was, at that time,
15 the trustees of your trust in Guernsey, or, in fact, in
16 Jersey, as it was then?

17 A. Mm-hmm.

18 139 Q. Isn't that so?

19 A. Yes.

20 140 Q. But we know that they were the trustees of other trusts
21 as well as yours, or were they?

22 A. I don't know.

23 141 Q. You don't know. Well, did your Trust have an account
24 in Guinness & Mahon in Dublin?

25 A. I don't know. Well, if it is through Foxtown, Foxtown
26 was owned - Foxtown was owned by the Trust.

27 142 Q. Yes. But this is a transfer from a Foxtown term
28 deposit account in Guinness & Mahon (Dublin) to a
29 Guinness & Mahon (Jersey) Trust general account in
30 Guinness & Mahon in Dublin. What I am asking is did

1 your Trust have an account in Guinness & Mahon in
2 Dublin, apart from Foxtown?

3 A. Oh, I don't know, Sir.

4 143 Q. Right. Turning to the next page. This is page 4831.

5 This is still the one month's notice account. As you
6 can see, it covers transactions from January '74 until
7 October '74, balance ranging at start from 29,800 to
8 32,800.

9 .

10 Otherwise nothing particular on that document.

11 .

12 The following document, page 4832, is the original
13 Foxtown Investments Limited call deposit account, and
14 that shows a period from August '74 to November '74
15 with a zero balance at the end. Do you see that?

16 A. Yes.

17 144 Q. Similarly with the next document, 4833, 4834, 4385 --

18 A. Sorry, yes.

19 145 Q. In 4833, as you can see, the balance is ú1,149. And in
20 4834, you can see on the 31st of March, 1976, there is
21 a lodgement of ú72,918.65. That gives then a credit
22 balance, obviously, in that sum.

23 .

24 Now, was that transaction anything to do with Brennan
25 and McGowan?

26 A. I am taking what you say there. Is it just in the
27 middle of this?

28 146 Q. No, I am talking about 4834. The top right-hand side
29 has a page number, and the page number we are on is
30 4834?

1 A. Yes, I have that 4834.

2 147 Q. You see the first transaction on the page is a
3 lodgement on the 31st of March, whilst actually it is
4 dated April 28th, '76, but the value date is given as
5 the 31st of March, and the amount is ú72,918. Was that
6 anything to do with Brennan and McGowan?

7 A. I don't think so, Sir.

8 148 Q. Well, how do you know?

9 A. Well, at the particular time - around that time - I
10 don't know around that time what I would have been
11 doing with - lodgement - sorry.

12 149 Q. Anyway, you don't think it was anything to do with
13 Brennan and McGowan, is that right?

14 A. I don't think so.

15 150 Q. Right. Moving on to the next page, then, 4835. We are
16 still on the call deposit account. Do you see that?

17 A. Yes, Sir.

18 151 Q. On this page?

19 A. I can't see it very well.

20 152 Q. And on the previous page, in fact, although it is on
21 the same notepaper as the previous statements we have
22 looked at, there is one difference now, that is that on
23 the top of the page and on the bottom of the page you
24 see "Guinness & Mahon (Channel Islands) Limited" or
25 "Channel Island Limited". Do you see that?

26 A. Channel Islands. Guernsey, Channel Islands.

27 153 Q. Yes. And on the top of the page is written "Guinness
28 & Mahon (Channel Islands) T." What is "T"?

29 A. I don't know.

30 154 Q. You see, we have now moved into 1977?

1 A. Yes.

2 155 Q. And Foxtown has gone, and we now have "T". Is "T" some
3 kind of a code for Foxtown or is it a different
4 account? It doesn't appear to be a different account,
5 because it has the demand deposit account number, which
6 we know about?

7 A. I don't know, Sir.

8 156 Q. Yes. Well, if you look at the top of it again.

9 A. Yes.

10 157 Q. Do you see somebody has written in "AK"?

11 A. By the way, this is - is this --

12 158 Q. Yes, it is not terribly legible, but it is legible.

13 You can see "AK" written on the top in the middle of
14 the page?

15 A. "AK" - all right. It doesn't matter, I will go on.

16 159 Q. We will have it pointed out to you.

17 A. Thank you, Sir.

18 (Counsel indicating to witness.)

19 Yes, I have got it, Sir. Sorry about that.

20 160 Q. What does "AK" mean? Is it a code for something?

21 A. I don't know, Sir.

22 161 Q. You don't know what it is, do you?

23 A. No.

24 162 Q. Right. If you look at the bottom of that page, the

25 last transaction on it, I am afraid the date is

26 obscured. Probably the 18th of April, 1977 there is a

27 transaction to Guinness & Mahon, G.AK, and the balance

28 then standing to the account in the sum of ú78,773.15

29 is debited to the account and sent over, we presume, to

30 Guinness & Mahon G.AK. What is Guinness & Mahon G.AK?

1 A. I don't know, Sir.

2 163 Q. This is the account which formally had "Foxtown
3 Investments" written on the top of it?

4 A. Yes.

5 164 Q. It bears the same account number as the Foxtown
6 Investments Limited, we presume, demand deposit
7 account, the 143 account, if you know what I mean?

8 A. Mm-hmm.

9 165 Q. Is this a Foxtown Investments Limited account, or does
10 it belong to somebody who is coded as G.AK?

11 A. Well, I would have thought that this was a Foxtown
12 account.

13 166 Q. Well, if it is, why doesn't it say it? Is this one of
14 these Ansbacher accounts with these back-to-back
15 arrangements in Guinness & Mahon, or these mirror
16 accounts which have been referred to in a different
17 context, all of which, as I understand it, had some
18 sort of a code or a label?

19 A. I don't know.

20 167 Q. You don't know what it is?

21 A. No, I don't know what it is.

22 168 Q. Well, given that it previously showed the account
23 holder as Foxtown Investments Limited, but at this
24 point in time in 1977 it doesn't, but that it bears the
25 same account number, would you agree that it seems
26 likely that that is what it is?

27 A. Well, I wouldn't like to say so, Sir. I don't know.

28 169 Q. Well, Mr. Finnegan, these are the accounts that you
29 produced to the Tribunal?

30 A. Yes.

1 170 Q. And these are the accounts upon which you are relying,
2 in support of a proposition that you put various sums
3 of money into various land transactions that we are
4 inquiring about, with Messrs. Brennan and McGowan?

5 A. Yes.

6 171 Q. And here you are saying that you don't understand the
7 entries and the references on these various accounts?

8 A. All right. Let's make one thing clear to you, Sir.

9 .

10 First of all, I am not a person - this doesn't come
11 easy to me, referring back to all of these, because it
12 is not something that I ever do. And I must say, that
13 the - these notes and things don't come to me. I
14 didn't make them.

15 172 Q. Well, if it is the Foxtown account, it is your money?

16 A. Yes, it is. Well, if you asked me, I would have
17 assumed in my mind that this was Foxtown.

18 173 Q. Yes. Well, why is it referred to as G.AK?

19 A. I haven't the faintest idea.

20 174 Q. Is Guinness & Mahon G.AK a Dublin account or is it
21 somewhere else?

22 A. I just want to say to you, Sir, I don't know. I
23 haven't got the faintest idea.

24 175 Q. Well, who was doing these transactions?

25 A. The - what do you mean "who was doing"?

26 176 Q. Somebody decided that the balance then standing to this
27 account in April 1977 be transferred to another account
28 designated as Guinness & Mahon G.AK. Who decided that?

29 A. I have no idea. I have no idea, Sir. It is a hell of
30 a long time ago. I am not a person of detail on this

1 sort of thing. I would never have done it. And I just
2 don't know.

3 177 Q. If you look further up the page, there is a debit of a
4 smallish sum, relatively smaller sum. Do you see that?
5 It says "Drawn to purchase Burmah." That would indicate
6 the purchase of equity in a company. Does that assist
7 you as to whether this is a Foxtown account?

8 A. Actually, well --

9 178 Q. Did Foxtown or the Trust have equity in this company?

10 A. I am sorry to be running, to have you running up an
11 down like that.

12 .

13 MR. HUSSEY: I am sorry, Sir, I thought this man had
14 answered the question that, as far as he was concerned,
15 these were Foxtown accounts, as far as he knows they
16 are Foxtown accounts.

17 .

18 CHAIRMAN: Foxtown is his account.

19 .

20 MR. HUSSEY: Yes.

21 .

22 CHAIRMAN: I think he is bound to know his own banking
23 affairs. He is the only person who can explain it,
24 that I know of now, at the moment. There may be
25 others.

26 .

27 MR. HUSSEY: I understood the question had been
28 answered that these were --

29 .

30 CHAIRMAN: These are his affairs. He doesn't know

1 where the money comes from, where it goes. I think
2 that a man should know his own banking affairs, with
3 all due respect.
4 .

5 179 Q. MR. HANRATTY: What I am really trying to find out, Mr.

6 Finnegan, is who made these decisions about these
7 transactions. You have, as your counsel has pointed
8 out, that in your belief that is Foxtown account?

9 A. Yes, Sir.

10 180 Q. And we know that there are transactions on it?

11 A. Yes, Sir.

12 181 Q. And we know that in one of these transactions the
13 balance standing to this account which you believe is a
14 Foxtown account has been transferred to somewhere
15 called Guinness & Mahon G.AK. Where do you think that
16 money would have been going to?

17 A. Unless it is going to the - I would understand that is
18 a Foxtown account. That is to the best of my
19 knowledge, that it is a Foxtown account.

20 182 Q. This account here?

21 A. Yes.

22 183 Q. But the money in this account is being transferred
23 somewhere else, and as you can see, it is debited at
24 the bottom and transferred to Guinness & Mahon G.AK?

25 A. All I can say is this: That Foxtown is run by the
26 Trust, my Trust. And I can only say that, all I would
27 feel that this is the Trust either transferring an
28 amount --

29 184 Q. Well, what are the trustees doing running the affairs
30 of a Guernsey trust with an account in Dublin?

1 A. Would that not be --

2 185 Q. Well, if you have an offshore trust and you go to the
3 trouble of setting it up, what is the trouble point in
4 setting up the bank account of the trust in Dublin? Is
5 this the same account as the account held by Foxtown
6 Investments Limited in Guinness & Mahon (Guernsey)
7 Limited? Is it a mirror of that account, or a
8 back-to-back version of that account? Or is it a
9 different account?

10 A. I really don't know. I am sorry.

11 186 Q. Well, in general terms, do you not recall what bank
12 accounts the Trust and the company owned by the Trust
13 had?

14 A. I would - the name that comes to mind immediately would
15 be Guinness & Mahon, because that was where everything
16 started, everything all started.

17 187 Q. Yes. But my question is did you not know what accounts
18 the Trust had with your money in it?

19 A. I wouldn't know. I wouldn't know in detail, Sir.

20 188 Q. Were you aware that there was more than one account or
21 was it your understanding that there was just the one?

22 A. I really don't know. I am sorry, but I don't know.

23 And it is, it is --

24 189 Q. May I take it from that, that as far as you are
25 concerned, there could have been 20, as far as you are
26 aware?

27 A. Well, this is what I have. And this is what we are
28 working from at the moment, Sir.

29 190 Q. Yes. I understand we are working from it, Mr.

30 Finnegan. What I am trying to explore is your state of

1 knowledge as to the amount of bank accounts which were
2 held either by the Trust or Foxtown Investments
3 Limited, which we understand was opened by the Trust.
4 .

5 Now, you have given me to understand that you do not
6 know, if I am not incorrect about this - you do not
7 know how many bank accounts the Trust had or how many
8 bank accounts Foxtown Investments Limited had, or am I
9 wrong about that?

10 A. I don't know. The only - I don't know. But I would
11 say that whatever we have, this is - I suppose we have,
12 we have sought the information which we wanted to get
13 for you, and I am sure, Sir, that that will clarify
14 matters when we get it.

15 191 Q. Well, it may do, if we get it, but in the meantime we
16 have to muddle along with what we have, Mr. Finnegan.
17 And what we have is an account which you have told us
18 is a Foxtown Investments Limited account?

19 A. To the best of --

20 192 Q. In Guinness & Mahon Limited in Dublin?

21 A. To the best of my knowledge and belief it is a Foxtown
22 account.

23 193 Q. Yes. Well, you would appear to have some reason for
24 that view, because it bears the same account number as
25 an account which previously bore the name of Foxtown
26 Investments Limited at an earlier point in time?

27 A. Can I ask you, Sir, what is the problem?

28 194 Q. I am just trying to find out if this is a different
29 account than the account that Foxtown had in Guinness &
30 Mahon (Guernsey) Limited, which is the account in which

1 all the Brennan and McGowan monies were paid, as you
2 know, or is this a different account? As I understand
3 your answer, you don't know how many accounts Foxtown
4 had?

5 A. I think that is putting it - how long is a piece of
6 string? I don't know, Sir. If I don't know, I don't
7 want to speculate.

8 195 Q. If somebody had decided to take ú20,000 out of the
9 balance of this account, would you have known about it?

10 A. Not - at a particular time - I probably would at the
11 time, yes, Sir.

12 196 Q. How would you know that, if nobody is sending you any
13 documents or nobody is sending you any bank accounts,
14 how would you know?

15 A. The - well, this is all I have here. It is 1970 what?
16 1977.

17 197 Q. Yeah.

18 A. I can't remember back to 1977, Sir.

19 198 Q. But you remember all the discussions we had yesterday
20 about the documents that you were never sent by the
21 trustees and the fact that they would come over and
22 give you a verbal account of what was going on?

23 A. Yes.

24 199 Q. If they had taken money out of your account and stolen
25 it, how would you know?

26 A. Well, at this stage I think, Sir, I have to rely on the
27 sort of people I would be dealing with. I would pay
28 professionals. I was dealing with a large bank. And
29 if - they were going to diddle me, well, maybe they
30 were, but how I would ever uncover that, I don't know.

1 You would have to take a certain amount, take trust in
2 a case like this, literally the trust of the people
3 that you were dealing with.

4 200 Q. Where did these documents come from?

5 A. These documents came from - these are documents that
6 were, which were found in an investment file of shares
7 from, under a dungeons account, a dungeons thing in a
8 whole file - a whole thing in the office, an
9 investment.

10 201 Q. And where did you get them? Where did you get them?

11 Where did they come from?

12 A. I don't know, Sir. We under covered these, Sir, a
13 short time ago.

14 202 Q. They have to have some provenance, they have to have
15 come from some place?

16 A. I have to be absolutely clear. You can ask me for the
17 next day, I haven't the faintest idea when or where
18 they came from, except in what they had here. What I
19 have got I have given you in, Sir, and I don't know -
20 let's --

21 203 Q. Did the bank send them to you?

22 A. I don't know.

23 204 Q. Well, if the bank didn't send them to you, who sent
24 them to you?

25 A. It is 1973, '77, is it?

26 205 Q. Well, it spans a number of years, from 1973 onwards.
27 1973 being the year that the trust was set up.

28 A. To know who actually sent me these, I don't know.

29 206 Q. Well, doesn't it seem very likely that it was the bank
30 that sent them to you? Who else would have them?

1 A. Well, that's - probably --

2 207 Q. Maybe it was possibly the trustees who sent them to
3 you?

4 A. Well, I can't go on, Sir.

5 .

6 I want to say to you, I don't know who sent them.

7 We did uncover these, and we produced them to you.

8 I can't say to you where they came from, I don't know,

9 but we have them. We have what we have here. I don't

10 --

11 .

12 MR. HUSSEY: I am sorry, if I might interrupt?

13 .

14 I think Mr. Finnegan may be misunderstanding the

15 question. I think the question Mr. Hanratty, and Mr.

16 Hanratty can correct me, before you attempt to answer,

17 Mr. Finnegan.

18 .

19 I think what Mr. Hanratty is attempting to ascertain is

20 when originally these documents would have come into

21 your possession, or how they would have originally come

22 on to the dungeons files in 1977 or '79, or whenever.

23 Not when they came into your possession recently.

24 .

25 I think that is what Mr. Hanratty is getting at. Mr.

26 Hanratty can correct me if I am wrong on that front.

27 .

28 208 Q. MR. HANRATTY: Well, yes, I would like to hear that.

29 .

30 When did you receive these documents in, and when were

1 they put on the dungeons file, do you think?

2 A. I understand that this file, that we uncovered, hadn't
3 been opened for a hell of a long time. And I think,
4 when I asked somebody, somebody said to me that this
5 file wouldn't have been touched for over 15 years.

6 209 Q. Which would indicate that the documents were on it for
7 that length of time, obviously?

8 A. I think the documents would have been on it for a hell
9 of a long time.

10 210 Q. That would tend to suggest that these documents were
11 received contemporaneously, more or less, with dates
12 that appear on them that --

13 A. It could be, yes, Sir.

14 211 Q. Which would suggest that somebody was - which would
15 tend to suggest that somebody was sending you bank
16 statements of Foxtown?

17 A. It may very well have been.

18 212 Q. Well, then, where are the rest of them?

19 A. Oh, I don't know, I really don't. I haven't got any
20 more, Sir. And this - well, as I said to you, it is a
21 long time ago since these were --

22 213 Q. And do you not remember being in receipt of bank
23 statements of Foxtown Investments Limited, from
24 somebody?

25 A. No.

26 214 Q. And you don't remember from whom they were being
27 received?

28 A. No, I don't know who they were coming from, except that
29 they were coming from the trust, Sir. But that is only
30 speculating.

1 215 Q. If we can go to page 4836.

2 .

3 This is a similar document. It is Guinness & Mahon

4 (Guernsey) Limited. And in parenthesis "(A/K)"

5 .

6 Do you see that?

7 A. Yes.

8 216 Q. Which clearly indicates that this is the bank in Jersey

9 in which Foxtown Investments Limited did, in fact, have

10 an account, because we know that from documents, where

11 Mr. Wheeler sent monies to be lodged to the account of

12 Foxtown in this particular bank, in Guernsey. Isn't

13 that right?

14 A. Guinness & Mahon, yes.

15 217 Q. So there is an account in Guinness & Mahon (Guernsey)

16 Limited which is designated in Guinness & Mahon

17 (Dublin) as AK, isn't that right? Doesn't that seem to

18 follow?

19 A. That seems to follow, yes.

20 218 Q. And it does seem to follow, given again that the number

21 on the account is the same as the number which was on

22 the earlier statements on this account, which did bear

23 Foxtown's name, it would seem to follow that this is

24 the same account, in fact, as the account in Guinness &

25 Mahon (Guernsey) Limited, in the name of Foxtown

26 Investments Limited, and that the transactions

27 described on this account, albeit on the notepaper of

28 Guinness & Mahon Limited in Dublin, are, in fact, the

29 transactions of Foxtown Investments Limited account in

30 the Guinness & Mahon (Guernsey) Limited branch in

1 Guernsey.

2 .

3 Would you agree with that?

4 A. It would appear so, Sir. They have the same numbers on

5 them.

6 219 Q. Yes. So it is, in fact, what has been described as,

7 for want of a better description, I suppose, a "mirror

8 account."

9 .

10 MR. HUSSEY: Sorry, just before Mr. Finnegan answers

11 that question. How can Mr. Hanratty say that? It is

12 the exact same account number. It is the exact same

13 account. To suggest that there is another account is,

14 I think, really overstating the position. It is the

15 exact same number.

16 .

17 MR. HANRATTY: I am not saying there is another number.

18 .

19 CHAIRMAN: What I understand Mr. Hanratty to say, when

20 using the phrase "mirror account", it is a copy of the

21 account that existed in Guernsey, but it was --

22 .

23 MR. HUSSEY: I had understood him --

24 .

25 CHAIRMAN: That a copy was maintained in Dublin for,

26 presumably, for transaction reasons. I don't --

27 .

28 MR. HANRATTY: That is what I was suggesting.

29 .

30 CHAIRMAN: I really don't know any more about it. That

1 is what I understand.

2 .

3 MR. HUSSEY: I am glad too for that clarification.

4 .

5 CHAIRMAN: Clarification and understanding are two

6 different things. Let me be clear about that.

7 .

8 220 Q. MR. HANRATTY: I put it to you, Mr. Finnegan, that this

9 is a mirror of an account which was, in fact, held in

10 Guernsey, and that there was, in fact, no account in

11 the name of Foxtown Investments Limited, in the branch

12 in Dublin, albeit the transactions on the Guernsey

13 account could, it appears, be effected through the

14 Dublin branch.

15 .

16 Is that right or wrong?

17 A. Say that again to me.

18 221 Q. What it looks like --

19 A. Yes.

20 222 Q. I am only drawing inferences.

21 A. Mmm.

22 223 Q. That the actual account, the transactions of which

23 appear on this page that you are looking at, was held

24 in Guernsey by Foxtown Investments Limited?

25 A. Mm-hmm.

26 224 Q. And that what this page shows is a series of

27 transactions on the notepaper of Guinness & Mahon

28 (Dublin), but what it describes are not transactions on

29 an account held in Guinness & Mahon (Dublin), but

30 transactions held in an account in Guernsey. Is that

1 right?

2 A. Well, it would appear - it would appear to be that.

3 225 Q. Yes. If you look at the first transaction on that

4 page, which is 4836, you see the first item is "man

5 fee" which I take to be management fee "Foxtown 76",

6 and there is a figure there for a management fee.

7 That, again, is an indication that this is, in fact, a

8 reference to the Foxtown account?

9 A. The Foxtown, yes, Sir.

10 226 Q. Isn't that so?

11 A. Yes, Sir.

12 227 Q. So why was it that these statements of the Foxtown

13 account in Guernsey are appearing on Guinness & Mahon

14 Limited (Dublin) notepaper?

15 A. I don't know, Sir.

16 228 Q. Why was it that Foxtown Limited or Investments Limited

17 was being referred to as "AK"?

18 A. I really have no idea.

19 229 Q. Yes. You are saying you have no idea?

20 A. No, sir.

21 .

22 CHAIRMAN: Before the mystery deepens any further,

23 might we take ten minutes or a quarter of an hour off.

24 .

25 MR. HANRATTY: Yes, Sir.

26 .

27 CHAIRMAN: Say, sit again at twenty minutes past 12.

28 25 past 12.

29 .

30 THE TRIBUNAL THEN ADJOURNED FOR A SHORT RECESS AND

1 RESUMED AGAIN AS FOLLOWS:

2 .

3 230 Q. MR. HANRATTY: Mr. Finnegan, before I - 4837 the next
4 page, is, I think, a continuation, it compares the same
5 notation, Guinness & Mahon (Guernsey) Limited, AK. It
6 is a similar page, in that is it is on Guinness & Mahon
7 headed notepaper.

8 A. Yes.

9 231 Q. And if you see about two-thirds of the way down the
10 page, there is a debit for ú33,333.33?

11 A. Yes, Sir.

12 232 Q. And it says?

13 A. Sorry --

14 233 Q. It says --

15 A. Thank you.

16 (Counsel indicating to witness).

17 234 Q. "November '77 cheque issued in F/8." Sorry, maybe it
18 is in favour of "Bank of Ireland VD10," whatever that
19 is. Do you have any idea what that is, maybe "value
20 date 10th"? 10th of November, ú33,333.33.

21 .

22 Now, if you look at the next page, the next page
23 appears to be - that is 4838.

24 A. Yes.

25 235 Q. Which is easier to read?

26 A. It is, yes. Thank you.

27 236 Q. And it appears to be a printout containing the same
28 transactions as on the previous page, including this
29 particular transaction?

30 A. Yes, it does, Sir.

1 237 Q. Have you any idea how it emerges that there are two
2 different print-outs for essentially the same
3 transactions?

4 A. No, sir.

5 238 Q. Is it simply possible that one of them is from the bank
6 account, from the branch in Dublin, and one of them is
7 from the branch in Guernsey where the account is held,
8 is that possible?

9 A. I have no idea, unless it came from Mr. Traynor.

10 239 Q. Which one?

11 A. Unless these came from Mr. Traynor. I don't know, Sir.

12 240 Q. Well, look at the transaction on page 4838, the one we
13 were talking about, ú33,333.33. Obviously, that is
14 one-third of ú100,000?

15 A. Yes, Sir.

16 241 Q. And what is it you are saying about that debit on that
17 account?

18 A. On that there is a note on the side of that
19 "Monkstown".

20 242 Q. Yes?

21 A. And that would go back to - that is the - my injection
22 into Monkstown.

23 243 Q. And why do you say that?

24 A. Well, that is what it was always referred to, as
25 Monkstown.

26 244 Q. How do you mean?

27 A. Well, by the way, this is a scribble here by Mr. Des
28 Turvey of my office.

29 245 Q. Yes, and when did he scribble it?

30 A. Well, it must have been a hell of a long time ago.

1 246 Q. Why?

2 A. Because we only got the file, we only uncovered the
3 file a very - about a fortnight ago.

4 247 Q. With scribbles on it?

5 A. Yes.

6 248 Q. Yes. And have you discussed with him what this
7 scribbling means?

8 A. I had a brief chat with him. His interpretation was
9 that it was for Monkstown.

10 249 Q. Yes. And was he aware of your arrangements vis-a-vis
11 Monkstown, particularly with regard to putting in
12 money?

13 A. Well, he said that was his - these are his notes, and
14 notes of the time, he made at that particular time.

15 250 Q. Does he have any idea why he wrote "M Town" beside this
16 figure?

17 A. Yes, it was my input into Monkstown.

18 251 Q. Was he aware of it at the time, that you were inputting
19 this figure into this venture?

20 A. I have to take it that he was, yes, Sir.

21 252 Q. What was he at the time? Was he a bookkeeper?

22 A. At the time he was an accountant in my office, Sir.

23 253 Q. Yes. Was he a full-time accountant working in your
24 office?

25 A. Part-time.

26 254 Q. Part-time?

27 A. Yes.

28 255 Q. So we know that the debit occurred on the 11th of
29 November. What do you say was the agreement between
30 yourself and Messrs. Brennan and McGowan about

1 ú33,333.33?

2 A. That that was - that was my percentage of my, of the

3 investment into the Monkstown --

4 256 Q. What percentage was that?

5 A. I understood at the time it was a third, Sir.

6 257 Q. A third?

7 A. Yes.

8 258 Q. Right. So, was it your understanding, then, that you

9 were putting in one-third of 100, and each of the other

10 two were putting in one-third of a hundred, in other

11 words, identical sums?

12 A. Yes, Sir.

13 259 Q. For what?

14 A. Well, I think that this was where - for - into the

15 mechanism of this scheme, Sir.

16 260 Q. Yes. Well, where does it fit into the mechanism of

17 the scheme?

18 A. Actually, I can't say exactly where it fits in, but it

19 was invested in.

20 261 Q. Well, where was it invested? Who was the money given

21 to?

22 A. All I can say to you is that I feel that it was either

23 given to - the most likely person, I would think, I

24 would imagine, who was orchestrating this, was Hugh

25 Owens.

26 262 Q. You think that was given to Hugh Owens?

27 A. I would have thought so.

28 263 Q. To do what?

29 A. I don't understand that, Sir.

30 264 Q. You see, the nuns didn't get their money until

1 November. ú210,000 was the price they had already -
2 they had already been paid a deposit of ú21,000?

3 A. Yes.

4 265 Q. So the balance remaining payable was what, 189 thousand
5 or something pounds?

6 A. Well, all I can - the only explanation I might have
7 given you is this, that it may have formed part, that
8 it was required for - you see, these people did a lot
9 of borrowing. This whole scheme, as I said to you this
10 morning, was quite complicated. It would have been
11 whether it was needed as a cash injection at that time
12 into it.

13 266 Q. So, was your money paid to the nuns, then?

14 A. I don't know, Sir.

15 267 Q. We know that the sale of the nuns' property closed on
16 the 23rd of November?

17 A. Yes.

18 268 Q. This debit appears on the 11th of November. You are
19 saying that you were injecting an equal one-third share
20 into this venture, or project, or scheme, or whatever
21 we call it. Isn't that so?

22 A. Mm-hmm.

23 269 Q. Equal, that is, with Mr. Brennan and Mr. McGowan?

24 A. Mm-hmm.

25 270 Q. As I understand your evidence, the only thing that we
26 know of that required any money at this time was to pay
27 the nuns their money for their property. And we know
28 that they had to be paid the balance on the closing of
29 the sale. We know that the closing of the sale
30 happened on the 23rd of November. So, is it the

1 position that your money was used to buy the nuns'
2 leasehold interest?

3 A. No, I didn't think so, Sir. I think that it was -
4 well, it was part of what - what they explained to me,
5 it was part of this overall scheme of - maybe they were
6 putting it in place at that time before the whole - the
7 whole thing was then getting ready to move on. I think
8 you had mentioned that there were some other
9 transactions earlier on.

10 271 Q. Was your money used to pay the nuns?

11 A. I don't know where my 33, where it ended up, and what
12 part of it.

13 272 Q. It doesn't appear that Brennan and McGowan needed it,
14 because we know, for example, that they were able to
15 raise ú350,000 the following month, send it over to
16 Jersey and divide it up?

17 A. But that funding was the funding on the anticipated
18 profits, and they were putting their scheme in place to
19 raise that money, and I think that also had - that did
20 have guarantees.

21 273 Q. Mr. Owens' documents say nothing about your investment,
22 or Brennan and McGowan for that matter, of ú33,000.
23 There is no document anywhere indicating anything about
24 each of the three of you coming up with ú33,000 odd
25 each in connection with this project?

26 A. Well, I say that I - what is here is what I put in.
27 Now, whether they all put the same in, but this is
28 where - this is what I put in.

29 274 Q. And both Mr. Brennan and Mr. McGowan have told us that
30 you didn't put anything in?

1 A. Well --

2 275 Q. Mr. Brennan was quite adamant about that?

3 A. Was he?

4 276 Q. He repeatedly was asked about continued - repeatedly he

5 adamantly asserted that you did not put any money in.

6 .

7 MR. HUSSEY: I am sorry, I wish to interrupt Mr.

8 Hanratty at that point. Mr. Brennan, initially in his

9 evidence, wasn't adamant about anything. He says he

10 didn't know if Mr. Finnegan put anything in. I can

11 find the reference from Mr. Brennan's evidence. Under

12 repeated examination and re-examination and further

13 cross-examination by Mr. Hanratty, he finally said he

14 couldn't remember if Mr. Finnegan did put anything in,

15 and that blossomed into, in the usual way that Mr.

16 Hanratty cross-examines people, that blossomed into a

17 concrete statement that he got nothing in. That is how

18 the evidence came out from Mr. Brennan.

19 .

20 Initially Mr. Brennan couldn't remember if Mr. Finnegan

21 had put money in or not. It wasn't a repeated concrete

22 statement by Mr. Brennan that Mr. Finnegan had not put

23 anything in.

24 .

25 MR. HANRATTY: I am not in a position to say what is on

26 the transcript. If Hussey is saying that is what it

27 said, I would like him to show it now. I don't think

28 people should be asserting what is on the transcript.

29 My clear recollection of Mr. Brennan's, and I am

30 working from recollection of his evidence, was that at

1 all times he denied that Mr. Finnegan invested any
2 money in this scheme, and Mr. McGowan said the same.
3 .

4 MR. HUSSEY: Very well. I wonder, could I have Day
5 271, then, question 560 and 561.

6 .
7 MR. HANRATTY: If you recall, Sir, we ended up in the
8 High Court as a result of the questions - because I was
9 asking the question of Mr. Brennan, "What did Mr.
10 Finnegan bring to the table, if not money?" And it was
11 in that context I was asking this, "What did he bring
12 to the table? What warranted a payment to him of
13 ú105,000?" That was the whole context of the question.

14 And I am quite clear in my recollection that Mr.
15 Brennan was quite clear that Mr. Finnegan, whatever
16 else he brought to the table, did not bring money.
17 .

18 MR. HUSSEY: I have asked for Day 271, question 560 and
19 561. Mr. Hanratty has asked me to quote the transcript
20 now. If I can have that up, please? I think I would
21 be able to refer to Mr. Brennan's evidence in this
22 regard.

23 .
24 MR. HANRATTY: We can't put it on screen at the moment.

25 But I have the question in front of me. Question 560:
26 .

27 "MR. HUSSEY: Question: What did Mr. Finnegan bring to
28 the deal?

29 Answer: I don't know other than experience.

30 Question: He didn't, as far as we are aware, put up

1 any money?

2 Answer: I couldn't tell you that. I don't know that."

3 .

4 That was the strength of Mr. Brennan's evidence at that
5 point.

6 .

7 MR. HANRATTY: Yes.

8 .

9 MR. HUSSEY: It wasn't that Mr. Finnegan didn't bring
10 anything to the deal. It was that "I can't tell you.
11 I don't know." That was Mr. Brennan's evidence. So to
12 ask this witness, to suggest to this witness that Mr.
13 Brennan's evidence was repeatedly that Mr. Finnegan
14 brought nothing to the table, is not accurately
15 reflecting the strength of the evidence that was put in
16 by Mr. Brennan.

17 .

18 Mr. Brennan's evidence is that "I don't know what Mr.
19 Finnegan" --

20 .

21 277 Q. MR. HANRATTY: That was his evidence at that point in
22 the transcript, Sir. I am quite clear of my
23 recollection. If we have to, we will research any word
24 he said on the subject.

25 .

26 That the upshot, and I will put it like that for the
27 moment, to avoid this time wasting, the upshot of Mr.
28 Brennan's evidence is, "You did not put any money into
29 this deal," and the upshot of Mr. Brennan's or Mr.
30 McGowan's evidence was that "You did not put up any

1 money into this deal"?

2 A. I state categorically, and I am standing on what I have
3 here, Sir, that there is an injection of 33,000 on the
4 date that I have mentioned here.

5 278 Q. Mr. Finnegan, if you put ú33,000 into a deal, you knew
6 why, and you knew what it was for. I am asking you
7 what was it for?

8 A. Yes. I mentioned that to you this morning. It was to
9 participate in the forward, to participate in the
10 bringing forward the potential profit out of the
11 scheme, that a scheme - that Hugh Owens had derived a
12 scheme here of, if you like, if you like a front
13 loading of what was going to be made out of it.

14 279 Q. No, Mr. Finnegan --

15 A. Yes.

16 280 Q. We know what Mr. Owens' scheme was. We know from his
17 own documentation.

18 .

19 MR. HUSSEY: I am sorry. If the witness can be allowed
20 to answer the question, please, in as full a way as he
21 can.

22 .

23 281 Q. MR. HANRATTY: Mr. Finnegan, we know what Mr.
24 Finnegan's (sic) scheme was, his scheme was that
25 ú350,000 be sent over to Jersey from Green Isle
26 Holdings Trust Limited, and divided up. That is what
27 the scheme was, that was what was actually done. Where
28 does your 33,000 come into that scheme?

29 .

30 MR. HUSSEY: I am sorry, Sir. Before you answer that,

1 Mr. Finnegan, I am taking issue with Mr. --

2 .

3 CHAIRMAN: With due respect. I am the person who will
4 decide whether a witness will answer a question or not.

5 .

6 MR. HUSSEY: Am I not to be allowed to make an
7 objection before --

8 .

9 CHAIRMAN: You may make an objection, but you may not
10 make a direction to the witness.

11 .

12 MR. HUSSEY: I am not giving any direction. I am being
13 careful not to direct this witness. I appear
14 throughout this morning - I have tried to make
15 objection to Mr. Hanratty, and he persists in
16 questioning the witness without even allowing my
17 objection to be heard.

18 .

19 Now, I know that my experience throughout the hearings
20 here has been that virtually 99 percent of the time I
21 make objection, the objection is overruled, either by
22 Counsel for the Tribunal or by you, Sir. Occasionally
23 I am allowed to score a hit.

24 .

25 But, however, even this morning Mr. Hanratty has
26 persisted in asking questions despite my attempt to
27 object. I seem to have become the invisible man here.

28 .

29 It is not fair on me, it is not on my client. I must
30 be allowed to make objection. Before Your Lordship

1 rules on whether the objection is going to be allowed
2 or not, I must be allowed to make that objection.

3 .

4 And I haven't been unnecessarily objecting. I object
5 to any suggestion that I have been unnecessarily
6 objection, or that it has been for any delaying tactic
7 or to aid the witness. I have been most careful not to
8 interrupt the witness.

9 .

10 The point I was making at that stage was that Mr.
11 Hanratty had suggested to this witness that it was Mr.
12 Finnegan's scheme to extract 350, ú360,000, and it was
13 merely correcting the record. It was not Mr.
14 Finnegan's scheme, it was Mr. Owens'. I know that in
15 the heat of the moment counsel will refer to the wrong
16 name, and I just wanted to keep the record straight.
17 That was the purpose of my objection. It wasn't in any
18 - it wasn't any attempt to help this witness or to in
19 any way aid the witness or prolong or delay this
20 hearing. In fact, nothing could be further from my
21 objective than to keep, than to have Mr. Finnegan in
22 the witness-box any longer than he possibly needs.

23 .

24 That was the only point.

25 .

26 Mr. Hanratty had suggested that this was Mr. Finnegan's
27 scheme, when, in fact, I think it was a
28 mispronunciation by him, and he should have referred to
29 Mr. Owens. It was merely to correct the record in that
30 regard, before the witness got to answer the question.

- 1 .
- 2 CHAIRMAN: Mr. Hussey, it was manifestly an error. I
- 3 don't think there could be any possible
- 4 misunderstanding that the word "Finnegan" there was a
- 5 misstatement. It should have been Mr. Owens. There is
- 6 no question of anybody misunderstanding. I certainly
- 7 didn't.
- 8 .
- 9 MR. HUSSEY: That was why it was important to have the
- 10 record altered, to make sure that there was no
- 11 misunderstanding on the record on this.
- 12 .
- 13 CHAIRMAN: It couldn't, in the context, be a
- 14 misunderstanding. It would be just nonsensical to have
- 15 a misunderstanding where a slip of the tongue occurs.
- 16 .
- 17 Now, please, let us have some reality in this whole
- 18 proceedings.
- 19 .
- 20 282 Q. MR. HANRATTY: Mr. Finnegan?
- 21 A. Yes, Sir.
- 22 283 Q. Nobody has ever suggested to you that it was your
- 23 scheme, is that right?
- 24 A. That is all right, Sir.
- 25 284 Q. Now, we are talking about Mr. Owens' scheme, and I am
- 26 sorry if I use the incorrect name.
- 27 A. Yes.
- 28 285 Q. But I take it you understood I was referring to the
- 29 scheme which Mr. Owens produced. Now, Mr. Owens'
- 30 scheme, we know what it was. We know from his own

1 documents, we know from the letters that he drafted,
2 and the instructions that he gave to Mr. Laurence
3 Wheeler in Bedell & Cristin, that the scheme was that
4 Green Isle Holdings Trust Limited would send over
5 ú350,000 to Jersey, that it would be lodged to an
6 account of Rapallo in Jersey, and divided up between
7 the three of you after paying a couple of expenses.
8 And we know that that is, in fact, what happened. That
9 is the scheme.

10 .

11 Now, where does your ú33,000 come into this scheme,
12 and, indeed, where does the other two ú33,000 from
13 Messrs. Brennan and McGowan respectively come into that
14 scheme?

15 A. Well, in the first instance, Sir, to say to you that I
16 don't know where - when I am talking about Mr. Brennan
17 and Mr. McGowan, I am talking about my injection into
18 this was 33,000 on this date.

19 .

20 The scheme, actually - I know you simplified it there,
21 actually, Sir. It is quite complicated and hard,
22 actually, to get to grips with it. I even had to get
23 somebody to run down with it with me because it is not
24 easy, but what it was, it certainly - it is a trade on
25 to an associated company at an inflated figure, taking
26 into account what, then, what the profit would have
27 been in two years time, but taking it out initially.
28 That was followed up through a very detailed circle of
29 transactions. I don't think it was just a simple shoot
30 out, because at the time they did a deal with the other

1 company we were talking about there, that they had a
2 participation in. There was quite a few transactions
3 to bring it around into the distribution of that money,
4 Sir. And that is what it was. There were deals and
5 borrowings done within that circle to produce that sum.

6 286 Q. From whom? What borrowings?

7 A. There were borrowings between the parties to get to the
8 stage of getting this extra money over and above the
9 purchase price. That was made up of borrowings, Sir,
10 within the loop of either contract with various
11 companies. It is a very involved scheme, but as you
12 say, you have been down through it.

13 287 Q. Well, I am just trying to understand what has your
14 ú33,000, which you say, contrary to the evidence of
15 Messrs. Brennan and McGowan, you put into this, what
16 has it got to do with the scheme which involved the
17 payment of ú350,000 between three people in Jersey?

18 A. I understand that it could have been necessary to have
19 a third party involved at an arm's length situation, to
20 have - for to bring this scheme together, that Mr.
21 Owens had designed, that this could have been an
22 essential part of it, that having my money in, and
23 whatever the other monies going around the houses, but
24 that is what it was. It was a way of bringing forward
25 the anticipated profits, what the anticipated profits
26 would be. And that was selling on to these, to - is it
27 Green --

28 288 Q. Green Isle Holdings Trust Limited?

29 A. Yes.

30 289 Q. We could understand Messrs. Brennan and McGowan taking

1 profits in advance, or anticipated profits in advance,
2 as it were, by borrowing money, but you weren't a party
3 in the project, you were - your only involvement, so
4 far as participation in anything was concerned, was as
5 a one-third participant in the division of the 350 odd
6 thousand pounds.

7 A. I am saying that I was. I understand that the, from -
8 that we - I put in 33,000 into it, and that is what I
9 was asked to put in to comply with the scheme.

10 290 Q. You didn't, for example, put up one-third, or did you,
11 of the ú21,000 paid to, deposit paid to the nuns in
12 1976?

13 A. No.

14 291 Q. Brennan and McGowan, presumably, put up that?

15 A. Yes, Sir.

16 292 Q. Did you put up any part of the ú10,000 that was paid
17 for the freehold?

18 A. Sir, all I am aware of is that - my injection of the
19 33,000.

20 293 Q. Did you, as far as you are aware, put up any part of
21 the ú10,000 paid for the freehold?

22 A. I don't - no, Sir, I don't know for what purpose the
23 33,000 --

24 .

25 CHAIRMAN: Can I ask you a very simple question. If
26 you put 33,000 in, somebody asked you to put 33,000 in,
27 what did you expect to get out? If you invest in a sum
28 of money, invest a sum of money, you must have an end
29 product in mind, and somebody must have stated it to
30 you, to give you the basis of the decision to invest

1 this sort of money in this transaction. What did you
2 expect to get out?

3 A. What was explained to me, Sir, is that --
4 .

5 CHAIRMAN: What was the return, in other words, on your
6 33,000?

7 A. Well, I don't think the exact - when I went in, Sir, it
8 wasn't defined exactly what the return was. I think it
9 was depending on the deals that were being done with
10 the parties on the taking up the different part of the
11 property. And this is what involved, as I told you,
12 the funding by Brennan and McGowan of these others.
13 .

14 294 Q. MR. HANRATTY: Well, let's take it in stages. You were
15 asked to put up ú33,333, in other words, one-third of
16 ú100,000, equally with the other two, isn't that so?
17 You knew at the time that this request was made of you,
18 that the other two had already put up ú21,000, isn't
19 that right? Because you were the auctioneer acting for
20 the nuns, you knew they paid the deposit on the
21 leasehold?

22 A. Yes.

23 295 Q. Being 10 percent of ú210,000. So you knew that these
24 gentlemen had already put up ú21,000 to the nuns, isn't
25 that so? You knew they had a contract to buy the nuns'
26 property for ú210,000, and that that was due to close,
27 because you acted for the nuns, isn't that so?

28 A. Yes, Sir.

29 296 Q. After they had put up the ú21,000 deposit, and before
30 they had closed the deal, and paid the balance to the

1 nuns, they asked you to go equals with them in a
2 one-third installment of ú100,000; in other words, to
3 put up as an investment in something ú33,333, isn't
4 that right?

5 A. Yes, Sir.

6 297 Q. Firstly, what purpose did you think that money was
7 going to be put to?

8 A. Well, that it was a cash injection that was needed into
9 the scheme to make the scheme operate.

10 298 Q. Right. And was it your understanding it was going to
11 be invested in the scheme?

12 A. Well, the scheme, Sir, was the scheme which was
13 prepared by Hugh Owens, and that was that it would do
14 the prearrangement that they had done with the other
15 builders/developers, smaller people that were getting
16 involved in this.

17 .

18 What they were doing was selling on --

19 299 Q. They hadn't even bought the property at this stage?

20 A. They had a contract. They had a contract.

21 300 Q. But what arrangements did they have with somebody else,
22 are you saying?

23 A. Well, they were selling on to the other Green, whatever
24 you call it.

25 301 Q. Green Isle Holdings Trust Company Limited was the
26 Dublin company which was buying the leasehold and which
27 bought the leasehold, and it was the Dublin company
28 which ultimately acquired the freehold from
29 Bouganville, right?

30 .

1 We also know, Mr. Finnegan, that Green Isle Holdings
2 Trust had, in fact, acquired the freehold before this
3 money was debited on your account. The freehold was
4 acquired by Bouganville in October of 1977. So at the
5 point in time that you paid out this money, whatever it
6 was for, Brennan and McGowan had paid a deposit of
7 ú21,000 in August of 1976, Brennan and McGowan through
8 their Bouganville company, of which you were already a
9 one-third owner, had acquired the freehold. So in
10 those circumstances, what were you putting ú33,000 up
11 for?

12 A. Well, what I was putting it up for was to participate
13 in the deal after the acquisition, and that was the
14 scheme that generated the profit, which was this scheme
15 for the 300,000.

16 302 Q. And at the time that you put up the ú33,000, or were
17 asked to put it up, at least, what were you told your
18 return would be, and when were you told you would get
19 it?

20 A. That this - that it should - that the actual dealing,
21 the actual figures were not relayed at that time, but
22 this should show a substantial profit. And they were
23 negotiating with the other parties.

24 .

25 Now, I didn't get, as far as I recollect, exactly what
26 the sum of money I was going to get out of it.

27 303 Q. How was it decided how much you would get out of it?

28 A. Well, I think that was - that was decided when the
29 scheme, when they produced the scheme and they saw what
30 the figures were, having done their deals.

1 304 Q. What deals?

2 A. The deals, you see, for the development of the land.

3 305 Q. What deals had they done for the development of the
4 land?

5 A. The company that had bought it on, Brennan and McGowan
6 did hold equity in that company.

7 306 Q. Green Isle?

8 A. Yes.

9 307 Q. Green Isle bought the leasehold and the freehold and
10 merged them, and was therefore in a position either to
11 develop the land or sell sites with planning
12 permission, or sell the whole thing, they had all kinds
13 of options. Are you suggesting that they had to
14 actually, that they had actually entered into
15 agreements or deals with somebody at that point in time
16 before they closed the sale?

17 A. I think what they had done was they had, the company
18 which - in which they held about 20, 25 percent, that
19 they had been negotiating with that company to take,
20 for the takeout.

21 308 Q. Well, let's put it this way: They could have had an
22 agreement with somebody there, and then to sell the
23 land at enormous profit, for all, you know, or they
24 could have had agreements with all kinds of people to
25 buy all kinds of sites at an enormous profit. But
26 that, I suggest to you, is entirely irrelevant,
27 whatever their reason for sending over ú350,000 or
28 however confident they may have felt about it, it still
29 doesn't explain why they let you in on one-third of it?

30 A. Well, as I said to you, Sir, I came in, I was invited

1 to come in, I put my money in. At that stage there was
2 a gamble at that stage. I didn't know what I was going
3 to get out of. I put my money in. It facilitated,
4 as far as I know, the scheme going through, that was
5 the scheme that had been organised by Hugh Owens. And
6 it was, it was designed, as I said, to take out the
7 future profits.

8 .
9 Now, as I said to you before this morning, Sir, that
10 any land that is acquired, it is expected it would
11 produce some profit.

12 309 Q. Well, what did they do, in fact, with the land?

13 A. What they did, in fact, was to do a deal with a company
14 whereby that they were going to participate down the
15 road and had other partners in it.

16 310 Q. Did they build?

17 A. That company did build.

18 311 Q. Was that Green Isle?

19 A. No, not Green Isle.

20 312 Q. Was it some other Brennan and McGowan company?

21 A. It was the one in which they had, I think, the --

22 313 Q. Oakpark?

23 A. No --

24 314 Q. Lansdowne?

25 A. No. Let's see what - I think that that's the one that

26 --

27 315 Q. Did they enter into a joint venture and develop the
28 land with some other company? Is that what you are
29 saying?

30 A. I think - yes - well, they did, they entered into an

1 agreement with the other, with other parties. I think

2 Miley's were involved in this.

3 316 Q. Undoubtedly. And, presumably, the upshot of it all

4 were the lands were developed and profits were made?

5 A. What happened was this, on the transferring of that

6 company, that was done at an inflated figure above the

7 norm.

8 317 Q. Are you talking about Green Isle?

9 A. Green Isle.

10 318 Q. No, I am talking about after the deal was closed with

11 Green Isle, and after the distribution of the ú350,000

12 that went to Jersey, what did Brennan and McGowan then

13 do with the lands, for which they had planning

14 permission? They now owned the leasehold interest.

15 They now owned the freehold interest. Therefore, they

16 were freed of the covenant preventing development, and

17 they had planning permission. So what did they do with

18 the property?

19 A. Well, I think that - I think we jumped a step there,

20 Sir.

21 319 Q. We are jumping a step. We'll come back. We are

22 jumping a step. I understand that. I just want to -

23 what I am trying to establish, Mr. Finnegan, is that

24 you had no further profit participation in this project

25 after you got your ú105,000?

26 A. Less - yes, that --

27 320 Q. Then we can go back to December or perhaps November.

28 .

29 What is the relationship between the ú33,333.33 you put

30 in, in November, and the ú105,000 you got out in

1 December?

2 A. Well, that the 25,000 which I put in, as far as I
3 recollect, was to entitle me to a third of what the
4 profits that were created, on the anticipated profits
5 that were created on the scheme, and that was what I
6 was entitled --

7 321 Q. How do you think that your money grew from 33,000 in
8 November to 105,000 in December?

9 A. Well, I think that it grew - it grew because they had
10 entered into contracts and agreements with the other
11 parties to take out the land, with package deals that
12 they were, they had guaranteed some of these builders,
13 guaranteed loans for them. So it wasn't a question of
14 just of a sale on. This was a method of giving them
15 the opportunity of building, but being backed, in fact,
16 by Brennan and McGowan companies, and they were, there
17 were guarantees floating around the place as well.

18 322 Q. Do you say that Messrs. Brennan and McGowan did, in
19 fact, put in ú33,000 in some context?

20 A. To the best of my knowledge and belief, yes, Sir.

21 323 Q. Because we have seen no evidence of it and neither of
22 them have said anything like that?

23 A. Well - right. Well, this is what - this is what I put
24 in, Sir.

25 324 Q. When did you first recall about this ú33,000?

26 A. I had always said along the line that I had, I had put
27 in money. I couldn't - actually, I would say to you I
28 couldn't remember the amount of money that I had put
29 in, but I had put a cash injection into it, and I
30 desperately was trying to find out the amount that I

1 had put in.

2 325 Q. You see, what I find very odd about this, if I may say
3 so, Mr. Finnegan, is that as I understand your
4 evidence, Mr. McGowan or Mr. Brennan came to you in
5 November?

6 A. Mm-hmm.

7 326 Q. Sorry, earlier than November, asking you to become
8 involved in a project, to use a neutral phrase. At the
9 point in time when they asked you to do this, they had
10 already entered into a contract to buy property from
11 your client, the Society of the Sacred Heart for
12 ú210,000. The Society for the Sacred Heart had entered
13 into a contract subsequent to that to purchase the
14 freehold of the land that they had already sold. And
15 at a point in time, presumably before Mr. Owens wrote
16 his instructions, which was in June of 1977, your
17 evidence, as I understand it, is that they came to you
18 with a proposition, that if you put up ú33,333, and
19 that each of them put up that money, as an investment
20 in this scheme, as you call it, you would get a profit,
21 isn't that right?

22 A. Yes, it was --

23 327 Q. Just to finish it.

24 A. Sorry.

25 328 Q. We know that there is a debit on your account in
26 November, on the 11th of November of ú33,333, which you
27 are now saying was, in fact, your payment or investment
28 pursuant to that arrangement, whatever it was, isn't
29 that right?

30 A. Whatever the --

1 329 Q. You see, there is one rather puzzling feature of this
2 whole scenario, and that is that that ú33,333 was
3 Sterling. Why would somebody in Ireland coming to you
4 with a scheme, say to you, "We are going to come up
5 with a scheme in which we are asking you to invest
6 one-third of ú100,000 Sterling"? Because that is what
7 you put up, if this debit is what you say it is.

8 A. Well, Sir, it is what I say it is.

9 330 Q. Right. So is it your evidence, then, that what you
10 were asked to provide to Messrs. Brennan and McGowan in
11 June, or perhaps June of 1977, was ú33,333.33 Sterling?

12 A. Well, now, let's - I just - I would like to come around
13 to this. That when you reiterate, like, ú33,333, the
14 position was this: That what I wanted to say to you,
15 because you asked the question earlier, I didn't, I
16 didn't know exactly the amount of money I put in until
17 such time, actually, as I got - that fortunately I came
18 across these documents, Sir.

19 331 Q. You see the difficulty, Mr. Finnegan?

20 A. That whether it was Sterling or --

21 332 Q. What this debit is, is undoubtedly Sterling?

22 A. Is it?

23 333 Q. Well, it is on a Sterling account in Guernsey?

24 A. Well --

25 334 Q. Do you see my point?

26 A. I see your point. But what I wish to say to you is
27 this: That was the amount of money which was requested
28 from me.

29 335 Q. In Sterling?

30 A. Well, it must have been. Then it was either Owens was

1 doing the whole transaction, and I think that that was
2 converted into Sterling along the line.

3 336 Q. You see, whatever arrangements Mr. Brennan and
4 Mr. McGowan were making with their friends in Ireland
5 about front forward profits, or whatever they were
6 doing, they were hardly doing it in Sterling?

7 A. No, sir.

8 337 Q. So why were you making your investment into this scheme
9 in Sterling?

10 A. It was probably because I was asked for it in Sterling.

11 338 Q. Why?

12 A. I don't know. I can't recollect.

13 339 Q. What do you recollect?

14 A. Well, actually, I don't know in translation what that
15 actually would have come into in Irish, but anyway, I
16 don't - the thing at the time - but all I can say is my
17 - what I have here, Sir, is what I put in, and this is
18 what, their figure --

19 340 Q. Well, that means that when Messrs. Brennan and McGowan
20 came to put up their ú33,333.33, they were going to
21 have to get out their calculator and say, "Right, Mr.
22 Finnegan has put up his ú33,333 Sterling, I will have
23 to figure out what the Punt equivalent of that is",
24 because, presumably, the money they put up was in
25 Ireland, or was it?

26 A. Well, let me put this - this was a rather involved
27 scheme. I have here a note of what my injection was.
28 I - all I can say is, that was the amount of money that
29 I was requested from, that was requested from me. What
30 happened afterwards, in what way, or when the

1 conversion came - but it was a payment that went
2 through a Guernsey - that went through Guernsey, so
3 that probably would have been a Sterling --

4 341 Q. Is it possible that this money went somewhere else?

5 A. What do you mean, Sir?

6 342 Q. The ú33,333, is it possible it was paid to somebody
7 else?

8 A. No, Sir.

9 343 Q. Do you remember paying it to Mr. Owens?

10 A. Oh, it was paid to Mr. Owens or the group.

11 344 Q. Who is "the group"?

12 A. Or Brennan and McGowan. It was not paid to anybody
13 else outside - what are you saying, Sir? That it could
14 have been paid to --

15 345 Q. I am asking you could it have been paid to somebody
16 else?

17 A. No, Sir.

18 346 Q. If this document is authenticate, and if the entry of
19 Monkstown was, in fact, made, as you have told us it
20 was, some 15 or more years ago, beside the ú33,333,
21 that would certainly appear to indicate that the 33,333
22 had something to do with Monkstown?

23 A. Mm-hmm.

24 347 Q. And given that it is more or less contemporaneous in
25 time with certain matters and events relating to
26 Monkstown, particularly coming close to the closing of
27 the sale, one could make the inference that the ú33,333
28 was indeed related to the Monkstown deal. But there is
29 no evidence of this money having been paid to Brennan
30 and McGowan, or to Owens - sorry - Mr. Owens.

1 .
2 There is not a single document which has ever indicated
3 an equal contribution of three one equal one-thirds of
4 ú100,000, let alone ú100,000 Sterling in connection
5 with this deal.

6 .
7 MR. HUSSEY: I am sorry, Sir. Again there is a jump
8 being made. I haven't seen Mr. Owens' bank statements,
9 if the Tribunal has. I haven't seen the bank records
10 of Brennan and McGowan, or the various companies, or
11 their various companies to check these matters. I
12 don't know if the Tribunal has.

13 .
14 To suggest that because you haven't seen such accounts
15 that, therefore, it must be so, or it must not be so,
16 is preposterous. It is impossible to suggest to
17 somebody if you, if you can't prove you weren't there,
18 then you were there. It is an impossible, an
19 impossible burden to, for anybody with these
20 suggestions made against him to overcome.

21 .
22 I don't know if the Tribunal has seen the accounts of
23 Messrs. --

24 .
25 MR. HANRATTY: I was merely asking the witness, Sir,
26 and again it is an utterly unwarranted intervention.

27 .
28 I was merely asking the witness whether or not this sum
29 of ú33,333 was paid to somebody else. I have already
30 pointed out that it is a Sterling sum, as it came out

1 of the account, and, therefore, would have translated
2 itself into a larger Punt figure, if it was translated
3 into Punts.

4 .
5 I was exploring with this witness, where this money
6 would have gone. I came back to an answer he had
7 previously given, that he said that it was given to Mr.
8 Owens. It was at that point that My Friend, Mr.
9 Hussey, intervenes.

10 .
11 MR. HUSSEY: Yes.

12 .
13 CHAIRMAN: I have sat here and I have never heard any
14 suggestion from anybody that, that a sum of money was
15 paid to Mr. Owens. I don't know whether that is on the
16 transcript, if I have got it wrong?

17 .
18 MR. HANRATTY: My recollection is that the first
19 suggestion that this money was paid to Mr. Owens, or
20 any money was paid by Mr. Finnegan to Mr. Owens was the
21 evidence that Mr. Finnegan gave himself this morning.

22 .
23 CHAIRMAN: Yes. I had never heard it before. That is
24 all I know.

25 .
26 MR. HANRATTY: It is actually after a quarter past one,
27 Sir.

28 .
29 CHAIRMAN: I didn't want to interrupt your
30 cross-examination.

1 .

2 MR. HANRATTY: Yes, Sir.

3 .

4 CHAIRMAN: Do you want to continue, if you wish?

5 .

6 MR. HANRATTY: No, I might as well, since it has been

7 broken anyway, I might as well wait until after lunch.

8 .

9 CHAIRMAN: Very good. Shall we sit at half past two?

10 .

11 MR. HANRATTY: Yes.

12 .

13 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

14 .

15 .

16 .

17 .

18 .

19 .

20 .

21 .

22 .

23 .

24 .

25 .

26 .

27 .

28 .

29 .

30 .

1 THE TRIBUNAL THEN RESUMED AFTER LUNCH AS FOLLOWS:

2 .

3 348 Q. MR. HANRATTY: Just one correction, Mr. Finnegan.

4 .

5 You remember that series of questions I put to you

6 relating to Sterling?

7 A. Yes, Sir.

8 349 Q. We did a check over lunch with the Central Bank and, in

9 fact, we've discovered that at the point in time when

10 this debit occurs on your account, there was still

11 parity with Sterling. So you can ignore all those

12 questions, and that line of questioning, and please

13 accept my apologies for misleading you in that way.

14 A. Thank you.

15 350 Q. But at this point in time Sterling and the Punt were at

16 parity.

17 .

18 Now, you were going to get instructions over lunch in

19 relation to two matters. The first one was the

20 question of what attempts were made by Mr. O'Shea to

21 obtain Mr. Traynor's files, the late Mr. Traynor's

22 files, from his executor, and in particular, there was

23 reference in this letter we were given this morning to

24 some telephone conversation which Mr. O'Shea had with

25 Mr. Traynor's executor?

26 A. Yes. I am not 100 percent clear on it, but I think - I

27 understand I - would it be better, maybe - would you

28 mind if I referred the question back to a rep of

29 Kennedy McGonagle Ballagh?

30 351 Q. Not at all.

1 A. Please.

2 .

3 MR. HUSSEY: Sorry. Insofar as I understand it, it
4 appears that Anthony Traynor, the personal
5 representative of Des Traynor, and I think his son, is
6 a client of Mr. O'Shea's. And at the time of the
7 inspection by the High Court Inspector, when the Trust
8 Deed was exhibited as Exhibit 11, you will remember
9 that that was some two or three years ago, Mr. O'Shea
10 made inquiry of Mr. Traynor, had he any records in
11 respect of either Foxtown or Mr. Finnegan, and indeed
12 other matters. And he was assured that there was no
13 records kept personally by Mr. Traynor, and whatever
14 records, would have been with Guinness & Mahon.

15 .

16 So that was the - Mr. O'Shea, therefore, knew that
17 there was no records within the estate of Mr. Traynor.
18 And arising out of the questioning yesterday, made a
19 further inquiry yesterday of Mr. Traynor in respect of
20 the records, and to have confirmed to him what he had
21 already understood to be the position, which is that
22 there was no individual records, or no records kept by
23 Mr. Traynor, or in the estate of Mr. Traynor relevant
24 to Mr. Finnegan.

25 .

26 MR. HANRATTY: If I am hearing that correctly, or
27 interpreting it correctly, it suggests that there was
28 no attempt made to trace the whereabouts of any files
29 which Mr. Traynor may have had since the date of the
30 Orders of the Tribunal. And that the only attempt was

1 made on the death of Mr. Traynor, or am I incorrect by
2 that - about that?

3 .

4 MR. HUSSEY: Mr. O'Shea had maintained that any records
5 that were kept by Mr. Traynor in respect of any of
6 these matters, they were kept within the Guinness &
7 Mahon company or umbrella. They were not kept by him
8 personally, or formed no part of the administration of
9 the estate.

10 .

11 As I understand it, we have - Mr. Finnegan has earlier
12 on this year, I think in - is it April or May? - given
13 full consent and authority to this Tribunal to obtain
14 whatever records from Guinness & Mahon, such as they
15 are. And I think some records have been produced, but
16 I am not sure that I have seen the records produced by
17 Guinness & Mahon.

18 .

19 But to suggest that no efforts have been made is
20 incorrect.

21 .

22 MR. HANRATTY: I don't know whether this relates to Mr.
23 Finnegan's files or Foxtown's files. I think,
24 probably, it's something we are going to have to
25 revisit, and it may be necessary to ask you for
26 permission to recall Mr. O'Shea to deal with this
27 issue, because we are faced with an extraordinary
28 situation, where this trust has been in existence since
29 1973, where, apart from an incomplete set of bank
30 accounts for a limited period from Foxtown Investments

1 Limited, we haven't been given any single document of
2 the kind that one would normally expect to be exchanged
3 between trustees and the beneficiaries of the trust.
4 And we are told by the witness that he was not in
5 receipt of those documents; that he was occasionally
6 briefed, verbally, about the affairs of the trust, and
7 shown documents - copies of which were not left with
8 him. And that any correspondence that there may have
9 been would have been with Mr. Traynor, who dealt with
10 the trust on his behalf, even after Guinness & Mahon
11 used to be involved in the trust, when it was taken
12 over by Credit Suisse. And we are now told that
13 Mr. Traynor's executor has told Mr. O'Shea, in a verbal
14 conversation, that they don't have any files.

15 .

16 So it seems to me, Sir, that it's obviously something
17 of extreme importance, given the matters which have
18 arisen arising from, and relating to these records.

19 .

20 I think, in the first instance, with your permission, I
21 will take the matter up with the Solicitor to the
22 Tribunal, and see what she has on file in relation to
23 it, and subject to that, maybe mention it again
24 tomorrow morning.

25 .

26 CHAIRMAN: Yes.

27 .

28 352 Q. MR. HANRATTY: The second thing, Mr. Finnegan, that you
29 were going to get instructions on over lunch was the
30 question of what proceedings, if any, have yet been

1 taken in Guernsey to obtain these records from the
2 trustees who are declining to provide them?

3 A. Well, again, I understand that the solicitors have been
4 instructed - the solicitors have been instructed.
5 Could I refer this back again?

6 353 Q. Yes, by all means.

7 A. What is the position --

8 .

9 MR. HUSSEY: A Letter of Instruction, a further Letter
10 of Instruction - I think you have seen the first letter
11 from Messrs. Kennedy McGonagle Ballagh to the Guernsey
12 solicitors, and a Letter of Instruction to instruct
13 them to take the steps that they had indicated might be
14 available, the summary procedure.

15 .

16 We are awaiting a letter from Guernsey to explain what
17 steps have been taken, what steps can be taken.

18 .

19 We've issued instructions, that the necessary summons
20 would be issued, and we are waiting to hear back from
21 the Guernsey solicitors as to exactly what the
22 procedure will entail and the timescale involved.

23 .

24 That letter is expected imminently. We haven't got it
25 yet. My solicitor, Ms. Henry, has attempted to make
26 telephonic contact during lunchtime, and hasn't been
27 able to do so, with the Guernsey solicitors. But we
28 are expecting a Letter of Advices from the Guernsey
29 solicitors at any point, at any time now.

30 .

1 MR. HANRATTY: Well, then, perhaps we'll revisit the
2 matter in the morning.

3 .

4 CHAIRMAN: Might I suggest that we might promote speed
5 by requiring them to fax.

6 .

7 MR. HUSSEY: Of course, that is what we are --

8 .

9 CHAIRMAN: It's nonsensical that we can't get a
10 response after three days, as to what the situation is.

11 .

12 MR. HUSSEY: It isn't that there hasn't been a
13 response, but there hasn't been a written response, in
14 the sense that we had asked them to advise us as to the
15 procedure that is available to them and the timescale.

16 .

17 CHAIRMAN: Perhaps they would fax you in detail as to
18 what steps they have taken, and you can produce the fax
19 here tomorrow morning. Please.

20 .

21 MR. HUSSEY: Yes. You can take it that we have already
22 asked them for that. Thank you, Sir.

23 .

24 354 Q. MR. HANRATTY: Going back, then, Mr. Finnegan to this
25 investment of ú33,333, which you say you have made and
26 which we now know was Punts.

27 .

28 I've indicated to you before lunch that we have seen no
29 written record or reference to any sum of ú33,333,
30 either from yourself or Messrs. Brennan and McGowan,

1 nor have either of them made any reference in their
2 testimony, to them investing a sum of ú100,000 in any
3 context in this whole transaction?

4 A. All I can say to you, Sir, is that I have here, which
5 you have now, a document showing where I did invest
6 ú33,000 into it.

7 355 Q. You are not, as I understood your evidence this
8 morning, in a position to say to what purpose that was
9 put?

10 A. That was for the second - this was for the investment
11 in the set-up of the company that was doing the scheme
12 for the generation - to generate the anticipated
13 profits out of their scheme.

14 356 Q. Just to be clear about that. We do know that the two
15 Jersey companies, Bouganville and Rapallo, had already
16 been established at the point in time that this money
17 was paid over, or at least that this debit occurred in
18 your account. And we also know that Bouganville had,
19 in fact, taken a conveyance of the freehold interest in
20 the nuns' property at the time that this debit occurs
21 on your account the previous month, in fact, in October
22 of 1977.

23 .
24 So the sequence was that in August 1976 the nuns signed
25 a binding contract to sell their land for ú210,000.
26 Having sold their land, and any interests that they had
27 in it, they then entered into a contract to buy the
28 freehold of the land. And in June of 1977 Mr. Owens
29 set up his elaborate scheme, including this
30 correspondence that he drafted in advance to be

1 exchanged between all of these solicitors.

2 .

3 He ordained the dates on which each item of this
4 correspondence would be sent, and so it was done. He
5 orchestrated the transfer of the title to Bouganville,
6 the taking over of the shares of Bouganville by Green
7 Isle, and the passing of the title from Bouganville to
8 Green Isle by way of a distribution on a liquidation in
9 specie.

10 .

11 But in the meantime, in November, you paid - you say
12 you paid into the scheme or the project ú333,333 (sic)?

13 A. 33,000.

14 357 Q. Sorry, 33,000?

15 A. Yes.

16 358 Q. So - and this was within a fortnight, in fact, of the
17 nuns getting their money and closing their sale. Their
18 sale closed on the 23rd of November of 1977. The debit
19 on your account is on the 11th of November, and I would
20 suggest to you that if you did put in 33,000, the only
21 obvious or apparent use to which it could have been put
22 was to pay the nuns for their land?

23 A. Well, there was no question of that, Sir, in anything
24 that was discussed with me. This was for - I think - I
25 was invited into the after transaction that this was,
26 when I mentioned to you this morning that it was agreed
27 with Brennan and McGowan that they were going to - they
28 had the scheme, which we talked about, and which was
29 being set up. And I think what my injection of the
30 33-odd thousand was, was part of the jigsaw that fell

1 in.

2 .

3 Now, I don't know, because it was quite an involved
4 one, the way it went around with Mr. Owens, but he
5 certainly had the plan, and that's where I was invited
6 into it. And that's was the intent of my putting my
7 money in, that's what it was for.

8 359 Q. But Mr. Owens' scheme didn't require any investment.

9 Mr. Owens' scheme involved monies being paid out,
10 ú350,000, or, say, ú300,000 after expenses?

11 A. Well --

12 360 Q. Do you follow what I am saying? It didn't involve
13 anybody having to put any money in. What it involved
14 was Green Isle sending over ú350,000 to Jersey for
15 distribution.

16 A. I am not aware of the exact intricacies of the scheme,
17 but I know that my money went into that.

18 361 Q. But the one thing we do know that did require outlay
19 around the time of this debit, was the payment to the
20 nuns of the balance of their ú210,000 for their land.

21 .

22 As far as we can see, at that point in time, that is
23 the only thing that required any outlay, because the
24 nuns had already been paid the deposit the previous
25 year, of ú21,000.

26 A. Well, what I have to say to you, Sir, is that what is
27 requested from me was this figure, the figure which
28 turned out to be this. And this was for the future
29 investment in the - the investment in the future
30 profits which were being generated, and was being done

1 by a very, very involved scheme.

2 362 Q. Mr. Finnegan, you keep saying that. It's not that

3 involved at all, really. It's a scheme involving

4 sending over €350,000 and giving you a third of it

5 after payment of expenses. It's fairly

6 straightforward, really.

7 A. Well, I don't think it is. I think that was the end of

8 it, but I think there was a lot of transactions taking

9 place, borrowings and through various companies --

10 363 Q. Most of the money that Green Isle sent over was

11 borrowed. We know that.

12 A. Yeah.

13 364 Q. So it was sent over, €52,000 was paid or something to -

14 sorry, €32,000 to Mr. Owens, €10,000 to Reid & McNabb,

15 and then 100,000 for each of the three of you, and an

16 additional €5,000 bank draft for yourself?

17 A. Mm-hmm.

18 365 Q. That's what happened. I mean, it didn't require any

19 investment. There is no point in you putting in

20 €33,000 to be sent over to Jersey to be given back to

21 you with another 70.

22 A. Well, what I say to you is that the money was needed.

23 I was asked for it for the involvement in that scheme.

24 And that scheme didn't - I put it to you, Sir, I

25 wouldn't say that that scheme just evolved overnight.

26 There was a lot of planning in it. And Hugh Owens had

27 been involved, deeply involved in it. And this is what

28 my input was, for this. And this was, rather than it

29 getting - it was getting involved, if you like, instead

30 of going on in the after development, after the

1 acquisition, it was brought forward.

2 .

3 You see, I want to put to you this: There was no way -

4 this was not normal value or otherwise. It was a

5 figure that was generated with the build-up of the

6 scheme, that this - and then it would be worked off.

7 It had to be made, then. The money had to be made. It

8 was generated up front, but it had to be earned out of

9 the scheme afterwards.

10 .

11 But I was invited in to the scheme where they hadn't

12 done their calculations. It had been set up, and there

13 was money owed, of course, after all of this --

14 366 Q. Of course there was, and it was, we presume, paid off

15 in the fullness of time over the proceeds of the

16 development. But going back to November/December of

17 1977. What I am trying to understand is what

18 relationship did this ú33,333 odd that you say you put

19 in, have to the ú105,000 relationship that you got a

20 month later?

21 A. What I got later was what, the amount of money that I

22 put in. Now, actually, the date of putting it in, it

23 could have been a promise of this money from me at an

24 earlier date. The date it was injected is another

25 matter. But it was a scheme that was set up by Hugh

26 Owens, and as I said to you many times, it was quite an

27 involved one.

28 .

29 So the result of the payment of 100,000 was resulting

30 out of my participation in the onward workings of the

1 scheme.

2 367 Q. Do you have any idea at all what was done with your

3 ú33,300?

4 A. No, I wasn't the author of the scheme, Sir.

5 368 Q. I never said that. Do you have any idea what was done

6 with your money?

7 A. Well, it was used in the scheme.

8 369 Q. In what way?

9 A. Well, I can't tell you, Sir, exactly how it was used.

10 370 Q. Normally when you are asked to make an investment, what

11 you are effectively doing is contributing to the

12 capital sum being invested in the project, isn't that

13 right?

14 A. Yes, Sir.

15 371 Q. And if it's a factory that makes widgets, what your

16 capital will be used for is to buy machines to make the

17 widgets, and to buy raw materials to make them, and to

18 set up the business. Isn't that right?

19 A. Yeah.

20 372 Q. If it's a property that you are investing in, the

21 capital that you use is used to contribute towards the

22 purchase price of the land, isn't that right? If it's

23 a land transaction?

24 A. Yes, but this was a slightly - this was slightly

25 different, Sir. This was a unique scheme which had

26 been proposed by - not dreamt of, but worked out

27 between Brennan and McGowan and their investor - sorry,

28 and their adviser, Hugh Owens.

29 .

30 I put it to you like this: I was asked to do this.

1 Now, I have very often done the following: If I were
2 asked to invest in an equity, somebody would say, "Will
3 you invest? I think it's a good idea for you to do the
4 following:" - by the way, I would be accustomed to
5 making a quick decision and saying, "I'll do this."

6 And very often one might say that - I am not saying it
7 would be reckless, but I wouldn't necessarily look into
8 the full detail that would come, if one relied on the
9 people with whom you were doing business.

10 .

11 I would rely on the name and the character of the
12 people with whom I was doing business with. And if
13 Hugh Owens had come along, Hugh Owens coming along and
14 said, "I have the scheme, I have orchestrated it. This
15 is a perfectly good scheme. And this is - we are
16 putting this through." I would follow that.

17 373 Q. What relationship did the ú33,000 have to the ú350,000?

18 A. All I can say to you is this: That what was sought
19 from me, whether it was the exact figure that I knew
20 was going to be generated, but as far as my
21 recollection, I didn't know that that was the actual
22 payout that there was going to be.

23 374 Q. We know now that it was?

24 A. Yes.

25 375 Q. So what relationship - in what way did your investing
26 ú33,000, and indeed Mr. McGowan and Mr. Brennan, give
27 rise to a situation for ú350,000 arriving in Jersey?

28 A. All right. What I was told was this, that this -
29 "you've asked me to participate in this scheme." "When
30 this transaction is completed, you will not have any

1 further participation in this scheme, because we are" -
2 it was the other companies who were going to do the
3 actual development of it.

4 .

5 Now, they - in turn, the other companies did
6 participate, like the company who took it out, they
7 participated in it around the house. So as far as I
8 was concerned, I was asked to put in the figure, and
9 what I got out, then, whatever - as you say sometimes
10 in reflecting it back, I didn't know then what I know
11 now, or what I did get out, but that was the - what I
12 was asked for, and I did get the quick profit.

13 376 Q. Mr. Finnegan, I've been trying for some time now to get
14 an explanation from you, and I am going to put it to
15 you that you have not given me, and I can only speak
16 for myself, I am not obviously speaking for the Sole
17 Member; you have not provided any comprehensible
18 explanation for the payment to you of ú105,000 by
19 Brennan and McGowan.

20 A. Well, what I am saying to you, Sir, is this: That I
21 invested ú33,000 in a scheme - I have mentioned this.
22 This was a scheme which was set up on the basis of
23 bringing profits forward. This is the scheme. If you
24 are talking to accountants, I am not an accountant, but
25 this is something that apparently is done quite a
26 reasonable amount, that the taking of the profits
27 front-ended, rather than waiting for them and borrowing
28 against them. But they do need a mechanism to do this,
29 and at the time - as I say, all I can say is that
30 apparently I was needed as a drop in the jigsaw for

1 that.

2 377 Q. Why didn't you say to the nuns, "You know, there is a
3 very sweet deal going here, if you are prepared to put
4 up another ú33,000?"

5 A. Well, first of all, the deal was done with the nuns.
6 The nuns wouldn't be in the business of - this, in my
7 idea, would be a gamble. And we talked about it
8 yesterday.

9 378 Q. Where was the gamble?

10 A. What?

11 379 Q. Where was the gamble? Where was the risk?

12 A. Well --

13 380 Q. If you don't understand the scheme, how do you know
14 there was risk?

15 A. Well, the fact that I didn't understand it would be the
16 risk element in itself, Sir.

17 381 Q. Maybe the nuns would understand it, if they were told
18 about it?

19 A. All right. Well, I wouldn't think that, one, that a
20 religious order would have been involved in - getting
21 involved in a scheme.

22 382 Q. You see, Mr. Finnegan, we have to face up to the
23 obvious, and the obvious fact is that with the
24 exception of the last in this series of land deals with
25 Brennan and McGowan, you acted in one capacity or
26 another for some other party involved in a commercial
27 transaction in which Brennan and McGowan were also
28 involved.

29 A. Mm-hmm.

30 383 Q. In this case, you acted for the Society of the Sacred

1 Heart. In the next one, which was Donnybrook, you, as

2 I understand it, are a trustee of the Pembroke Estate,

3 which was involved in the title. Is that right?

4 A. Not a trustee, but I was a director.

5 384 Q. Well, you were a director of the company --

6 A. The company.

7 385 Q. -- which was the management company, as I understand

8 it --

9 A. Yes.

10 386 Q. -- for the Pembroke Estate?

11 A. Yes, Sir.

12 387 Q. And the Pembroke Estate is, effectively, held on trust.

13 Isn't that right?

14 A. Yes.

15 388 Q. And are you not a trustee of the trust?

16 A. No - well, if it's technical, I don't know what you

17 mean, but put it that I was --

18 389 Q. Well, I was of the impression that in addition to being

19 a director of the company, you were, in fact, a trustee

20 of the trust?

21 A. No, I wasn't, Sir.

22 390 Q. You were not a trustee of the Pembroke --

23 A. No.

24 391 Q. So you were a director of the management company of the

25 Pembroke Estate?

26 A. Yes, Sir.

27 392 Q. Which is property which was held on trust for the

28 beneficiaries of that trust?

29 A. A director through various companies over the years

30 which were, I suppose, under the trust.

1 393 Q. Yes. The Pembroke Estate was also involved in the
2 title - in a number of the bits of the title of the
3 Tritonville Road transaction. Isn't that right?

4 A. Yes.

5 394 Q. And in the case of St. Stephen's Green, you acted not
6 only for the party which sold the major interest in it,
7 Smiths of the Green, but you also ultimately acted for
8 the party who bought the consolidated interests,
9 Gallagher Group Limited?

10 A. No, I didn't, Sir. Sorry. Shall I deal with it --

11 395 Q. We are just establishing that in each of these cases
12 you had a relationship of some kind with another party
13 to the transaction?

14 A. Well, I didn't act for the Gallagher Group.

15 396 Q. Oh, I see. You didn't?

16 A. No.

17 397 Q. Did Finnegan Menton act for the Gallagher Group?

18 A. I didn't act in this transaction, Sir.

19 398 Q. But - in St. Stephen's Green?

20 A. No.

21 399 Q. Who did?

22 A. We sold the interest in the development to Gallagher.

23 400 Q. Did you not write a letter making an offer on behalf of
24 the Gallagher Group?

25 A. This was a letter which was orchestrated, again, by the
26 way, as part of a scheme. And I was asked to send that
27 letter.

28 401 Q. So, if we could just have 340?

29 A. Mm-hmm.

30 402 Q. This is a letter on Finnegan Menton notepaper?

1 A. Mm-hmm.

2 403 Q. It's dated the 7th of February, 1980?

3 A. Mm-hmm.

4 404 Q. It's "re 6/7 St. Stephen's Green, Dublin 2"?

5 A. Mm-hmm.

6 405 Q. And it's addressed to Bedell & Cristin. And it's
7 signed by you?

8 A. Yes, Sir.

9 406 Q. And it purports to be an offer on behalf of your
10 client, the Gallagher Group, to the owners of 6/7
11 St. Stephen's Green.

12 .
13 Now, you are now saying that you didn't act for the
14 Gallagher Group?

15 A. I must say that the fact is that that was part of,
16 again, something like you did see beforehand, the
17 letters that were orchestrated. And the lawyers did
18 send one to one another in the scheme.

19 407 Q. Why was it orchestrated?

20 A. There was a scheme here as well, Sir. I was asked to
21 write that letter.

22 408 Q. By whom?

23 A. By - I was asked by the parties. That, as far as I
24 recollect, came from Hugh Owens.

25 409 Q. And why didn't you tell them what to do with it?

26 A. Well, on reflection, I should have.

27 410 Q. It says:

28 .
29 "We understand that you act for Keno Investments
30 Limited." That was a bit tongue in cheek, wasn't it,

1 since you owned a third of that company?

2 A. Well, I must say that that - I was requested to write
3 that letter.

4 411 Q. If we could have 2193?

5 .

6 "Keno Investments Limited.

7 Beneficial owners: Mr. J McGowan, Mr. T Brennan, Mr. J
8 Finnegan."

9 A. Mm-hmm.

10 412 Q. Here you are writing a letter to Bedell & Cristin, the
11 registered offices of Keno Investments Limited, saying,
12 "We understand that you act for Keno Investments
13 Limited" as if it had nothing to do with you?

14 A. I must say that, on reflection, that that was something
15 that I was instructed, and probably without taking
16 enough care did send. That was, again, like some of
17 the other letters you have seen, Sir, that have been
18 written between lawyers, and a cascade of letters, this
19 was one.

20 413 Q. Well, how is this Tribunal to make any sense out of
21 this, Mr. Finnegan, if there is no reality to this
22 correspondence? Will you explain to the Sole Member
23 why this letter was written in this way by you?

24 A. I don't really know. I was asked to write it, and all
25 I can say is that it was part of the deal that was
26 taking place with the Gallagher Group. I think it was
27 as much Mr. Owens settling the situation - the plan of
28 planning out the deal.

29 414 Q. What you say in the letter is: "We understand you act
30 for Keno Investments Limited, which owns the freehold

1 of the above property." With which you, yourself, had
2 been involved in buying, isn't that right?

3 A. Mm-hmm.

4 415 Q. To which you, yourself, had actually made a financial
5 contribution to buy. Isn't that so?

6 A. Yes, Sir.

7 416 Q. "And for Glen Cree Investments Limited, Whisper
8 Investments Limited, Victa Investments Limited, Arippe
9 Investments Limited, and Worland Investments Limited,
10 which have certain leases relating to the above
11 property."

12 .

13 And again, you were the beneficial owner of three of
14 those companies. Isn't that right?

15 A. Yes, Sir.

16 417 Q. "We have clients who are interested in acquiring the
17 above interests, and we are instructed to make an offer
18 of €750,000 for all of the above interests."

19 .

20 We know that the clients to which reference is made is
21 the Gallagher Group?

22 A. Yes.

23 418 Q. You, in other words, said that you had clients that you
24 are now saying were not your clients. Is that right?

25 A. Yes, Sir. I was requested to write this letter, and,
26 on reflection, I would say that I probably didn't take
27 enough time to consider it.

28 419 Q. Well, let's be absolutely clear about this. You are
29 now saying to the Tribunal that the Gallagher Group
30 were not then your clients, is that right?

1 A. No.

2 420 Q. Well, how could you make an offer on behalf of the
3 Gallagher Group, if they weren't your clients?

4 A. Well, that's what I've just said, Sir, that that - at
5 that particular time a deal, as far as I was aware, had
6 been - the heads of which had been concluded between
7 the parties for the sale of the entire of 6/7
8 St. Stephen's Green.

9 421 Q. Between whom?

10 A. Between Brennan and McGowan, Keno, and the Gallagher
11 Group.

12 422 Q. And were you privy to this?

13 A. The deal - we had some initial discussions with the
14 Gallaghers, because at this particular time this
15 property now had planning permission for a retail
16 development.

17 423 Q. Gallagher Group, you say, had agreed in principle?

18 A. Yes.

19 424 Q. Or Heads of Agreement had been reached?

20 A. Had agreed in principle to acquire the property. And
21 at that stage, then, the negotiations were, though,
22 then taken over, in fact, and were concluded on that by
23 either Joe McGowan or Tom Brennan with the Gallaghers.

24 425 Q. Yes. Mr. McGowan has described on one occasion when he
25 met you with Mr. Gallagher Snr., I presume. You heard
26 his evidence, I take it? He said he had a meeting
27 between yourself and Mr. Gallagher?

28 A. Yes. And when we were trying to negotiate the deal.

29 426 Q. And he said that his understanding was that you were
30 there in your capacity as Mr. Gallagher's

1 representative.

2 A. I don't know when he said that, by the way --

3 427 Q. He said it last week?

4 A. Did he?

5 428 Q. Yes. Is it true?

6 A. No, Sir. In this case, I was not acting for - I had

7 the property for sale, by the way. You know, we had it

8 for sale.

9 429 Q. Finnegan Menton?

10 A. Yes. And I wasn't acting for Gallagher.

11 430 Q. Yes. So is it your evidence, then, that this

12 correspondence was a charade?

13 A. Well, I have to say that I followed the instructions of

14 - and as far as I recollect, it was from Hugh Owens to

15 send this letter, which was part of a deal --

16 431 Q. I follow that, but are you saying it was all a charade?

17 A. Certainly, I wasn't acting for Gallaghers.

18 432 Q. So it was a charade?

19 A. If you like to say so.

20 433 Q. Well, see, it doesn't just finish with this letter.

21 There is a reply to it. There is a reply dated the

22 22nd of February, 1980, from Bedell & Cristin. Page

23 343.

24 .

25 And they solemnly write back to Messrs. Finnegan Menton

26 "re 6/7 St. Stephen's Green":

27 .

28 "We acknowledge receipt of your letter of the 7th

29 February. We have consulted with our clients on the

30 contents thereof, and regret your offer is not

1 acceptable."

2 .

3 You say that this is being stated in circumstances
4 where it has already been agreed that Gallaghers would
5 buy it for a certain price. Is that right?

6 A. Well, I think the Heads of Agreement, that they were
7 going to - that as far as I understood, that there
8 were, if you like, the general Heads of Agreement, but
9 there was a question of all of the tenancies had to be
10 gone into. But a lot of those, they were contracts in
11 existence for the acquisition of the subtenants.

12 434 Q. Bedell & Cristin were writing this letter to you in
13 your capacity as auctioneer acting on behalf of a party
14 which had made an offer of ú750,000. They were coming
15 back to you to say, "No, we will not accept ú750,000
16 from your client. We want ú900,000."

17 A. Mm-hmm.

18 435 Q. That's what they are doing in this letter. You can see
19 that further down?

20 A. Mm-hmm.

21 436 Q. You see that?

22 A. Mm-hmm.

23 437 Q. If your evidence is correct, all of this correspondence
24 is a complete and utter charade, it's meaningless.

25 Isn't that so?

26 A. Well, it was - it wasn't dictated by me.

27 438 Q. And this letter was, in turn, replied to you - by you,
28 again on the 4th of March, 1980. Page 351. You say:

29 .

30 "Dear Mr. Wheeler, your letter of the 22nd February was

1 received by us on the 29th February. We wish to
2 confirm our telephone conversation of today... "

3 .

4 Was there a telephone conversation?

5 A. Carry on.

6 439 Q. No. "...in which we stated that the price of ú900,000,
7 and the other points in your letter of the 22nd
8 February, 1980, were agreed by our clients."

9 A. Mm-hmm.

10 440 Q. Then you go on to say your client's solicitor is Gore &
11 Grimes?

12 A. Mm-hmm.

13 441 Q. According to what you've just told us, there was no
14 question of your clients agreeing the terms of Bedell &
15 Cristin's letter for ú900,000, and the other terms in
16 that letter, because you say that had already been
17 dealt with in Heads of Agreement. Is that right?

18 A. Well, I think that this was certainly putting together
19 the package that - whatever way they were allocating
20 it, it was - it wasn't headed up by me, Sir. I was
21 directed to do what I was doing.

22 442 Q. I see. And this letter, as well, was that also
23 drafted, and you asked to write it, by Mr. Owens?

24 A. I would take it that that was part of the overall
25 instructions, Sir.

26 443 Q. Did Mr. Owens draft all of this correspondence --

27 A. To the best of my recollection, yes, Sir.

28 444 Q. -- in advance?

29 A. I don't know whether it came in stages - you remember
30 where there --

1 445 Q. The Bouganville, that was another charade, that
2 correspondence was all drafted, and the responses
3 within it were all drafted in advance of it ever being
4 sent. And even the dates on which it was sent, and the
5 replies would be sent, was orchestrated by Mr. Owens.
6 We know that.

7 A. Yes.

8 446 Q. Is this the same?

9 A. Well, this was orchestrated by Mr. Owens.

10 447 Q. In the same way?

11 A. I think more or less in the same way.

12 448 Q. And did he ordain the dates on which these letters
13 would be written?

14 A. I would have thought so, Sir.

15 449 Q. And one of the features of this correspondence is that
16 it sets up a pretence that you are acting for the
17 Gallagher Group, when, in fact, you are not. Is that
18 right?

19 A. Yes, Sir.

20 450 Q. And it sets up a pretence that you offer ú750,000 on
21 behalf of the Gallagher Group, when, in fact, you don't
22 act for them and have no instructions to make such an
23 offer. And it sets up a pretence that there is a
24 counter-offer made of ú900,000, which you then revert
25 on and accept on behalf of the Gallagher Group?

26 A. Well, I think that the - you see, the fact that I had
27 got the property - there were negotiations taking
28 place. This was a deal that came about between
29 Gallagher and Brennan and McGowan and ourselves.

30 451 Q. We do know that Gallagher Group ultimately bought --

1 A. Bought it, yes.

2 452 Q. That is certain. But according to your evidence, it
3 wasn't pursuant to this correspondence that they bought
4 it, because you didn't act for them. And according to
5 your evidence, this correspondence is a charade
6 orchestrated for some reason by Mr. Owens?

7 A. Well, it was either part of a scheme --

8 453 Q. What was the purpose of it, of the correspondence, I
9 mean?

10 A. I don't know, Sir.

11 454 Q. Who was he trying to fool? Obviously, he wasn't
12 fooling you, because you knew that you didn't act for
13 the Gallagher Group. He wasn't, presumably, fooling
14 Mr. Wheeler, because presumably he knew you didn't act
15 for the Gallagher Group. He also knew, presumably,
16 that you were, in fact, a one-third owner of the
17 company on whose behalf he was acting. And presumably,
18 he wasn't fooling the Gallagher Group, because they
19 knew that you didn't act on behalf of them, or did the
20 Gallagher Group know anything about this
21 correspondence?

22 A. All I can say, I'm sure it was with the consent of the
23 parties that it was sent, Sir.

24 455 Q. Do I take it from that, that it is your belief that the
25 Gallagher Group did know about it?

26 A. Well, I'd say that they must have, because if this was
27 orchestrated by Mr. Owens --

28 456 Q. Right. But who was he trying to fool? For whose
29 benefit was this --

30 A. I really don't know.

1 457 Q. -- this correspondence exchanged?

2 A. I don't know.

3 458 Q. Well, was it the Revenue Commissioners?

4 A. I don't know, Sir.

5 459 Q. Did you ever ask him?

6 A. No, I didn't. I didn't ask the direct question to him,
7 Sir.

8 460 Q. Well, did he, when he asked you to write this first

9 letter we've had at page 340, did you query with him

10 what did he think he was doing, or what was the purpose

11 of this? Did you point out to him, "Look, I am not

12 going to write that letter. I don't act for the

13 Gallagher Group"?

14 A. I think I probably did, somewhere along the line, but I

15 don't know why. I think he probably explained to me

16 that this was part of - that this was agreed between

17 the parties, I think. It's a while ago too, and --

18 461 Q. Well, did you point out to him that you didn't act for

19 the Gallagher Group, and that it would be dishonest of

20 you to write a letter suggesting otherwise?

21 A. I think he was quite aware that I didn't. I had

22 business before with the Gallagher Group, but I wasn't

23 in this second transaction with them.

24 462 Q. So this letter is false? Why did you agree to write a

25 false letter?

26 A. I don't know why it was set up like this, Sir. I was

27 acting - I had - if you put it this way: There was a

28 brokerage deal being done, I suppose, that I knew

29 Gallagher, McGowan knew Gallagher, the three of us knew

30 him, and, by the way, Gallagher and McGowan had done a

1 lot of business together before, so they were known to
2 one another.

3 463 Q. My question was: Why did you agree to write a false
4 letter? There must have been some purpose or some
5 reason why you would agree to do such a thing?

6 A. Well, the only thing I can say is that I was requested
7 to do this.

8 464 Q. You were a professional man, and you had a professional
9 reputation to worry about.

10 A. Yes, Sir.

11 465 Q. And you were being asked by another professional man to
12 write a false letter, not only one false letter, but
13 two. The second one in response to Mr. Wheeler's
14 response was also false. Why did you agree to do such
15 a thing?

16 A. Well, at the particular time - all I can say to you is
17 that I - at that time we had - planning permission had
18 been obtained for this property. Now, I knew
19 Gallagher, and I suppose we did do business with him,
20 and we did act for him before. So that wouldn't be
21 strange. And I did do business with the other -
22 whether it was a splitting of hairs - I brought the
23 parties together on the deal.

24 466 Q. That may well be the case, but it doesn't answer my
25 question. What was the purpose of you writing a false
26 letter and putting your professional reputation on the
27 line? You must have had some reason to go along with
28 it?

29 A. Well, acting for a client, the way it's put there, that
30 was - I was requested to do that. And I wasn't -

1 whether we are splitting hairs, Sir, about acting for
2 Gallagher, I had done business with Gallagher many
3 times before.

4 467 Q. Well, are you now coming around to say you were acting
5 for Gallagher?

6 A. No, I am not coming around to say it. All I can say
7 is, that this was not a letter that was drafted by me,
8 Sir.

9 468 Q. I can see that. In fact, we know for certain it
10 wasn't, because we've got Mr. Owens' draft, it's at
11 page 345.

12 A. Mm-hmm.

13 469 Q. Sorry, this is Mr. Owens' draft of the response that
14 was sent to Bedell & Cristin. And you can see at the
15 top of it is written, we presume in Mr. Owens'
16 handwriting, "Draft letter from B&C to Finnegan
17 Menton."

18 .
19 So it's fairly clear that he did orchestrate this
20 correspondence?

21 A. Yes.

22 470 Q. He certainly orchestrated the bit of it from Bedell &
23 Cristin?

24 A. Yes, he did orchestrate it.

25 471 Q. You are now telling us that he orchestrated your
26 letters as well?

27 A. Well, I think that anything - I think that - I don't
28 think this was a question of presenting any position.
29 It was known between the parties. I was asked to do
30 this, and I think that that was more or less an

1 in-house situation. Rightly or wrongly, I did send it,
2 but it was orchestrated by Owens.

3 472 Q. You see, when professional people write letters, Mr.
4 Finnegan, they take care to make sure that what they
5 write is true.

6 A. Mm-hmm.

7 473 Q. With very good reason.

8 A. Yes, Sir.

9 474 Q. Because there are all kinds of situations and contexts
10 in which such correspondence might need to be referred
11 to in the future; such as, for example, if there was
12 litigation between some of the parties concerned. Such
13 as, for example, if there was a sale on and some
14 dispute as to what exactly was agreed, or how it was
15 agreed, or when it was agreed. Such as, for example, a
16 High Court judge trying to determine some criminal
17 issue, or a jury. Such as, for example, Revenue
18 Commissioners trying to determine the precise nature of
19 the transaction. All kinds of situations.

20 A. Mm-hmm.

21 475 Q. In every single day of every single week,
22 correspondence written by professional people in their
23 professional capacity is referred to, isn't that so?

24 A. Yes, Sir.

25 476 Q. And if somebody read your correspondence, they would
26 conclude, perhaps incorrectly, that you acted for the
27 Gallagher Group, because that's what your letter says?

28 A. I think it was that, the way it was put to me, that
29 this was something that was agreed between the parties,
30 and would I just send these letters --

1 477 Q. If some dispute had erupted between Brennan and
2 McGowan, or your joint venture in Brennan and McGowan
3 and Keno, and if the Gallagher Group wanted to get out
4 of the deal, and they went to the High Court, they
5 would be confronted with a letter from you on the basis
6 that you acted for them. They would be in a bit of
7 trouble, wouldn't they? How would they persuade the
8 Court that this correspondence was written without
9 their authority, knowledge or consent?

10 A. Well, what I would say - probably I am, on reflection,
11 wiser now than I was then, that this was orchestrated
12 by Mr. Owens, and like, indeed, some of the other -
13 some of the other professionals, when they were - the
14 way these things were put forward at the time, it
15 wasn't to misrepresent anybody, it was just that this
16 was, "Would you do this as a package of letters?", or
17 whatever. And that's how it came about, as you can see
18 by the draft letter.

19 478 Q. But you knew at the time that you wrote it that it was
20 wrong, and what I am trying to find out is why did you
21 go along with it? What was in it for you, that you
22 would lay your professional reputation on the line by
23 writing a letter of this kind?

24 A. There wasn't anything in it for me, Sir.

25 479 Q. Well, if any Tom, Dick or Harry walked in off the
26 street and asked you to put your name to a false
27 letter, would you do it?

28 A. No, I think that - if I could say to you, this was
29 something that was orchestrated by Owens.

30 480 Q. Well, then, if any accountant asked you to do it?

1 A. You have come across this, Sir, before, and other
2 things, where a party have laid out a package of things
3 to be done, to put through a scheme, and I either
4 rightfully or wrongfully did follow the instructions
5 that I got at the time.

6 481 Q. Perhaps we'll come back to this when we are dealing
7 with St. Stephen's Green. I think we got slightly
8 sidetracked.

9 .
10 The point that we got on to, when we were sidetracked,
11 was that in each of the deals that you were involved
12 with in Brennan and McGowan, with the exception of
13 Sandyford, you acted in some capacity for another
14 party. In the case of Monkstown, you acted for the
15 Sacred Heart nuns?

16 A. Mm-hmm.

17 482 Q. In the case of Tritonville Avenue, you were a
18 representative or director of the Pembroke Estate, as
19 you were in Bellevue Avenue, I think. Isn't that
20 right?

21 A. Mm-hmm.

22 483 Q. They were part of the title in the Donnybrook property.
23 And in the case of the Newtownpark Avenue property, you
24 acted for Mr. Maguire?

25 A. Yes, these were all individual transactions, Sir.

26 484 Q. Yes, but it seems to be a hell of a coincidence that
27 you acted in some capacity for somebody else?

28 A. Perhaps it was just at the particular time that Brennan
29 and McGowan were very active, Sir, yes. But I must say
30 that when it comes down to it, that, yes, they were the

1 buyer of Bellevue.

2 485 Q. When the nuns were selling their land, they were
3 selling a convent and ten acres?

4 A. Yes.

5 486 Q. Which could not be developed?

6 A. Yes.

7 487 Q. And when they signed a contract in August of 1976 to
8 sell that for ú210,000, what they were selling was a
9 convent on ten acres which could not be developed.
10 That is all that Brennan and McGowan were legally
11 entitled to get, when that contract was signed. Isn't
12 that so?

13 A. Yes, but there was an understanding at that time
14 between the parties that the freehold - like, if this -
15 by the way, if the lands were being sold with the
16 covenants on it, it wouldn't have been saleable, by the
17 way, unless one knew that you would get the freehold.

18 488 Q. Well, they had no contractual entitlement to it. But
19 they agreed to pay ú210,000 unconditionally, so far as
20 the development was concerned. The only condition
21 related to planning permission?

22 A. Yes, I think that there might have been the comfort
23 that there - you see, a deal was agreed with the
24 Longford and De Vesci Estate at that time.

25 489 Q. Between whom?

26 A. Our firm had agreed for the acquisition of the
27 freehold.

28 490 Q. Like a gentleman's agreement?

29 A. Well, I think there were letters exchanged at that
30 time. That would be the normal course of events. I

1 think --

2 491 Q. We know the nuns signed a contract to that effect in
3 December?

4 A. Yes.

5 492 Q. That's the first legally binding document, or document
6 indicating any legal obligation to sell to the nuns.

7 A. I think that what happens, that in circumstances like
8 that, it wouldn't be unusual that it would take some
9 months for a deal to be formally ratified. But a deal
10 was in place for the acquisition of the freehold.

11 493 Q. The bill that you sent to Vincent and Beatty for your
12 services to the nuns included valuations and planning
13 advice, is that right? I'll just get it out. But it
14 certainly included valuations, isn't that so? Which
15 presumably meant that you gave them an opinion, your
16 opinion on what you thought this land was worth. Isn't
17 that right?

18 A. Yes, Sir.

19 494 Q. If you had a client who owns land which cannot be
20 developed because of a restrictive covenant, but were
21 the - where the restrictive covenant could be removed
22 at relatively small cost, what advice would you give
23 them?

24 A. Is to get in the freehold --

25 495 Q. And sell it free from the restrictive covenant?

26 A. Yes, Sir.

27 496 Q. Because it's worth more that way?

28 A. Well, yes. And that's what the position was when we
29 did the deal with Brennan and McGowan. It was on the
30 basis that we would. Although, some way or another

1 that the contract - in the contract it didn't refer to
2 it, but they were aware of what the position was, and
3 the nuns were aware of what the position - the
4 freehold. And that, actually - I would say that there
5 was some comfort, too, that Mr. Maguire, in
6 Mr. Beatty's office, acted on the acquisition. And he
7 would have been aware of what the position was.

8 497 Q. Would you agree with me that if you have property on a
9 leasehold title, subject to restrictive covenants, and
10 if you sell that property in that form, it's worth less
11 than it would be worth had you freed it from the
12 restrictive covenants?

13 A. Yes, but in these circumstances, Sir, that was not the
14 case. Whilst it may have shown up in the contract
15 there, to which it was a condition, to obtain planning
16 permission, there was an understanding that the
17 freehold would pass, at cost.

18 498 Q. Well, did the nuns know about this?

19 A. Yes, they did.

20 499 Q. Why?

21 A. Because we had agreed - we had agreed terms for the
22 action of the freehold, acquisition of the freehold
23 when we were doing a deal with Brennan and McGowan.

24 500 Q. You see, there is nothing on the Vincent and Beatty
25 file, they being the solicitors that acted for the
26 nuns; there is no reference to the freehold at all at
27 the contract stage. The first time you see reference
28 to it is in the apportionment account, and in your
29 bill. Sorry, not in your bill, just in the
30 apportionment account. That's the first time there

1 appears to be reference in their file to any question
2 relating to the freehold.

3 A. Well --

4 501 Q. We do know that the only contract signed in August of
5 1976 was for the nuns' leasehold interest.

6 .

7 MR. HUSSEY: I'm sorry, if I might interrupt there. It
8 may well appear from Mr. Beatty's file that the first
9 reference to the freehold is in the account. However,
10 Mr. Beatty's evidence was different to that. And I
11 think for the question to be fair, Mr. Beatty gave
12 evidence that the freehold was an understanding in
13 respect of the freehold, before the leasehold interest
14 was taken out. That was his evidence.

15 .

16 502 Q. MR. HANRATTY: If you look at page 4620, this is your
17 account or invoice to Vincent and Beatty for your
18 services to the nuns. It's dated the 15th of November,
19 1977. In other words, not long after you say you
20 invested your ú33,000, which we know was on the 11th, a
21 debit on the 11th of November. And we know not long
22 after this, on the 23rd of November, the sale to the -
23 of the nuns' interest to Brennan and McGowan to Green
24 Isle Trust Limited closed. And you've charged them:
25 "To fees in respect of valuations, planning advice and
26 sale of lands at above - five percent of ú210,000 -
27 ú10,500."

28 .

29 So what planning advice did you give the nuns?

30 A. Well, I think what - we would have told them about the

- 1 probabilities of what type of development could be
2 obtained on it, that possibly a residential development
3 could be obtained, subject to planning permission.
- 4 503 Q. They came to you for advice as to how they should sell
5 their property?
- 6 A. Yes, Sir.
- 7 504 Q. Why didn't you tell them, "The thing to do with this
8 property is buy in the freehold, get planning
9 permission, and sell the whole thing with the benefit
10 of planning permission"?
- 11 A. I would say that's what we did do, Sir.
- 12 505 Q. Really?
- 13 A. Yeah.
- 14 506 Q. Well, why didn't they do it, then?
- 15 A. I think what we did, then, at that stage, that we had
16 had discussions with the freeholders to acquire the
17 freehold. And it is my recollection that we had a deal
18 agreed with the freeholders at that time for the
19 acquisition of the freehold. And as Mr. Beatty's
20 recollection is correct, when we were entering into a
21 deal with the - for the sale of the leasehold, that
22 that position was there.
- 23 .
- 24 So it was on the basis that the land could be
25 developed, and that was reflected in the figure.
- 26 507 Q. Not necessarily, as far as the nuns are concerned. The
27 nuns could have turned around at any time, up until,
28 certainly June or, in fact, July of 1977, and said to
29 Brennan and McGowan, "You are going to get what you
30 agreed to buy, which is the leasehold title of a

1 convent and ten acres, which cannot be developed for
2 ú210,000. And if you want the freehold, we have a
3 contract to buy the freehold, but you are going to have
4 to pay more."

5 A. Well, the deal was done --

6 508 Q. Why didn't they do that?

7 A. I suppose they didn't wish to go back off their word,
8 Sir.

9 509 Q. Who says they gave their word?

10 A. They did give their word.

11 510 Q. To who?

12 A. That they would - they did.

13 511 Q. In what form did they give their word?

14 A. That they did say that they would pass - the deal was
15 that the freehold would be passed on --

16 512 Q. They said this to who?

17 A. Well, this would have been portrayed - how it didn't
18 come up in the context is another matter, but at that
19 stage, when Brennan and McGowan were going forward,
20 they were confident that a deal had been done for the
21 acquisition of the freehold.

22 513 Q. Who did the nuns give their word to?

23 A. I would say - first of all, to their lawyer.

24 514 Q. There is nothing on Vincent and Beatty's files giving
25 any undertaking about the freehold.

26 .

27 MR. HUSSEY: Again, I am sorry. I must interrupt here.

28 .

29 Mr. Beatty's evidence has been that they had an
30 understanding that there would be - that the freehold

1 was to be got in, and that they had an understanding
2 with Brennan and McGowan, when they signed this
3 contract for the sale on of the freehold. That was
4 Mr. Beatty's evidence.

5 .

6 CHAIRMAN: Can we just cut through this nonsense. The
7 nuns were your clients?

8 A. Yes, Sir.

9 .

10 CHAIRMAN: You owed a duty to them to advise them, in
11 the first instance, as to the best method of getting
12 the best price for their lands. Isn't that so?

13 A. Yes, Sir.

14 .

15 CHAIRMAN: Right. You, as an experienced auctioneer,
16 knew that the best price could only be obtained if you
17 got in the freehold?

18 A. Yes, Sir.

19 .

20 CHAIRMAN: You knew where the freehold was, and you
21 knew how to approach the acquisition of the freehold?

22 A. Mm-hmm.

23 .

24 CHAIRMAN: What advice did you give to the nuns before
25 you went anywhere else, or talked to anybody else?

26 What advice did you give them as to what course they
27 should pursue?

28 A. I gave them the advice, Sir, that they should acquire -
29 when we got the instructions, we then talked to Vincent
30 and Beatty about how the title - how it was held. And

1 when we discovered that the property was held under two
2 leases with covenants in it, we advised, at that stage,
3 that the freehold should be acquired, and it would be a
4 good thing for it to be acquired by the nuns.

5 .

6 CHAIRMAN: Yes. All right. The price you - you
7 apparently advised the nuns for the leasehold title was

8 --

9 A. No, I didn't, Sir. I advised the nuns that on - the
10 understanding was that this was going to be the
11 freehold, Sir.

12 .

13 CHAIRMAN: Just a moment. Why did you put the premises
14 on the market before you acquired the most appropriate
15 saleable package for the nuns?

16 A. Well, we had agreed to the terms with the Longford and
17 De Vesci Estate, that the freehold was available, and
18 we did - we did say that it was on the basis of the
19 freehold. And when the deal was being done, Sir, it
20 was this; that at that particular time - Walter Beatty
21 was acting for the nuns, and I think that one of the
22 other partners in the firm, Mr. Maguire - yes, I think
23 Mr. Maguire, I think was approached to act for the
24 purchaser. And we would have known in-house too, Sir,
25 that the position was that the freehold could be
26 obtained, or was being obtained.

27 515 Q. But this would also have been known, that their client
28 had no guarantee that they would get it, even if there
29 was, as you say, an understanding with the De Vesci
30 Estate, and as Mr. Beatty has said that did not oblige

1 the nuns to sell it on to anybody, or indeed to buy it
2 in?

3 A. Well, Sir, you can take it that the terms were agreed
4 to acquire a freehold, and Brennan and McGowan were
5 getting their freehold. It was - it may be in two
6 stages, but they were getting the freehold. And that
7 was the value of the property. It was the value of the
8 property with the benefit of the freehold, when we are
9 talking about the figures which we are discussing
10 today.

11 .
12 If it were a question, by the way, of trying to sell a
13 property which had restrictive covenants, that they
14 should be used just as a convent and whatever,
15 whatever, then, I put it to you, Sir, that it wouldn't
16 have been worth a fraction of what we were talking
17 about. So there was no doubt about it, it was on the
18 basis that it was for a development.

19 516 Q. The nuns entered into their contract to buy the
20 freehold in December 1976?

21 A. Mm-hmm.

22 517 Q. But they had no contract at that point in time to sell
23 it. And at any time up until July, at least, of 1977,
24 they could have said to Brennan and McGowan, "Look, all
25 you've got is a contract to buy the leasehold, which is
26 a convent on its ten acres, and that's all you are
27 going to get for ú210,000, unless you give us another
28 350,000 for the freehold."

29 A. Well, now let's be absolutely clear on this. At the
30 particular time I was talking to Mr. Walter Beatty,

1 senior partner of Vincent and Beatty, it was discussed
2 with him what we would do. He has a man involved in
3 property all his life, and he agreed with the position
4 that what we were doing, that we were going along to
5 acquire - when we negotiated the freehold. And at the
6 time of the deal to Brennan and McGowan, it was on the
7 basis of - it wasn't in --

8 518 Q. Sorry, what did you say he agreed about the freehold?

9 A. Sorry?

10 519 Q. What did you say Mr. Beatty agreed about the freehold?

11 A. Well, Mr. Beatty was aware of what we were doing about
12 acquiring the freehold.

13 520 Q. Did you say he agreed to do something about the
14 freehold?

15 A. No, I didn't - sorry.

16 521 Q. Sorry. All right. I mistook you then. Carry on?

17 A. Sorry, Sir. But everyone was aware of what the state
18 of play was at that time.

19 522 Q. Well, were the nuns?

20 A. Yes.

21 523 Q. Did they know about the sale on?

22 A. No, that - in the two stages, that that, as I said to
23 you before, Sir, was a special deal of reflecting the
24 future profits of a development.

25 524 Q. You see, when the nuns signed this contract in
26 December, to buy the freehold, they had no obligation
27 to sell it on to anybody. They could have kept it.
28 Vincent and Beatty acted for both sides in this
29 conveyancing transaction, isn't that right?

30 A. Yes, Sir.

1 525 Q. They acted for Brennan and McGowan, or as it turns out,
2 Green Isle Holdings Trust Limited, who were buying a
3 leasehold interest. And they acted for the nuns who
4 were selling it. They did not, on behalf of their
5 clients, Brennan and McGowan, have any guarantee at the
6 time that bound both of their clients, the nuns and
7 Brennan and McGowan, to a contract for the sale of the
8 leasehold for ú210,000. And at no stage, between then,
9 that is August 1976, and at least July of 1977, did
10 Brennan and McGowan have any legal entitlement, any
11 enforceable legal entitlement to the freehold. And
12 during that entire period they were in jeopardy of
13 finding themselves owning a convent.

14 A. Well, I think that the position was that they were made
15 aware of the situation regarding the freehold.

16 526 Q. The situation being that they had no legal entitlement?

17 A. Well, no, that a deal - a deal was done on the freehold
18 at that stage, but just wasn't formally signed up.

19 527 Q. Well, did the nuns know about it?

20 A. Yes, Sir, as indeed Walter Beatty did.

21 528 Q. Why do you say the nuns knew about it?

22 A. Knew about the question of the freehold?

23 529 Q. Yes. Knew that there was some sort of an understanding
24 that Brennan and McGowan were going to get the
25 freehold, even though they had no contractual
26 entitlement to it?

27 A. There was no doubt at all about this. I had advised
28 that we would get in the freehold, and I would like to
29 make it quite clear, we had negotiated the freehold.
30 Brennan and McGowan were clear on the basis at the time

1 that they knew that they were getting in the freehold.

2 And the nuns would have known that we had agreed the

3 terms of the acquisition of the freehold.

4 530 Q. We do know that some contract, although we don't

5 unfortunately have a copy of it, but it's referred to

6 in the Cathal Young O'Reilly correspondence, that they

7 were acting for Bouganville in the purchase of the -

8 some contract was produced by somebody for the sale of

9 the freehold, or for the, at least the assignment of

10 the nuns' interest in the contract to buy the freehold,

11 which is itself a recognition, I suggest, of the fact

12 that up to that point there was no legal entitlement of

13 Brennan and McGowan to get in the freehold of the nuns?

14 A. Well, at the time, and it was Walter Beatty's evidence

15 as well, that Walter Beatty acknowledged, at the time

16 we told him we were getting in the freehold.

17 531 Q. Who?

18 A. The nuns knew, first of all, because they agreed that

19 we would. And I did advise them to get the freehold

20 in.

21 532 Q. Just tell us all about that. How did they know?

22 A. Sorry, rephrase that?

23 533 Q. You said the nuns knew.

24 A. Now, when we were asked to dispose of the property, we

25 did - and when we realised that there were leases on

26 the property, we did advise that we would get the

27 freehold in, that we should get the freehold in. And

28 that it should be done in the name of the - that the

29 Sisters - it should be done in their name. And we

30 opened up the negotiations on that basis.

1 534 Q. Was this on the basis of some discussion with you?

2 A. Yes, and with the lawyers.

3 535 Q. Did you tell the nuns?

4 A. What?

5 536 Q. Did you tell them anything about the freehold?

6 A. Yes, I did. I told them that they should buy it in.

7 537 Q. Why?

8 A. Because there were restrictive covenants in the lease,

9 and it was essential that it would be bought in.

10 538 Q. But at the time they bought it in, did they not already

11 get a contract to sell their leasehold for £210,000?

12 A. Yes, but that was on the understanding that the

13 freehold was coming in.

14 539 Q. Yes.

15 A. And they were aware of that.

16 540 Q. What nun were you dealing with?

17 A. Sister Dillon.

18 541 Q. Is that the late Sister Dillon?

19 A. I am not quite sure.

20 542 Q. You see, even if everything you say is correct, Mr.

21 Finnegan, the fact remains that for a period between,

22 at latest, June of 1977, and November the 23rd of 1977,

23 when the nuns' sale closed, you had a secret deal with

24 Brennan and McGowan involving the freehold of the same

25 property in which you were a one-third beneficial owner

26 of two companies in Jersey, which was the subject of an

27 arrangement put together by Mr. Owens, under which a

28 sum of money, ultimately transpiring to be 300 odd

29 thousand pounds, was divided equally between the three

30 of you?

1 A. Well, I must say to you that at the time of the - first
2 of all, to say to you that the price for the sale of
3 the lands, with the benefit of the freehold, was
4 somewhere in the order of 210 - 20,000 --

5 543 Q. So you say. The only way to find out what the
6 marketability of the land with development potential
7 is, is to put it on the market?

8 A. Yes.

9 544 Q. Mr. Brennan has told us that this land wasn't put on
10 the market. He said it wasn't put up for auction and
11 out for tender. It was offered to them by you?

12 A. Yes. Well, that was a way that - and other parties as
13 well, Sir.

14 545 Q. I see. Who else?

15 A. They were lead builders at the time.

16 546 Q. Who else did you offer this land to?

17 A. Whoever were - the likes of, I think, that at that time
18 it was offered to the other lead builders at the time.

19 It wasn't a great market at that particular time.

20 547 Q. So?

21 A. So we did offer it.

22 548 Q. To?

23 A. I think it was the likes of the McInerneys, the -
24 whatever --

25 549 Q. Did you offer it to McInerneys?

26 A. As far as I know, we did.

27 550 Q. Do you remember offering it to McInerneys?

28 A. As far as I remember, we did.

29 551 Q. To whom in McInerneys?

30 A. I don't know.

1 552 Q. Did you write to him?

2 A. This would have been done through my office. I am
3 mentioning them as a likely - one of the parties. To
4 the best of my knowledge and belief, it was offered to
5 them.

6 553 Q. At what price?

7 A. As far as - at the particular time when we were
8 looking, I think we were quoting somewhere in the order
9 of £230,000.

10 554 Q. And anybody else?

11 A. There were - I haven't, Sir, got the list of whom we
12 offered it to, but we did offer it to other builders.
13 And as far as I remember, too --

14 555 Q. You have, apparently, an ability to remember this, in
15 the absence of any Finnegan Menton files, which we've
16 been told have long been since destroyed, yet yesterday
17 you told us you can't even remember whether or not you
18 kept files in relation to your dealings with Brennan
19 and McGowan, let alone the contents of those files?

20 A. Say that again to me?

21 556 Q. Yesterday you told us you couldn't even remember
22 whether or not you kept files in relation to your
23 dealings with Brennan and McGowan?

24 A. Mm-hmm.

25 557 Q. You couldn't remember. Now you are telling us that you
26 recall the identity of persons to whom you offered this
27 property, and the price for which you offered it?

28 A. Well, I would recollect that the order - the order of
29 the price that we were looking for at the time, because
30 that was something that would be on my mind, about how

1 much we were seeking for it.

2 558 Q. The fact remains, Mr. Finnegan, that even if you did
3 tell the nuns all of this from the outset, that it was
4 on the basis, whether they were contractually bound or
5 not, that they would have to buy and sell the freehold
6 to Brennan and McGowan. That between, at least, June
7 of 1977 and November of 1977 you were involved in a
8 secret arrangement with Brennan and McGowan in which
9 you were the beneficial owner jointly with them of two
10 companies in Jersey, one of which was the recipient of
11 ú300,000, which was divided, ultimately, equally
12 between you in December of 1977.

13 .
14 Now, I have to suggest to you that in the absence of
15 any other plausible explanation as to why Brennan and
16 McGowan paid you ú105,000, one has to give serious
17 consideration to the possibility that the reason they
18 gave it to you is the obvious one, that it was in
19 connection with the fact that you acted for the nuns?

20 A. It was not, Sir. And there is no doubt in my mind that
21 the price that was obtained at the time was the price
22 for the property. And that is not the case, what you
23 are suggesting.

24 559 Q. Did you tell the nuns about this deal that you had with
25 Brennan and McGowan?

26 A. No, Sir. I didn't think it was a deal that - as I told
27 you, they described the sort of deal that it was, that
28 this was taking the forward profit, up-front profit out
29 of what would be done. And that was not a deal that
30 the nuns would have gone into, Sir.

1 560 Q. Is that a "no"?

2 A. Sorry?

3 561 Q. Is that a "no"? The answer to my question is "no", you
4 didn't tell them?

5 A. No, I didn't tell them.

6 562 Q. When you got your payment, you got two payments, in
7 fact. There was ú100,000, which you directed should be
8 sent off to Foxtown, and which Mr. Wheeler did, in
9 fact, send off to Foxtown. Isn't that right?

10 A. Yes, Sir.

11 563 Q. But you also got a bank draft for ú5,000?

12 A. Mm-hmm.

13 564 Q. What was that for?

14 A. I can't recollect, Sir.

15 565 Q. Was it a finder's fee?

16 A. I can't recollect what it was for.

17 566 Q. Well, why can't you, because you can recall offering
18 the property to McInerneys for ú230,000 --

19 A. Sir, I mentioned that, that this was one of the parties
20 that we thought we did offer it to. It's not a
21 question of - I don't know what the 5,000 was for, Sir.

22 567 Q. Well, what could it have been? We know it was a bank
23 draft. We know it was kept separate from the ú100,000.
24 We know that Mr. Brennan got 100,000, and Mr. McGowan
25 got 100,000. So you are - your cut out of the deal was
26 100,000, but in addition to your cut out of the deal
27 you got a payment of a separate sum of ú5,000 by way of
28 a bank draft.

29 .

30 So can you assist us on what it might have been for or

1 could have been for?

2 A. I really can't.

3 568 Q. If we could just refer you to page 186.

4 .

5 This is just a letter that you signed directed to the
6 directors of Rapallo Limited. The Rapallo, you will
7 recall, being the recipient of this ú350,000. And you
8 say:

9 .

10 "I authorise you to pay Foxtown Investments Limited's
11 account at Guinness & Mahon, P.O. Box 188, St. Julian's
12 Court, St. Peter Port, Guernsey, the sum of ú100,000,
13 and to debit my account therewith."

14 .

15 So that's your disposing, as it were, of the ú100,000.

16 You are instructing the company, of which you were a
17 one-third owner, and which was the recipient of the
18 ú350,000, to send your cut to Foxtown. Isn't that so?

19 A. Yes, Sir.

20 569 Q. And that was signed before the money arrived, in fact?

21 A. Hum.

22 570 Q. So what was the ú5,000 or, sorry, the ú10,000? I beg
23 your pardon, it was ú5,000. Look at page 194. It's a
24 letter by Mr. Wheeler to the bank, Chase Bank. And can
25 you see in paragraphs 1 to 5 he sets out his
26 instructions as to what is to be done. And under Item
27 4 he says:

28 .

29 "Please accept this letter as my instructions to issue
30 the following cheques:"

1 And No. 4 is a draft for ú5,000 made payable to J
2 Finnegan.

3 .

4 So this was separate and distinct from your cut out of
5 the deal of ú100,000, isn't that right?

6 A. Yes, Sir.

7 571 Q. Your cut out of the deal is, in fact, dealt with in
8 this letter at Item 2?

9 A. Yes.

10 572 Q. Is it two-and-a-half percent of 200,000?

11 A. I don't know what it was, Sir.

12 573 Q. Well, have you no idea at all?

13 A. No, I haven't.

14 574 Q. You see, you had an agreement with Messrs. Brennan and
15 McGowan pursuant to which you were, in fact, paid
16 ú100,000 as your cut out of the deal, whatever the deal
17 was, but in addition to that, you got an extra sum of
18 ú5,000, which could be, and I put it no higher than
19 that, a fee for something?

20 A. Well, I can't remember, Sir, what it was for.

21 575 Q. Well, did you give them advice?

22 A. There is no point in my speculating at this moment,
23 Sir. I don't recollect what it was for.

24 576 Q. You have no conceivable idea what they would have given
25 an additional ú5,000 for, over and above your equal
26 share with the pair of them?

27 A. No, I don't.

28 .

29 MR. HUSSEY: I am sorry, Sir, I wonder, is that a fair
30 question?

1 .
2 When you see the breakdown there, 1, 2, 3, 4 and 5, the
3 first I'm - I take it, is a cheque payable to Jersey
4 International Bank of Commerce for ú200,000? I take it
5 that's going to Brennan and McGowan personally?

6 .
7 The next item is a cheque payable to Foxtown for
8 ú100,000. The next item is a draft for ú11,000 payable
9 to Kilnarnagh Estates, which again is a Brennan and
10 McGowan company. And the next item is a draft for
11 5,000 to Mr. Finnegan.

12 .
13 In fact, that breakdown suggests that the one-third
14 breakdown of whatever funds were available at that
15 point amounted to 105 each to Brennan and McGowan and
16 Finnegan/Foxtown, or so. Maybe that might be a fairer
17 way to describe it.

18 .
19 MR. HANRATTY: Are we to take this now as evidence, or
20 is it musing on behalf of Mr. Hussey?

21 .
22 CHAIRMAN: The witness has actually said he does not
23 know.

24 .
25 MR. HUSSEY: Exactly.

26 .
27 CHAIRMAN: He is the witness of fact.

28 .
29 MR. HUSSEY: Exactly. But now Mr. Hanratty is -
30 Mr. Hanratty hasn't accepted that. Mr. Hanratty is

1 saying - he is using this to identify that Item No. 2
2 is the cut, the one-third cut. And I am suggesting
3 that, in fact, this document could suggest something
4 quite --

5 .

6 CHAIRMAN: Surely, that's a matter of submission, and
7 not of evidence, or not interpretation --

8 .

9 MR. HUSSEY: Except Mr. Hanratty seems to be able to
10 interpret all he likes, without any interruption from
11 the bench.

12 .

13 MR. DUNNE: Again, Sir, not to get involved, but I
14 don't think Mr. Hussey put that to either Mr. Brennan
15 or Mr. McGowan, as far as the 11,000, as far as I can
16 recollect.

17 .

18 MR. HANRATTY: I was trying to elicit from the witness,
19 if he could provide - as to whether he could provide us
20 with any assistance as to why over and above a 100,000
21 division, he also received ú5,000. Mr. Hussey has now
22 flouted a theory about the 11, which doesn't --

23 .

24 MR. HUSSEY: So it's even less than a third, then.

25 .

26 CHAIRMAN: Well, it's four o'clock.

27 .

28 MR. HUSSEY: Yes, Sir.

29 .

30 CHAIRMAN: Tomorrow morning. 10:30, tomorrow morning.

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THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,
THURSDAY, OCTOBER 11TH, 2001, AT 10:30 AM.

